



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: September 30, 2022

TO: San Diego City Council

FROM: Lara Gates, Deputy Director, Cannabis Business Division, Development Services Department

SUBJECT: Cannabis Historical Arrest Data/Population Analysis, War on Drugs Policies and Timeline

To further support the conclusions of the City of San Diego's Draft Equity Assessment (Assessment), staff analyzed additional data from 1989 through 2015 that was provided by the San Diego Association of Governments (SANDAG) publications including: Crime in the San Diego Region as well as Law Enforcement Response to Crime in the San Diego Region. In addition to the SANDAG data analysis, included in this memo are four sections that contain information to support the City's equity assessment. These sections include:

Section I. War on Drugs Impact: San Diego Arrest Data, Population and Zip Code Analysis
Section II. Historical & Legislative Context of Cannabis Policies
Section III. California Cannabis Policy
Section IV. Prison Incarceration Rates
Section V. Conclusion
Section IV. References

Land Acknowledgement: The City of San Diego acknowledges the Kumeyaay and Luiseño people have been a part of this land for millennia. We acknowledge the legacy that this land has nourished, healed, protected, and embraced the Kumeyaay and Luiseño people to the present day.

Section I. War on Drugs Impact: San Diego Arrest Data, Population and Zip Code Analysis

The following data and graphics shown in Tables 1, 2 and 3 are developed using SANDAG's arrest data. Cannabis related arrests approached 8,000 persons up until 2010, where legislation created a significant reduction in arrests (a drop to 1,548 persons in 2011) that is corroborated with San Diego data included in the Assessment.

As evidenced in Table 1, arrest rates for Black/African Americans in the region was 255.2 per 1000 in 1990. Arrest rates for Hispanics compared to Whites is almost double throughout much of the trend line, which is also corroborated by the SANDAG data. As shown in Table 2, Juvenile Arrest Rates, the same conclusion can be drawn that Black/African Americans were disproportionately arrested.

Table 1

Arrest Rates / 1000 - Ethnicity

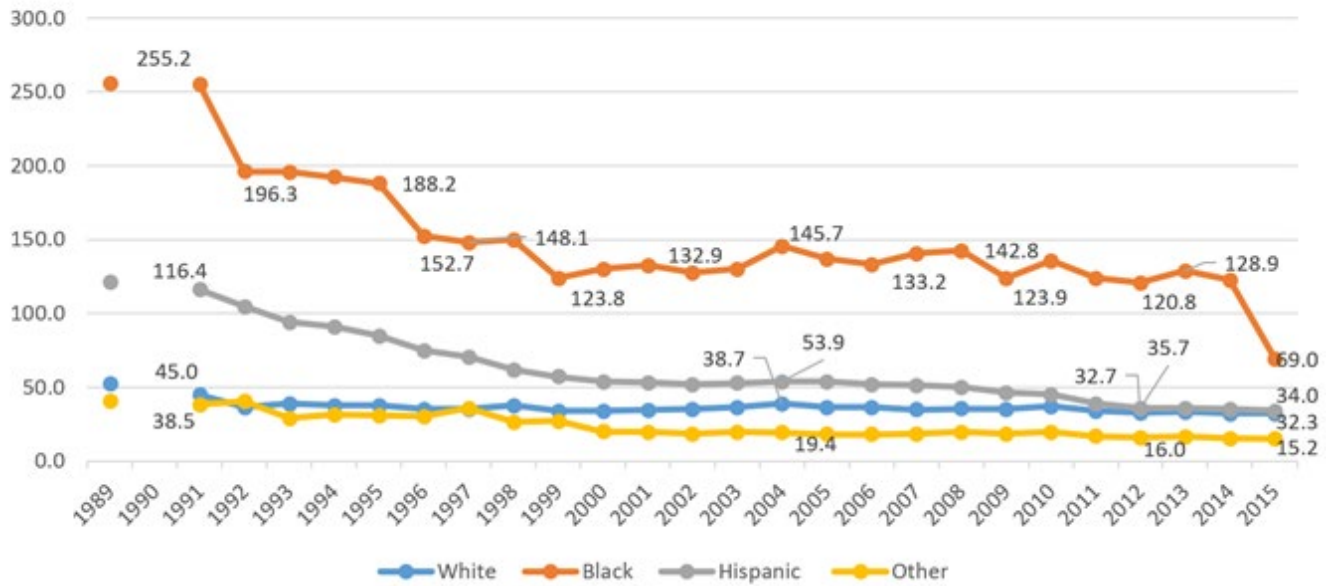
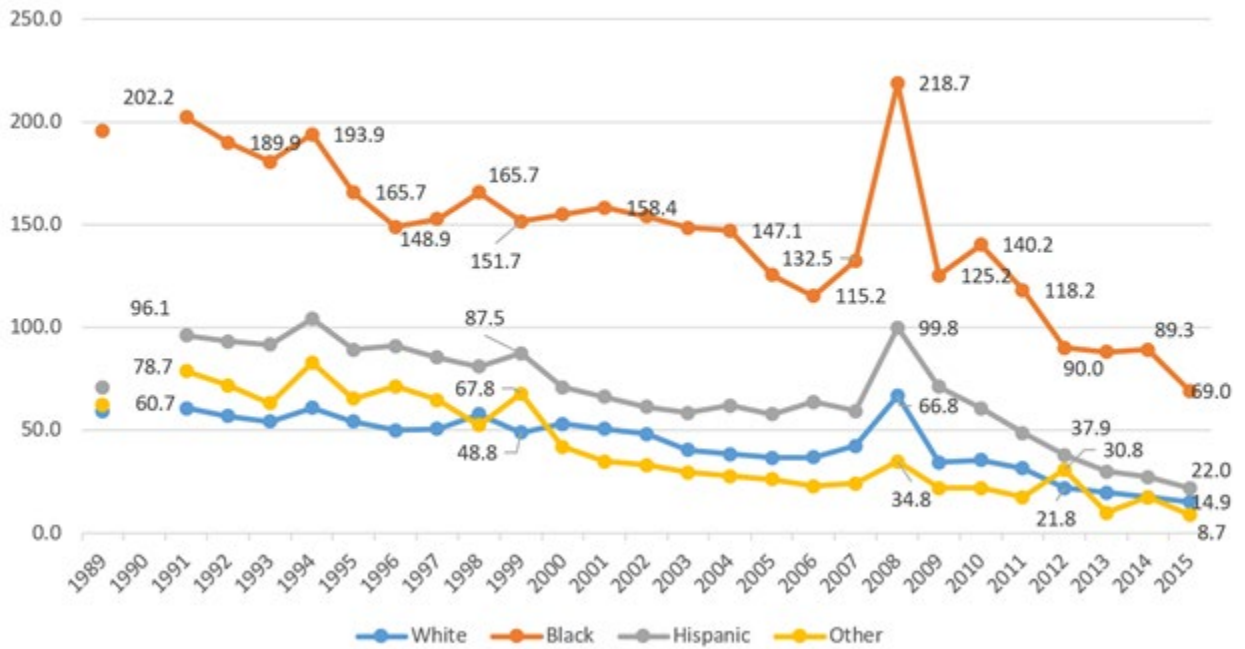


Table 2

Juvenile Arrest Rates / 1000 - Ethnicity



Based on the data contained in the reports, trends regionwide demonstrate the following:

- Distribution of Race/Ethnicity shows a reduction (from 1990 through 2015) in White ethnicity, while Other and Hispanic show increases.
- Black/African American population remained at about 5% of the total population. If the trend were to continue to 2021 as estimated in the Equity study, the data would arrive at rates contained within Exhibit 5.
- Black/African Americans and Hispanic populations were impacted disproportionately by the War on Drugs. Adult Black/African American arrest rate as a ratio to White was 5.67:1 in 1990 and 2.13:1 in 2015 (Hispanic: 2.58:1 in 1990 and 1.05:1 in 2015).

Table 4 was taken from the Assessment and supports the information provided in Tables 1 and 2 of this memorandum. It is clear that as a percentage of the overall population, Black/African American and Hispanic residents have been significantly affected by the War on Drug policies that began in the 1980's as evidenced in Section II, Historical & Legislative Context of Cannabis Policies.

Table 4: Cannabis-Related Arrests by Race/Ethnicity, City of San Diego

Race/Ethnicity	Arrests		Population	
	(2015-2022) ¹		(2021) ²	
	Total	Percent	Total	Percent
Asian	25	4%	247,267	14%
Black/African American	107	16%	88,321	5%
Hispanic, Latino, or Spanish origin	224	34%	420,094	24%
Pacific Islander	3	0%	5,826	0%
White	178	27%	770,824	45%
Other or Unknown	122	19%	186,694	11%
Total	659	100%	1,719,044	100%

¹ Source: City of San Diego Police Department

² Source: U.S. Census ACS 2019 5-year estimates.

Tables 3 and 4 illustrate the misdemeanor arrests for both adults and juveniles related to cannabis according to the SANDAG data. The precipitous decline in arrests can be attributed to new laws being passed that reduced incarceration rates.

Table 3

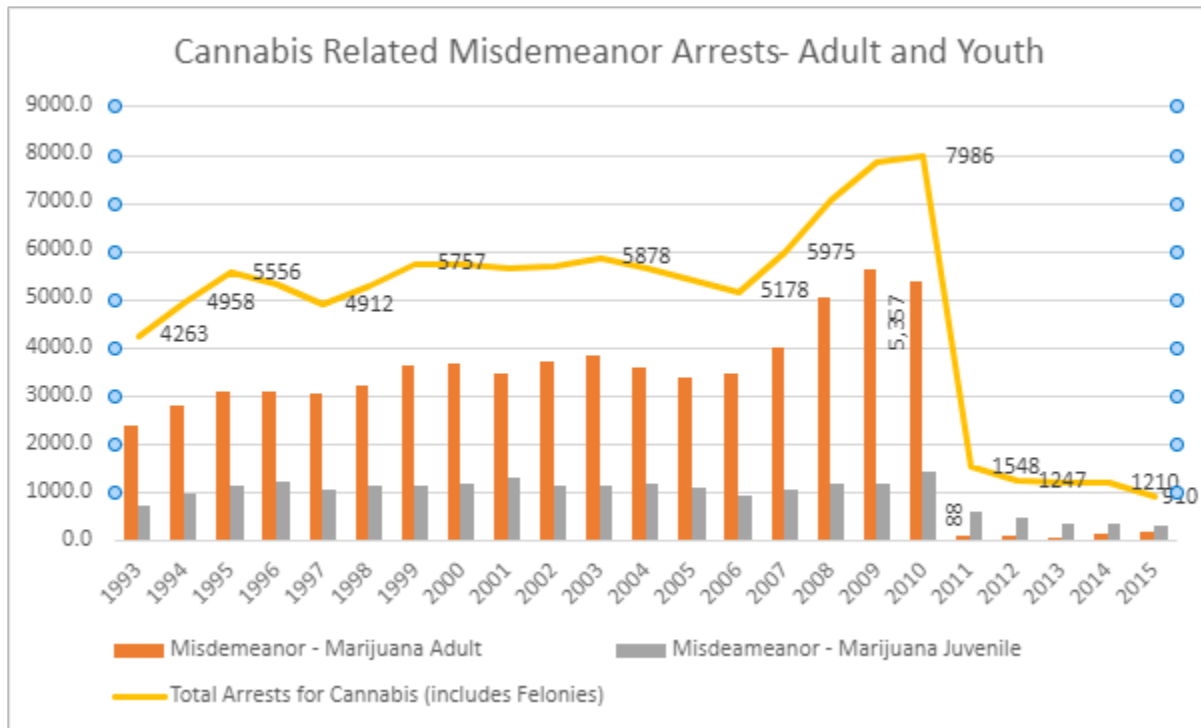
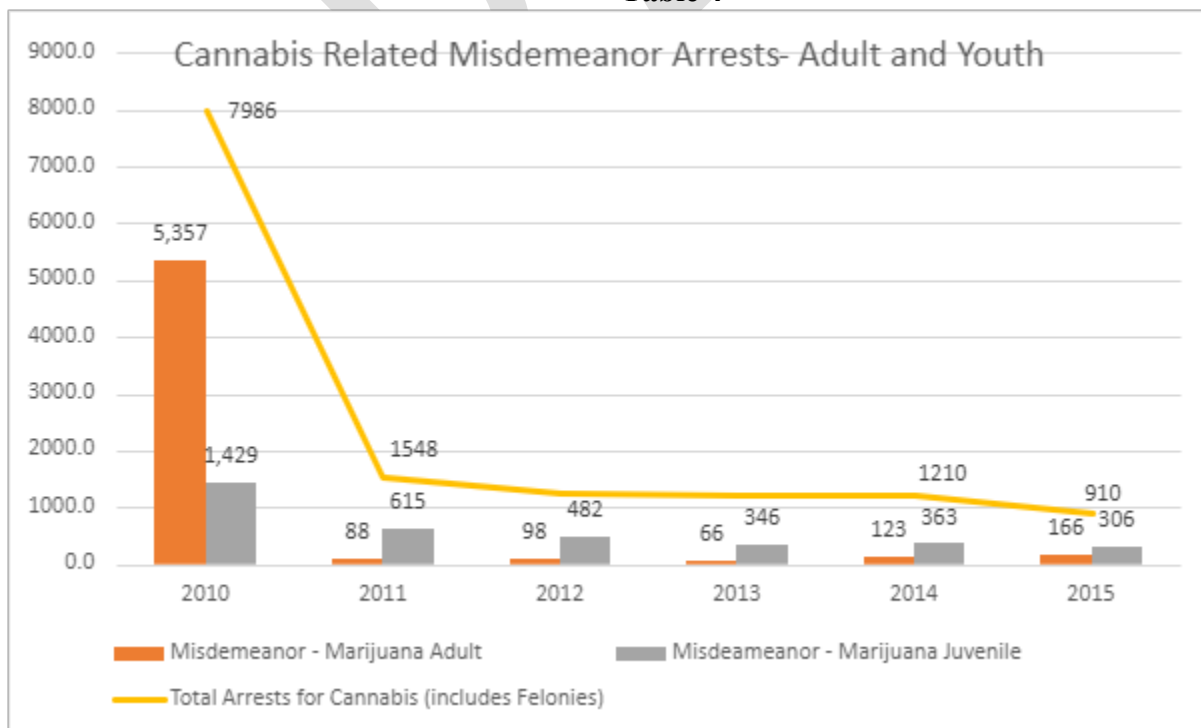


Table 4



The following tables are taken from the SANDAG reports and illustrate the information that was used to create Tables 1, 2, 3, and 4.

Table 14
ARREST RATE PER 1,000 POPULATION¹, ADULT AND JUVENILE
BY ETHNICITY
San Diego Region, 1991, 1994, and 1995

	1991	1994	1995	Change	
				1991-95	1994-95
White					
Juvenile	60.7	60.9	54.2	-11%	-11%
Adult	45.0	37.7	37.6	-16%	<-1%
Black					
Juvenile	202.2	193.9	165.7	-18%	-15%
Adult	255.2	192.5	188.2	-26%	<-1%
Hispanic					
Juvenile	96.1	104.4	89.3	-7%	<1%
Adult	116.4	90.8	84.9	-27%	-6%
Other					
Juvenile	78.7	82.8	65.3	-17%	-21%
Adult	38.5	31.4	30.9	-20%	-2%
Total Juvenile	83.2	86.0	74.0	-11%	-14%
Total Adult	69.1	55.9	54.4	-21%	-3%

SOURCES: State Law Enforcement Information Center, Department of Finance, SANDAG

Arrest rates also declined for every ethnic group between 1996 and 2000 (Table 3).

Table 3
Arrest Rates¹ Per 1,000 Population, by Ethnicity
San Diego Region, 1996, 1999, and 2000

	1996	1999	2000	Change	
				1996-2000	1999-2000
White	36.5	35.3	31.6	-13%	-10%
Adult	35.0	33.7	30.1	-14%	-11%
Juvenile	50.0	48.8	44.3	-11%	-9%
Black	152.2	128.0	116.7	-23%	-9%
Adult	152.7	123.8	111.8	-27%	-10%
Juvenile	148.9	151.7	144.2	-3%	-5%
Hispanic	77.7	62.3	60.9	-22%	-2%
Adult	74.9	57.2	56.3	-25%	-2%
Juvenile	91.1	87.5	83.6	-8%	-4%
Other	35.9	32.5	29.3	-18%	-10%
Adult	30.3	27.3	24.6	-19%	-10%
Juvenile	71.3	67.8	61.7	-13%	-9%
TOTAL	51.9	46.4	42.9	-17%	-8%
Adult	49.2	43.1	39.7	-19%	-8%
Juvenile	71.6	69.8	65.2	-9%	-7%

SOURCES: California Department of Justice, Criminal Justice Statistics Center;
 California Department of Finance; SANDAG

Table 3
TOTAL ARREST RATES BY ETHNICITY
2001, 2004, and 2005

	2001	2004	2005	Change	
				2001-2005	2004-2005
White	36.0	38.6	36.5	1%	-5%
Adult	34.4	38.7	36.5	6%	-6%
Juvenile	50.7	38.3	36.9	-27%	-4%
Black	137.1	146.0	134.0	-2%	-8%
Adult	132.9	146.0	135.5	2%	-7%
Juvenile	158.4	146.1	126.2	-20%	-14%
Hispanic	55.8	55.1	54.9	-2%	<-.1%
Adult	53.3	53.6	54.2	2%	1%
Juvenile	66.2	61.2	58.1	-12%	-5%
Other	22.0	20.6	19.6	-11%	-5%
Adult	19.8	19.4	18.5	-7%	-5%
Juvenile	34.8	27.7	26.8	-23%	-3%
Total	44.5	46.2	44.3	<-.1%	-4%
Adult	41.9	45.2	43.5	4%	-4%
Juvenile	61.1	52.5	49.4	-19%	-6%

NOTES: Total includes felony, misdemeanor, and status arrests. Adult rates include felony and misdemeanor arrests; juvenile rates include felony, misdemeanor, and status arrests. The populations used to calculate arrest rates include individuals ten years and older (10-17 for juveniles and 18 and older for adults), based upon U.S. Census 2000 and current California Department of Finance updates.

SOURCES: California Department of Justice, Criminal Justice Statistics Center; U.S. Census Bureau, Census 2000; California Department of Finance, Revised E5 City/County Population Estimates, May 2006; SANDAG, Demographic/Economic Estimates August 2006

TABLE 3
TOTAL ARREST RATES BY ETHNICITY
2006, 2009, AND 2010

	2006	2009	2010	CHANGE	
				2006-2010	2009-2010
White	36.7	34.9	35.3	-4%	1%
Adult	36.7	35.0	35.7	-3%	2%
Juvenile	36.8	34.4	30.7	-17%	-11%
Black	130.3	124.1	121.0	-7%	-3%
Adult	133.2	123.9	121.6	-9%	-2%
Juvenile	115.2	125.2	116.8	1%	-7%
Hispanic	54.2	50.5	48.8	-10%	-3%
Adult	52.1	46.4	44.4	-15%	-4%
Juvenile	63.8	71.2	72.8	14%	2%
Other	18.8	18.7	18.8	0%	1%
Adult	18.1	18.3	18.6	3%	2%
Juvenile	22.8	21.8	20.1	-12%	-8%
TOTAL	43.9	41.6	41.1	-6%	-1%
Adult	42.9	40.1	39.9	-7%	<-.1%
Juvenile	50.3	52.1	50.0	-1%	-4%

NOTES: Rates include felony, misdemeanor, and status offense arrests for juveniles and totals; adult rates include felony and misdemeanor arrests. The populations used to calculate arrest rates include individuals ten years and older (10-17 for juveniles and 18 and older for adults).

SOURCES: California Department of Justice, Criminal Justice Statistics Center; California Department of Finance; SANDAG, Demographic/Economic Estimates, August 2010

Table 2A
TOTAL ARREST RATES BY ETHNICITY
2011, 2014, and 2015

	Change				
	2011	2014	2015	2011-2015	2014-2015
White	33.6	31.1	31.0	-8%	0%
Adult	33.8	32.3	32.3	-4%	0%
Juvenile	31.4	17.5	14.9	-53%	-15%
Hispanic	40.5	33.9	32.0	-21%	-6%
Adult	38.7	35.3	34.0	-12%	-4%
Juvenile	48.6	27.3	22.0	-55%	-19%
Black	123.3	118.8	116.6	-5%	-2%
Adult	124.0	122.6	122.6	-1%	0%
Juvenile	118.2	89.3	69.0	-42%	-23%
Other	17.0	14.8	14.4	-15%	-3%
Adult	16.9	15.5	15.2	-10%	-2%
Juvenile	17.4	10.1	8.7	-50%	-14%
Total	37.3	33.2	32.4	-13%	-2%
Adult	36.8	34.5	34.1	-7%	-1%
Juvenile	41.2	23.7	19.4	-53%	-18%

NOTES: Rates include felony, misdemeanor, and status offense arrests for juveniles and total; adult arrests include felony and misdemeanor arrests. The populations used to calculate arrest rates include individuals ten years and older (10-17 for juveniles and 18 and older for adults).

SOURCES: California Department of Justice, Criminal Justice Statistics Center; California Department of Finance; SANDAG Population Estimates, January 2015.

Table 5- SANDAG Zip Code Map

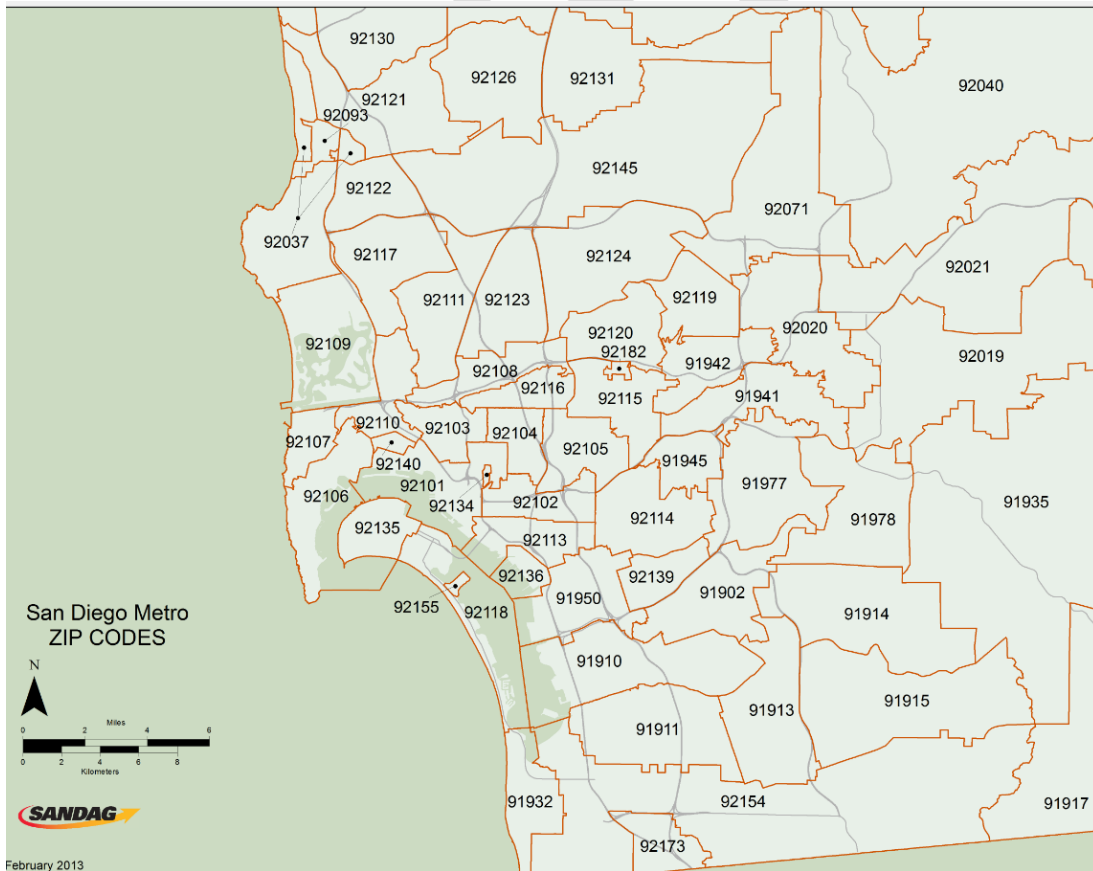


Table 6 – Population in 2000 – US Census

2000 Population by Ethnicity - City of San Diego

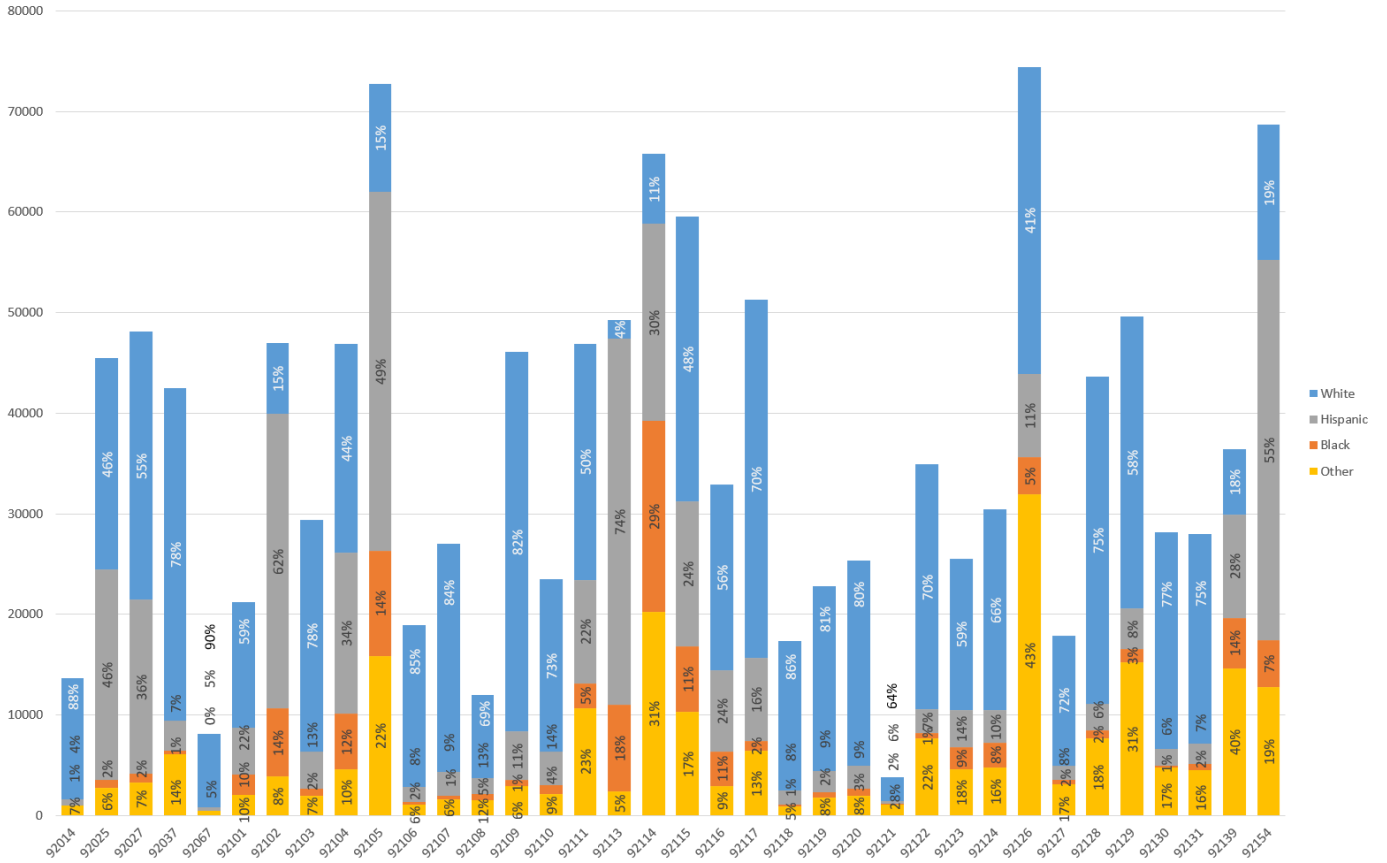


Table 7- Population in 2010- US Census

2010 Population Ethnicity - City of San Diego

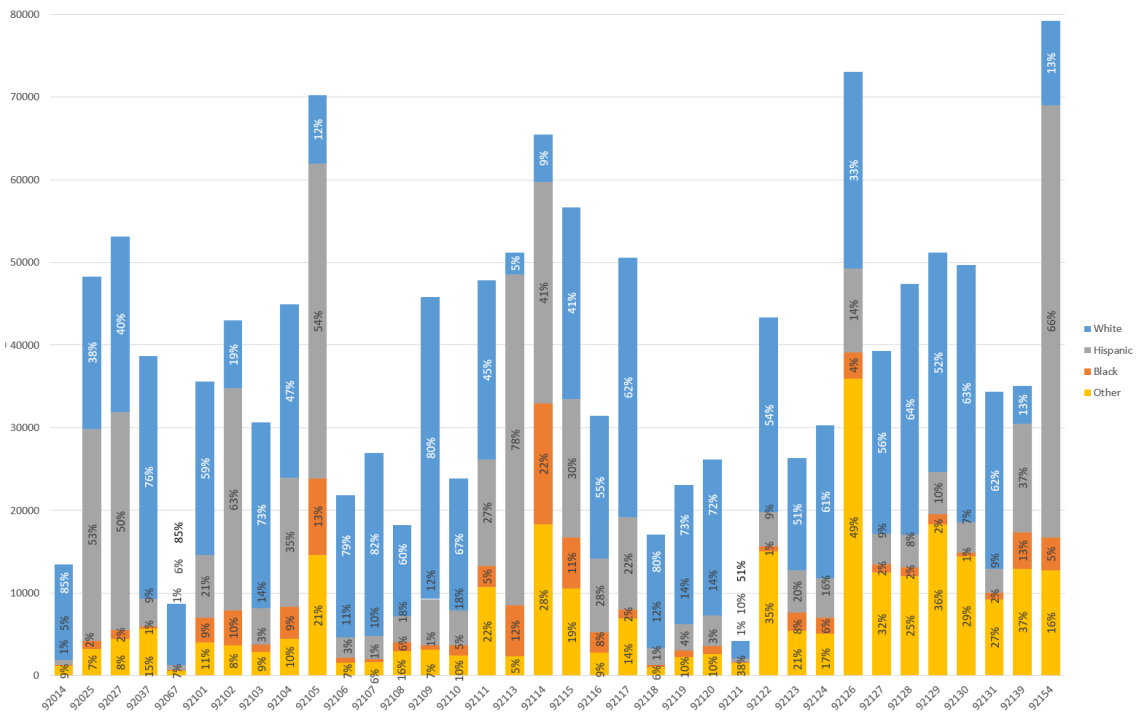
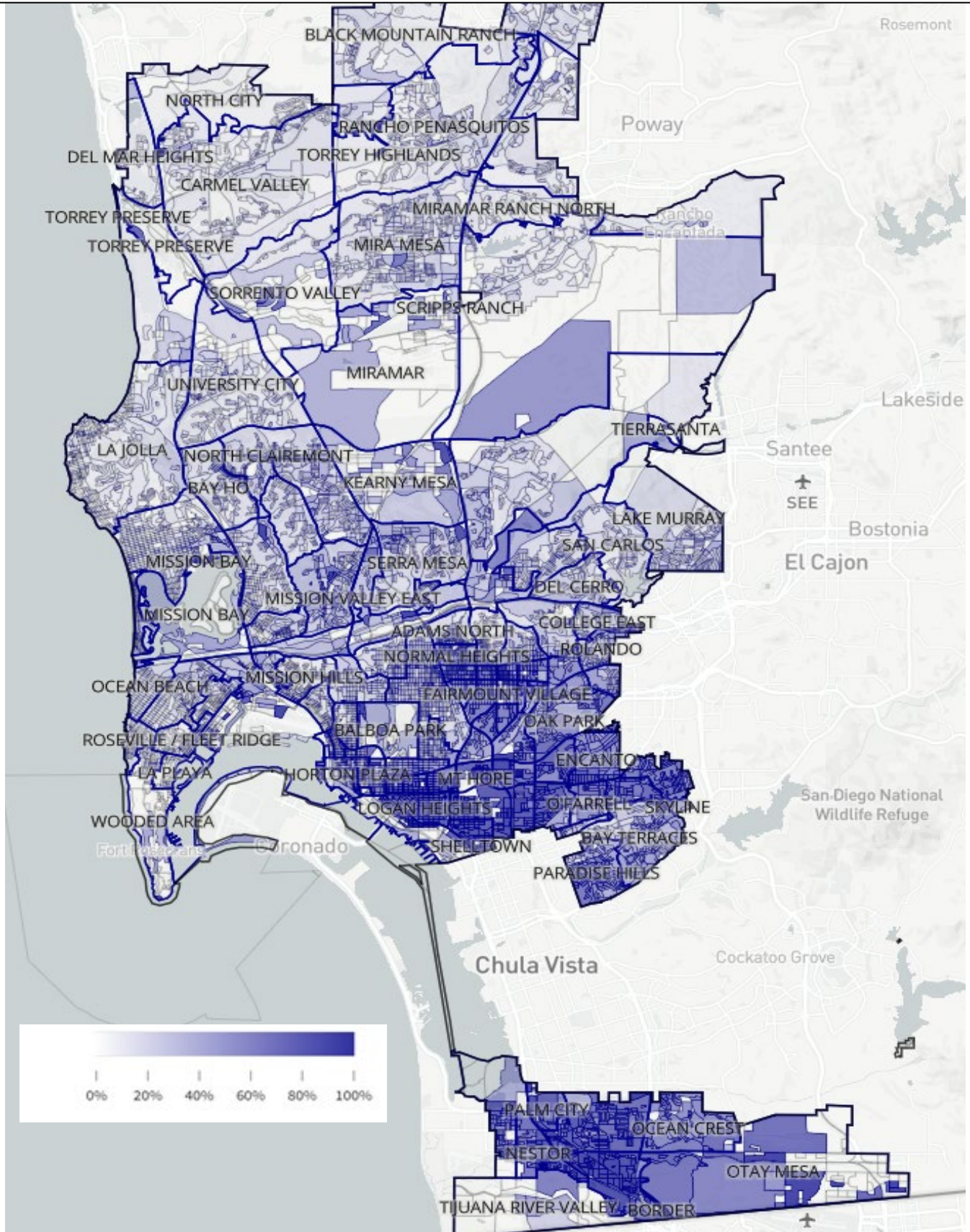


Table 8-

2020 Population of Black/African American, Hispanic and American Indian Residents
Information depicted on this redistricting map defines a collection of racial and ethnic groups including:
Black, Hispanic and American Indian from derived from 2020 US Census data Source:
<https://districtr.org/plan/142323>



Section II. Historical & Legislative Context of Cannabis Policies

The history of the War on Drugs in California and in particular San Diego is intertwined with a number of major events and the history of the laws in the United States regarding cannabis use and possession. The following timeline of historical and legislative events beginning in 1906 thru today has been gathered and cited from the [City/County of San Francisco's Cannabis Equity Report](#), Wikipedia sources, as well as from the [San Diego Treatment Center](#) which references a September 13, 2016 article in the *Los Angeles Times* and from the book *Marijuana Legalization: What Everyone Needs to Know* (written by Jonathan P. Caulkins, Beau Kilmer and Mark A.R. Kleinman).

United States Drug and Cannabis Policy

Food and drug regulation began in the United States with the Federal Food and Drug Act of 1906. The law permitted the U.S. Department of Agriculture's Bureau of Chemistry to test, regulate, and standardize commercial substances.¹ Between 1906 and 1942, the federal government primarily regulated narcotics through taxation, with the exception of opium and cocaine. The Opium Exclusion Act of 1909 limited opium imports, partially over legitimate concerns regarding the drug's level of addiction and health effects. However, its passage was contemporaneously supported by xenophobic fears of East Asian immigrants, foreshadowing the federal government's racialization of drug policy throughout much of the 20th century.²

In 1911, Governor Eugene Foss of Massachusetts signed the first law prohibiting marijuana in the United States. The law stated that it allowed for search warrants to be issued for the search of "hypnotic drugs" and to arrest and charge those possessing these drugs. Marijuana was one of the targeted drugs of this legislation.

The Harrison Act of 1914 created a prescription registry and imposed a special tax on narcotics imports. In 1927, Congress reorganized the drug regulatory structure by establishing the Food, Drug, and Insecticide Administration, which was shortened to the Food and Drug Administration in 1930. The year 1930 brought further administrative and bureaucratic changes, including the transfer of powers from existing agencies to the newly created Bureau of Narcotics.³ The Bureau of Narcotics was given broad jurisdiction over controlling narcotics, and its first commissioner, Harry J. Anslinger, pushed cannabis regulations further towards criminalization and as an outlet for discrimination and marginalization.⁴

Throughout his tenure as Narcotics Commissioner, Anslinger gave speeches across the United States, portraying cannabis as, "a scourge on society, ruining the moral fabric of America..."⁵ Anslinger often implicated Mexicans, Mexican-Americans, and African Americans as drug users, even stating explicitly that Mexico was responsible for introducing cannabis to the United States.⁶ In *Marijuana: A Short History*, John Hudak connects the racialization of cannabis policy to wider geopolitical events at the time. After the Mexican-American War (1846-1848) and continuing into the early 20th century, America received an influx of Mexican immigrants, which further exacerbated existing racial tensions. Hudak writes, "As Americans sought a pretext to vilify this new immigrant community, they found an ideal culprit in marijuana...fear and anti-immigrant sentiment prompted state-level bans on cannabis..."⁷

Anslinger conducted public opinion campaigns to support the criminalization of cannabis at the state and federal levels. By the time Congress passed the Uniform State Narcotic Act in 1932, urging states to unify narcotics laws and implement criminal punishments, 29 states had already criminalized the use of cannabis.⁸

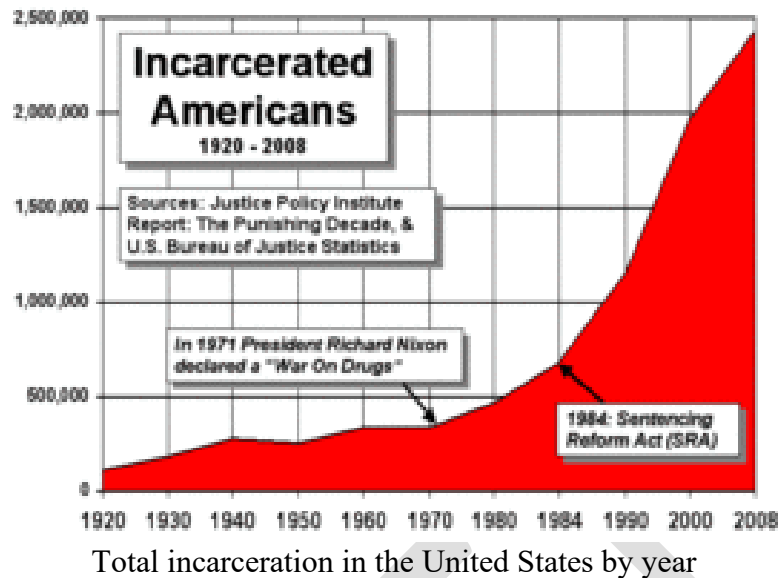
The Marihuana Tax Act of 1937 levied a tax on every group involved with producing, distributing, selling and purchasing cannabis, including importers, growers, sellers, prescribers, physicians, veterinarians, patients, and other consumers. Failing to pay any of these taxes resulted in heavy fines and jail time.⁹ In October 1937, the first seller of marijuana was arrested under federal law. Samuel R. Caldwell was arrested and convicted. He spent four years in prison, and his customer was also arrested and incarcerated for a period of 18 months.

Despite facing some objections against implementing harsh punishments for cannabis offenses, Anslinger and Congress continued to criminalize cannabis in stricter terms.¹⁰ The Boggs Act of 1951 created mandatory minimum sentences for those convicted of drug-related offenses. These sentences were soon increased with the Narcotics Control Act of 1956.¹¹

The counterculture movements of the 1960s pushed back against social norms and government actions and policies that were perceived as unjust.¹² Cannabis took on a visible role within some of these countercultures, as well as within the music industry and media. Cannabis use increased among American youth, and the United States government, perceiving itself as under siege, responded again with increased criminalization.¹³ In 1961, [The United Nations](#) created an international treaty to ban marijuana and other narcotic drugs.

Presidential administrations from the 1950s onward frequently pushed the criminalization of cannabis alongside urgent social narratives. President Eisenhower's Interdepartmental Committee on Narcotics published a report in 1956 that detailed the harms of cannabis on youth and communities, without scientifically evaluating the impacts of cannabis usage.¹⁴ One exception was President Kennedy's Advisory Committee on Narcotic and Drug Abuse, established with Executive Order 11076 in 1963, which found that drugs were not grouped together legally based on the risk of addiction or level of health effects, and even stated that mandatory minimums should be reconsidered.¹⁵ However, Kennedy was assassinated shortly thereafter, and his successor, President Johnson, did not take action on many of the Committee's findings. Despite this, Lyndon B. Johnson had a relatively nuanced stance on drug usage, distinguishing between dealers and users and recognizing the public health and safety need for treatment. However, Richard Nixon's election in 1968 redirected the government's focus back to criminalization and punishment.¹⁶

In 1968, President Lyndon B. Johnson decided that the government needed to make an effort to curtail the social unrest that blanketed the country at the time. He decided to focus his efforts on illegal drug use, an approach that was in line with expert opinion on the subject at the time. In the 1960s, it was believed that at least half of the crime in the U.S. was drug-related, and this number grew as high as 90 percent in the next decade.¹⁷ He created the Reorganization Plan of 1968 which merged the Bureau of Narcotics and the Bureau of Drug Abuse to form the Bureau of Narcotics and Dangerous Drugs within the Department of Justice.¹⁸ The belief during this time about drug use was summarized by journalist Max Lerner in his work *America as a Civilization* (1957):



The 1937 act prohibited marijuana but did not outright ban the drug. In 1970, the federal government passed the Controlled Substances Act that set up the Drug Enforcement Administration and classified drugs according to different schedules. Marijuana was, and still is, classified as a Schedule I controlled substance, meaning it has no recognized medicinal uses and is considered to be a substance with a very high potential for abuse and the development of physical dependence. Despite numerous research studies suggesting that marijuana has some medicinal uses and that its potential for the development of physical dependence is actually rather mild in most cases, this classification has not changed. This act influenced many legal and state proposals regarding marijuana and other drugs. In April 1970, the National Organization for the Reform of Marijuana Laws (NORML) was formed. The position was funded by a grant of \$5,000 from the Playboy Foundation.

Richard Nixon became president in 1969 and did not back away from the anti-drug precedent set by Johnson. Nixon began orchestrating drug raids nationwide to improve his "watchdog" reputation. Lois B. Defleur, a social historian who studied drug arrests during this period in Chicago, stated that, "police administrators indicated they were making the kind of arrests the public wanted". Additionally, some of Nixon's newly created drug enforcement agencies would resort to illegal practices to make arrests as they tried to meet public demand for arrest numbers. From 1972 to 1973, the Office of Drug Abuse and Law Enforcement performed 6,000 drug arrests in 18 months, the majority of the arrested black.¹⁹ After Congress passed the Controlled Substances Act in 1970, President Nixon formally declared a "War on Drugs".²⁰ Nixon, however, had been focused on this war for years, as a part of his "Southern Strategy," which sought to marginalize vulnerable populations, especially minorities.²¹ In fact, Nixon's adviser, John Ehrlichman, was recorded in a 1981 interview with Lee Atwater, saying: We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.²²

The events and actions that led to Nixon's formal War on Drugs proclamation include a 1969 speech to Congress, in which Nixon declared cannabis a national threat; the Supreme Court case *Leary v. United*

States; Operation Intercept, a military operation that seized contraband at the U.S.-Mexico border; and the 1969 Bipartisanship Leadership Meeting on Narcotics and Dangerous Drugs.²³

According to Human Rights Watch, the War on Drugs caused soaring arrest rates that disproportionately targeted African Americans due to various factors.²⁴ John Ehrlichman, an aide to Nixon, said that Nixon used the war on drugs to criminalize and disrupt black and hippie communities and their leaders.²⁵

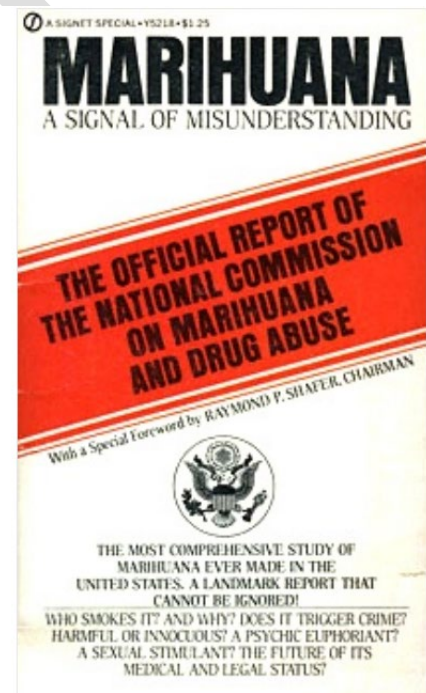
The 1970 Controlled Substances Act is crucial because it formalized drug schedules, which categorized drugs into legal groups for sentencing and other purposes.²⁶ However, Congress, not the scientific or medical community, sorted drugs into schedules, placing cannabis in Schedule I alongside drugs with much higher levels of addiction and health effects.²⁷ The law expanded the government's powers for regulating drugs and gave Nixon the foundation for his upcoming War on Drugs.²⁸ Nixon's final substantial action in the War on Drugs was his proposal to Congress to reorganize the government agencies that regulate drugs and narcotics, the "Reorganization Plan 2 of 1973".²⁹

Congress approved and the Drug Enforcement Administration (DEA) was created within the Department of Justice. The DEA consolidated functions and jurisdictions and has consistently received significant increases in funding and employees since its creation.³⁰

In March 1972, the [Shafer commission appointed by President Nixon](#) refuted the gateway theory of marijuana as being a drug that leads to significant use of other drugs or to crime. In June 1972, California attempted to decriminalize personal marijuana use through Proposition 19. The proposition failed.

In 1976, the Moscone Act in California changed possession for small amounts of marijuana from a felony to a misdemeanor. The passage of the law was prompted by an extremely high number of cannabis related arrests in the criminal justice system.

The Investigative New Drug Program (IND) was a federal program that was instituted around 1976 because of a lawsuit against the federal government by a cannabis patient that reached the Supreme Court- (US v. Randall (D.C. Super. Ct. 1976). The federal government eventually had to acquiesce under the IND program and they allowed 13 patients to access medical cannabis from the DEA research facility in Mississippi. Today the program is closed (since 1992) and there is only one patient left who receives cannabis from the FDA (every month in a tin can comes 100 joints rolled by the FDA).



President Ford continued Nixon's tough rhetoric, expanding the United States' involvement in drug operations internationally. At the same time, Ford supported treatment and prevention, later revealing that drug addiction was a personal issue to his family. Like President Ford before him, Carter worked to stem international drug trafficking while attempting to reform aspects of drug policy at home. In his 1977 "Drug Abuse Message to the Congress," Carter laid out his vision to increase funding for research, create federal prevention and treatment programs, and

shift the government's regulatory focus to drugs with more severe health consequences. Carter's proposals were never realized.³¹

Like Nixon, Reagan incorporated drug policy into his broader political strategy. He continued to expand the United States' drug involvement efforts internationally while enhancing penalties and reducing defenses for the accused domestically.³² Finally, Reagan expanded education and treatment programs, enlisting the help of First Lady Nancy Reagan. With Executive Order No. 12368, Reagan created the Drug Abuse Policy Office.³³ The Office quickly won a series of legislative successes, including the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Anti-Drug Abuse Act of 1988.³⁴

In the 1980s, while the number of arrests for all crimes had risen by 28%, the number of arrests for drug offenses rose 126%.³⁵ The result of increased demand was the development of privatization and the for-profit prison industry.³⁶ The US Department of Justice, reporting on the effects of state initiatives, has stated that, from 1990 through 2000, "the increasing number of drug offenses accounted for 27% of the total growth among black inmates, 7% of the total growth among Hispanic inmates, and 15% of the growth among white inmates." In addition to prison or jail, the United States provides for the deportation of many non-citizens convicted of drug offenses.³⁷

All of these laws enhanced criminal punishments for drug-related offenses. The 1986 law expanded the crimes to which mandatory minimums applied, and the 1988 law enhanced these minimums.³⁸ In 1989, President H.W. Bush created the Office of National Drug Control Policy, replacing Reagan's Drug Abuse Policy Office. The director of this office is referred to as the "Drug Czar", whose influence in U.S. drug policy continues to this day.³⁹ The 1988 law also increased funding for education programs, and redirected funds in other programs towards drug-related programs. Researchers have evaluated the effectiveness of drug education programs, and found limited, if any, effects on curbing drug use among American youth.⁴⁰

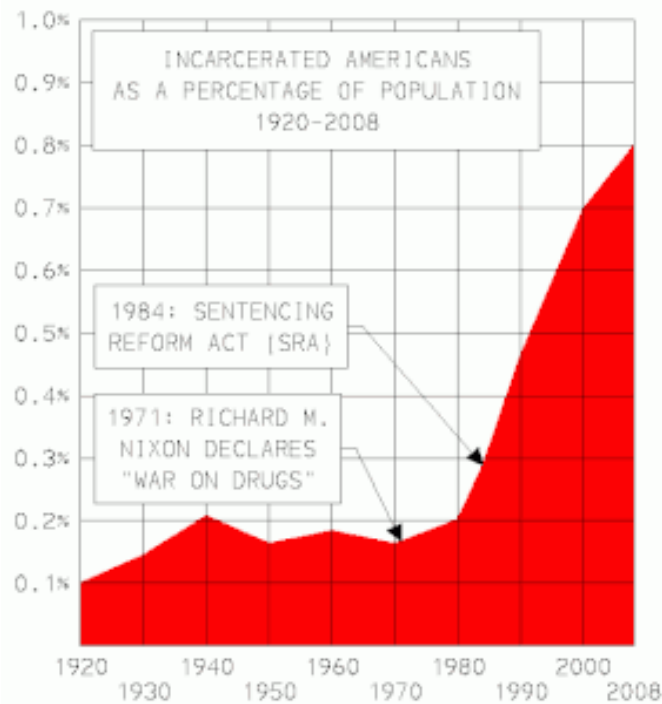
In August 1992, the Board of Supervisors in San Francisco, CA, became the first city government to recognize that marijuana had medicinal uses. The enforcement of marijuana laws is made the city's lowest priority.

President Bill Clinton incorporated kinder rhetoric when speaking about drug use, although his policies continued to intensify criminal punishments for cannabis.⁴¹ For instance, the Violent Crime Control and Law Enforcement Act of 1994 intensified criminalization, introducing the "three strikes" provision for traffickers, and increased funding for prisons and local law enforcement.⁴² After the 1994 law, arrests for cannabis users increased significantly. In 1991, there were around 327,000 arrests for cannabis related offenses. By 2000, there were over 700,000.⁴³ Meanwhile, states began legalizing medical cannabis; some states authorized medical cannabis on the day Clinton was reelected to office.⁴⁴

In 1994, the *New England Journal of Medicine* reported that the "War on Drugs" resulted in the incarceration of one million Americans each year.⁴⁵ In 2008, *The Washington Post* reported that of 1.5 million Americans arrested each year for drug offenses, half a million would be incarcerated.⁴⁶ In addition, one in five black Americans would spend time behind bars due to drug laws.⁴⁷

Federal and state policies also impose collateral consequences on those convicted of drug offenses, separate from fines and prison time, that are not applicable to other types of crime.⁴⁸ For example, a number of states have enacted laws to suspend for six months the driver's license of anyone convicted of a drug offense; these laws were enacted in order to comply with a federal law known as the Solomon-Lautenberg amendment, which threatened to penalize states that did not implement the

policy.^{[49][50][51]} Other examples of collateral consequences for drug offenses, or for felony offenses in general, include loss of professional license, loss of ability to purchase a firearm, loss of eligibility for food stamps, loss of eligibility for Federal Student Aid, loss of eligibility to live in public housing, loss of ability to vote, and deportation.⁴⁷



Operation Mallorca, U.S. Drug Enforcement Administration, 2005

Voters in California passed Proposition 215 in 1996, which legalized the use and sale of marijuana for medical purposes in California. In 1999, California legislation was introduced that promoted a three-year program to investigate medical research, focusing on marijuana as a pharmacological treatment. This legislation resulted in the funding of the University of California's Center for Medicinal Cannabis Research at UC San Diego.

According to Human Rights Watch, crime statistics show that—in the United States in 1999—compared to non-minorities, African Americans were far more likely to be arrested for drug crimes, and received much stiffer penalties and sentences.⁵¹

Statistics from 1998 show that there were wide racial disparities in arrests, prosecutions, sentencing and deaths. African-American drug users made up for 35% of drug arrests, 55% of convictions, and 74% of people sent to prison for drug possession crimes.⁵² Nationwide African-Americans were sent to state prisons for drug offenses 13 times more often than other races,⁵³ even though they supposedly constituted only 13% of regular drug users.⁵²

Anti-drug legislation over time has also displayed an apparent racial bias. University of Minnesota Professor and social justice author Michael Tonry writes, "The War on Drugs foreseeably and unnecessarily blighted the lives of hundreds and thousands of young disadvantaged black Americans and undermined decades of effort to improve the life chances of members of the urban black underclass."⁵⁴

Public opinion about cannabis reversed became increasingly positive in the 1990s and 2000s,⁵⁵ a trend that has continued to the present. In 2000, 31% of Americans supported the legalization of cannabis. By

2013, nearly 58% of those polled supported legalization.⁵⁶ Much of this shift in public opinion is attributed to generational acceptance and an increase in the number of individuals who have tried or used cannabis.⁵⁷

While campaigning for President, George W. Bush conveyed his support for allowing states to determine their own cannabis policies. During a campaign event in Seattle, Bush stated, "I believe each state can choose that decision as they so choose".⁵⁸ Despite this initial stance, President Bush's drug policies closely resembled those of his predecessors, focusing on international trafficking, law enforcement and treatment.⁵⁹ What's more, the Bush Administration frequently conducted raids on medical cannabis dispensaries, including dispensaries that functioned legally under state law.⁶⁰ During this time of passivity by the federal government, it was the states that initiated controversial legislation in the War on Drugs. Racial bias manifested itself in the states through such controversial policies as the "stop and frisk" police practices in New York city and the "three strikes" felony laws began in California in 1994.⁶¹

In Oakland, California, a 2005 measure passed that allowed the taxation and regulation of cannabis for adult use. This measure also made prosecution of adults who use or possess marijuana the lowest law enforcement priority. The supporters of the bill promised to lobby the state to regulate marijuana sales.

In January 2010, Governor Schwarzenegger signed SB 1449, which made the possession of less than an ounce of marijuana a misdemeanor and a civil infraction in the state of California. In July of that year, the Oakland city council voted to approve a citywide plan for the cultivation of medical marijuana in four factories. The plans for the factories were derailed when the Obama administration warned the city council that they were in violation of federal law. In November, Proposition 19 in California, which would effectively legalize the recreational use of marijuana for adults 21 years of age and over, and allow the state to tax marijuana sales, was defeated by a small margin (53.5 percent against; 46 percent in favor).

President Obama voiced support for the concept of medical cannabis, and promised a Justice Department Policy that would allow dispensaries to operate unimpeded. In a formal memo to United States Attorneys in 2009, Attorney General Holder wrote that the Obama Administration would end raids on cannabis distributors. It states that "...the prosecution of significant traffickers of illegal drugs, including marijuana...continues to be a core priority...pursuit of these priorities should not focus federal resources in your states on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."⁶² Holder did, however, oppose adult-use cannabis. His position became public in response to a 2010 California ballot initiative, which would have legalized adult-use cannabis in California, but failed to win a majority vote.⁶³

Then, in 2011, the Justice Department announced a crackdown on medical cannabis dispensaries across the United States. In a memo released on June 29, 2011, Deputy Attorney General James Cole communicated that the Justice Department would prosecute persons involved in producing, distributing, and selling cannabis, "regardless of state law".⁶⁴ Shortly afterwards, California's four U.S. Attorneys proceeded to announce criminal charges against cannabis dispensaries and threaten landlords with property seizure.

In February 2011, the Department of Justice directed federal prosecutors not to prosecute individuals who were in compliance with state laws allowing for the use and sale of medicinal marijuana. In June of that year, the Hemp Farming Act (SB 676) was introduced. It allowed several counties to build a successful hemp industry for medicinal use. A bill to take marijuana off the list of controlled substances

was introduced. In July, the DEA refused to remove marijuana from their list of controlled substances and the Justice Department formally warned that marijuana was illegal. In October, four US attorneys for the state of California began to prosecute property owners and landlords who rented buildings or land that was used to sell or grow marijuana.

By January 2012, Mendocino County, California, ended its permit program to medical marijuana growers (this was the first program in the nation), giving into pressure from the federal government. The city also made it illegal to cultivate more than 25 marijuana plants. In July, Harborside Health Center in Oakland, often reputed to be the largest marijuana dispensary in the world, was targeted by the federal government. Workers could not enter the building as the US government had filed a suit to seize the building. In October, city officials in Oakland filed a lawsuit against the federal government regarding the Harborside incident. The federal government eventually dropped the case in 2016. Additionally in 2012, voters in Washington and Colorado approved measures to legalize recreational marijuana use.

In 2013, the Justice Department sent a memo to the governors of Washington and Colorado stating that they most likely will not challenge the state laws regarding recreational marijuana use. In a state poll, 55 percent of California voters reported that they would support the legalization of marijuana.

California lawmakers in 2015 begin to draft a new set of regulations for statewide medicinal marijuana programs. The Bureau of Medical Marijuana Regulation is created to establish rules for growing cannabis and to set fees and licensing standards. Marijuana growers must adhere to the laws and regulations that are used to control other farming practices.

In 2016, Governor Brown appointed the Bureau of Medical Marijuana Regulation's "pot czar." The bureau also drafts groundwork for regulations if voters approved the legalization of marijuana for recreational use in California. In November, Proposition 64, the Adult Use of Marijuana Act is approved by voters. It legalized the recreational use of marijuana in the state of California.

Like George W. Bush before him, Donald Trump vowed to leave medical cannabis policy to individual states while campaigning. As President, however, Trump nominated then-Senator Jeff Sessions for Attorney General of the United States,⁶⁵ an opponent of medical cannabis and any effort to decriminalize cannabis or to reduce criminal punishments.

At a Senate drug hearing in April 2016, Sessions stated: ...we need grown-ups in charge in Washington to say marijuana is not the kind of thing that ought to be legalized, it ought not to be minimized, that it's in fact a very real danger...this drug is dangerous, you cannot play with it, it is not funny, it's not something to laugh about...and to send that message with clarity that good people don't smoke marijuana.⁶⁶ Attorney General Sessions' stance on cannabis is reminiscent of Anslinger's statements, which rejected cannabis on moral grounds without acknowledging its similarities to legal substances such as tobacco and alcohol.

Section III. California Cannabis Policy

In 1996, California passed Proposition 215, the Compassionate Use Act, with 56% of the votes statewide, and [52% in San Diego](#). In doing so, California became the first state in America to legalize cannabis for medical use. The Compassionate Care Act allowed patients and qualified caregivers to cultivate and possess cannabis for personal use, however it did not provide a regulatory structure.⁴⁸ To clarify the Compassionate Use Act, the State Legislature passed Senate Bill 420 in 2003. This bill also provided for the creation of an identification program for qualified patients.⁶⁷

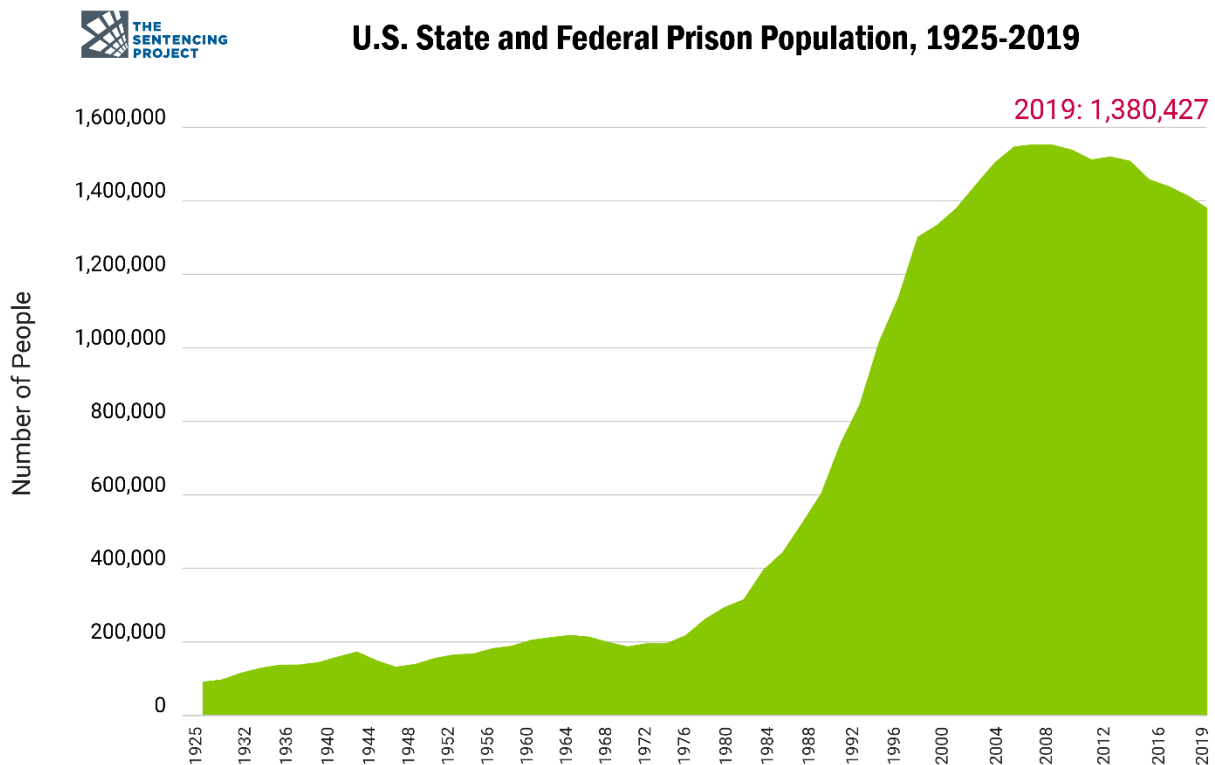
In addition to legalizing medical cannabis, California voters propelled the state's drug policy away from criminalization and harsh punishments. In 2000, voters approved the Substance Abuse and Crime Prevention Act, directing the state to offer eligible offenders treatment rather than jail-time for drug possession and drug use.⁶⁸ Between 2003 and 2015, the commercial cannabis industry grew with few rules and regulations. It wasn't until 2015 and the passage of the Medical Marijuana Regulation and Safety Act that California established a legal framework to regulate and monitor cannabis dispensaries.⁶⁹ Originally set to take effect on January 1, 2016, the Medical Marijuana Regulation and Safety Act was amended via the Medical Cannabis Regulation and Safety Act in June 2016. This updated piece of legislation aimed to incorporate stronger environmental protection policies within a comprehensive licensing system.⁷⁰

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act, legalizing the distribution, sale, and possession of cannabis.⁷¹ The Adult Use of Marijuana Act (AUMA) of 2016 was modeled on the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015. In 2017 California sought to create one regulatory system for both medical and adult-use use. Therefore, Governor Jerry Brown signed the Medicinal and Adult Use Cannabis Regulation and Safety Act into law, reconciling the differences between AUMA and MMRSA, and taking a crucial step towards developing a regulatory framework to facilitate a legal, for-profit cannabis sector for both medicinal and adult-use.⁷²

In October 2021, Governor Gavin Newsom signed [Senate Bill 73](#) which ended mandatory minimum sentences for nonviolent drug crimes in California, giving judges more discretion to impose alternative sentences. This new law grew out of what Senator Scott Wiener of San Francisco called the failed war on drugs that disproportionately incarcerated people who are Black and Latino.

Section IV. Prison Incarceration Rates

According to the [Leadership Conference Education Fund](#), “despite the fact that Whites, African Americans, and Latinos all use illicit drugs at similar rates, 45 percent of all convicted drug offenders in state prison are black compared to 28 percent that are white and 20 percent that are Hispanic, according to the [Sentencing Project](#). State prisons account for about 85 percent of all prisoners in the U.S. Since 1980, the number of people incarcerated in prison or jail in the U.S. for drug crimes has gone from 40,000 to 500,000, representing an increase of 1100 percent. Much of that explosion in the incarceration of drug offenders is due to aggressive law enforcement interventions and stiff mandatory sentencing provisions mainly targeting low-level dealers and users adopted at both state and federal level.”



The following is an excerpt from “Young Black Men and the Criminal Justice System: A Growing National Problem published in February 1990 and by Marc Mauer, Assistance Director of the Sentencing Project. The Sentencing Project is a national, non-profit organization which promotes sentencing reform and the development of alternative sentencing programs.

Overview

For close to two decades, the criminal justice system in the United States has been undergoing a tremendous expansion. Beginning in 1973, the number of prisoners, criminal justice personnel, and taxpayer dollars spent has increased dramatically, with new record highs now being reached each year. Between 1973 and 1988, the number of felons in state and federal prisons almost tripled from 204,000 to 603,000. By 1989, the total inmate population in our nation's prisons and jails had passed the one million mark.

Record numbers of persons are also being placed under probation or parole supervision. These aspects of the criminal justice system are sometimes overlooked when the problems of prison and jail populations and overcrowding are explored.

The extended reach of the criminal justice system has been far from uniform in its effects upon different segments of the population. Although the number of women prisoners has increased in recent years at a more rapid pace than men, the criminal justice system as a whole still remains overwhelmingly male approximately 87 percent. And, as has been true historically, but even more so now, the criminal justice system disproportionately engages minorities and the poor.

Impact of the Criminal Justice System

This report looks at the impact of the criminal justice system as a whole on the new generation of adults those people in the 2029 age group. In particular, it examines the devastating impact that the criminal justice system has had on the lives of young Black men and Black communities.

This report does not attempt to explain whether or why Blacks are disproportionately involved in the criminal justice system. Other studies have attempted to document whether Black males commit more crimes or different types of crimes than other groups, or whether they are merely treated more harshly for their crimes by the criminal justice system. Instead, this report looks at the end result of that large-scale involvement in the criminal justice system, and highlights the implications this raises for crime control policies.

Using data from the Bureau of Justice Statistics and the Bureau of the Census, we have calculated the rates at which different segments of the 2029 age group come under the control of the criminal justice system. The analysis looks at the total number of persons in state and federal prisons, jails, probation, and parole, and compares rates of criminal justice control by race, sex, and ethnicity. Because of the unavailability of complete data in some categories of the analysis, the total rates of control should not be considered exact calculations, but rather, close approximations of the numbers of persons in the system. As described in "Methodology," in all cases where data were lacking, conservative assumptions were used in making calculations. (Sufficient data were not available to analyze criminal justice control rates for Native Americans or Asian Americans.)

Our findings, as displayed in Tables 1 and 2, are as follows:

- Almost one in four (23 percent) Black men in the age group 2029 is either in prison, jail, on probation, or parole on any given day.

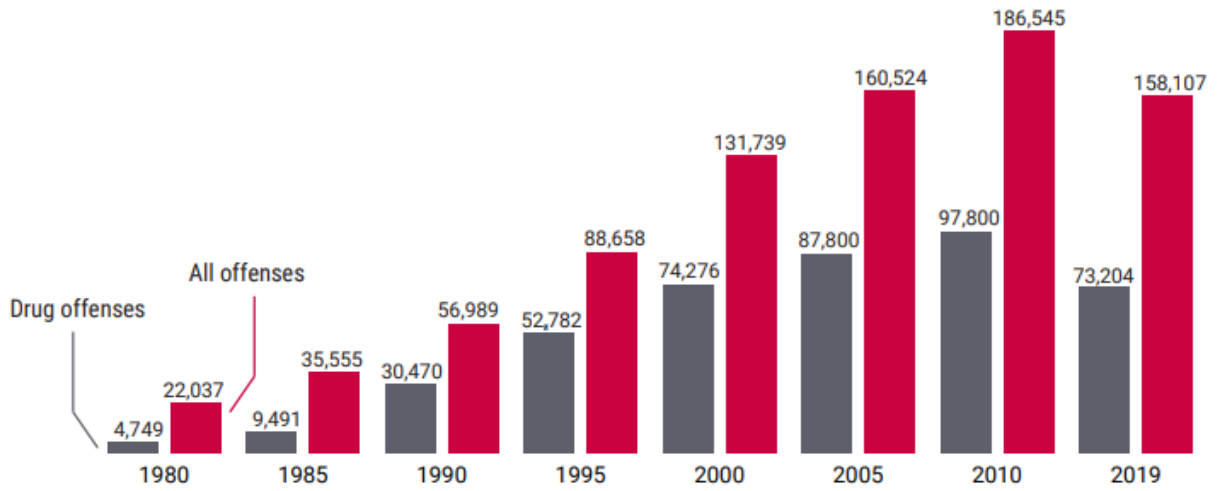
- For white men in the age group 20-29, one in 16 (6.2 percent) is under the control of the criminal justice system.
- Hispanic male rates fall between these two groups, with one in 10 (10.4 percent within the criminal justice system on any given day).
- Although the number of women in the criminal justice system is much lower than for men, the racial disproportions are parallel. For women in their twenties, relative rates of criminal justice control are:
 - Black women one in 37 (2.7 percent)
 - White women one in 100 (1 percent)
 - Hispanic women one in 56 (1.8 percent)
- The number of young Black men under the control of the criminal justice system 609,690 is greater than the total number of Black men of all ages enrolled in college 436,000 as of 1986. For white males, the comparable figures are 4,600,000 total in higher education and 1,054,508 ages 20-29 in the criminal justice system.
- Direct criminal justice control costs for these 609,690 Black men are \$2.5 billion a year.
- Although crime rates increased by only 2 percent in the period 1979-88, the number of prison inmates doubled during that time.

These findings actually understate the impact of present policies upon Black males ages 20-29. This is because the analysis presented here covers criminal justice control rates for a single day in mid-1989. Since all components of the criminal justice system admit and release persons each day, though, the total number of persons processed through the system in a given year is substantially higher than the single day counts. For this reason, the proportion of young Black men processed by the criminal justice system over the course of a year would be even higher than one in four.

Additional Data from the Sentencing Project

According to the [Sentencing Project](#), sentencing policies of the War on Drugs era resulted in dramatic growth in incarceration for drug offenses. Since its official beginning in the 1980s, the number of Americans incarcerated for drug offenses has skyrocketed from 40,900 in 1980 to 430,926 in 2019 based on data from the Bureau of Justice Statistics. Furthermore, harsh sentencing laws such as mandatory minimums keep many people convicted of drug offenses in prison for longer periods of time: in 1986, people released after serving time for a federal drug offense had spent an average of 22 months in prison. By 2004, people convicted on federal drug offenses were expected to serve almost three times that length: 62 months in prison. At the federal level, people incarcerated on a drug conviction make up nearly half the prison population. At the state level, the number of people in prison for drug offenses has increased ninefold since 1980, although it has begun declining in recent years. Most are not high-level actors in the drug trade, and most have no prior criminal record for a violent offense. Black men are six times as likely to be incarcerated as white men and Latinx men are 2.5 times as likely. For Black men in their thirties, about 1 in every 12 is in prison or jail on any given day.

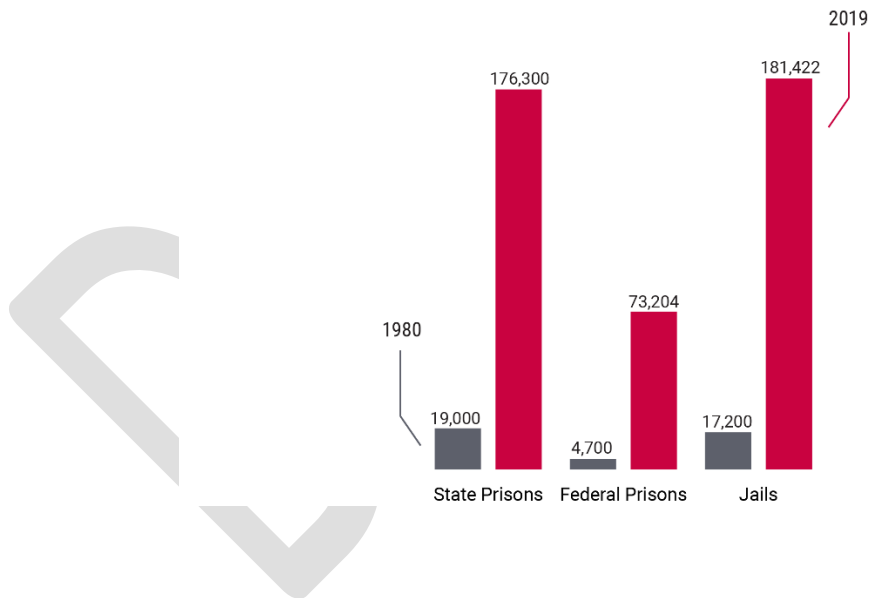
Number of Sentenced People in Federal Prisons for Drug Offenses, 1980-2019



Sources: Bureau of Justice Statistics Prisoners Series.



Number of People in Prisons and Jails for Drug Offenses, 1980 and 2019



Section V. Conclusion

Taking the County's arrest data and comparing it to San Diego's population by zip code data and redistricting mapping, it is clear which communities have been most affected by the War on Drugs. These communities are the areas that have been included in Chapter 7 of the City's Cannabis Equity Assessment Equity Applicant criteria. Because communities of color were disproportionately affected by cannabis arrests due to the War on Drugs, it is important to review communities by zip code (Table 5), percentage of population to (Tables 6 and 7) and redistricting mapping (Table 8) determine the correlation between where persons of color lived and cannabis arrests.

The data analysis and information included in this memorandum is supported by language contained in Senate Bill (SB) 1294 Cannabis: state and local equity programs (2017-2018) which states: "During the era of cannabis prohibition in California, the burdens of arrests, convictions, and long-term collateral consequences arising from a conviction fell disproportionately on Black and Latinx people, even though people of all races used and sold cannabis at nearly identical rates. The California Department of Justice data shows that from 2006 to 2015, inclusive, Black Californians were two times more likely to be arrested for cannabis misdemeanors and five times more likely to be arrested for cannabis felonies than White Californians. During the same period, Latinx Californians were 35 percent more likely to be arrested for cannabis crimes than White Californians. The collateral consequences associated with cannabis law violations, coupled with generational poverty and a lack of access to resources, make it extraordinarily difficult for persons with convictions to enter the newly regulated industry."

From the documented cannabis arrest data, population data by zip codes, redistricting mapping and State law, it is clear that predominately Black/African American and Hispanic communities were harmed by the War on Drugs as included in SB-1294. Therefore, in support of State law and the City's ongoing equity initiatives, the adoption of a cannabis equity assessment by the City of San Diego is an important step forward in providing the financial tools and support to communities and residents who have been harmed by the War on Drugs.

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