

# **Drug Use and Justice 2002:**

## **An Examination of California Drug Policy Enforcement**



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**Mike Males, PhD**  
**Daniel Macallair, MPA.**  
**Ross Jamison, MPA**

**Abstract:**

Drug Use and Justice 2002: An Examination of California Drug Policy Enforcement offers observations on the State of California's approach to drug policy enforcement and imprisonment, draws comparisons of the 12 largest counties in the state, and points to greater impact on crime and drug abuse through focusing enforcement efforts on manufacturing and trafficking rather than drug possession. Reductions in prison admissions in the state of California as a result of Proposition 36 or the Substance Abuse and Crime Prevention Act of 2000 are presented.

**Introduction:**

In October of 2000, the Center on Juvenile and Criminal Justice released “Drug Use and Justice: An Examination of California Drug Policy Enforcement”. The report documented a sharp increase in California incarceration rates that totaled 2.5 times the national average in 1996, and ultimately rose to a rate of imprisonment of 132 persons per 100,000 in 1999. The study was the most comprehensive analysis yet completed on California drug policy enforcement and imprisonment, and included a comparison of the state’s 12 largest counties. Variances in county arrest, prosecution and sentencing procedures were well documented, and the report highlighted a greater impact on crime and drug abuse through focusing enforcement efforts on manufacturing and trafficking rather than drug possession.

“Drug Use and Justice 2002: An Examination of California Drug Policy Enforcement” is an update which utilizes the most current information available on drug policy enforcement and imprisonment trends in the state of California. The study indicates that while Proposition 36, also known as the Substance Abuse and Crime Prevention Act of 2000 (SACPA), has been effective in reducing imprisonment for low level drug offenses within the state, incarceration rates for drug offenses in California remain high, and felony imprisonment for drug possession continues at excessive levels in some counties. The purpose of this update is to review ongoing incarceration trends and identify the factors which keep them at record levels.

California’s uniquely harsher approach to drug crime is founded on deterrence and incapacitation theory, which promotes increased arrests, prosecutions, and prison sentences as the primary means to dissuade drug use and reduce street crime by removing the drug-involved offender from the community. The theory also holds that stricter sanctions targeting low level and first time drug offenders

further reduces drug-related crime by increasing the personal costs of drug use among incipient users (Maxwell 1999; Tonry 1999; Henham 1999). Deterrence and incapacitation theory subscribes to the belief that failure to strictly enforce drug laws promotes other forms of crime as undeterred drug users seek money to supply their drug needs (Lurigio & Swartz, 1999).

Supporters of deterrence and incapacitation theory associate the recent declines in California crime rates as a testament to these policies (Jones 1999). Opponents argue that this theory is misguided and ineffective because simple punishment does not address the underlying causes of drug use and addiction (Sentencing Project, 1998). In addition, national statistics show that crime rates are declining across the nation regardless of individual state law enforcement policies (Tonry 1999).

The dramatic rise in drug offender imprisonment throughout California is not uniform, as jurisdictions show wide variations in policy and practice. While many counties adopted strict doctrinaire enforcement policies that targeted serious and low level offenders, others opted to target more serious and chronic offenders. To determine the impact of differential enforcement policies, this study examines state arrest and incarceration trends as a whole, in addition to a more in depth examination of the state's 12 largest counties. The counties highlighted in this report account for three-fourths of the state's population (25 million) and four-fifths of the state's drug arrests. This research analyzes the impact of strict drug law enforcement on violent crime, property crime, and drug abuse rates from 1980-2001.

### **Summary of Findings: State and County**

During the past two decades California experienced a 25-fold increase in the number of drug offenders sentenced to state prison. As a result of this increase,

California's rate of incarceration for drug offenders, 130 per 100,000 population, was 30% above the average elsewhere in the nation, 101 per 100,000 population, in 2000 (Table 1). In 2001, after Proposition 36 took effect and required treatment for low-level drug offenders, California's drug imprisonment rate fell to around 110 per 100,000.

This unprecedented increase is attributable in no small part to increasing arrests for drugs. Although California's drug violation arrest rate rose at a considerably slower clip than the national average over the last two decades, California's arrest rate for drug offenses remained 30% above the national average in 2000. Moreover, California has implemented harsher sentencing statutes that have expanded the pool of prison-eligible offenders and promoted incarceration as a primary response to illicit drug use (Maxwell, 1999; Tonry, 1999).

| Table 1. California's arrest and imprisonment rates for drug offenses are much higher than the national average                     |             |             |               |
|---|-------------|-------------|---------------|
| Arrest rate for drug offenses per 100,000 population, 1980-2000:  |             |             |               |
|   | <u>1980</u> | <u>2000</u> | <u>Change</u> |
| California:   | 553.6       | 745.0       | + 35%         |
| U.S.:   | 256.0       | 572.4       | +126%         |
| U.S. outside CA:  | 221.4       | 549.8       | +148%         |
| Imprisonment rate for drug offenses per 100,000 population, 1980-2000:  |             |             |               |
|   | <u>1980</u> | <u>2000</u> | <u>Change</u> |
| California:   | 7.5         | 130.5       | +1,637%       |
| U.S.:   | 7.8         | 103.7       | +1,237%       |
| U.S. outside CA:  | 7.8         | 100.1       | +1,285%       |
| Sources: <i>Crime &amp; Delinquency in California</i> , 2000, Tables 33 and 36; FBI, <i>Uniform Crime Reports</i> , 2000, Table 38. |             |             |               |

As the nation's leader in drug law enforcement, California presents an unusual opportunity to examine the impact of arrest and incarceration drug control policies. As California drug arrests doubled from 131,000 in 1980 to 250,000 in 2001, major variations developed. In the 1980s, two-thirds of the state's drug arrest increases were high level felonies such as illegal drug manufacture, sale, or possession in large quantity. However, in the 1990s, nearly all drug arrest

increases were for low level possession offenses. By 2001, half of all drug arrests were for low-level misdemeanors. \*\*

These variations in arrest patterns are reflected in imprisonment rates (Table 2, illustrated in Figure 1). In 1980, only 379 Californians were sent to prison for drug possession offenses compared to 12,749 in 1999, a population-adjusted rate increase of 2,244%. The per capita imprisonment growth rate for all drug offenses was 1,473%, while the per capita growth rate in prison commitments for sale/manufacture drug offenders was 1,048%. By the late 1990s, in a radical departure from the past, more than half of Californians imprisoned for drugs are locked up for possession (Table 2).

|                               | Rate per 100,000 population |              |         | Numbers |              |          | % Poss |
|-------------------------------|-----------------------------|--------------|---------|---------|--------------|----------|--------|
|                               | All                         | Sale/manuf * | Possess | All     | Sale/manuf * | Possess* |        |
| 1980                          | 4.5                         | 2.9          | 1.6     | 1,076   | 697          | 379      | 35.2%  |
| 81                            | 5.1                         | 3.2          | 1.9     | 1,224   | 777          | 447      | 36.5%  |
| 82                            | 6.1                         | 4.1          | 2.0     | 1,498   | 1,005        | 493      | 32.9%  |
| 83                            | 9.0                         | 5.9          | 3.0     | 2,250   | 1,488        | 762      | 33.9%  |
| 84                            | 10.8                        | 6.8          | 4.0     | 2,767   | 1,747        | 1,020    | 36.9%  |
| 1985                          | 16.1                        | 10.1         | 6.0     | 4,210   | 2,634        | 1,576    | 37.4%  |
| 86                            | 24.2                        | 14.9         | 9.2     | 6,460   | 3,988        | 2,472    | 38.3%  |
| 87                            | 33.8                        | 20.5         | 13.3    | 9,255   | 5,603        | 3,652    | 39.5%  |
| 88                            | 46.1                        | 28.2         | 18.0    | 12,945  | 7,903        | 5,042    | 38.9%  |
| 89                            | 58.2                        | 35.1         | 23.1    | 16,750  | 10,101       | 6,649    | 39.7%  |
| 1990                          | 61.7                        | 37.1         | 24.6    | 18,243  | 10,974       | 7,269    | 39.8%  |
| 91                            | 55.8                        | 34.7         | 21.2    | 17,113  | 10,627       | 6,486    | 37.9%  |
| 92                            | 57.7                        | 35.1         | 22.6    | 18,063  | 10,983       | 7,080    | 39.2%  |
| 93                            | 62.7                        | 38.0         | 24.7    | 19,902  | 12,075       | 7,827    | 39.3%  |
| 94                            | 61.3                        | 34.8         | 26.5    | 19,692  | 11,185       | 8,507    | 43.2%  |
| 1995                          | 70.1                        | 36.9         | 33.2    | 22,472  | 11,816       | 10,656   | 47.4%  |
| 96                            | 72.6                        | 38.1         | 34.5    | 23,510  | 12,354       | 11,156   | 47.5%  |
| 97                            | 75.1                        | 36.4         | 38.7    | 24,748  | 11,984       | 12,764   | 51.6%  |
| 98                            | 75.1                        | 35.7         | 39.4    | 25,152  | 11,949       | 13,203   | 52.5%  |
| 99                            | 70.8                        | 33.3         | 37.5    | 24,092  | 11,343       | 12,749   | 52.9%  |
| 2000                          | 64.1                        | 29.2         | 34.9    | 21,707  | 9,902        | 11,805   | 54.4%  |
| 01                            | 50.1                        | 26.3         | 23.8    | 17,414  | 9,148        | 8,266    | 47.5%  |
| <u>Combined-year averages</u> |                             |              |         |         |              |          |        |
| 80-84                         | 7.2                         | 4.6          | 2.5     |         |              |          | 34.7%  |
| 85-89                         | 36.2                        | 22.1         | 14.1    |         |              |          | 39.0%  |
| 90-94                         | 59.9                        | 35.9         | 23.9    |         |              |          | 39.9%  |
| 95-99                         | 72.7                        | 36.0         | 36.7    |         |              |          | 50.5%  |
| 00-01                         | 57.0                        | 27.8         | 29.2    |         |              |          | 51.3%  |

Change, 2000-01 rate vs rate in:

|       |       |       |        |
|-------|-------|-------|--------|
| 80-84 | +692% | +504% | +1068% |
| 85-89 | + 58% | + 26% | +107%  |
| 90-94 | +21%  | 0%    | +54%   |

\* "Sale/manuf" refers to high-level drug offenses (drug sale, manufacture, or possession in quantity large enough to presume intent to sell). "Possess" refers to low-level possession of drugs in small quantity for personal use.

Source: Data Analysis Unit, California Department of Corrections (imprisonments); Demographic Research Unit, California Department of Finance (populations used to calculate rates).

Figure 1= change in California drug imprisonments, 1980-2001

An examination of the 1990s drug law arrests and imprisonment patterns shows a distinct pattern shift from the 1980s and prior decades. During the 1990s California drug enforcement targeted an ever-increasing pool of marginal drug users, with possession accounting for virtually all the increase in drug-related imprisonments. From 1990 to 2000, imprisonment for drug possession increased by 60% while felony drug imprisonment for manufacturing and trafficking fell by 10%. In a radical departure from past drug enforcement, more Californians were imprisoned by 1997 simple drug possession than for sale or manufacturing drug offenses. The trend toward imprisoning more for drug possession than for sale/manufacturing increased through 2000, when 54% of new drug admissions were for simple possession. Even more surprising, while a drug dealer or manufacturer was much more likely to be imprisoned than a drug possession offender in the 1980s and before, today an offender arrested for low-level drug possession is considerably more likely to be imprisoned than one arrested for felony drug manufacture or sale. Further, 6,191 Californians were imprisoned in 1999 for possession of a small amount of drugs with no prior offense for violent or serious offenses and no other current offenses. These drug users comprise the state's fastest-growing inmate population and constitute 11% of those sent to prison for all offenses in 1999.

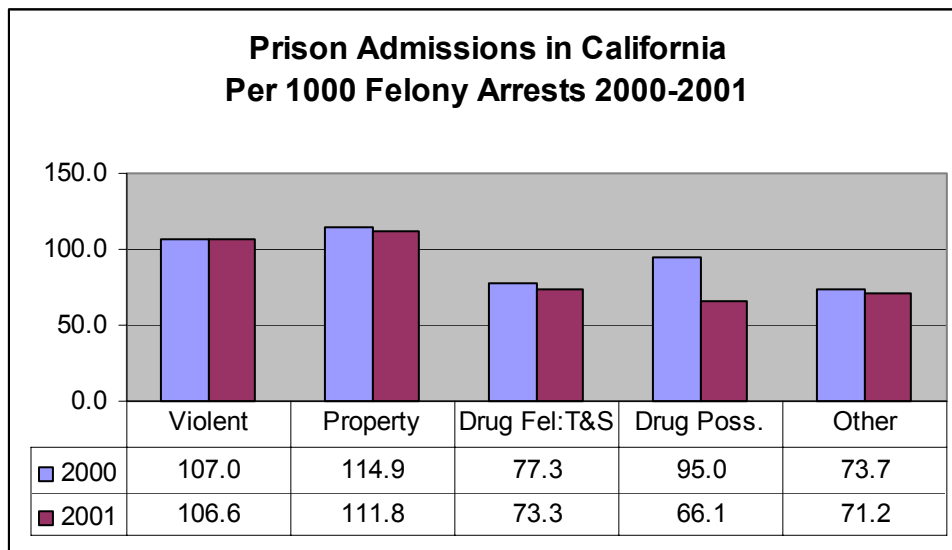
Overall, the imprisonment increases for California drug law violators during the past two decades are the result of harsher sentencing of lower level drug users. This pattern suggests that incarceration has become the primary intervention tool for state drug prevention policy. Even after Proposition 36 banned imprisonment of most low-level drug offenders, 47.5% of new drug admissions to prison in 2001 were for possession.

**Sidebar Discussion:  
Prop 36 Reduces Low Level Drug Possession Prison Admissions 30% in 2001, While Drug Possession Arrests on Rise**

Since California voters overwhelmingly passed Proposition 36, the Substance Abuse and Crime Prevention Act (“SACPA”) of 2000, skeptics have coined the new law an “experiment” while supporters sighed with relief that the trend of imprisonment as a solution to addiction in the state of California was falling from favor. Both schools watched closely to determine if the law would really deliver on promises to cut costs, provide a new approach to drug misuse, and decrease the number of low-level drug possession cases revolving through the criminal justice system.

Current admission data for drug possession provided by the California Department of Corrections (CDC) indicates that SACPA has been effective in reducing costs and the burden on the criminal justice system.

**Prison Admissions Reduced:**



*Figure 1 Source: CDC Office of Data Analysis*



Rates of prison admission provided by the CDC are useful in describing the number of new and re-offending inmates that are added to the California prison system each year. The data is separated by the type of offense the individual committed. As shown in Figure 1 above, in 2001, the first year of SACPA implementation, all drug possession admissions per 1000 arrests dropped by 30 percent in California Prisons when compared to year 2000 admissions<sup>i</sup>.

**Prison Costs Reduced:**

Figure 1 equates to a total reduction in the number of new and re-offending admissions to the state prison system of 3,539 simple drug possession offenses. The California Department of Corrections estimates that the cost per year for imprisonment is \$26,894.00. Given a standard felony prison sentence will exceed one year in the state of California, by simple mathematics, the cost savings to the CDC totals more than \$95 Million in the first year of SACPA implementation.

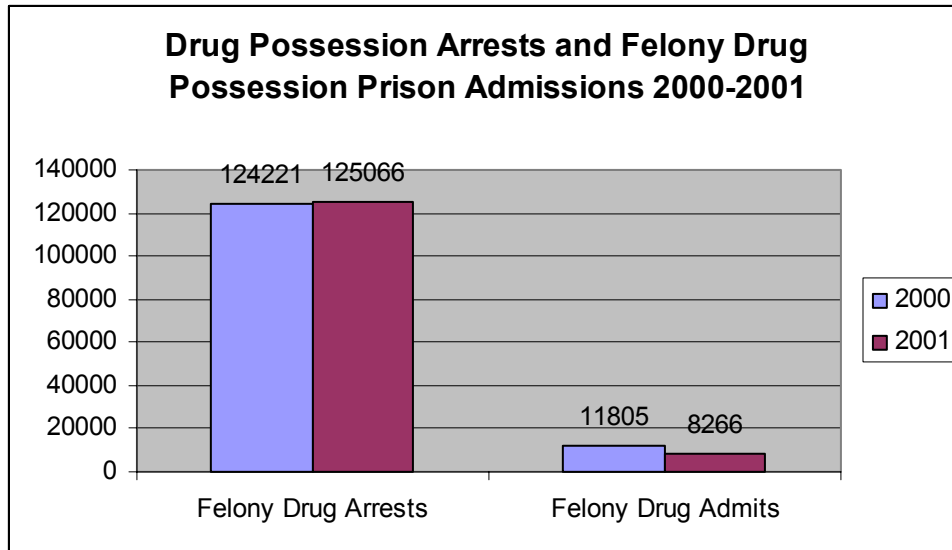
**Overall Criminal Justice Costs Reduced:**

The Rand Corporation estimated the total cost of one substance abuse treatment episode within the California criminal justice system to range from \$2,567 to \$3,177<sup>ii</sup>. If the cost of a treatment episode is conservatively estimated at \$3,177, and the diverted 3,539 low level offenders received treatment rather than prison time, the total cost of providing services to these individuals totals \$11.2 million. The remaining funds saved by the CDC, totaling an estimated \$83.5 million is freed for other uses such as re-entry services, which should include substance abuse treatment.

This estimate does not account for the potential savings in reduced crime and recidivism through providing substance abuse treatment. Current estimates in the costs savings for each dollar spent on drug treatment range from \$7 to \$18<sup>iii</sup>.

**Total Arrest in California Remain Stable**

The current arrest rate in California is an essential element of this discussion. With the introduction of SACPA, law enforcement officials and others expressed concern that drug possession arrests as a whole would decrease. Lacking the means to put drug offenders behind bars, it was thought that police would either not respond to issues of drug misuse, or else tack on frivolous charges in order to keep individuals detained.



**Figure 2 Source: CDC Office of Data Analysis**

The most recent data from the CDC reports that this has not been the case. As seen in Figure 2, while drug possession admissions to California state prisons have experienced a significant decrease, arrest rates for drug possession in the state continued to increase from 124,211 to 125,066 in the year 2001. Charges for violent and property crimes have increased in 2001, but not outside the trends of increased incarceration for these offenses across the state in general.

**Where Should the Money Go?**

A reduction in felony prison admissions for drug possession which leads to a gross savings of \$95 million for the CDC and a net savings of \$83.5 million after substance abuse treatment provision is a substantial amount of resources that could be utilized for a number of other services. These include transitional living programs, drug treatment programs, and job skills training which are crucial to reducing recidivism.

### **Summary of Findings: Incarceration in California Counties**

Although California laws are established by the state legislature, arrest, prosecution and sentencing decisions are county functions. Because California counties pursued drug policy enforcement in sharply different ways, wide variations exist on how laws are implemented at the county level. Most county police and district attorney offices vigorously pursued new harsh enforcement statutes and significantly increased drug arrests and imprisonment for all forms of drug offenses including misdemeanors. According to deterrence and incapacitation theory, counties which adopted strict enforcement approaches should show the greatest declines in drug-related crime and drug abuse.

However, not all counties adopted strict enforcement approaches with no significant change from jurisdictions with stringent enforcement. San Francisco increased drug arrests and prosecutions for dealers and manufacturers but minimized severe penalties for drug possession. Although, overall, crime in

California is down in the past decade, data show that stricter drug enforcement is not associated with declines in crime rates or drug use:

- Counties that sharply increased their imprisonment rates for drug offenses showed slower decreases in the most serious Part I felony offenses, especially property offenses, over the last two decades than counties with more lenient approaches.
- Similarly, counties that energetically prosecuted and imprisoned more people for drug possession did not experience greater reductions in serious crime.
- Conversely, counties that adopted more balanced approaches, with less emphasis on arresting and imprisoning low-level drug users, showed larger declines in property crime and larger (though not statistically significant) declines in violent crime as well.

These patterns remain consistent when a variety of crime measures and time periods are compared. The absence of differential effects between counties with strict drug enforcement policies and counties with more lenient drug enforcement policies does not support the deterrence and incapacitation arguments of drug enforcement advocates.

### **Methodology**

State and county arrest data for six categories of drug offenses for the study period 1980 through 2000 are available in *Crime & Delinquency in California* and its supplement, *California Criminal Justice Profiles*. These reports are published annually by the California Department of Justice's Criminal Justice Statistics Center (CJSC). These data include four categories of felony offenses (manufacture/sale/possession in large quantity of dangerous drugs, narcotics, marijuana, and other drugs) and two misdemeanor categories (simple possession of marijuana, and of other drugs).

The CJSC also provides detailed yearly index offenses as reported by law enforcement agencies in each county. Index offenses, as designated by the Federal Bureau of Investigation, consist of four violent felonies (murder, rape, robbery, aggravated assault) and four property felonies (burglary, theft, motor vehicle theft, arson).

Prisoner statistics were obtained from the California Department of Corrections' (CDC) Data Analysis Unit. The CDC's annual reports and a special data retrievals for this study offer detailed information on prisoners and prison admittees by year, county, age, sex, race, offense, average term served, and cost of imprisonment. These statistics are among the most comprehensive prisoner statistics available nationwide.

County population data was obtained from the California Department of Finance's Demographic Research Unit. County drug arrest rates per 100,000 are determined by the following formula:

$$(\text{Drug arrests}/\text{county population}) \times 100,000$$

Crimes reported to law enforcement agencies likewise are divided by the population of each county for each year to produce an annual crime index for violent and property offenses.

Drug abuse is measured by rates of county drug-related deaths. Drug-related deaths, those from chronic drug abuse and from poisoning by drug overdose (accident, suicide, and undetermined as to intent), are available from the Center for Health Statistics, California Department of Health Services. Drug abuse death rates for 2000 are shown by county.

Correlational analysis is used to determine the relationship between increased rates of arrest and imprisonments for drugs and crime and drug abuse death rates by county. A negative correlation (i.e., more drug arrests associate with less crime) would support claims that increased drug law enforcement reduces crime. Conversely, a positive correlation (more drug arrests are associated with more crime) would not support the deterrence and incapacitation theory of strict drug enforcement advocates.

## Results

### County Drug Arrests, Imprisonment, and Crime Trends: 1980-2000

Comparing the most recent year for which statistics are available (2000) with those of 1980, before the “war on drugs” was initiated, drug arrest rates increased in 11 of the 12 counties studied, ranging from a 179% increase in San Bernardino to an 17% decrease in Los Angeles. Felony arrests likewise increased in 11 of 12 counties, ranging from a rise of 167% in Sacramento to 10% drop in Los Angeles. Eight of 12 counties showed increases in misdemeanor drug arrests, from 203% in San Bernardino to a decline of 23% in Los Angeles (see Table 3).

Table 3. Counties ranked by changes in drug arrest rates, 1980-2000

#### Change in arrest rates for all drug offenses, 1980-2000

|                |      |
|----------------|------|
| San Bernardino | 179% |
| Sacramento     | 171% |
| Fresno         | 158% |
| Ventura        | 115% |
| Contra Costa   | 101% |
| Santa Clara    | 70%  |
| San Francisco  | 63%  |
| Riverside      | 45%  |
| Alameda        | 23%  |
| Orange         | 19%  |
| San Diego      | 8%   |
| Los Angeles    | -17% |

#### Change in felony drug arrest rates, 1980-2000

|                |      |
|----------------|------|
| Sacramento     | 167% |
| San Bernardino | 160% |

|   |      |
|---|------|
| Contra Costa  | 143% |
| Fresno  | 143% |
| San Francisco   | 112% |
| Santa Clara   | 68%  |
| Ventura   | 59%  |
| Alameda   | 59%  |
| Riverside   | 41%  |
| San Diego   | 23%  |
| Orange  | 16%  |
| Los Angeles   | -10% |
| <u>Change in misdemeanor drug arrest rates, 1980-2000</u> |      |
| San Bernardino  | 203% |
| Sacramento  | 178% |
| Fresno  | 172% |
| Ventura   | 144% |
| Santa Clara   | 72%  |
| Contra Costa  | 61%  |
| Riverside   | 49%  |
| Orange  | 22%  |
| San Diego   | -0%  |
| Alameda   | -6%  |
| San Francisco   | -15% |
| Los Angeles   | -23% |

Misdemeanor drug arrest rates more than doubled in Fresno and Sacramento while falling sharply in San Francisco, Los Angeles, San Diego, and Alameda counties. San Francisco presents the most extreme divergence: the state's highest arrest rate for drug felonies and it's lowest for drug misdemeanors (see Table 4).<sup>1</sup>

Table 4. Counties ranked by drug arrest rates, 2000

Rate of arrest for all drug offenses, 2000

|                |        |
|----------------|--------|
| San Francisco  | 1330.8 |
| San Bernardino | 995.7  |
| Ventura        | 930.3  |
| Alameda        | 888.7  |
| Fresno         | 816.1  |
| San Diego      | 813.1  |
| Sacramento     | 794.4  |
| Santa Clara    | 715.4  |
| Contra Costa   | 677.4  |
| Orange         | 651.5  |
| Riverside      | 645.2  |
| Los Angeles    | 631.4  |

Felony drug arrest rate, 2000

|               |        |
|---------------|--------|
| San Francisco | 1069.5 |
|---------------|--------|

<sup>1</sup> A disproportionately high number of arrests charges in San Francisco are reduced in the early stages of court processing. This reflects a historical pattern of inflated charging policy by the SF police department.

|   |       |
|---|-------|
| San Bernardino                            | 525.7 |
| Alameda                                   | 513.7 |
| Sacramento                                | 470.5 |
| Contra Costa                              | 403.7 |
| Fresno                                    | 379.5 |
| Los Angeles                               | 351.9 |
| Santa Clara                               | 341.0 |
| Riverside                                 | 336.2 |
| San Diego                                 | 332.5 |
| Orange                                    | 280.3 |
| Ventura                                   | 232.3 |
| <u>Misdemeanor drug arrest rate, 2000</u> |       |
| Ventura                                   | 698.0 |
| San Diego                                 | 480.6 |
| San Bernardino                            | 470.0 |
| Fresno                                    | 436.6 |
| Alameda                                   | 374.9 |
| Santa Clara                               | 374.5 |
| Orange                                    | 371.2 |
| Sacramento                                | 323.9 |
| Riverside                                 | 309.0 |
| Los Angeles                               | 279.5 |
| Contra Costa                              | 273.7 |
| San Francisco                             | 261.4 |

Counties also showed distinctly varying rates and trends in drug offender imprisonment. In all 12 counties, the rate of drug imprisonment escalated dramatically, primarily due to harsher sentencing for drug possession. Riverside's absolute increase in drug imprisonment was the State's highest at 93.9 new annual drug prisoners per 100,000 population, while Contra Costa's was the lowest, at 22.6. Los Angeles recorded the largest increase in imprisonment for drug possession (48.8 per 100,000 population) while Contra Costa (9.8) and San Francisco (9.9) showed the smallest increases (see Table 5).

Table 5. Counties ranked by absolute change in drug imprisonment rates, 1999 minus 1980

Change in all drug-offense imprisonments, 1999 minus 1980

|                |      |
|----------------|------|
| Riverside      | 93.9 |
| San Bernardino | 91.6 |
| Los Angeles    | 86.2 |
| Orange         | 73.6 |
| San Diego      | 67.7 |
| Sacramento     | 63.4 |
| Fresno         | 63.0 |
| Alameda        | 37.2 |
| Santa Clara    | 36.2 |
| San Francisco  | 35.3 |
| Ventura        | 33.4 |
| Contra Costa   | 22.6 |
| State          | 65.6 |

Absolute change in imprisonment rates for simple drug possession, 1999 minus 1980



|                |      |
|----------------|------|
| Los Angeles    | 48.8 |
| Riverside      | 46.1 |
| Orange         | 44.9 |
| San Bernardino | 36.6 |
| San Diego      | 29.6 |
| Fresno         | 29.5 |
| Sacramento     | 29.4 |
| Ventura        | 21.2 |
| Santa Clara    | 16.0 |
| Alameda        | 11.7 |
| San Francisco  | 9.9  |
| Contra Costa   | 9.8  |
| State          | 34.2 |

Violent crime rates were lower in all 12 counties in 2000 than in 1980. Declines ranged from 16% in Santa Clara to 55% in San Francisco. Property offense rates declined in all counties, ranging from 41% in Fresno to 77% in Santa Clara. In all 18 separate comparisons, increased rates of drug arrests and imprisonment coincided with slower crime decreases (Table 6 and Figure 2). Although several of these correlations approached statistical significance, only one was significant. Increased felony drug arrest rates were significantly correlated with *slower* declines in property crime ( $r = .58, p < .05$ ).

Table 6. Counties with the biggest increases in drug arrests did not show biggest declines in other types of serious (Part I) crime, 2000 vs 1980

| Counties*      | Change in drug arrest rate |      | Change in crime rates |         |
|----------------|----------------------------|------|-----------------------|---------|
|                | All                        | Misd | All                   | Violent |
| San Bernardino | 179%                       | 203% | -51%                  | -34%    |
| Sacramento     | 171%                       | 178% | -43%                  | -21%    |
| Fresno         | 158%                       | 172% | -36%                  | -17%    |
| Ventura        | 115%                       | 144% | -63%                  | -42%    |
| Contra Costa   | 101%                       | 61%  | -50%                  | -20%    |
| Santa Clara    | 70%                        | 72%  | -67%                  | -16%    |
| San Francisco  | 63%                        | -15% | -59%                  | -55%    |
| Riverside      | 45%                        | 49%  | -47%                  | -20%    |
| Alameda        | 23%                        | -6%  | -53%                  | -41%    |
| Orange         | 19%                        | 22%  | -67%                  | -35%    |
| San Diego      | 8%                         | -0%  | -51%                  | -20%    |
| Los Angeles    | -17%                       | -23% | -55%                  | -29%    |

\*Ranked by highest to lowest changes in total drug arrest rates.

Figure 2= change in drug arrest vs change in crime rates by county

Several additional comparisons of drug arrest and imprisonment policies were examined to determine their relationships to crime reductions. Counties that (a) made fewer drug arrests and (b) concentrated their enforcement efforts on felony

manufacture or sale rather than on simple-possession drug offenses were more likely to experience declines in violent crime ( $r = -.52, p < .08$ ) and property crime ( $r = -.53, p < .07$ ). Both of these correlations closely approach statistical significance.

This pattern also held true for drug imprisonment. Counties that rarely imprisoned low-level drug offenders showed the largest reductions in violent and property crime ( $r = -.53, p < .05$ ).

### County Drug Arrest and Imprisonment Levels and Crime Rates

As with drug imprisonment trends, counties differ radically in their rates of imprisoning drug offenders. For example, Riverside County residents are imprisoned for drug offenses at four times the rate of Contra Costa County residents. Los Angeles County residents are imprisoned for low-level drug possession at nearly five times the rate of San Francisco, Alameda, and Contra Costa residents (see Table 7).

| Table 7. Counties ranked by drug imprisonment rates, 1995-99    |       |
|---|-------|
| <u>Imprisonment rate for all drug offenses, 1995-99</u>         |       |
| Riverside   | 100.7 |
| San Bernardino  | 98.2  |
| Los Angeles   | 95.2  |
| Orange  | 79.2  |
| Fresno  | 73.1  |
| San Diego   | 71.1  |
| Sacramento  | 68.5  |
| Santa Clara   | 46.8  |
| San Francisco   | 45.8  |
| Alameda   | 42.3  |
| Ventura   | 37.3  |
| Contra Costa  | 25.5  |
| State   | 72.7  |
| <u>Imprisonment rate for low-level drug possession, 1995-99</u> |       |
| Los Angeles   | 51.7  |
| Riverside   | 48.4  |
| Orange  | 46.8  |
| San Bernardino  | 39.0  |
| Sacramento  | 31.7  |
| Fresno  | 31.5  |

|               |      |
|---------------|------|
| San Diego     | 31.2 |
| Ventura       | 22.2 |
| Santa Clara   | 20.4 |
| San Francisco | 14.3 |
| Alameda       | 13.9 |
| Contra Costa  | 10.8 |
| State         | 36.7 |

Finally, the Department of Corrections provided a special tabulation for the years 1997-99 of persons imprisoned for low-level drug possession with no prior violent or serious offense and no drug or other offenses. Again, counties differed radically in their rates of sending low-level drug offenders to prison (Table 8).

Table 8. Counties ranked by rates of drug imprisonment for low-level drug possession with no violent or other serious prior offense and no other current offense, 1997-99

|                |      |
|----------------|------|
| Orange         | 28.1 |
| Los Angeles    | 26.0 |
| Riverside      | 15.8 |
| San Bernardino | 14.9 |
| Fresno         | 14.8 |
| Sacramento     | 11.7 |
| Ventura        | 11.4 |
| San Diego      | 10.4 |
| Alameda        | 8.0  |
| Santa Clara    | 6.9  |
| San Francisco  | 6.5  |
| Contra Costa   | 3.1  |
| State          | 17.9 |

Orange and Los Angeles counties imprisoned drug possessors at levels five to seven times higher than in San Francisco Bay Area counties. Although detailed data are not available for 1980, the small number of drug possessors imprisoned at that time further demonstrates the drastic changes in drug sentencing policies over the past two decades.

The recent, large increases in imprisonment for drug offenses show no discernable impact on crime rates. Rather, the pattern is a random one, with most high-incarceration counties showing no reduction in violent or property crime categories relative to low-incarceration counties. Riverside and Contra Costa counties, as seen, differ by 400% in drug imprisonment levels (Table 12) and by 500% in imprisonment for low-level drug offenses, but Contra Costa's violent crime and total index crime rates are 25% lower than Riverside's (see Table 9).

Table 9. Counties ranked by index crime rate and by violent crime rate, 2000

| <u>Annual average crime index rate, 2000</u>   |        |
|--|--------|
| Fresno   | 2641.6 |
| Sacramento                                     | 2384.3 |
| San Francisco                                  | 2306.3 |
| Los Angeles                                    | 2257.5 |
| Riverside                                      | 2114.9 |
| Alameda  | 2092.4 |
| San Bernardino                                 | 1980.2 |
| San Diego                                      | 1654.6 |
| Contra Costa                                   | 1579.3 |
| Orange   | 1073.8 |
| Santa Clara                                    | 1023.5 |
| Ventura  | 902.7  |
| <u>Annual average violent crime rate, 2000</u> |        |
| Los Angeles                                    | 945.8  |
| San Francisco                                  | 844.8  |
| Fresno   | 755.7  |
| Alameda  | 657.0  |
| Riverside                                      | 620.6  |
| Sacramento                                     | 589.0  |
| San Bernardino                                 | 536.4  |
| San Diego                                      | 488.5  |
| Contra Costa                                   | 477.6  |
| Santa Clara                                    | 429.5  |
| Orange   | 302.1  |
| Ventura  | 280.1  |

The correlations between drug arrests and drug abuse rates (measured by drug-related death rates) produce a similar pattern (Table 10). Counties with higher rates of felony drug arrests are nearly always those with higher rates of drug abuse ( $r = .91, p < .0001$ ). However, higher rates of misdemeanor arrests do not affect drug abuse rates ( $r = -.21$ , not significant).

|                |      |
|----------------|------|
| San Francisco  | 22.3 |
| San Diego      | 9.9  |
| San Bernardino | 9.7  |
| Alameda        | 8.3  |
| Ventura        | 7.7  |
| Los Angeles    | 7.7  |
| Riverside      | 7.5  |
| Sacramento     | 7.4  |
| Orange         | 7.0  |
| Fresno         | 6.6  |
| Contra Costa   | 6.1  |
| Santa Clara    | 4.7  |

This suggests that increased policing of felony drug offenses is a response to high rates of drug abuse, but misdemeanor drug arrests appear to have no relationship to, and no impact on, either crime or drug abuse.

## Discussion

As in other areas of crime control, during the past 20 years California implemented an unprecedented social experiment in its attempt to suppress

illicit drug use. By emphasizing law enforcement strategies based on deterrence and incapacitation theories, the state's drug-offender prison population rose from 1,778 in 1980 to 45,328 in 2000 before declining to 43,998 in 2001, after Proposition 36 took effect. However, these policies were not adopted uniformly across the state, as shown by distinct county-by-county variations.

Since 1990, many counties placed increased emphasis on the prosecution and imprisonment of low level drug offenders, especially for drug possession offenses. For example, in 1980, only seven people from San Diego County were sentenced to prison for low-level drug possession, while in 1999 the county sent 1,002 drug possession offenders to state prison. Los Angeles sentenced only 145 drug possession offenders to prison in 1980, yet sentenced 5,109 in 1999.

In addition, the data in Table 6 show the six counties that increased their imprisonment rates the most for low level drug possession actually experienced greater increases in violent crime rates from 1980 to 2000 (down 27%, on average) than the six most lenient counties (down 31%). Further, no major differences emerged in violent or property crime rates between strict-enforcing counties and more lenient or balanced counties. Increased drug arrests and imprisonment are not correlated with decreases in violent and property crime (in fact, they are more likely to be associated with increases), and high levels of drug arrests and imprisonment are not associated with lower rates of crime (the results are entirely random).

San Francisco's high threshold numbers relative to other counties are the result of its unique demographic distinction as a densely populated urban county. If San Francisco were compared to the cities of Los Angeles or San Jose (instead of their counties), its numbers would not appear exceptional except for drug abuse deaths (five times the state average). However, San Francisco compares

favorably with the rest of the state in recording the largest decline in violent crime of any county, a moderate rate of decline in property crime, and a larger than average decline in total index crime.

A conclusion that fits all the facts, then, suggests that some counties chose to combat their drug abuse and crime problems by making more felony and misdemeanor drug arrests, while other counties made fewer drug arrests and/or concentrated only on the worst (felony) drug offenses (manufacturing and trafficking). The latter group of counties had considerably more success in reducing crime regardless of the dimensions of their drug abuse and crime problems.

A major reason for these outcome differences appears to be that simple possession drug offenses are not associated with high rates of crime or drug abuse -- with correlations close to zero. Therefore, increasing arrests for low level drug possession does nothing to control crime and may drain resources away from more productive strategies.

A second reason for the outcome differences is that felony drug offenses appear to reflect, rather than control, higher rates of drug abuse and crime. As shown, counties that stepped up felony drug arrest rates did not show the most impressive improvements in violent and property crime rates (although the San Francisco exception indicates that areas with extremely high rates of drug abuse may benefit from policing of the worst drug offenses). For most jurisdictions, however, increasing felony drug arrests is a very limited strategy to control rising drug abuse and crime.

Finally, counties that reduced misdemeanor drug arrests and switched to judicious enforcement of felony drug laws enjoyed the healthiest reductions in

violent and property crime. Taken together, these findings strongly suggest that (a) strong enforcement of drug possession laws is ineffective in reducing crime, and (b) felony drug arrest is a strategy that should be used sparingly and carefully targeted.

## **Conclusion**

After a decade and a half of skyrocketing drug arrests and imprisonment rates at a cost of billions of dollars, California (and the United States) now suffer the highest rates of drug abuse deaths in our history, and no discernable impact on California crime rates is observed. This finding confirms a recent United States Department of Justice drug policy study that concluded:

Higher rates of arrests, stricter laws, and more aggressive sentencing policies do not deter many drug users exposed to these penalties. This leads to a revolving door scenario in which drug-involved offenders appear repeatedly before the courts. One study found 60 percent of opiate-dependent Federal parolees were reincarcerated within 6 months of release -- virtually all for narcotics-related crime -- at an incarceration cost of more than \$27,000 per person, per year.

U.S. Justice Department research also concluded that drug treatment is effective even with the most hardened addicts. Studies show that concerted efforts towards treatment can reduce drug use and drug related crime by over 40 percent (Harell, Cavanaugh, & Roman, 2000).

Given the continued emphasis in California on law enforcement strategies despite the dearth of evidence showing effectiveness, future drug policy research should examine the political basis of current approaches. Questions to examine are whether current policies are better designed to accommodate vested interest



groups and political agendas than to serve as a reasonable solution to the legitimate social issue of drug abuse.

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<sup>i</sup> *As Seen In: Drug Use and Justice*, The Center on Juvenile and Criminal Justice, 2002. In Press. Males et. al. (All Raw Data Collected from California Department of Corrections Data Analysis Center.)

<sup>ii</sup> Defenders and the Criminal Justice System: Will Prop 36 Treat or Create Problems, RAND. Found online at: <http://www.rand.org/publications/IP/IP204/IP204.pdf>

<sup>iii</sup> Drug Abuse Treatment Cost Analysis Program. French et.al. 2000