



When Policies Go to Pot:
*Colorado Should Take Back Control of
Intra-state Drug War Priorities*

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Introduction

Like other American states, Colorado has long been dependent on federal assistance in carrying out illicit drug control policies. And as with most federal assistance to the states, federal tax dollars are accompanied by federal influence on local practices and priorities.

For instance, the federal Drug Enforcement Administration (DEA), through its state and local assistance programs, "...supports activities to advise, assist, and train state and local law enforcement and local community groups to ensure a consistent national approach to drug law enforcement."¹ Of course, a "consistent national approach" can also be defined as "dictates from Washington D.C."

Yet with regard to marijuana and methamphetamine, which besides being trafficked into Colorado are also respectively grown and manufactured within the state, the priorities of the federal drug war bureaucracy and Colorado's state and local jurisdictions are at odds.

If President Bush gets his 2006 national drug control budget, Colorado will lose millions of dollars in federal funding for local drug enforcement. The loss of federal drug war dollars would not be a crisis but rather a unique opportunity for Colorado to proactively break ranks with the federal government with regard to marijuana, thus freeing up both money and manpower to address the intra-state methamphetamine issue as Colorado sees fit.

The Federal Tax Dollar Dependence

The Bush Administration's \$12.4 billion national drug control budget for FY 2006 includes more than a billion dollars in reductions to federal law enforcement grants to the states.² One of the more significant of these reductions, which would directly affect Colorado drug enforcement, is the Justice Assistance Grant Program (JAG).

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The JAG program, previously and more commonly known as the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (or simply, Byrne grants),³ is managed by the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and administered in Colorado by the Division of Criminal Justice (part of the Colorado Department of Public Safety).

The most recent funding data for JAG includes:

- 2005 federal funding level: \$634 million nationwide⁴
- 2004 Colorado Byrne Grant expenditures: \$6,901,300⁵
- 2004 Colorado local grant matching funds expenditures: \$6,863,809⁶

The 2006 Bush drug control budget would eliminate the JAG program.⁷

These JAG grants fund numerous criminal justice related programs in Colorado, but the biggest recipients of 2004 funds—just under \$2.9 million in Byrne grant money and just over \$4 million in local matching funds—were the 18 different Multijurisdictional Drug Task Forces (DTFs) operating throughout Colorado.⁸

In March of 2005, a coalition of prominent conservative organizations, including the National Taxpayers Union, the American Conservative

Union, Americans for Tax Reform, and the Council for Citizens Against Government Waste, sent a joint letter supporting the elimination of the JAG grants to the appropriations committees of both the U.S. House of Representatives and the U.S. Senate.⁹ The letter cites a 2002 Heritage Foundation study that found, "According to the Office of Management and Budget, there is virtually no evidence that either local law enforcement block grants (LLEBGs) or Byrne formula and discretionary grants have been effective in reducing crime."¹⁰

The author of the cited Heritage Foundation study, policy analyst David Muhlhausen, said of the proposed elimination of the grants: "There is a growing philosophical shift that the federal government shouldn't fund the daily operating expenses of local law enforcement," noting that the grants ended up paying officers' salaries for local drug enforcement "that local communities should be paying for..."¹¹

Even Office of National Drug Control Strategy (ONDCP) director John Walters (the "Drug Czar"), who can hardly be called soft on drugs, defended the Bush budget in front of Congress. Mr. Walters proposed a more focused, intelligence-based strategy of targeting the upper levels of the drug world, and said of the Bush grant cuts that it is time to eliminate anti-drug programs that do not work. "Otherwise you are chasing primarily small people, putting them in jail, year after year, generation after generation."¹²

The Republican-led Congress, however, is defying the President with regard to his drug control budget. According to Bill Piper, Director of National Affairs for the Washington, D.C.-based Drug Policy Alliance, the House of Representatives has approved \$348 million in block grants, and another \$110 million in discretionary grants, for the JAG program.¹³ The House funding still represents a

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significant reduction from the \$634 million in JAG funding from 2005.

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An end to JAG would not necessarily mean an end to the task forces in Colorado, but would rather force a rethinking of organized drug enforcement within the state. For instance, the Weld County Task

Force, one of the larger task forces in

the state, received only about 20 percent of its more than \$1 million budget in 2004 from JAG grants.¹⁴ On the other hand, the San Luis Valley Drug Task Force, one of the smaller task forces, received 63 percent of its slightly less than \$300,000 budget from JAG grants in 2004. Funding of the other task forces falls somewhere between this range, often matched roughly dollar for dollar. In other words, if the JAG money goes away, some task forces will be able to continue operation, albeit on a smaller scale, while other task forces will be drastically reduced, or unable to continue operation.

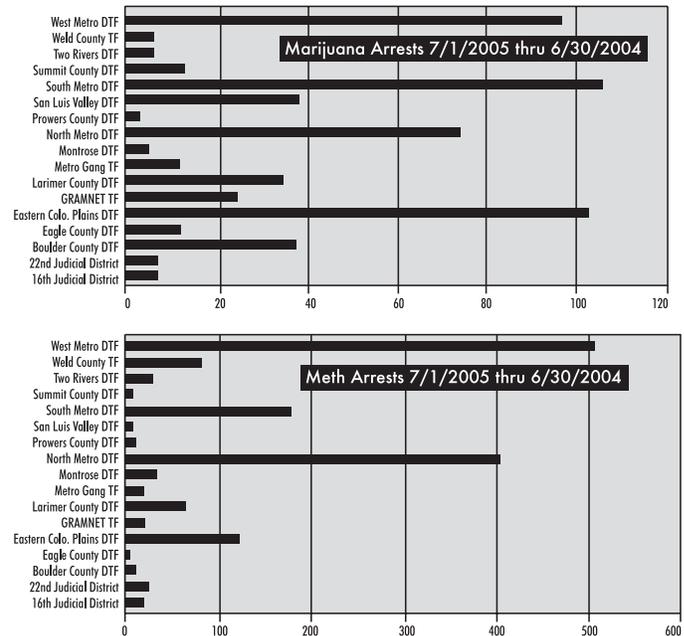
Misplaced Priorities

A 2004 threat assessment by the federal High Intensity Drug Trafficking Area program (HIDTA) states “Methamphetamine continues to pose the greatest threat in Rocky Mountain HIDTA’s four-state region,” which includes Colorado.¹⁵

The 2004 Colorado Byrne report claims, “The proliferation of meth labs in Colorado provided the greatest amount of drug enforcement activity for nearly every task force.”¹⁶

Yet as the 2004 Byrne grant data show, all the Colorado task forces also engaged in marijuana enforcement at some level. Three of these

task forces—Boulder County, Summit County, and GRAMNET (Grand, Routt and Moffat counties)—all actually made more arrests for marijuana than for any other illicit drug, including methamphetamine.¹⁷ Two other task forces—in the San Luis Valley and in Eagle County—made most of their arrests for other drugs, but still managed to do more marijuana enforcement than for methamphetamine.



Source: Colorado 2004 State Annual Report; Edward Byrne State and Local Law Enforcement Assistance Program

The U.S. Department of Justice notes in its own drug threat assessment for Colorado that local law enforcement “generally regard the drug [marijuana] as a lower threat than methamphetamine or cocaine because marijuana abusers and distributors usually do not commit violent crimes.”¹⁸

So if methamphetamine is the “greatest threat” and marijuana a “lower threat,” then why are so many scarce drug enforcement resources—which might suddenly become much scarcer—being wasted on marijuana?

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This misappropriation of criminal justice resources in relation to threat levels is at least partly explained by contradictory drug control priorities at the federal, state and local levels.

Methamphetamine Is a Local Problem, Just Not an Epidemic

In 2005, the National Association of Counties (NACO) surveyed 500 county-level law enforcement agencies, including 19 in Colorado,¹⁹ and concluded that America is in the midst of a methamphetamine “epidemic.”²⁰ Fifty-eight percent of counties identified methamphetamine as their largest drug problem.²¹

Other results of the NACO survey include:

- Fifty percent of counties claim 1 in 5 county jail inmates are housed because of methamphetamine-related crimes.
- Seventeen percent of counties say more than half of county inmates are incarcerated for methamphetamine-related crimes.
- Seventy-five percent of counties say between 40 and 50 percent of all arrests in the last five years have been methamphetamine-related.

The survey’s definition of methamphetamine-related crimes include not only methamphetamine use, possession, manufacture and trafficking, but also robberies and burglaries, domestic violence, simple assault and identity theft.²²

The advocates for county governments are not the only ones crying epidemic. In an August 2005 cover story, *Newsweek* magazine elevated methamphetamine to “most dangerous drug” status nationwide.²³

Yet some federal drug warriors take a more sober view of methamphetamine. In 2005, Scott Burns, Deputy Director of the federal Office of National Drug Control Policy (ONDCP) contradicted the “epidemic” rhetoric, telling a Congressional subcommittee that America’s estimated 1.5 million

methamphetamine users make up only 8 percent of the estimated 19 million American drug users.²⁴

New York Times writer John Tierney notes, “If an addict is someone who has used a drug in the previous month (a commonly used, if overly broad, definition), then only 5 percent of Americans who have sampled meth would be called addicts, according to the federal government’s National Survey on Drug Use and Health.”²⁵

Colorado Department of Human Services statistics for 2004 show methamphetamine-related emergency room visits trailed behind alcohol, cocaine, prescription drugs and opiates (such as heroin). In fact, alcohol-related admissions beat out methamphetamine by a ratio of 4 to 1.²⁶

The federal Drug Enforcement Administration’s 2005 state fact sheet for Colorado notes, “Clandestine [methamphetamine] laboratories are problematic to law enforcement in Colorado, due more to the public safety and environmental issues they present than the volume of methamphetamine they produce.” DEA continues, “Most of the methamphetamine available in Colorado originates in Mexico or comes from large-scale laboratories in California.”²⁷

So while local production and use of methamphetamine have proved problematic to local police agencies, the methamphetamine issue can hardly be called a national “epidemic,” and thus is no reason for federal intrusion into local affairs. Indeed, the main concern of the federal government, and properly so, is the interstate and international trafficking of the drug. But what about marijuana?

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The Marijuana Bogeyman

According to FBI data, marijuana arrests nationwide set a new record in 2004, totaling 771,605. Eighty-nine percent of those arrests were for marijuana possession.²⁸

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A 2005 study by the Washington, D.C.-based Sentencing Project shows that annual drug arrests nationwide increased by 450,000 from 1990 to 2002. Marijuana arrests accounted for 82 percent of that growth, and 79 percent of that was for marijuana possession alone. Marijuana arrests are now nearly half of all the 1.5 million annual drug arrests in the United States. Marijuana-trafficking arrests actually declined as a proportion of all drug arrests during this period, while the proportion of possession arrests increased by two-thirds.²⁹

The recent book, *An Analytical Assessment of U.S. Drug Policy*, published by the conservative American Enterprise Institute puts the rise of marijuana arrests into perspective:

Marijuana is by far the most widely used illicit drug. It is also the most readily available and cheapest—a marijuana habit cost much less to support than a cocaine or heroin habit. Plainly marijuana enforcement has a limited deterrent effect. Yet precisely because the drug is so widely and casually used, marijuana enforcement is particularly intrusive, nabbing many more non-problem users than cocaine or heroin [or methamphetamine] enforcement. Much marijuana enforcement is simply unjustifiable—it does little to prevent problem use, but imposes great cost on non-problem users.³⁰

The federal government is so thoroughly tied to marijuana prohibition that the Office of National Drug Control Policy, a Cabinet-level federal agency, recently took the time to officially oppose even as benign a plan as the Lawrence, Kansas, idea of

moving marijuana possession cases from District Court and into Municipal Court.³¹

In other words, Washington's war on drugs is predominantly a war against marijuana, so the waste of federal tax dollars on marijuana enforcement in Colorado is fine from a federal perspective.

Federal tax dollars fund the Rocky Mountain High Intensity Drug Trafficking Area program (Rocky Mountain HIDTA), which includes 17 Colorado counties, the Colorado Bureau of Investigation, the Colorado National Guard, the Colorado State Patrol and the University of Colorado Police Department.

According to the 2001 Rocky Mountain HIDTA profile, "Methamphetamine is identified as the area's number one threat."

Yet in the same paragraph, "Marijuana seizures are greater than all other drugs combined..."³²

Federal tax dollars also fund the joint DEA/CSOC (County Sheriffs of Colorado) Marijuana Eradication Project.

According to the CSOC website,³³ the Marijuana Eradication Grant Program includes the following:

- \$84,000 grant—CSOC distributes monies to participating counties, and coordinates the program (statistical and financial) and lending of essential equipment
- Grant supports the payment of overtime to deputy sheriffs and purchase of equipment related to Marijuana Eradication
- CSOC develops training programs needed to support the DEA/CSOC Marijuana Eradication Project to include county coordinator training, Thermal Imagery training, Marijuana Spotters Training, and

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Indoor Grow Training

- Colorado Army National Guard supports the program by providing a staff officer who works with CSOC staff in helping to coordinate air operations

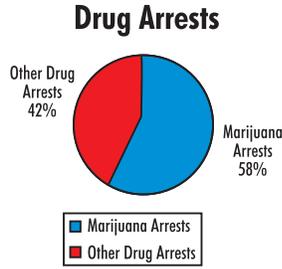
In 2005, approximately \$1.56 million in federal tax dollars were appropriated for the Colorado National Guard’s counter-drug operation, the “Joint Support Operation” program.³⁴ As part of this operation, according to the Colorado Department of Military and Veterans Affairs, 14 National Guard personnel support civilian law enforcement agencies throughout Colorado, including “two National Guard OH-58 helicopters that flew over 500 hours in support of numerous sheriff departments’ counter drug operations.”³⁵

The DEA also operates the Domestic Cannabis Eradication and Suppression Program (DCE/SP). “DEA continues to improve the effectiveness of its marijuana eradication efforts by spending \$12.2 million in CY 2002 to support the 99 state and local agencies that are now active DCE/SP participants.”³⁶ The participants include Colorado agencies.

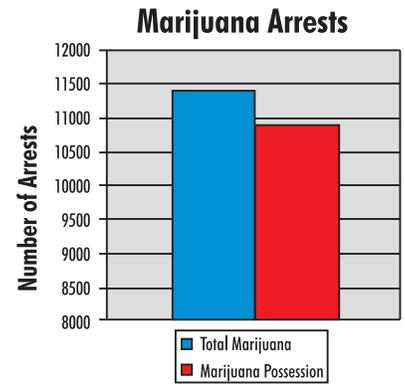
According to the U.S. Department of Justice’s National Drug Intelligence Center, the DCE/SP program resulted in 10,862 outdoor and 3,584 indoor cannabis plants eradicated in Colorado in 2000, and 1,948 outdoor and 2,222 indoor cannabis plants eradicated in 2001.³⁷

The Cost of Marijuana Enforcement

In 2004, the National Organization for the Reform of Marijuana Laws (NORML) conducted a comprehensive analysis of marijuana arrests in the U.S., based on data from the Department of Justice’s Uniform Crime Reports program. According to the report, in 2001 (one of the last years for which detailed data were collected) there were more than 11,400 marijuana arrests in Colorado, more than 58 percent of all drug arrests. Of these, more than 10,900 arrests were for marijuana possession.³⁸



2001 Colorado Data



Source: Crimes of Indiscretion: Marijuana Arrests in the United States

In 2005, Harvard University Economist Jeffrey Miron conducted a state-by-state breakdown of the cost of marijuana prohibition and enforcement. The report,³⁹ endorsed by Nobel Laureate Milton Friedman and more than 500 other economists,⁴⁰ found that in Colorado, for the year 2000, \$64 million was spent as a direct result of marijuana law enforcement.⁴¹

Police Budget	MJ Prohib.	Judicial Budget	MJ Prohib.	Correc-tions	MJ Prohib.	Total	Total MJ Prohib.
\$830	\$19.48	\$329	\$35.86	\$820	\$8.2	\$1979	\$64

Source: Miron, Budgetary Implications of Marijuana Prohibition

Certain assumptions were used to arrive at these numbers. Miron included only “stand alone” marijuana arrests for police agency resource figures. The national average put “stand alone” arrests at between 33 and 85 percent of marijuana arrests, so “To err on the conservative side, the report assumes that 50% of possession arrests are due solely to marijuana possession rather than being incidental to some other crime.”⁴²

Miron also assumes a 1 percent prison population as a result of marijuana convictions. In 2000, the percentage of marijuana offenders in Colorado prisons was .943 percent.⁴⁴

Even if one were to err drastically on the side of conservatism and halve Miron's findings, it would not change the conclusion that Colorado annually expends more money in manpower and other criminal justice resources on marijuana enforcement than the entire amount of federal counter-drug funding Colorado stands to lose in the 2006 Bush budget.

Conclusion

If Colorado wants to continue to depend on the federal government for both money and marching orders in carrying out its drug control policies, then police agencies throughout the state will continue to be dependent on an uncertain annual Congressional budget process. Moreover, local priorities, such as clandestine methamphetamine lab disruption and clean-up, will continue to compete with participation in irrational federal marijuana policies.

Colorado may soon need to develop its own comprehensive strategy regarding the intra-state methamphetamine issue—one that is paid for by, and accountable to, Colorado taxpayers. As part of paying for such a strategy, lawmakers will need to act to ensure that the resources expended on marijuana law enforcement in Colorado match the "lower threat" status of marijuana more closely in the state's criminal justice priorities.

Endnotes

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<http://dcj.state.co.us/dcsip/Word%20Forms/2004%20Byrne%20Annual%20Report%20-%20Colorado%20012405.pdf>

⁶ Ibid.

⁷ See note 2 above.

⁸ San Luis Valley Drug Task Force, Two Rivers Drug Enforcement Team (TRIDENT), Eastern Colorado Plains Drug Task Force, West Metro Drug Task Force, North Metro Task Force, Summit county Drug Enforcement, 16th Judicial District Multijurisdictional Drug Task Force, Larimer County Multijurisdictional Drug Task Force, GRAMNET (Grand, Routt and Moffat counties), Weld County Task Force, South Metro Drug Task Force, High Country Crime Response Team, Montezuma County Drug Task Force, Prowers County Multijurisdictional Drug Task Force, Metro Gang Task Force, Delta/Montrose Narcotics Task Force, Boulder County Drug Task Force, Project Snow Blower (Lake County).

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¹² Testimony of John Walters, Director, Office of National Drug Control Policy before the U.S. House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, February 10, 2005.

¹³ Telephone interview with Bill Piper, Director of National Affairs, Drug Policy Alliance, October, 11, 2005.

¹⁴ See note 5 above, page 22.

¹⁵ See note 11 above, Threat Abstract, page 122.

¹⁶ See note 6 above, Executive Summary.

¹⁷ See note 6 above, chart 8, page 25.

¹⁸ U.S. Department of Justice, National Drug Intelligence Center, Colorado Drug Threat Assessment, May 2003. <http://www.usdoj.gov/ndic/pubs4/4300/marijuan.htm>

¹⁹ Responding Colorado Counties: Alamosa, Archuleta, Baca, Bent, Clear Creek, Dolores, Gilpin, Grand, Kiowa, Kit Carson, La Plata, Las Animas, Mineral, Moffat, Otero, Ouray, Pueblo, Rio Grande, and Washington.

²⁰ Angelo D. Kyle and Bill Hansell, National Association of Counties, "The Meth Epidemic in America," July 5, 2005.

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²² See note 12 above, page 3.

²³ David J. Jefferson, "America's Most Dangerous Drug," *Newsweek*, August 8, 2005. <http://www.msnbc.msn.com/id/8770112/site/newsweek/print/1/displaymode/1098/>

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³⁶ See note 9 above.

³⁷ U.S. Department of Justice, National Drug Intelligence Center, "Colorado Drug Threat Assessment," May, 2003.
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⁴⁰ <http://www.prohibitioncosts.org/endorsers.html>

⁴¹ See note 25 above, table 2, page 13.

⁴² See note 25 above, page 4.

⁴³ Colorado Department of Corrections, Statistical Report, Fiscal Year 2000, table 58, pg. 70.
<http://www.doc.state.co.us/Statistics/pdfs/OPAReports/STATReports/2000Complete.pdf>

⁴⁴ Colorado Department of Corrections, Statistical Report, Fiscal Year 2000, table 58, pg. 70.
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