CRIMINAL JUSTICE

New ACLU report pushes drug decriminalization

Jail for possession ‘has caused far more harm than good,’ study says.

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In a report relying heavily on arrest and incarceration records from Texas, two civil rights groups are calling for an end to all criminal penalties for the possession and use of small amounts of currently illegal drugs — a proposition that has enjoyed little support at the Legislature.

The high rate of prosecution for low-level drug crimes, said the report by the American Civil Liberties Union and Human Rights Watch, shatters lives and strains the legal and prison systems while doing little to break the cycle of drug dependence, making possession a crime that generates the largest number of arrests nationwide.

“As a result of these arrests, on any given day at least 137,000 men and women are behind bars in the United States for drug possession. ... Each day, tens of thousands more are convicted,” said the report, “Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States,” which is being released Wednesday. Its title refers to the report’s finding that a drug possession arrest occurs, on average, every 25 seconds nationally.
Focusing on criminal cases in Texas and three other states — Louisiana, New York and Florida — the report said it found evidence that drug laws are disproportionately enforced against members of racial minorities and that high bail amounts, even for small amounts of drugs, encourage guilty pleas that further strain jails and spend tax dollars.

In Texas, where possession of even trace amounts of illegal drugs can lead to jail sentences, the report found that drug possession charges accounted for 78 percent of almost 900,000 misdemeanor and felony drug cases that were handled by state courts from September 2010 through January 2016.

About 371,000 of the cases were for marijuana possession, the report said, and there were 13,000 more arrests for drug possession than for the next highest offense, larceny-theft.

Other findings about Texas included:

• About 1 in 11 inmates in the state prison system had a drug possession conviction as their most serious offense.

• Drug possession cases accounted for more than 15 percent of all county and district court criminal dockets.

• Almost 80 percent of Texans incarcerated for drug possession received a state jail felony, meaning they had less than a gram — about the weight of one-fourth of a sugar packet — of cocaine, heroin, methamphetamine, PCP, oxycodone and other common drugs, or between 4 ounces and 5 pounds of marijuana. A conviction for having less than a gram carries a potential jail term of six months to two years, while 1 to 4 grams can bring two to 10 years, the report said.

• A black person in Texas is 2.4 times more likely to be arrested for drug possession than a white person, although other studies have shown a similar rate of drug use among blacks and whites.

The human cost of prosecuting low-level drug crimes includes family separation, lost job opportunities, difficulty finding housing and long-term stigma, the study said, leading to the conclusion that the best course of action would be decriminalizing the possession of small amounts of drugs intended for personal use.

“Criminalizing drugs is not an effective public safety policy. We are aware of no empirical evidence that low-level drug possession defendants would otherwise go on to commit violent crimes,” the study said. “The enormous resources spent to
identify, arrest, prosecute, sentence, incarcerate and supervise people whose only offense has been possession of drugs is hardly money well spent, and it has caused far more harm than good.”

To date, however, the Legislature has taken a dim view of efforts to reduce drug penalties, let alone embrace legalization.

In the 2015 legislative session, for example, a bill allowing patients with intractable epilepsy to be treated with a cannabis-derived product that doesn’t cause a high or sense of euphoria had to overcome a torrent of fear that its passage would lead to a slippery slope allowing for the legalization of marijuana for medical or personal use.

Although that bill eventually passed, another measure to legalize marijuana — filed by a libertarian-minded House Republican who is leaving office — didn’t go far. Although approved by a divided House committee, the vote came so late in the session that it was little more than a token gesture.

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