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*A Policy Research Partnership
to Reduce Youth Substance Use*

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COMPREHENSIVE REPORT PROVIDES FIRST EVER LOOK AT ILLICIT DRUG LAWS IN ALL 50 STATES AND DISTRICT OF COLUMBIA

Report Details Policies Around Marijuana, Cocaine, Methamphetamine, Ecstasy and Other Club Drugs; Documents Diversity of Penalties Between States

WASHINGTON, D.C. (February 15, 2002) — A new report released today finds that state statutory drug laws vary significantly across the United States, contradicting a commonly-held assumption that state drug policies follow federal drug policy. State law matters because the majority of drug offenders are tried in state courts.

Drug offenders are subject to very different penalties depending on the state in which they are prosecuted, the substance, and the offense. For instance, from state to state a first time offender may be subject to anywhere from one year to lifetime imprisonment and \$5,000 to \$1 million in fines for the sale of one ecstasy pill.

The report also shows that, as of January 1, 2000, 24 states and the District of Columbia have enacted legislation that allows the use of marijuana for medical purposes, despite the federal government's position against it.

Illicit Drug Policies: Selected Laws from the 50 States is the first comprehensive reference guide to illicit drug laws in all 50 states and the District of Columbia. It documents on a state by state basis each state's scheduling and penalty provisions for selected drugs, as well as medical marijuana. It also identifies disparities in federal and state controlled substance scheduling.

"This report illustrates that states play an important role in the war on drugs. State legislatures have taken varied approaches to addressing the drug problem," says Dr. Jamie Chriqui, Vice-President of the Health Policy and Legislative Analysis Program at The MayaTech Corporation and lead author on the report.

The ImpacTeen Illicit Drug Team, a collaborative research group with investigators from Andrews University, The MayaTech Corporation, and RAND, authored the report. The ImpacTeen Project is a policy research partnership established to reduce youth substance use. It is supported by The Robert Wood Johnson Foundation and administered by the University of Illinois at Chicago. The report is available online at www.andrews.edu/BHSC/impactteen-illicitdrugteam.

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“States have a history of drug policy experimentation that has, at times, differed from federal policy,” says Dr. Duane McBride, Director of the Institute for the Prevention of Addiction at Andrews University and Principal Investigator. “This report highlights that this tradition continues today.”

Dr. Rosalie Liccardo Pacula, an economist with the RAND Drug Policy Research Center and Co-Principal Investigator, adds “This reference guide is a critical first step in evaluating the impact of specific drug policies on drug using behavior and its consequences within the states.”

State and Federal Scheduling

State governments and the federal government use schedules as a way to classify controlled substances. A drug is scheduled according to how safe it is, its medical use and its potential for abuse. A drug’s schedule plays a primary role in determining punishments for crimes associated with the sale or possession of that drug.

The scheduling of club drugs (a term used to collectively describe a group of drugs taken by young people attending all-night parties at raves and nightclubs) offers a prime example of how state drug policy experimentation sometimes differs from federal policy. The report shows that while the scheduling of drugs like marijuana, cocaine and methamphetamine has generally followed a system established under the 1970 Federal Controlled Substances Act, there is considerably less conformity in state scheduling of drugs like ecstasy and ketamine (another popular club drug). In fact, as of January 1, 2000, eleven state legislatures had not scheduled ecstasy, and the majority of state legislatures had not scheduled ketamine.

Federal and State Penalty Provisions

State penalties for violating sale and possession laws vary by substance, by the quantity of the substance sold or possessed, and by the type of offense. This variation is particularly noticeable in the range of penalties for the sale and possession of standard retail amounts of cocaine, methamphetamine, and ecstasy. For instance, in North Carolina, a drug offender charged with selling 1 gram of cocaine could be subject to a maximum imprisonment term of one year. The same sales offense in Montana could be met with a maximum fine of \$50,000 and a lifetime sentence. Similarly, an offender caught possessing 10 grams of methamphetamine in Minnesota could be subject to a \$500,000 fine and 25 years in Minnesota. The same offender in Virginia, however, would face statutory fines of only \$1000 and maximum imprisonment of only 6 months.

There is surprisingly less variation in penalties associated with possession of marijuana across states. For example, only two states statutorily impose more than a year of imprisonment for possession of 10 grams of marijuana.

Data in the report also detail how state policies for illicit drug punishments share similarities yet differ from federal policy. Nowhere is this more obvious than in the sentencing disparity between the possession or sale of powder and crack cocaine. At the federal level, it takes 100 times the amount of powder cocaine to equal the same sentence as crack cocaine. The report reveals that only eleven states specify separate statutory penalties for the possession and/or sale of crack and powder cocaine. The data suggests that distinctions between crack and powder forms of cocaine may be of less importance at the state level, where the majority of prosecutions take place.

Medical Marijuana Provisions

Although the 1996 California and Arizona initiatives are generally considered the first state laws to enable the use of marijuana for medicinal purposes, these laws actually represent the beginning of a second wave of state laws addressing this issue. Prior to 1996, twenty states provided for the medicinal use of marijuana; however, most of these early laws were narrow in scope, requiring federal sanctioning and oversight of research protocols. The states to have enacted laws between January 1996 and January 2000 were more likely to create an environment where both physicians and patients are protected from state prosecution. Two of the states with earlier laws expanded existing laws to incorporate the physician prescription and/or medical necessity defense provisions.

To receive hard copies of *Illicit Drug Policies: Selected Laws from the 50 States*, please either write Dr. Duane McBride, Director, Institute for Prevention of Addictions, Andrews University, Berrien Springs, MI 49104-0211, or visit www.andrews.edu/BHSC/impacTeen-illicitdrugteam.

ImpacTeen is an interdisciplinary partnership of nationally recognized substance abuse experts with specialties in such areas as economics, etiology, epidemiology, law, political science, public policy, psychology, and sociology. It is part of Bridging the Gap, a program supported by The Robert Wood Johnson Foundation and administered by the University of Illinois at Chicago.

The Robert Wood Johnson Foundation, based in Princeton, N.J., is the nation's largest philanthropy devoted exclusively to health and health care. It concentrates its grantmaking in four goal areas: to assure that all Americans have access to basic health care at reasonable cost; to improve care and support for people with chronic health conditions; to promote healthy communities and lifestyles; and to reduce the personal, social, and economic harm caused by substance abuse—tobacco, alcohol, and illicit drugs. For more information, check the Web site at www.rwjf.org.

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