

Decriminalizing Drug Possession: A Brief Review of the Evidence

Bryce Pardo, PhD

RAND Drug Policy Research Center

NYAM

February 5, 2021

Terminology

Legalization

Decriminalization

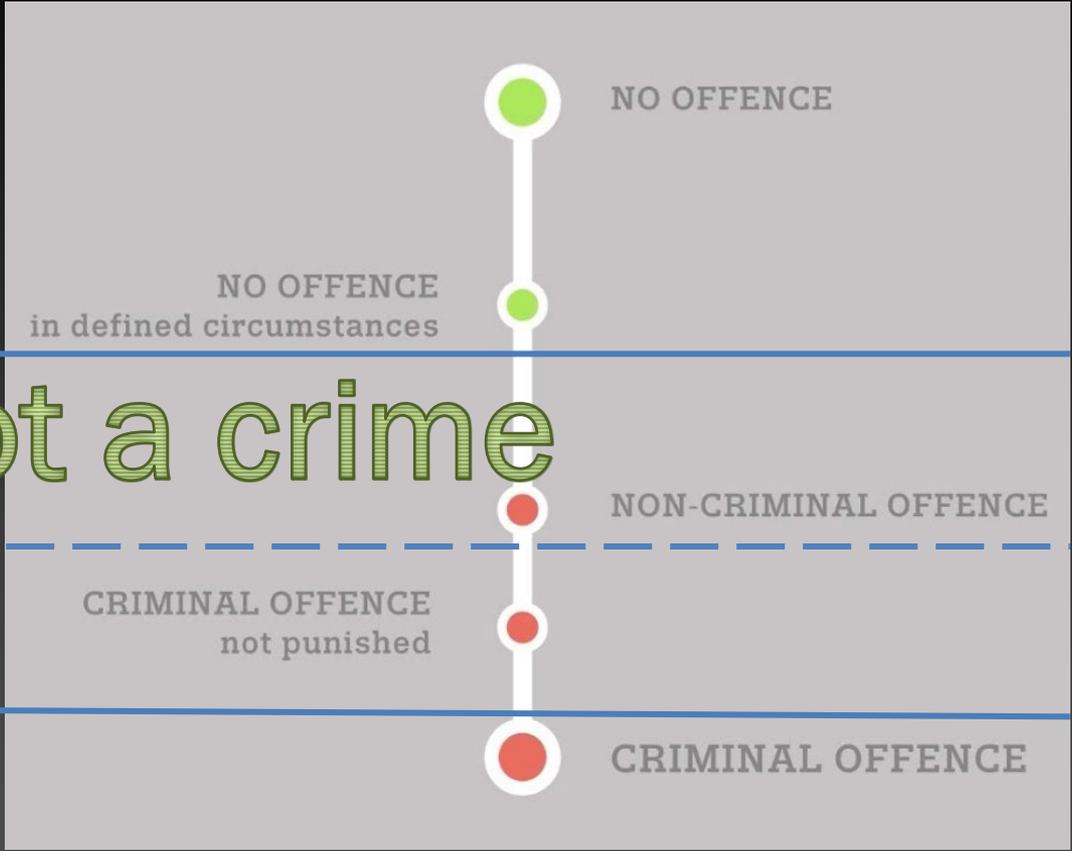
De-felonization

Pre-booking diversion

De-prioritization

Incarceration/fine

Not a crime



Source: European Monitoring Centre on Drugs and Drug Addiction

Cannabis possession decriminalized in many U.S. states, but don't put much weight on early studies

- **Common story is that about a dozen U.S. states decriminalized cannabis in the 1970s, more followed**
- **Many early studies didn't correctly define policy change**
 - Pacula et al. (2003)
 - “Decriminalized states are not uniquely identifiable based on statutory law as has been presumed by researchers over the past twenty years”

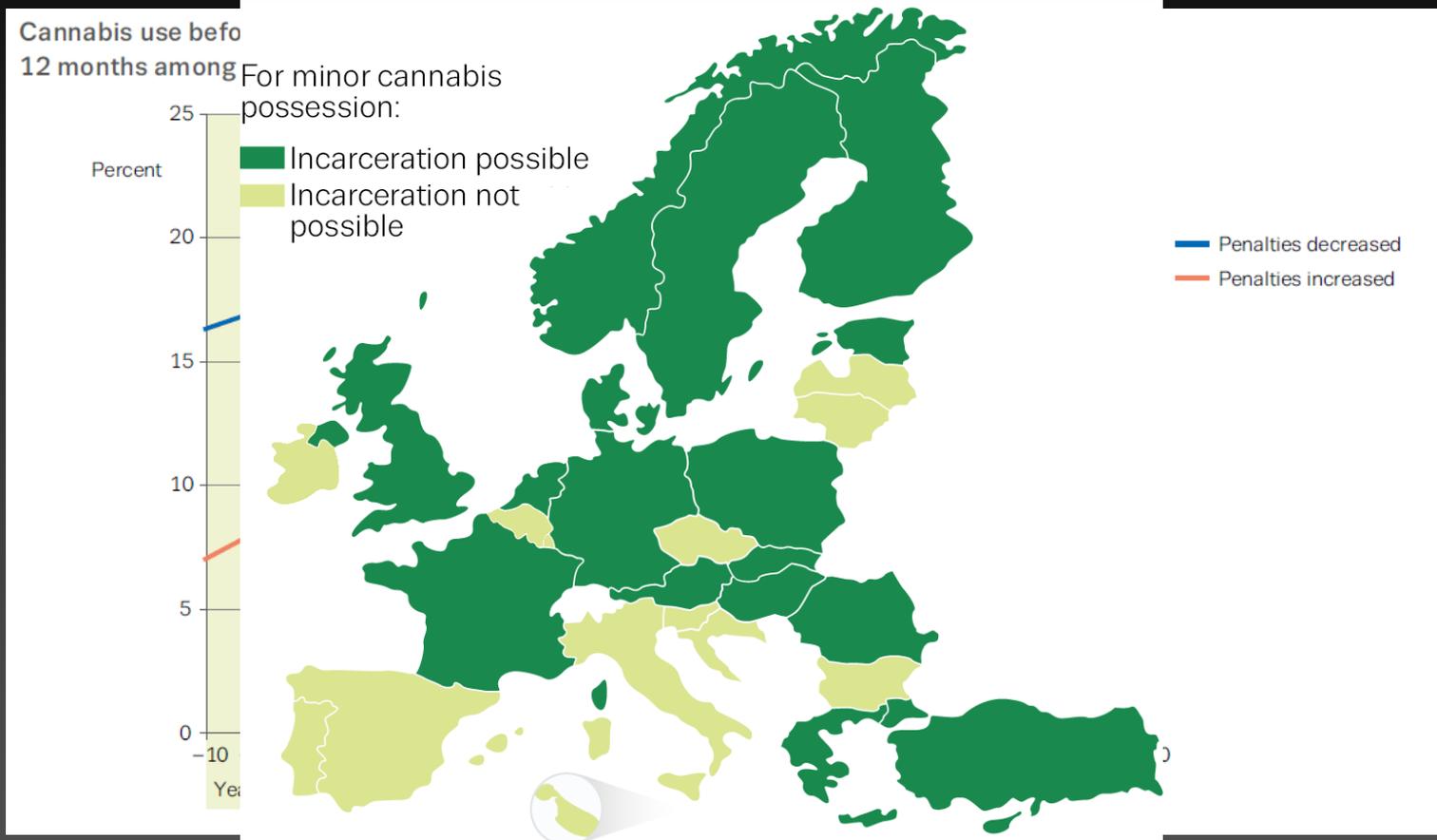
A new wave of research, beginning with California in 2011

- **Miech et al. (2015) report past month use among California 12th graders increased from 24% to 29% from 2011 to 2012**
 - “These results provide empirical evidence to support concerns that decriminalization may be a risk factor for future increases in youth marijuana use and acceptance”
- **Midgette & Reuter (2020) challenge this finding**
 - Other factors could drive results
 - No increase for 8th and 10th grade students
 - Arguably better data suggest prevalence was trending upward prior to decriminalization and continued afterward

Evidence on other recent efforts to decriminalize cannabis possession in the US

- **Grucza et al. (2018) examined 5 states**
 - MA (2008), CT (2011), RI (2013), VT (2013), MD (2014).
 - Large decreases in cannabis possession arrests, but no evidence for an increase in youth cannabis use
- **Plunk et al. (2019) examined 7 states**
 - Decriminalization reduces arrests for youths and adults
 - Smart & Kleiman (2019) raise methodological questions, but find descriptive figures convincing

Evidence of decriminalizing cannabis in Europe



What about decriminalizing possession of other drugs?

- Some countries in Europe and Latin America decriminalized possession of small amounts of any drug
- Hasn't been much rigorous research of these changes
- Considerable variation in legal changes in terms of drugs, amounts, and persons involved
- Portugal has been the dominant case study

Portugal: 2001 implemented broad strategy grounded in “humanism” and “pragmatism”

- Decriminalized possession of all drugs, not just cannabis
 - <10 days supply of any drug
- Large increase in spending on treatment and prevention
 - Low threshold medication therapy
- Large increase in spending on outreach and harm reduction services
 - Needle and syringe programs
- Expanded research and policy analysis
- Created “Dissuasion commissions” to create individual plans for those caught by police
 - However, they do not coerce people to treatment

Referrals to the Dissuasion Commissions

- Most are for cannabis and the sentence is usually suspended
- 15% involve referral to treatment
- 14% involve “punitive” ruling
 - E.g., Fines, obligation to attend drug education, loss of professional or firearms license

Little legal risk before Portuguese reform

- “In the years before the law’s passage, less than **1** percent of those incarcerated for a drug offense had been convicted of use”
- “The decriminalization statute was largely an elaboration rather than a reversal of the **1993** law that it modified. The statute already contained language emphasizing treatment rather than punishment for drug users”

Source: Laqueur (2015)

What happened after Portuguese reforms?

- **Number of people in treatment increased**
 - Laqueur (2015)
- **HIV rates and drug-induced deaths declined**
 - Hughes and Stevens (2010)
 - Regression to the mean?
 - Demand for heroin was falling elsewhere in Europe

How did it affect consumption?

- **May have been an increase in experimentation**
 - Hughes & Stevens (2012)
- **Similarity in general population and youth trends in Portugal, Italy and Spain**
 - Hughes & Stevens (2010)
- **“Portugal is the only of these nations to have exhibited declines in problematic drug use”**
 - Hughes & Stevens (2010)
- **Social cost of drugs decreased by 12% 5 years after legal change 18% 11 years after change. Mostly driven by health-related costs.**
 - Goncalves et al. (2015)

Portugal: decriminalization was a necessary but not sufficient condition

“Drug decriminalization is an important policy measure of the [legal change]. But it is only one of the measures adopted to deal with the drug problem. Indeed, it coexists with other measures and resources such as the extension of the healthcare services network and the syringe exchange programme, the increase in scientific research and specialist training and the significant financial budget rise.”

Goncalves et al. (2015)

Final thoughts on Portugal

- **Desperately need rigorous analysis with credible control groups**
 - Little reliable pre-treatment data
 - Trend analysis is not enough
- **Has been in effect for nearly 20 years, surviving multiple changes in government, and there doesn't appear to be any serious efforts to reverse it**

Concluding thoughts

- **Most empirical research focuses on cannabis, be careful about assuming similar consequences for other drugs**
- **Not a lot of rigorous evidence to guide discussions of decriminalizing all drug use in U.S.**
- **Must be careful about extrapolating Portuguese case to the U.S.**
- **Portuguese reforms must be considered in their entirety**

Thank you

- bpardo@rand.org