

Marijuana in Colorado

Arrests, Usage, and Related Data

Jon Gettman , Ph.D.

The Bulletin of Cannabis Reform

www.drugscience.org

November 5, 2009

Marijuana in Colorado

Introduction

This state report is part of a comprehensive presentation of national, state, county, and local level data on marijuana arrests in the United States. The primary report in this collection is "Marijuana Arrests in the United States (2007)".¹ Additional details on marijuana arrests and related topics in Colorado are available in the Marijuana Policy Almanac², from which the data presented below has been excerpted. Arrest totals are based on Uniform Crime Reporting (UCR) program data; local data may differ due to various reasons, including reporting procedures and data availability. A citation for marijuana possession is counted as an arrest for the purposes of reporting data to the Uniform Crime Reporting (UCR) Program, which is the source of data in this report.

There were 12,358 arrests for marijuana offenses in Colorado in 2007, representing an arrest rate of 254 per 100,000, which ranks Colorado at number 27 in the nation. There were an estimated 512,000 past year marijuana users in Colorado during 2007. Reconciling this estimate with the number of arrests for marijuana offenses provides an arrest rate of 2,414 per 100,000 users, which ranks Colorado at number 35 in the nation.

In terms of overall severity of maximum sentences for marijuana possession, Colorado ranks number 41 in the nation (based on penalties for a first offense). When it comes to penalties for just under 1 ounce of marijuana, Colorado is ranked at number 12 along with 10 other states (because of similarities between states there are only 12 rankings in this category). Here are the penalties for possession of various amounts of marijuana in Colorado:

Amount	Max. Sentence	Max. Fine
1 Ounce*	fine only	\$100
2 Ounces	1.5 years	\$5,000
3 Ounces	1.5 years	\$5,000
4 Ounces	1.5 years	\$5,000

(*To simplify comparisons, for some states this category covers amounts just under 1 ounce)

Marijuana possession arrests accounted for 95% of all marijuana arrests in Colorado during 2007. (Nationally, marijuana possession arrests account for 89% of all marijuana arrests.) There were 11,687 arrests for marijuana possession in Colorado in 2007, and 671 arrests for marijuana sales. The arrest rate for marijuana possession in Colorado was 240 per 100,000 for 2007, while the arrest rate for marijuana sales was 14. Marijuana arrests also accounted for 62% of all drug arrests in Colorado during 2007.

¹ http://www.drugscience.org/Archive/bcr7/bcr7_index.html

² http://www.drugscience.org/States/US/US_home.htm

Marijuana in Colorado

Here is an overall scorecard for how Colorado ranks nationally in terms of marijuana arrests, penalties, and marijuana use.

Category	Ranking
Maximum Sentences for Possession	41
Maximum Sentence for Possession of 1 ounce	12
Arrest Rate per 100,000 population	27
Arrest Rate per 100,000 users	35
Past Month Users (Pct.)	6
Past Year Users (Pct.)	8
Past Month Users Age 12 – 17 (Pct.)	8
Past Year Users Age 12 – 17 (Pct.)	5

This report provides a summary of the following topics related to marijuana arrests in Colorado: (1) related national trends, (2) trends in Colorado marijuana arrests and marijuana use, (3) the costs of marijuana arrests in Colorado, (4) statistics on past month and past year marijuana use in Colorado by age group, (5) county level rankings in marijuana arrests and rates, and (6) drug treatment admissions for alcohol, marijuana, and other drugs. Extensive detail on these and related subjects, including local agency marijuana arrest data and historical data, is available in table format in the on line Marijuana Policy Almanac³ for Colorado and other states, as well as similar national data.

1) Background – National Trends in Arrests and Marijuana Use from 2003 to 2007

While marijuana arrests have increased significantly since the 1980s, the prevalence of marijuana use in the United States has remained essentially unchanged.

Marijuana arrests in the United States increased from 755,200 in 2003 to 872,720 in 2007. This represents an average annualized change of +2.93% per year.

Historically, marijuana arrests in the United States increased by 150% in the 1990s, rising dramatically from 287,850 in 1991 to 723,627 in 2001, an average annualized change of 8.74% per year. During this time the number of individuals who reported marijuana use in national surveys increased modestly from 19.2 million in 1991 to 21 million in 2001.

The arrest rate for marijuana offenses (possession and sales combined) in the United States has increased from 260 per 100,000 in 2003 to 290 in 2007. This represents an average annualized change of +2.19% per year.

The number of past year marijuana users in the United States has remained relatively stable during this period, changing from 25.5 million annual users in 2003 to 25.2 million annual users in 2007. The number of past month users has also remained the same, 14.6 million in both 2003 and 2007.

On a percentage basis, annual marijuana use was reported by 10.78% of the population in 2003 and 10.22% in 2007, while monthly use was reported by 6.18% in 2003 and 5.92% in 2007.

³ http://www.drugscience.org/States/US/US_home.htm

Marijuana in Colorado

Consequently, at the national level over the last five years, an increase in marijuana arrests of 2.93% per year has resulted in an average annualized decrease in the number of annual marijuana users of 0.21% per year and a similar decrease in the prevalence of annual marijuana use of 0.03% per year.

2) Marijuana Arrest and Use Trends in Colorado (2003 – 2007)

Marijuana arrests in Colorado increased from 11,163 in 2003 to 12,358 in 2007. The arrest rate in 2003 was 245 per 100,000 while in 2007 it was 254.

Compared to a 2.93% average annual increase in marijuana arrests nationally, marijuana arrests in Colorado increased by 2.05% per year. (While the arrest rate nationally increased 2.19% annually in this period, in Colorado the arrest rate changed by 1.22% per year.)

During this same period, the number of annual marijuana users in Colorado decreased from 556,000 in 2003 to 512,000 in 2007. This was an average annualized change of -1.64% per year. The number of monthly marijuana users increased from 313,000 in 2003 to 324,000 in 2007, which produced an average annualized change of 0.69%.

3) The Costs of Marijuana Laws

The above comparison of marijuana arrests and marijuana use provide a basis for evaluating the benefits of marijuana laws. Here are three perspectives that help frame the issue of evaluating the costs of marijuana laws in Colorado.

a) Fiscal Costs.

According to the National Conference of State Legislators (NCSL) in January 2009 Colorado was facing a budget gap of \$604 million (8% of the general fund budget) for FY 2009 and \$343 million (4.6% of the general fund budget) for FY 2010. Like many states Colorado has looked for ways to reduce expenditures for their criminal justice system. Corrections costs have been reduced by closing a prison and delaying the opening of a new prison; fees to private prison operators have also been cut. The state is also taking steps to reduce the current prison population. According to the NCSL:

Post-enactment of the budget, the governor has called for reducing the state's prison population by 1,000 over the next year, saving the state an estimated \$19 million. Under the plan, as many as 3,100 inmates would be released 6 months earlier than their mandatory release dates. The governor intends to trim parole supervision for some inmates already out of prison, and to release some non-sex-offender inmates early and placing them on parole. . . . [The] governor has proposed cutting 34 jobs which provide academic and vocational training for about 2,000 new inmates, and also provide mental health and substance abuse programs.

Marijuana in Colorado

The criminal justice system in Colorado cost \$2.68 billion for 2006. This includes state, county, and local costs. Here is the breakdown for those costs:

Police Protection	\$1.20 billion
Judicial and Legal Services	\$473.59 million
Corrections	\$1.00 billion
Total	\$2.68 billion

The federal Office of National Drug Control Policy (ONDCP) provides a simple way of making a general estimate of the criminal justice costs of drug-related arrests. Actually, estimating the costs of different types of arrests is a very complicated challenge because of the differences between individual offenses and, for example, the investigative and follow-up work they require. However the use of a percentage basis method provides a general estimate of the costs associated with marijuana offenses. The method utilized by ONDCP is to (a) calculate the percentage of total arrests accounted for by drug arrests and then (b) apply that percentage to total criminal justice system costs.

There were 262,367 arrests in Colorado in 2006. There were 11,576 marijuana arrests that year, accounting for 4.41% of all arrests in Colorado for 2006. Consequently, according to this percentage basis method of estimation, *if not for marijuana decriminalization* marijuana arrests would have cost \$118.07 million in Colorado for 2006. However this observation is based on the premise that all citations for marijuana possession are included in the reported data on arrest totals. While this is the required procedure for UCR reporting, this is not always followed by local jurisdictions. For example, as reported below in section 5, municipal citations in Denver are not included in these figures. Nonetheless, marijuana decriminalization in Colorado results in significant savings for the state's criminal justice system. Further reform of marijuana laws in the state, especially in regard to possession of 2 to 4 ounces of marijuana, would increase the magnitude of these savings.

b) Opportunity Costs

Budgets are, out of necessity, about making choices. This is especially true when resources are scarce, such as when state and local governments are grappling with budget gaps between revenue and program commitments. Economists recognize opportunity costs as the consequences of making specific budgetary decisions. Providing funds for one program often means accepting less or no funds for some other government activity. For example, providing law enforcement with the obligation, or opportunity, to make arrests for marijuana offenses deprives law enforcement of funds to apply to other investigations and activities.

Law enforcement agencies publish statistics on their ability to resolve known offenses through the arrest of criminal suspects. After an offense is reported to the police, the objective is "cleared" by an arrest. Crime rates are based on the number of reported offenses. Arrest rates are based on the number of arrests. Clearance rates, usually provided for the most serious crimes, are based on the percentage of known offenses cleared by arrest.

Marijuana in Colorado

Here are the 2007 clearance rates for serious crimes in Colorado:

Murder	60.70%
Rape	37.00%
Robbery	21.90%
Assault	64.10%
Larceny	18.40%
Motor Vehicle Theft	10.80%
All the above crimes	26.00%

Another significant aspect of evaluating law enforcement priorities concerns the growing economic impact of what is referred to as “white-collar crime.” This is a broad term for what are essentially non-violent theft, including such crimes as fraud, identity theft, embezzlement, and securities fraud. While a great deal of media attention is devoted to law enforcement responses to street crimes, the economic impact of these crimes is dwarfed by the magnitude of white-collar crime, which is conservatively estimated to have an impact of 10 times the value of street crimes.

Marijuana arrests also divert law enforcement and criminal justice system resources from possession and sales offenses involving other illicit drugs. In 2007, marijuana arrests were 62% of all drug arrests in Colorado. Other drugs such as cocaine, heroin, methamphetamine, and synthetic narcotics such as Oxycontin present far more serious threats to both individuals and the public. These other illegal drugs also have far more severe dependence liabilities than marijuana. Here is a summary of drug arrests in Colorado for 2007:

Drug	Arrests	Pct.
Opiates/Cocaine	3,619	18%
Marijuana	12,358	62%
Synthetic Narcotics	489	2%
Other Dangerous Drugs	3,425	17%
All Illicit Drugs	20,024	100%

The need to improve clearance rates for serious crime, to devote greater resources to white-collar crime, and to address the problems presented by more dangerous drugs all provide compelling reasons for society to reconsider whether the opportunity costs of marijuana law enforcement are acceptable.

c) Social Costs

Marijuana arrests have a disproportionate impact on two demographic groups – young people and minorities. In many cases an arrest for marijuana possession makes a criminal out of an otherwise law-abiding individual. It is not surprising that the majority of marijuana arrests involve teenagers and young adults given the popularity of marijuana use with younger age groups. However differences in the arrest rates between whites and blacks cannot be explained by differences in marijuana use. In 2007, for example, 10.5% of whites used marijuana in the last year while 12.2% of blacks reported such use. For marijuana use in the last month, the comparable figures were 6% of whites and 7.2% of blacks. These figures indicate that marijuana use by blacks is about 20% more prevalent than use by whites. While this is a statistically significant difference, it does not explain why arrest rates for marijuana possession for blacks are three times higher nationally than for whites. For example, the arrest rate per 100,000 for blacks in 2007 was 598, while for whites the arrest rate was 195.

Marijuana in Colorado

Here are selected 2007 marijuana possession arrest rates for Colorado:

Group	Pct of Arrests	Arrest Rate per 100,000
All individuals	100%	240
Males age 15 to 19	33%	2,268
Females age 15 to 19	7%	512
Males age 20 to 24	20%	1,310
Females age 20 to 24	4%	269
Whites	90%	218
Blacks	9%	463

4) Marijuana Use

There were 512,000 annual marijuana users in Colorado during 2007, of which 324,000 reported marijuana use in the past month. As noted above, the number of annual marijuana users in Colorado decreased from 556,000 in 2003 to 512,000 in 2007. This was an average annualized change of -1.64% per year. The number of monthly marijuana users increased from 313,000 in 2003 to 324,000 in 2007, which produced an average annualized change of 0.69%.

There is general consensus that minors should not use alcohol, marijuana, or tobacco. According to the most recent (2007) data 16.30% or 63,000 youths aged 12 to 17 in Colorado used marijuana in the past year. Of these, 8.20% (of the total population of this age group) or 32,000 youths used marijuana in the past month. Marijuana's illegal status did not prevent these youths from having access to marijuana. Indeed, most teenagers report that marijuana is fairly easy to obtain. One of the reasons marijuana remains easy for youths to obtain is the profit incentive created by the illegal market. Simply put, teenagers make money by selling marijuana to other youths, which increases the availability of marijuana among teens. In this way, marijuana's illegality makes it more widely and readily available to teenagers. Here are data on the prevalence and population estimates for marijuana use by various age groups in Colorado:

Past Month Marijuana Use (2007)

Age	Pct.	Pop.
Age 12 to 17	8.20%	32,000
Age 18 to 25	22.20%	115,000
Age 26 +	5.90%	178,000
Total	8.20%	324,000

Past Year Marijuana Use (2007)

Age	Pct.	Pop.
Age 12 to 17	16.30%	63,000
Age 18 to 25	35.40%	183,000
Age 26 +	8.80%	266,000
Total	13.00%	512,000

Marijuana in Colorado

The National Survey on Drug Use and Health provides estimates on the prevalence of marijuana use in sub-state regions using data from several annual surveys. In these estimates (based on 2004 to 2006 data) the national prevalence of annual marijuana use was 10.47% and monthly marijuana use was 6.05%. The combined area of Regions 2 & 7 (which include Denver and Boulder) have the greatest level of marijuana use in Colorado, with 13% reporting annual use and close to 7.9% reporting monthly use. These areas are rank in the top 20% nationally. Region 1 in NE Colorado and Regions 5 & 6 in the west also report relatively high levels of marijuana use compared to the rest of the country, ranking in the top third of regional nationally.

Colorado Marijuana Use by Region (2004 – 2006) (See Appendix 1 for List of Counties in each Region)

	Annual Use	National Rank (350 regions)	Monthly Use	National Rank (350 regions)
Colorado	12.49%	11*	7.29%	13*
Region 1	12.47%	78	7.06%	97
Regions 2 and 7	13.09%	57	7.88%	54
Region 3	11.22%	121	6.33%	132
Region 4	9.99%	172	5.01%	256
Regions 5 and 6	12.41%	82	7.08%	93

*State-level ranking, separate from regional level ranking

5) County-Level Rankings

Most marijuana arrests are made by local police agencies. Individual agencies and officers exercise considerable discretion regarding law enforcement, not just for marijuana offenses, but for a number of offenses. The number of marijuana arrests also varies because of differences in local populations and the local prevalence of marijuana use. Furthermore, some areas have exceptionally high arrest rates for marijuana because they attract large visitor populations. Because arrest rates are calculated by dividing the number of arrests by the local resident population, numerous arrests of visitors to the area artificially inflate the local arrest rate. For a town with a relatively small population, the arrest of several people driving through the town or on a nearby highway (such as an interstate) can produce a comparatively high arrest rate for marijuana possession.

College towns may have large arrest rates for marijuana offenses because they have larger resident populations of young adults, among whom marijuana use is more prevalent than in older populations. On the other hand, college towns may have lower arrest rates for marijuana possession, for example, because of the discretionary policies of local police agencies. Areas such as beach towns, ski resorts, and natural resource areas also exhibit relatively high marijuana arrest rates because they attract numerous visitors, including large numbers of young adults.

Similarly, areas with large concentrations of African-Americans may have higher arrest rates for marijuana possession than other areas because law enforcement agencies throughout the United States consistently arrest more blacks for marijuana possession than whites.

Marijuana in Colorado

Finally, some areas have larger arrest rates for marijuana possession simply because marijuana use is popular among the local residents; local police agencies have aggressive enforcement policies, or both.

As noted above, citations for marijuana possession are usually counted as arrests for the purposes of reporting data to the UCR program. Local data suggests the UCR arrest totals detailed in the marijuana Policy Almanac do not include local municipal citations for marijuana possession in Denver. On February 4, 2009, the Denver City Attorney's Office provided the Denver Marijuana Policy Review Panel with data regarding the number of individuals 21 and older charged with possession of up to one ounce, showing that 1,658 such individuals charged in 2008; 2,105 in 2007; 1,841 in 2006; and 1,485 in 2005.⁴

County level marijuana possession arrest rates should be compared against the benchmark provided by the statewide arrest rate of 240 in Colorado for 2007. The following tables provide the leading counties in Colorado for marijuana possession arrests, marijuana possession arrest rates, the possession arrest rates for males aged 15 to 19, and the possession arrest rates for blacks:

Colorado County Leaders in Marijuana Possession Arrests (2007)

Jefferson	1,807
Adams	1,618
El Paso	1,444
Arapahoe	1,372
Boulder	862

Colorado County Leaders in Marijuana Possession Arrest Rates (2007)

Gilpin	684
Broomfield	649
Gunnison	510
Grand	461
Moffat	454

Colorado County Leaders in Marijuana Possession Arrest Rates, Males Aged 15 to 19 (2007)

Gunnison	6,206
Mesa	3,929
Adams	3,820
Eagle	3,671
Jefferson	3,424

⁴ Mason Tvert. Personal Communication. October 30, 2009.

Marijuana in Colorado

Colorado County Leaders in Marijuana Possession Arrest Rates of Blacks (2007)

Gunnison	3,712
Moffat	2,181
Mesa	1,094
Pitkin	1,090
Grand	868

6) Drug Treatment Admission Trends

Data on drug treatment admissions is often used to justify devoting law enforcement resources to making marijuana arrests. The argument is two-fold. First, the number of marijuana-related admissions to drug treatment facilities is offered as evidence that marijuana is a dangerous drug. Second, marijuana arrests are justified because they force people to get treatment.

There are a number of flaws to this argument. Alcohol is also responsible for a large proportion of drug treatment admissions, however regulation is widely recognized as the most effective policy for restricting access and reducing prohibition related crime. Furthermore, despite well-deserved public concern over drug abuse and a general consensus that it should be reduced, drug abuse is not a crime. The legal basis for drug laws is that the manufacture, distribution, sale, and possession of drugs are illegal. It is unconstitutional to criminalize illness, mental health problems, or drug dependency in the United States. Alcoholism, for example, is not illegal. Instead we hold alcoholics legally accountable for their conduct, such as being drunk in public or driving while intoxicated. Forcing individuals into drug treatment programs is a dubious justification for making arrests of individuals for marijuana possession. Law enforcement officers, prosecutors, and other criminal justice professionals are not medically trained or certified to diagnose drug dependency and make discretionary decisions about individual treatment requirements.

However the most significant characteristic of marijuana-related drug treatment admissions is that a majority of them in Colorado are the result of referrals from the criminal justice system, often as an alternative to jail time as a sentence for a marijuana possession or sales offense.

During 2007, there were 6,324 marijuana-related admissions for drug treatment services in Colorado. Of these, 57.50% were the result of referrals from the Colorado criminal justice system.

Here is a breakdown of the majority of 2007 drug treatment admissions in Colorado:

Primary Drug	Admissions	Pct.
Alcohol	58,335	74%
Marijuana	6,324	8%
Cocaine	4,595	6%
Synthetic Narcotics	1,159	1%
Methamphetamine	5,696	7%
All Admissions	78,536	100%

Marijuana in Colorado

Sources:

Sentences for Marijuana Possession were obtained from: ImpactTeen Illicit Drug Team. Illicit drug policies: Selected laws from the 50 states. Berrien Springs, MI: Andrews University, 2002. http://www.impactteen.org/generalarea_PDFs/IDTchartbook032103.pdf and updated from other sources. Rankings of sentences were calculated independently and are based on the maximum number of days allowed by state law for the listed quantities of marijuana. The overall ranking is based on a weighted index for the four quantity levels. The weighting used in this index was: 70% for penalties for 1 ounce and 10% each for the penalties for 2, 3, and 4 ounces.

All arrest and clearance data were obtained from the FBI's Uniform Crime Reporting (UCR) Program. Data on drug use were obtained from the National Survey on Drug Use and Health (NSDUH); data on drug treatment admissions were obtained from the Treatment Episodes Data Set (TEDS). NSDUH and TEDS are compiled and published by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services. Data on Criminal Justice Service costs were obtained from the Criminal Justice Expenditure and Employment Extracts Program (CJEE) of the Bureau of Justice Statistics of the U.S. Department of Justice. More information on source data for this report can be obtained at <http://www.drugscience.org/States/Notes.htm>.

State budget data obtained from the National Conference of State Legislators:

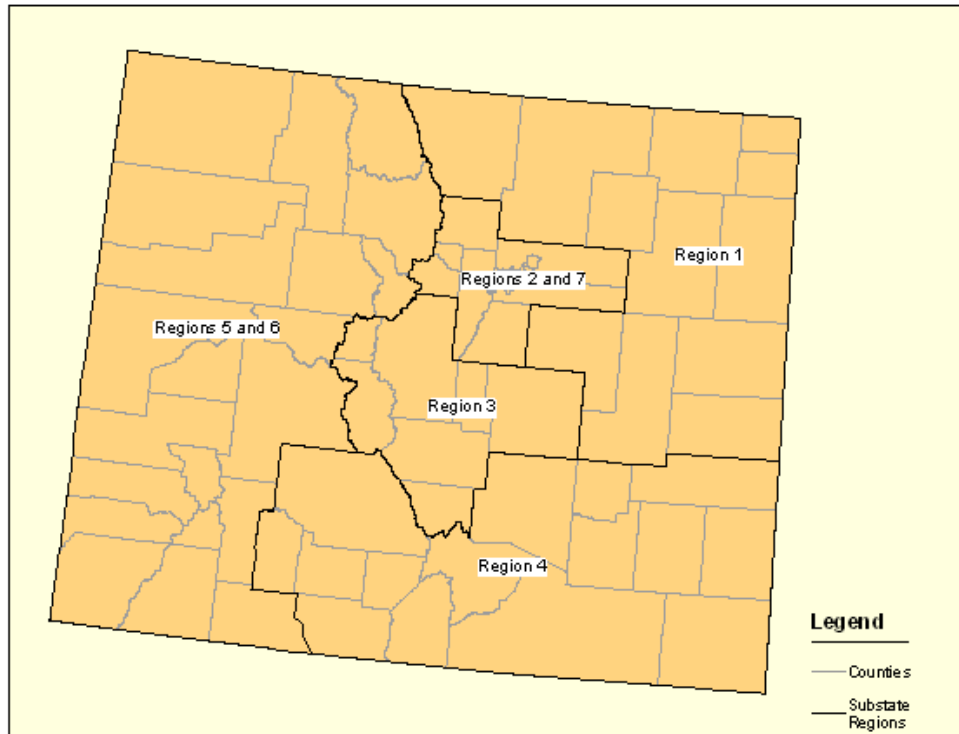
National Conference of State Legislators. (2009) Update on State Budget Gaps: FY 2009 & FY 2010. <http://www.ncsl.org/?tabid=12580>

National Conference of State Legislators. (2009) Actions & Proposals to Balance the FY 2010 Budget: Criminal Justice. <http://www.ncsl.org/?tabid=17240>

Marijuana in Alabama

Appendix 1.

Colorado Sub-State Regions, Defined by Counties



Region 1: Cheyenne, Elbert, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma,

Region 2: Adams, Arapahoe, Clear Creek, Denver, Douglas, Gilpin, Jefferson, ,

Region 3: Chaffee, Custer, El Paso, Fremont, Lake, Park, Teller

Region 4: Alamosa, Baca, Bent, Conejos, Costilla, Crowley, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, Saguache

Region 5: Archuleta, Delta, Dolores, Gunnison, Hinsdale, La Plata, Montezuma, Montrose, Ouray, San Juan, San Miguel

Region 6: Eagle, Garfield, Grand, Jackson, Mesa, Moffat, Pitkin, Rio Blanco, Routt, Summit

Region 7: Boulder,

Source: Substance Abuse and Mental Health Services Administration, Office of Applied Studies, Department of Health and Human Services. Section D. Substate Region Definitions.

<http://www.oas.samhsa.gov/substate2k8/SecD.htm#TabD5>