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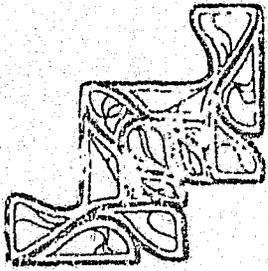
A First Report of the
Impact of California's
New Marijuana Law, SB 95

California State Office of Narcotics and Drug Abuse, Sacramento

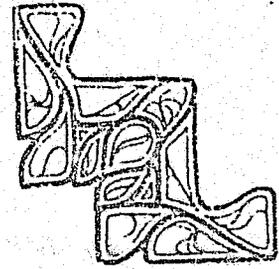
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A First Report
of the Impact of
California's New
Marijuana Law (SB 95)



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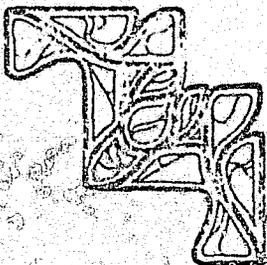
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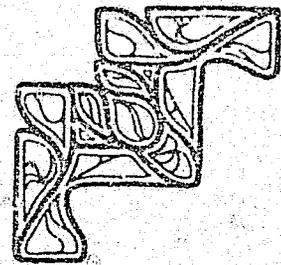
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Many local criminal justice and drug abuse agencies contributed the information needed to pull this report together. Their effort is appreciated.

The State Office of Narcotics took primary responsibility for the preparation of this impact report. The Department of Justice's Bureau of Investigation and Narcotics Enforcement, and Bureau of Criminal Statistics provided considerable data and other assistance. The Department of Health's Division of Substance Abuse also gathered data and reviewed the report.

Dr. Kenneth B. Budman of the State Office of Narcotics and Drug Abuse analyzed the data and was responsible for the preparation of the report.

CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	
II. SUMMARY AND OVERVIEW.....	1
III. IMPACT OF SENATE BILL 95.....	3
A. ENFORCEMENT OF DRUG LAWS.....	3
1. ENFORCEMENT OF MARIJUANA POSSESSION LAWS.....	3
2. ENFORCEMENT OF THE MARIJUANA TRAFFICKING LAWS.....	7
3. ENFORCEMENT OF OTHER DRUG LAWS.....	8
B. USE OF MARIJUANA.....	10
C. DRUG OFFENDER DIVERSION PROGRAM.....	13
1. DRUG PROGRAM RESPONSE TO P.C. 1000.....	13
2. THE NEW DIVERSION PROGRAM.....	15
D. REVENUE TO STATE AND LOCAL GOVERNMENT.....	16
E. IMPACT OF SB 95 ON STATE AGENCIES.....	17
IV. PUBLIC ATTITUDES TOWARD THE MARIJUANA LAW.....	19
V. TABLES.....	21
VI. APPENDICES.....	1-1
VII. REFERENCE DOCUMENTS	

I. INTRODUCTION

Senate Bill 95 was enacted in July 1975 following debate over reducing criminal penalties for possession of marijuana. Prior to SB 95, possession of any amount of marijuana for personal use was a possible felony carrying a penalty of up to 10 years in state prison, with stiffer punishment for succeeding offenses. The new law makes possession of one ounce or less of marijuana a citable misdemeanor with a maximum penalty of \$100. There is no incarceration and no increased punishment for recidivists. Possession of more than one ounce for personal use is a straight misdemeanor, and possession of concentrated cannabis (hashish) remains an alternate felony/misdemeanor. Cultivation of any amount of marijuana remains a straight felony offense, as does possession for sale, importing or transporting more than one ounce. Record destruction provisions were included in SB 95 for both current and past arrests and convictions for marijuana possession.¹

A major objective of the legislation was to reduce the estimated \$100 million in costs to the criminal justice system for handling marijuana offenders. In addition to promoting cost savings, the bill's supporters believed their proposal would continue the policy of discouraging the use of marijuana, but would more realistically punish those who choose to ignore the policy. On the other side, opponents of SB 95 saw the measure as a green light to Californians to use and misuse a drug whose long term effects are still debated in the medical journals.

This report is an attempt to assess one year's experience under SB 95. The impetus for this report was twofold: First, the Legislature in 1976-77 budget hearings in the spring of 1976 decided to restore a proposed \$1.5 million drug abuse program budget cut which had been based on assumptions about reduced workloads in the drug abuse treatment system as a result of SB 95. Because the new law had been in effect for only two or three months when the decision was made to restore these funds, the Legislature requested an impact report from the Department of Health and the Department of Justice.² The second reason this study was undertaken was the realization that a law of this magnitude affecting thousands of people and millions of dollars demands close scrutiny from a public policy point of view.

The questions addressed in this study relate to changes in marijuana law enforcement, criminal justice system costs, drug treatment program enrollments, marijuana usage, public attitudes toward criminal sanctions, and other related matters. A variety of sources such as arrest and citation data, workload and impact surveys, budgets and revenues, and public opinion polls have been reviewed and analyzed. Since much of the source data is not normally published, the report is organized to provide a short summary and conclusions, more detailed sections highlighting the conclusions, and tables and appendices presenting the data and analyses. We hope this will serve the needs of both the general reader and the researcher.

¹ Appendix 1 provides a summary of SB 95 (Chapter 248, Statutes of 1975) and the later modifications of record destruction provisions as enacted in AB 3050 (Chapter 952, Statutes of 1976).

² Appendix 2 summarizes the history of the budget hearings which led to the Legislature's request for this report.

II. SUMMARY AND OVERVIEW

Senate Bill 95 was enacted in July, 1975. It made possession of one ounce or less of marijuana a citable misdemeanor instead of a possible felony. Possession of more than one ounce for personal use was also made a misdemeanor.

A statewide survey of attitudes toward the new marijuana law shows that six in ten (61%) California adults either approve of SB 95 or believe that possession of small amounts of marijuana should be legalized. Even among those individuals who have never used marijuana, either legalization or the current approach is preferred over the reinstatement of stiffer penalties.

The survey also asked people about their experience with marijuana. While thirty-five percent of adults reported that they had at least tried marijuana, fourteen percent considered themselves current users. This is an increase over survey results obtained nearly two years earlier. However, less than three percent of respondents in the latest poll reported they had first tried marijuana within the past year, and only one in eight of them indicated that they were more willing to try or to use the drug because penalties had been reduced.

Analysis of available arrest and citation data shows that changes have occurred under SB 95. In the first six months of 1976, reported marijuana possession offenses were reduced by nearly half compared to the same period in 1975. Concurrently, arrests of heroin addicts and other drug offenders increased significantly. Comparative marijuana trafficking arrests and amounts of the drug seized actually show a small but measurable decline.

The costs to enforce the marijuana laws was a major impetus for enactment of SB 95. Estimated costs were compared between the first half of 1976 and the same period in 1975, and although the data are incomplete, and probably conservative, there has been a reduction of approximately 75% in law enforcement and judicial system costs. Some law enforcement agencies have pointed out that changing possession of marijuana from a felony to a citable misdemeanor has reduced their ability to conduct searches and make arrests for other suspected offenses. While workloads have been reduced, there has been some direct SB 95 cost augmentation among police agencies stemming from record destruction requirements. Prosecutors, public defenders and the courts have also experienced diminished workloads as a result of fewer offenders and the abbreviated handling of citation and other misdemeanor marijuana cases. Probation departments see far fewer marijuana cases for investigation and supervision because of significantly reduced Drug Offender Diversion Program referrals.

In reviewing the SB 95 impact on state funded drug treatment program enrollments, available client and cost data indicate an overall moderate decrease in marijuana related diversion referrals. However, there were large variations among counties in the use of drug programs for serving divertees, with many using probation or school-based drug education classes instead of treatment programs. In addition, enactment of AB 1274 extended the diversion program to include eligibility for heroin addicts and cultivation of marijuana for personal use. The loss of a marijuana workload in some of the larger counties' drug programs has been supplanted by treatment placements stemming from increased non-marijuana arrests in 1976 combined with greater willingness on the part of the courts to use community treatment alternatives for drug abusers eligible for diversion under AB 1274.

At the state level, the Controller's Office provided revenue information from which we have estimated an SB 95 related increase of several hundred thousand dollars to the State General Fund. Other state departments reported minimal affects from SB 95. While the Department of Justice decreased its personnel in the criminal records section, record destruction petitions have been held up pending resolution of constitutional questions. In general, the impact on state departments such as Corrections, Youth Authority and Motor Vehicles has reportedly been minimal. Based on drug program data, there has been little overall fiscal impact on the Department of Health.

III. THE IMPACT OF SENATE BILL 95

A. Enforcement of Drug Laws

Under SB 95, there has been a substantial reduction in reported marijuana possession offenses, based on comparative 1975 and 1976 arrest and citation data. In addition to savings resulting from decreased enforcement, the new procedure of issuing citations instead of making felony arrests has significantly reduced costs per case. The judicial system has experienced an even more substantial workload reduction because of decreased prosecution and diversions.

There appears to be minimal SB 95 impact on the supply side of the marijuana question, as little change has occurred in marijuana trafficking arrests. A sample of large agencies in California reveals a small decrease in marijuana seizures.

Concurrently, there has been a substantial increase in arrests for narcotics and other drug offenses, including heroin addicts. This may reflect a shift in drug enforcement emphasis. Additionally, arrests for persons driving under the influence of a drug have increased considerably in the first half of 1976 compared to the same period in 1975, although the intoxicating drug is not revealed in the data.

1. Enforcement of Marijuana Possession Laws

Arrests and Citations

Total known arrests and citations for marijuana possession in the first six months of 1976 have decreased 47% for adults and 14.8% for juveniles compared to arrests for marijuana possession during the first six months of 1975.

Table 1, page 21, provides a review of arrest rates in recent years, showing that 1974 was the peak for both adult and juvenile felony marijuana arrests with almost 100,000. Nearly one in four adult felony arrests in 1974 involved marijuana, while for juveniles the ratio was one in five. In 1975 there was a 10.9% reduction of such adult arrests, and a 20.1% reduction in juvenile marijuana arrests. Thus, any assessment of the impact of SB 95 must take into account reductions in arrest rates which occurred prior to its enactment.

Comparative arrest data by region of the state is shown in Table 4, page 24. Of the seven largest Southern California Counties, the data show an average decrease of 32.2% for arrests and citations for possession and cultivation of marijuana in the first half of 1976 compared to the same period in 1975. In the seven largest Bay Area Counties arrests and citations decreased an average of 59.0%. A sample of the larger Central Valley and Central Coast Counties indicate an average 40.7% fewer arrests and citations for marijuana possession and cultivation, while the rest of the State's smaller counties showed a decrease of 63.4%.

Senate Bill 95 also decriminalized three misdemeanor drug law violations with respect to marijuana. These are 11364 H&S (possession of drug paraphernalia), 11365 H&S (visiting a place where drugs are being used), and 11550 H&S (being under the influence of a controlled substance). Adult arrests for possession of drug paraphernalia declined 37.1% in the first half of 1976 compared to the same period in 1975, and juvenile arrests decreased 88.5%. There was a dramatic decrease of more than 90% in both adult and juvenile arrests for 11365 H&S in the comparative time frames. The third offense decriminalized as it pertains to marijuana is 11550 H&S, which has been reserved almost exclusively for heroin addicts, and carries a ninety-day mandatory minimum jail sentence. Marijuana offenders have not been directly affected by this change in the law. Tables 2 and 3 on pages 22 and 23 provide a distribution of comparative offenses for adults and juveniles, respectively.

There are several reasons that our data should be qualified, and these are described in detail in Appendix 3. Briefly, in comparing 1976 to 1975 statistics, it is estimated that up to 7.2% of 1976 arrests and citations might not be counted in the statewide data collection system, although they would have been counted in the 1975 data. Only the most serious offense in a multiple-charge arrest incident is entered in the data, so that a felony marijuana charge in 1975 generally took precedence over others; but its low level misdemeanor status in 1976 means that some other concurrent felony or misdemeanor charge would be counted statistically. Another qualifying factor is that in 1975 a number of large law enforcement agencies were not yet reporting on the Bureau of Criminal Statistics arrest register, and are therefore excluded from the comparative data. Since six months is a short time span to assess enforcement trends, we compared the arrest and citation data between the first quarter and the second quarter of 1976, and found a significant increase suggesting a possible upward trend. Finally, marijuana record destruction requirements in SB 95 appear to discourage some agencies from issuing citations or making marijuana arrests in conjunction with other offenses. Despite these qualifications of the data, the decline in statewide arrests and citations is clear.

Law Enforcement Costs

It is estimated that police agency costs to enforce the marijuana possession laws for adults in the first half of 1975 were \$7.6 million compared to \$2.3 million in the same period of 1976.

Before 1976, marijuana offenders were arrested as felons, transported to the jail for booking, and incarcerated for one or two days pending possible release on their own recognizance or upon the posting of bail. We compared those procedures to SB 95 citation and misdemeanor procedures used by a survey sample of large policy agencies, and derived approximate cost figures from a variety of sources. The calculations are described in detail in Appendix 4.

Each of the 24,351 custody arrests for marijuana possession offenses in the first half of 1975 and the 3,811 custody arrests in the first half of 1976 represented a cost of \$222 (estimated using a method developed by the Legislative Analyst and the Bureau of Criminal Statistics in 1972). Total marijuana custody arrest costs were therefore \$5.4 million from January through June, 1975, and \$850,000 for the same period in 1976. Using law enforcement agency survey responses, the cost of a citation was roughly estimated to be 59% of the cost of an arrest. We computed the cost of 9,102 citations at \$131 each, or \$1.2 million. Pretrial incarceration costs were estimated at \$2.2 million for the first half of 1975 and \$300,000 in the same period in 1976.

The cost impact of SB 95 on law enforcement has been more than just costs of arresting or citing and processing offenders. The costs associated with record destruction provisions of the act were addressed by a large proportion of the police agencies questioned about workload changes. Separate filing systems had to be created so that records could be easily identified for destruction after two years. Microfilming or automated record indexing procedures had to be modified in many of the large departments. Record problems were also noted in dealing with multiple-offense cases where marijuana is only one of the charges.

Another point addressed by some police agencies is the reduced authority an officer has to conduct a general investigation of a suspected misdemeanor marijuana offender under the new law. Prior to SB 95, the felony classification of marijuana allowed for an in-custody or booking search for possibly other drugs, stolen property or other evidence of criminal activity. Under the new misdemeanor categories, particularly in one ounce citation cases, a police officer is more limited in his authority to conduct a search without probable cause to believe that other drugs or stolen property are possessed by the suspect.

Judicial System Costs

It is estimated that SB 95 has brought about a reduction in marijuana case processing costs in the court system from \$9.4 million in the first half of 1975 to \$2.0 million in the first six months of 1976.

From 1973 through 1975, over half the adults charged with possession of marijuana avoided full prosecution by participating in the Drug Offender Diversion Program (Penal Code Section 1000 et. seq.).

Except for a large increase in probation department workloads, the rest of the court system enjoyed some reduction in effort per case under P.C. 1000. A diversion cost impact study has been used in conjunction with a relatively new Bureau of Criminal Statistics data system and a survey of district attorneys as the sources for calculating comparative judicial system costs.

The comparative reduction in costs is conservative, because jail and probation costs for convicted offenders in both years were not included, and Tables 5 and 6, pages 25 and 26, show a much larger number convicted and sentenced in 1975 than in 1976. A discussion of the judicial system cost computations is included in Appendix 4. To summarize, we estimated that prosecutor costs in the first half of 1975 were \$2.9 million compared to nearly \$700,000 during the same period in 1976. Public defender costs were approximately \$2.1 million compared to \$500,000 in the same period while court costs are estimated at nearly \$600,000 for the first six months of 1975 and \$136,000 for January to June, 1976. Probation department (diversion only) costs were estimated at \$3.9 million compared to \$700,000.

We were unable to estimate the cost of processing citation cases. For example, twenty-two prosecutors responded to a survey question about their review of 11357b H&S (possession of one ounce or less) cases---ten review all of them while nine review only 10% or less. The average was a little over 50%. For the most part, district attorneys do not have to prepare complaints nor prosecute many one ounce citation cases. In our survey, the majority of prosecutors noted the reduction in workload for marijuana possession cases, citing decreases in such areas as clerical effort and case preparation as well as deputy district attorney time in evidentiary hearings and trials.

Criminal Justice System Cost Savings

Overall, the data indicate substantial cost savings in the criminal justice system as a result of SB 95. If we add the estimated law enforcement costs to the known judicial costs, our total of \$17 million for half of 1975 compared to \$4.4 million for half of 1976 represents a 74% reduction in costs. While the exact amount of the reduction is subject to interpretation of incomplete or estimated data, the general direction and magnitude of cost changes are clear.

In reviewing law enforcement and court costs, the lack of any statewide uniformity in the handling of juvenile offenders, either under SB 95 or in previous years, has discouraged any effort in this report to address a comparable procedural, workload or cost comparison of the juvenile justice system similar to the foregoing analysis.

2. Enforcement of the Marijuana Trafficking Laws

Arrests for Trafficking Offenses

Table 2, page 22, shows a decrease of 5.0% in the comparative arrests for adults for the marijuana trafficking offenses, including possession for sale (11359 H&S), selling, transporting or importing marijuana (11360 H&S), or using a minor to sell, receive or use marijuana (11361 H&S). These offenses represent 16.5% of total adult marijuana arrests and citations in the 1976 data compared to less than 10% of total 1975 marijuana arrests.

For juveniles, Table 3 on page 23 indicates the comparative arrests of 622 marijuana trafficking offenders in the first half of 1975 and 763 in the same period of 1976, an increase of 22.7%. As in the case of adults, the ratio of juvenile trafficking arrests to total marijuana arrests rose between 1975 and 1976 from 4.5% to 6.4%.

SB 95 did not change the penalty structure for trafficking offenses, and thus required no new procedures for law enforcement agencies. In comparing the trafficking arrests for adults in the first three months with those in the second quarter of 1976, there was actually a slight decline, unlike the trend found with possession arrests. Nevertheless, data are missing from several agencies which have reported increases in trafficking arrests and seizures of marijuana. Overall, our available data seem to indicate little change in enforcement emphasis.

Marijuana Seizures

Based on available marijuana seizure data, there has been an 11% decrease in the amount of marijuana seized in California between 1975 and 1976.

In looking at the trafficking, or supply side of the marijuana question, it is essential to ask about the amount of the drug entering the illicit market. Nationally, the United States Customs Service reported a 62% increase in the amount of marijuana seized during fiscal year 1975-76 compared to the previous year. For California data, the Bureau of Investigations and Narcotic Enforcement in the California Department of Justice surveyed federal, state, and local agencies. Their findings in Appendix 5 were computed in pounds and corrected for time discrepancies to show seizures of 337,489 pounds in 1975 compared to 300,837 pounds in 1976, a decrease of approximately 18 tons of marijuana.

In general, seizure data has to be viewed in perspective, because one large confiscation of contraband can swing the data dramatically, particularly in one agency or county. While our information cannot be considered definitive, we cannot discount its direction, nor can we presume any causal relationship between marijuana seizures and enactment of SB 95.

3. Enforcement of Other Drug Laws

Narcotics and Dangerous Drugs

Adult arrests for non-marijuana felony drug offenses increased 18%, and for persons under the influence of heroin, arrests increased 48.2% between the first half of 1975 and the first half of 1976.

We do not have enough incidence and prevalence information about current drug usage to determine whether or not these increased arrest figures (shown in Table 2, page 22) reflect a change in the number of drug users. Based on recent national drug use surveys, it seems unlikely. A more probable explanation is that greater police concentration on hard drug offenders has resulted in increased arrests. A recent report from the Department of Justice has identified eighteen geographical areas of the state where multi-agency drug enforcement units have been created. Where heroin addicts are the target population of these intensified drug enforcement efforts, increased arrests are the result.

Table 3 on page 23 shows a 13.7% decrease in non-marijuana felony drug arrests of juveniles, coming on the heels of a nearly 40% decrease between 1974 and 1975. Less drug use may be the reason for this, although some observers believe youngsters are becoming more sophisticated and less readily detected in their usage. Optimism may yet be justified when these decreasing drug arrests are reviewed side by side with the results of recent local and national drug usage surveys of youth which indicate a reduction in use of all drugs (with the possible exception of marijuana, depending upon the survey consulted).

Driving Under the Influence of a Drug

Arrests of adults and juveniles driving under the influence of a drug in the first half of 1976 increased 46.2% and 71.4%, respectively, over the same period in 1975, although the data do not indicate which drug was used.

A primary social concern about the use of marijuana relates to the qualitative, if not the quantitative, scientific evidence that a person's motor coordination, reaction time, and judgment are often reduced when he or she is intoxicated by marijuana. One of the recent Senate subcommittee hearings on alcoholism addressed the increasingly deadly problem of mixing driving, alcohol and sedatives. The combination of alcohol and marijuana may have similar if less documented detrimental effects on driving. At present, we are totally lacking in information necessary to draw any conclusions regarding any relationship between the increase in driving arrests and the smoking of marijuana.

Appendix 6 describes comparative arrest data for drug and alcohol related vehicle code offenses. Narrative and anecdotal reports from local law enforcement agencies and the California Highway Patrol suggest that the number of drivers using drugs alone or in combination with alcohol has been increasing. The significant change in arrests for Section 23105 of the Vehicle Code (driving under the influence of a drug) is further evidence of this apparent trend among motorists. Unfortunately, the data do not assist us in determining what class of drugs such intoxicated drivers were using.

Whatever part marijuana use plays in this trend -- although it appears to be of a lesser order than use of sedatives alone or in combination with alcohol -- should be closely monitored and vigorously discouraged. Public education efforts pointing out the wisdom of not driving while intoxicated on marijuana should accompany other such campaigns to reduce slaughter on the highways by alcohol and drug users.¹

¹ While a test for THC (the active ingredient in marijuana) in the blood is in the developmental stages, it may not be available for law enforcement use for several years. Because marijuana intoxication is difficult to prove in court, it has been pointed out that arrests and particularly prosecutions for 23105 CVC (where marijuana is the only apparent intoxicant) are probably not occurring as often as they would be if physical proof were easily ascertainable.

B. Use of Marijuana

It was anticipated by both opponents and proponents of SB 95 that reducing marijuana penalties might result in some increased willingness on the part of Californians to experiment with marijuana. A survey conducted by the Field Research Corporation in November, 1976 found that while thirty-five percent of adults report having at least tried marijuana, fourteen percent consider themselves current users. Less than 3% reported that they first tried marijuana within the past year, and only one in eight of this number said they were more willing to buy marijuana or to use it more often because penalties have been reduced.

These findings are being compared with the results of a similar survey conducted in February, 1975, before the new law went into effect. The earlier poll (taken 21 months before the current poll) indicated that twenty-eight percent of those surveyed had tried marijuana and nine percent considered themselves current users at that time. Change in usage has not been uniform by age group or region, with notable increases occurring among people between the ages of 30 and 59, and among residents of Southern California and Northern Californians living outside the Bay Area.

MARIJUANA USAGE

	<u>Have Used</u>		<u>Currently Use</u>	
	<u>Feb., 1975</u>	<u>Nov., 1976</u>	<u>Feb., 1975</u>	<u>Nov., 1976</u>
	%	%	%	%
<u>Total Adults</u>	28	35	9	14
<u>By Age</u>				
18-29	54	66	24	31
30-39	35	47	5	16
40-49	10	19	1	4
50-59	6	12	-	2
60 & over	6	5	1	2
<u>By Sex</u>				
Male	34	42	13	18
Female	21	28	6	10
<u>By Area</u>				
Southern California	27	35	8	14
Los Angeles-Orange	25	36	8	15
Other Southern	32	32	10	9
Northern California	29	35	11	14
Bay Area	35	35	15	14
Other Northern	21	35	6	13

The current survey can also be compared to a nationwide survey of non-medical drug use conducted from January through April, 1976. Findings from this National Institute on Drug Abuse survey indicate that 11% of adults in the Western Region of the United States currently use marijuana, with "current use"

defined as use of the drug within the last month.* When this definition is applied to the November, 1976 California survey for purposes of comparison with the federal survey results, current users comprise only thirteen percent of the California adult population instead of fourteen percent.

The reduction in penalties for possession of marijuana for personal use does not appear to have been a major factor in people's decision to use or not to use the drug. Less than three percent of the people surveyed had first tried marijuana within the past year, since the new law became effective, but only one in eight of these new experimenters or users indicated more willingness to try marijuana because legal penalties have been reduced. In the total adult population, this represents three people out of a thousand. These survey responses are consistent with responses in the February, 1975 survey in which only eight percent of those who did not then currently use marijuana said that fear of legal prosecution was their primary reason. Conversely, in the latest poll, lack of interest was by far the most prevalent reason given by those who had never used marijuana, or had not used it in the past year.

REASON FOR NOT CURRENTLY USING MARIJUANA

	<u>February, 1975*</u>	<u>November, 1976</u>
	<u>%</u>	<u>%</u>
Possibility of legal prosecution	8	2
Not available / not exposed	4	2
Not interested / don't need it	50	73
It might be dangerous to my health	38	14
Other reasons	16	7

*Adds to over 100 percent since some respondents gave more than one reason.

The survey also sought information about the frequency of use among California adults who consider themselves current users. Nearly 60% of persons in this category reported that they currently use marijuana about once a week or less often. The remaining 41% of current users do so a few times a week or more. Compared to the earlier survey results, frequency of use appears to have decreased somewhat, suggesting that the increase in users may include a large proportion of experimenters.

*Dr. Ira Cisin, Social Research Group, George Washington University, Washington, D.C., "Nonmedical Use of Psychoactive Substances: Main Findings." Western Region includes California, Oregon, Washington, Arizona, New Mexico, Nevada, Utah, Idaho, Montana, Colorado and Wyoming.

FREQUENCY OF MARIJUANA USE

	<u>Current Users</u>	
	<u>February, 1975</u>	<u>November, 1976</u>
	<u>%</u>	<u>%</u>
More than once a day	8	13
About once a day	18	6
A few times a week	20	22
About once a week	14	14
2-3 times a month	19	12
Once a month or less	18	31

Unfortunately, a survey of marijuana usage among youth could not be done concurrently with the adult poll. Results from other surveys will be helpful in this regard. The tenth consecutive year of the San Mateo County Survey of Student Drug Use for 1977 will provide some future insight into the comparative change under SB 95. Since 1972, the survey has shown that over 50% of high school seniors had at least tried marijuana and over 30% had used it approximately once a month, on the average. Similar findings among a large national sample of high school seniors show increased use of marijuana between 1975 and 1976, with 53% reporting at least some use in the latter year and 32% reporting use in the last thirty days.* However, since this study does not deal with California alone, the matter of the SB 95 impact on juvenile drug use will have to be deferred until more data are obtained.

The Drug Abuse Council in 1974 estimated from a national survey that 29 million Americans had tried marijuana, and over twelve million of them were current users. In California in 1976, this latest state survey indicates that more than five million adults have tried marijuana, with over two million of them currently using it.

The self-reported survey data suggest that SB 95 has not been a significant factor in the use of marijuana by California adults. Since experimentation and use of marijuana among high school youngsters is apparently higher than among adults, a future increase in the number of adults who have at least tried it can be anticipated as the younger generation matures. Nevertheless, in 1976, nearly two out of three adults had not tried marijuana, and those who do use it seem to make that choice regardless of government's efforts to discourage its use.

*Ms. Lilian Blackford, San Mateo Department of Public Health and Welfare, 225 - 37th Avenue, San Mateo, CA 94403, "Summary Report - Surveys of Student Drug Use, San Mateo County, California."

Dr. Lloyd Johnston, 2039 Institute for Social Research, Box 1248, Ann Arbor, Michigan 48106, "Monitoring the Future: A Continuing Study of the Lifestyles and Values of Youth."

C. Drug Offender Diversion Program

In providing treatment services to drug abusers, most counties considered marijuana-related diversion referrals from the courts as a low priority target population. Probation departments either had to use or develop drug education programs, or they selectively sent divertees to existing outpatient or community services programs.

In 1975, statewide diversions were 85% (20,540) marijuana related and 15% (3,691) hard drug related, while in 1976 diversions were 50% (5,954) marijuana related and 50% (5,979) hard drug related. SB 95 and AB 1274 changed the nature of the diversion program.

1. Drug Program Response to P.C. 1000

A majority of divertees participated in probation or school based drug education classes rather than community treatment programs.

The Drug Offender Diversion Statute (Penal Code 1000 et. seq.) was only one section of Senate Bill 714, the Campbell-Moretti-Deukmejian comprehensive Drug Abuse Treatment Act passed and signed as emergency legislation in December 1972. In that bill, the sum of \$14,344,252.00 was appropriated without regard to fiscal years, to be allocated to the counties by the State Department of Health. Although diversion clients were expected to be a high priority target population, SB 714 created county drug program administrators and advisory committees to plan for and distribute funds based on their community's drug abuse treatment and prevention needs.

From 1973 through 1975, P.C. 1000 was the vehicle for removing nearly 75,000 drug possession offenders from conventional criminal prosecution channels into programs of education, treatment or rehabilitation. For the first three years, almost 85% of these divertees were marijuana offenders, and 86% of all divertees successfully completed their programs and had their charges dismissed. P.C. 1000 has enjoyed broad general approval. Originally given a two year life, the experimental diversion law was renewed for two more years in 1974, and in 1975 it was expanded and renewed until January 1, 1979 by enactment of AB 1274 (Appendix 7).

In 1973 the State Office of Narcotics and Drug Abuse funded a survey of county diversion procedures. In reviewing funding matters, the researchers wrote:

The overall picture we have derived by talking to officials in the larger counties is that for the most part, only a minor percentage of the 714 money is being spent on what are considered 'diversion programs' (i.e., treatment and education programs to which P.C. 1000 divertees are referred).*

* Robert Berke and Michael L. Dillard, "Drug Offender Diversion in California: the First Year of Penal Code 1000", January 1974, page 49.

The reasons are not difficult to assess. SB 714 was passed as emergency legislation to deal with the state's "epidemic" drug abuse problem. Treating drug addicts seemed to be the counties' first priority: detoxification, emergency services, methadone maintenance, residential 24-hour care, and outpatient treatment had to take precedence over the treatment, counseling or educational needs of marijuana offenders.

Because we lack the data for a statewide accounting of diversion-targeted drug abuse treatment funds, we have pulled together Table 8, page 28, to provide a combination of drug program survey estimates and probation department diversion data for the fourteen largest counties representing over 85% of diversions statewide. In these counties, approximately 36% (7,462 of 20,859) of the divertees were sent to state funded drug programs. The four largest Bay Area Counties representing 17% of the diversions in this sample used almost no Short-Doyle resources for diversion clients. Less than 1 in 4 of Los Angeles County's diversions representing 39% of the sample, went to state funded Short-Doyle programs. San Diego and Orange together had 27% of the divertees among the largest fourteen counties, and their courts placed two-thirds of their divertees in state funded drug programs.

In Appendix 8 we have calculated the combined diversion drug program costs for Los Angeles, San Diego and Orange Counties, representing 57% of statewide diversions and up to two-thirds of divertees in treatment programs. They received 1975-76 Short-Doyle Drug Abuse allocations of \$4.3 million out of approximately \$10 million allocated statewide. Based on information provided by County Drug Program Coordinators in each county, we estimated that diversion costs in 1975 were \$956,520 to treat or educate 5,607 divertees, including 2,116 hard drug offenders. Average cost was \$171 per person, but those heavily involved in drugs took a greater proportion of drug program resources. Since the average cost of persons served in outpatient drug-free treatment programs is estimated at over \$900 in the 1975 annual report of the Department of Health, Substance Abuse Program, it is clear that the majority of divertees received minimal drug education-type programming, probably commensurate with individual needs.

Although the data are incomplete for the state, the three largest counties appear generally representative of those counties which provided drug program resources to the criminal justice system when thousands of marijuana offenders were in need of some kind of education, treatment or rehabilitation programs. According to probation department information sent to the Bureau of Criminal Statistics, nearly 90% of divertees attended some type of drug education program. Most of them entered large probation or school based drug education classes such as those provided for up to 75% of Los Angeles, Riverside and San Bernardino County divertees and nearly all divertees in Contra Costa and San Francisco Counties.

In general, drug program resources used for social and recreational marijuana divertees were minimized in most counties. The reduction in marijuana divertees resulting from enactment of SB 95 had a marginal effect on the need for statewide drug abuse programming, but the expansion of P.C. 1000 under AB 1274 meant that programs which had been serving large numbers of marijuana divertees would have to restructure themselves to receive a lesser number of more heavily drug-involved clients.

2. The New Diversion Program

On the whole, any SB 95 related reduction in drug treatment program effort in handling divertees has been offset by program referrals from the courts as a result of substantial increases in hard drug arrests and diversions.

AB 1274 could be viewed as an additional statement of legislative intent about the diversion program. In 1974 the California Supreme Court discussed the purpose of diversion in part as a program which "permits the courts to identify the experimental or tentative user before he becomes deeply involved in drugs...". Although the original statute included for diversion eligibility the possessor of narcotics or dangerous drugs, it was overwhelmingly a marijuana program in most counties. The law and the courts specifically excluded persons charged with Section 11550 H&S (under the influence of heroin). AB 1274 now includes this offense, and many counties are handling a significant proportion of addicts.

Table 7, page 27, and Appendix 8 provide a breakdown of diversion offenses as reported by county probation departments. Overall, between 1975 and 1976, the diversion population was reduced by 14,586 marijuana offenders and increased by almost 2,300 hard drug offenders including over 2,000 heroin addicts. These figures are consistent with 1976 arrest statistics.

In comparing drug program costs in 1976 with those in 1975, we return to data provided by Los Angeles, San Diego and Orange Counties, which have experienced an even larger proportion of the state's diversions and treatment program requirements. Estimated Short-Doyle Drug Abuse funds used for diversion in 1976 are slightly over \$1,000,000 for the three counties to serve a diversion population of 3,964, down nearly 30%, but including an estimated 1,200 heroin addicts. Average cost is \$253 per divertee, but again this is considerably lower than costs estimated at over \$900 per client in outpatient, drug-free Short-Doyle programs. Since this data is based on the first half of 1976, it does not take into consideration the increased time and effort needed to treat more heavily involved drug abusers. In short, our diversion data, though incomplete, shows that while SB 95 may have reduced somewhat the enrollments in programs serving marijuana divertees, the enactment of AB 1274 and the increased arrests of hard drug offenders have more than offset any savings to the state's drug abuse program.

The evolution of the Drug Offender Diversion Program is reflective of the strong interdependence between the criminal justice system and the drug abuse treatment system. As the courts have shown less inclination to simply incarcerate drug abusers in recent years, diversion has been one mechanism for placing such individuals under supervision and in community treatment programs. Where diversion has been inappropriate for some offenders, and a conviction is obtained, there has been no reduction in the courts' needs in 1976 for treatment alternatives for drug abusers.

D. Revenue to State and Local Government

It is estimated that the State General Fund will receive \$818,000 in fine and bail forfeiture money for marijuana possession offenses in 1976, an increase of approximately \$361,000 over the previous year. County and city general funds will share an estimated \$120,000 in additional revenue.

Prior to SB 95, many counties had been exacting a fine against marijuana possession offenders. Under Section 11502 H&S, 75% of all fines and bail forfeitures for violations of Division 10 of the Health and Safety Code are required to be sent by the county treasurer to the State General Fund, and the remaining 25% goes to the city general fund if the offense occurred in a city, or is kept by the county general fund if the offense occurred in an unincorporated area. This mechanism for distributing these revenues was not changed by SB 95.

According to the State Controller's Office, approximately \$685,000 was remitted to the State under Section 11502 H&S from January through September 1975. For the same period in 1976 the State received \$1,227,000, an increase of 79%. We had to estimate the SB 95 impact because the State Controller does not have a breakdown of funds collected by offense. Sacramento and Los Angeles Counties assisted with more detailed information.

The Sacramento County Municipal Courts sent a total of \$5,453 to the State from January through September 1976, compared to \$2,422 for the same period in 1975. Nearly all of it was for marijuana possession. On the other hand, from January through September 1976, Los Angeles sent \$265,964 to the State, but only 33% (\$87,923) was for marijuana possession offenses. Submissions for the same period in 1975 from Los Angeles were \$116,221 total, with \$45,132 identified as marijuana possession fines.

If we estimated that one half of all 11502 H&S revenue collected is for marijuana possession offenses, the extrapolated 1976 total amount would be \$818,000, while the same calculations for 1975 give us \$457,000 revenue collected. We therefore estimate that marijuana possession revenues collected by the State under SB 95 will increase \$361,000, or 79%.

E. Impact of SB 95 on State Agencies

1. Department of Justice

The impact of SB 95 on the State agencies has been minimal except for the Bureau of Identification in the Department of Justice. It was anticipated in the Department of Finance analysis of SB 95 that there would be a savings in the Bureau of approximately \$286,000 because one ounce marijuana cases would no longer be booked and fingerprinted, and therefore records would not be sent to Sacramento. As a result, twenty-five positions were reportedly reduced in the Bureau in the 1976-77 budget. Our data shown that for adults, over 24,000 were arrested and booked for possession of marijuana in the first half of 1975 but in the same period in 1976 only approximately 4,000 were arrested and booked for possession of concentrated cannabis or marijuana.

Record destruction provisions covering over half a million prior marijuana arrestees resulted in 500 court orders in the Bureau of Identification, and they are being held pending a Supreme Court decision on the constitutionality of the provisions themselves. The SB 95 requirement for automatic destruction of marijuana records in two years for 1976 and later cases, established the need to create a record identification system for destroying those records.

2. Department of Youth Authority

The Youth Authority compared adult and juvenile wards committed in the first three quarters of 1976 with the same period in 1975 for all marijuana offenders. In 1975 there were 31 commitments for possession and possession for sale of marijuana compared to 13 through September of 1976. For other marijuana charges, there were 20 commitments compared to 6. The Youth Authority Director attributed the decrease in numbers to a general change in the orientation of the courts regarding marijuana, rather than to SB 95 directly.

3. Department of Corrections

The Department found no significant change in commitments for possession of small amounts of marijuana, because they were negligible in number before SB 95. Possession of marijuana among inmates is still a felony, and among parolees the citation offense appears to be treated with about the same concern as the felony arrest in 1975 for the same offense. At the beginning of 1976 no more than 5 or 6 individuals in the Department of Corrections system were found to fall under offense sections of SB 95, and they were discharged. Finally, the record destruction provisions of SB 95, should they be sustained by the Supreme Court, are expected to have a significant impact on the Department's Records Section.

4. Department of Motor Vehicles

The primary impact of SB 95 on the Department of Motor Vehicles falls in the area of record purge and destruction requirements of the legislation. It was estimated by the Department that the increased costs

to modify and then maintain their records system is \$15,000 annually. Because of the relatively few marijuana record destruction petitions received in 1976, anticipated workload and costs in this area, as with the Department of Justice, have not materialized.

5. California Highway Patrol

Arrests and citations made by the Highway Patrol for possession of marijuana are included in our data by county. They recently announced an increase of arrests and citations in the first ten months of 1976 of 5,425 compared to 4,295 in the same period of 1975. Even with this 26% increase, it would appear that overall reduced costs of handling the citation cases would leave a net savings in total workload and costs to the Highway Patrol.

IV. PUBLIC ATTITUDES TOWARD THE MARIJUANA LAW

Having looked at the impact of SB 95 from a number of points of view -- enforcement, costs, usage, drug treatment, and revenue -- it remains to address the all-important question of what Californians think about the law. In the Field Research Corporation's survey of November 1976, results show that one in four California adults favor the approach of the new state law. A more liberal position of legalizing the sale or possession of a small amount of marijuana was taken by 38% of those responding, while 29% favored stiffer penalties.

The survey consisted of 1,033 personal in-home interviews representing a cross section of the California adult population. Interviews were conducted between November 13-24, 1976, and consisted of both attitudinal questions and the questions of marijuana usage addressed in an earlier section of this report.

When asked their opinion about what the law with regard to marijuana should be, younger adults and those who had used marijuana took a more liberal view. However, as depicted in the table below, except for those adults over 60 years old, every age group preferred either the present law or legalization. It is striking that among those who reported never having used marijuana, a minority favored stiffer penalties, with 27% favoring the current law and 19% preferring legalization. Among current users, 86% prefer legalization.

ATTITUDE TOWARD MARIJUANA LAW

	Possession & Sale of Small Amounts Legal <u>%</u>	Possession of Small Amounts Legal <u>%</u>	Law Remain As is <u>%</u>	Stiffer Penalties <u>%</u>
<u>Total Adults</u>	16	22	23	29
<u>By age</u>				
18-24	30	26	20	19
25-29	31	24	19	12
30-39	20	27	21	29
40-49	14	17	28	34
50-59	6	22	29	35
60 & over	2	16	22	43
<u>By area</u>				
Southern California	17	18	25	31
Los Angeles-Orange	19	19	25	29
Other Southern	13	16	25	37
Northern California	15	27	21	27
Bay Area	16	26	24	24
Other Northern	14	27	17	31
<u>By usage</u>				
Have used, not now	20	35	26	17
Now use	54	34	10	--
Never used	5	14	27	42

We were also interested in the public's knowledge of the marijuana law, since the State Office of Narcotics and Drug Abuse launched a media effort just prior to January, 1976 to inform the public that marijuana had not been legalized under SB 95. A majority (54%) of all survey respondents knew that possession of a small amount was a misdemeanor with a maximum \$100 fine, but more than one in four believed it had been legalized. Among current users, over 80% knew what the law is, but one in five believed SB 95 had removed all criminal sanctions on their use of marijuana.

Overall, public attitudes about marijuana have moved in parallel with the numbers who have tried and who currently use marijuana. Even those who do not use the drug seem to be adopting more liberal views toward the law. If such surveys are to be relied on for clues to the concerns of the public, it would appear that the marijuana issue has declined in the level of intensity it had two years ago when SB 95 was debated in the Legislature.

TABLE 1

COMPARISON OF ADULT AND JUVENILE* FELONY ARRESTS AND MARIJUANA FELONY ARRESTS.

<u>AR</u>	<u>TOTAL ADULT FELONY ARRESTS</u>	<u>TOTAL ADULT FELONY MARIJUANA ARRESTS</u>	<u>MARIJUANA % OF TOTAL</u>
70	214,836	44,718	20.8%
71	229,476	42,745	18.6%
72	240,231	52,027	21.7%
73	239,395	58,456	24.4%
74	267,904	66,641	24.9%
75	265,816	59,408	22.3%

<u>AR</u>	<u>TOTAL JUVENILE FELONY ARRESTS</u>	<u>TOTAL JUVENILE FELONY MARIJUANA ARRESTS</u>	<u>MARIJUANA % OF TOTAL</u>
73	118,629	29,654	25.0%
74	134,517	32,956	24.5%
75	127,842	26,349	20.6%

Data for 1973, 1974 and 1975 for juveniles is not comparable with data of prior years because of offense group changes.

TABLE 2

ADULT DRUG ARRESTS

	TOTAL 1975	FIRST HALF 1975	FIRST HALF 1976	% CHANGE
ALL MARIJUANA (1)	59,408	30,033	17,171	-42.8%
Possession	48,193*	24,351*	12,913*	-47.0%
11357 a (concentrated)			2,203*	
11357 b (1 ounce or less)			8,944	
11357 c (>1 ounce)			1,750	
11360 c (1 ounce or less)			16	
Cultivation (2)	5,355*	2,706*	1,436*	-46.9%
Trafficking (3)	5,860	2,976	2,827	-5.0%
OTHER FELONY DRUGS (4)	33,161	15,786	18,621	+18.0%
OTHER MISDEMEANOR DRUGS (5)	25,821	12,725	14,143	+11.1%
11364 (Paraphernalia)	3,630	1,800	1,127	-37.4%
11365 (In & About)	3,749	1,979	373	-81.2%
11550 (Under Influence)	8,589	4,077	6,041	+48.2%
23105 (Driving Under Influence Drugs)	4,616	2,228	3,258	+46.2%
Other	5,237	2,641	3,344	+26.6%
TOTAL	118,390	58,544	49,935	-14.7%

* * * * *

- (1) Marijuana figures for both years were derived from Bureau of Criminal Statistics monthly arrest and citation register agencies representing 70.358% of total adult marijuana arrests.
- (2) BCS categorized marijuana possession (11357 H & S) and cultivation (11358 H & S) together in 1975 and prior years. We estimated that one of ten of the combined number were cultivation arrests. For 1976, BCS put cultivation in with 11357a (concentrated cannabis). Our 10% estimate for cultivation results in an estimate that nearly 40% of 11357a arrests in 1976 are for cultivation.
- (3) Marijuana trafficking includes 11359 H & S (possession for sale); 11360 H & S (sale, importing or transporting) and 11361 H & S (involving a minor in sales or use).
- (4) Other felony drug figures for both years were derived from BCS arrest and citation register agencies representing 77.24% of total other felony drug arrests.
- (5) Figures for the misdemeanor offenses were derived by using arrest and citation register offenses as representing 66.6% of the state total.

* Based on Los Angeles Police Department arrest figures for cultivation, compared to possession, we estimated these numbers - See note (2) above.

TABLE 3
JUVENILE DRUG ARRESTS

	TOTAL 1975	First Half 1975	First Half 1976	% CHANGE
ALL MARIJUANA (1)	26,349	13,808	12,000	-13.1%
Possession	23,807*	12,527*	10,675*	-14.8%
11357 a (concentrated)			1,151*	
11357 b (1 ounce or less)			7,697	
11357 c (>1 ounce)			1,813	
11360 c (1 ounce or less)			14	
Cultivation (2)	1,252*	659*	562*	-14.7%
Trafficking (3)	1,290	622	763	+22.7%
OTHER FELONY DRUGS (4)	3,158	1,661	1,434	-13.7%
OTHER MISDEMEANOR DRUGS (5)	7,443	4,156	1,411	-66.0%
11364 (Paraphernalia)	1,813	958	110	-88.5%
11365 (In & About)	3,601	2,093	140	-93.3%
11550 (Under Influence)	954	551	394	-28.5%
23105 (CVC-Driving Under Influence Drugs)	236	105	180	+71.4%
Other	839	449	587	+30.7%
TOTAL	36,950	19,625	14,845	-24.4%

* * * * *

- (1) Marijuana figures for both years were derived from Bureau of Criminal Statistics monthly arrest and citation register agencies representing 79.86% of the total juvenile marijuana arrests statewide. The figures in this table are extrapolated from that 79.86% sample of the state and coincide with the totals found in Dept. of Justice, Bureau of Criminal Statistics, Crime & Delinquency in California, 1975.
- (2) The Bureau of Criminal Statistics combined marijuana possession (11357 H & S) and cultivation (11358 H & S), in 1975 and in prior years. They currently combine concentrated cannabis (11357 H & S) with cultivation. For juveniles it was estimated that 5% of the combined figures were actually cultivation arrests.
- (3) Trafficking offenses include 11359 H & S (possession for sale), 11360 H & S (sale, importing or transporting), and 11361 H & S (involving a minor in sale or use).
- (4) 65.55% of the other felony drug arrests are on the arrest register. The statewide figures here are derived by extrapolating to 100%.
- (5) Misdemeanor drug offenses on the BCS register for 1975 and 1976 represent 65.54% of total arrests in this category. The figures above were derived by dividing the arrest register figure by .6554.

* Based on Los Angeles Police Department and other data for cultivation arrests, we estimated these figures - See note (2) above.

TABLE 4
ADULT
MARIJUANA POSSESSION AND
CULTIVATION ARRESTS AND CITATIONS
IN SELECTED COUNTIES (1)

COUNTY	---MARIJUANA POSSESSION & CULTIVATION-----			% CHANGE
	Full 1975	1st Half 1975	1st Half 1976	
<u>Southern California</u>				
Los Angeles *	15,373	7,925	3,926	- 50.5
Orange *	3,577	1,477	1,429	- 3.2
Riverside	1,287	699	532	- 23.9
San Bernardino	1,674	857	326	- 62.0
San Diego *	1,809	906	594	- 34.4
Santa Barbara *	307	154	73	- 52.6
Ventura *	331	181	182	+ .6
<u>Bay Area</u>				
Alameda *	1,739	863	412	- 52.3
San Francisco	746	433	114	- 73.7
Santa Clara *	948	473	179	- 62.2
Contra Costa *	1,078	564	218	- 61.3
San Mateo	743	374	137	- 63.4
Marin	306	155	75	- 51.6
Solano	447	228	118	- 48.2
<u>Central California</u>				
Fresno *	385	111	81	- 27.0
Kern	886	412	236	- 42.7
Merced	308	182	99	- 45.6
San Joaquin	454	241	66	- 72.6
Stanislaus	533	261	151	- 42.1
Sacramento	916	480	278	- 42.1
Monterey	326	157	96	- 38.9
Santa Cruz	350	155	132	- 14.8
<u>Other Counties</u>	3,152	1,749	641	- 63.4
TOTAL	37,675	19,037	10,095	- 47.0

(1) Data does not include approximately 30% of the state's marijuana possession arrests by agencies which were not on the Bureau of Criminal Statistics arrest register in both 1975 and 1976. Totals are not complete for the starred (*) counties, but those agencies which reported in both years can be compared in the incomplete counties as well as in the complete counties.

TABLE 5
 OBTS DATA AVAILABLE
 FELONY ARREST DISPOSITION SUMMARY: POSSESSION AND CULTIVATION OF MARIJUANA OFFENSES
 77.2 PERCENT OF THE STATE
 JANUARY 1, 1975 THROUGH DECEMBER 31, 1975

41,240
100.0 Percent

Not Convicted		
	Number	Percent
Total not convicted.....	28,910	70.1
Released by law enforcement.....	1,341	3.3
Complaint denied by District attorney or city attorney.....	5,604	13.6
Dismissed, acquitted, juvenile remand, diverted, etc.....	21,965	53.2
Lower court (misdemeanor complaint)...	19,399	47.0
Lower court (felony complaint).....	1,933	4.7
Superior court.....	633	1.5

Convicted		
	Number	Percent
Total convicted.....	12,330	29.9
Lower court (misdemeanor complaint).....	10,819	26.2
Lower court (felony complaint).....	895	2.2
Superior court.....	616	1.5

		Sentenced (convicted)								
		Total	Prison	CRC	CYA	Straight Probation	Prob. & Jail	Jail Only	Fine Only	Other
Number	Total.....	12,330	19	2	10	5,854	2,318	1,631	2,494	2
	Lower court (misdemeanor comp)...	10,819	-	-	1	5,100	1,881	1,458	2,377	2
	Lower court (felony complaint)...	895	-	-	-	467	211	111	106	0
	Superior court.....	616	19	2	9	287	226	62	11	0
Percent	Total.....	29.9	0.0	0.0	0.0	14.2	5.6	4.0	6.1	0.0
	Lower court (misdemeanor comp)...	26.2	-	-	0.0	12.4	4.6	3.5	5.8	0.0
	Lower court (felony complaint)...	2.2	-	-	-	1.1	.5	.3	.3	-
	Superior court.....	1.5	0.0	0.0	0.0	.7	.5	.2	0.0	-

Note: Percentages may not total to 100.0 percent due to rounding.

TABLE 3

COMPARATIVE CRIMINAL JUSTICE DISTRIBUTION
OF MARIJUANA POSSESSION AND CULTIVATION OFFENSES

PROCEDURE	FIRST HALF OF 1975		FIRST HALF OF 1976			
	TOTAL	%	11357 a & c & 11358 H&S	11357b& 11360c	TOTAL	%
Custody Arrest	27,057		5,127	48	5,175	
Citations	-		262	8,512	8,774	
TOTAL	27,057		5,389	8,560	13,949	
Prosecutions (83.1%)	22,484	83.1%	4,478	-	4,478	% of
Prosecutions of Citations (90%)	-	of	-	7,704	7,704	arrests
TOTAL	22,484	arrests	4,478	7,704	12,182	87.3%
		% of				
Court Processing	22,484	prosecutions	4,478	7,704	12,182	% of pro-
Diverted	13,824	61.5%	2,031	484	2,515	secutions
Dismissed, etc.	465	2.1%	94	UNK	UNK	20.6%
Acquitted	115	.5%	22	UNK	UNK	
Convicted by trial	156	.7%	94	UNK	UNK	
Pled guilty or nolo	7,924	35.2%	2,237	UNK	UNK	

TABLE 1
DRUG DIVERSIONS BY OFFENSE CATEGORY*

OFFENSES	1973-74**	%	1975***	%	1976****	%
MARIJUANA - TOTAL	24,840	77.5	11,174	76.1	2,319	48.9
11357 H & S (possession)	24,840	77.5	11,174	76.1	1,605*****	33.8
11357b H & S (1 oz. or less)	-	-	-	-	389	8.2
11358 H & S (cultivation)	-	-	-	-	325	6.9
"HARD" DRUG OFFENSES-TOTAL	3,541	11.0	1,688	11.5	2,232	47.1
11350 H & S (poss.narc.)	1,933	6.0	494	3.4	487	10.3
11377 H & S (poss.dang.drugs)	1,608	5.0	1,194	8.1	907	19.1
11550 H & S (under infl.)	-	-	-	-	838	17.7
OTHER DRUG OFFENSES - TOTAL	3,399	10.6	1,784	12.2	192	4.0
11364 H & S (paraphernalia)	1,180	3.7	879	6.0	-	-
11365 H & S (visiting)	1,703	5.3	826	5.6	-	-
Other	516	1.6	79	.6	-	-
NON-DRUG OFFENSES	284	.9	34	.2	-	-
TOTALS	32,064	100.0	14,680	100.0	4,743	100.0

* Numbers are not comparable across years because Los Angeles County data was not available for 1973-1975, and Alameda County data was not collected in 1975.

** The 1973-74 total represents 63% of the diversions, and excludes approximately 18,859 Los Angeles County diversions. Because an estimated 69.8% of Los Angeles diversions were for marijuana, the actual statewide percentage of marijuana diversions for 1973-74 would be $18,859 \times .698 = 13,164 + 24,840 = 38,004 \div (32,064 + 18,859 = 50,923) = 74.6\%$ rather than 77.5%.

*** The 1975 total represents 60.5% of the diversions, and excludes 1,475 Alameda County diversions and approximately 8,125 Los Angeles County diversions. Applying the Alameda County marijuana percentage for 1974 of 81.3% to 1975, and the 69.8% figure for Los Angeles, we can calculate a revised statewide marijuana percentage of $(1,475 \times .813 = 1,199) + (8,125 \times .698 = 5,671) + 11,174 = 18,044 \div (14,680 + 1,475 + 8,125 = 24,280) = 74.3\%$ rather than 76.1%.

**** The 1976 figures represent 83.7% of the diversions in which the offense is known for the April through September period. Total known diversions for 1976 are 8,914 through September. We can add an estimated 36 diversions for about a dozen counties which did not report all or part of 1976, to bring the total to 8,950. If we project this 9 month total to twelve months ($8,950 \div .75$), we can estimate that there will be 11,933 diversions in 1976.

***** This figure includes diversions coded by the probation departments as 11357, 11357(a) or 11357(c) H & S.

TABLE 8
DIVERSION PROGRAM DATA - LARGEST COUNTIES

COUNTY	NUMBER DIVERTED			CLIENTS IN STATE-FUNDED PROGRAMS (a)			% OF DIVERSION CLIENTS IN STATE-FUNDED PROGRAMS			% OF "HARD DRUG" DIVERTEES IN STATE-FUNDED PROGRAMS		
	1974	1975	1976*	1974	1975	1976*	1974	1975	1976*	1974	1975	1976*
Los Angeles	9,954	8,125	2,872	1,656	1,861	686(c)	16.6%	22.9%	31.7%(c)	21.5%	32.1%	41.8%
San Diego	4,556	3,428	838	4,075	2,306	1,055	89.4%	67.3%	100.0%	31.0%	54.0%	57.0%
Orange	3,398	2,242	953	1,945	1,440	673	57.2%	64.2%	70.6%	15.0%	19.0%	36.0%
Alameda	1,558	1,475	430	X	X	X	---	---	---	---	---	---
Santa Clara	1,222	1,059	498	X	X	X	---	---	---	---	---	---
San Bernardino	1,132	703	302	UNK.	UNK.	UNK.	---	---	---	---	---	---
Contra Costa	857	629	203	0	0	0	---	---	---	---	---	---
Riverside	739	672	172	195	225	85	26.4%	33.5%	43.6%	19.4%	16.3%	31.2%
Sacramento	549	477	126	572	486	162	100.0%	100.0%	100.0%	10.0%	3.0%	90.0%
San Mateo (b)	517	540	152	408	559	355	78.9%	100.0%	100.0%	22.0%	20.8%	82.8%
Ventura	524	377	142	0	0	0	---	---	---	---	---	---
San Francisco	493	458	131	X	42	80	---	9.2%	61.1%	---	42.0%	67.0%
Santa Barbara	495	338	67	419	284	41	84.6%	84.0%	61.2%	0	6.0%	22.0%
Kern	378	336	120	289	259	57	76.5%	77.1%	47.5%	31.0%	36.0%	86.8%
TOTAL	26,372	20,859	7,006	* January-August, 1976;			(a) Based on drug program and probation estimates.					
% of State	86.5%	85.9%	88.0%	X These counties only occasionally use treatment programs for divertees.			(b) Probation Dept. received 714 funds for a diversion education program.					

(c) Since Los Angeles County drug program clients are only counted through June of 1976, we calculated the percentage by dividing 686 by 2,166, the number of diversions in Los Angeles through June, 1976.

APPENDIX 1

CALIFORNIA'S NEW MARIJUANA LAW

SB 95, CHAPTER 248, STATUTES OF 1975

(Record destruction provisions modified by AB 3050, Chapter 952, Statutes of 1976)

1. Possession of one ounce or less of marijuana is a misdemeanor.
 - A. Police will issue a citation for an alleged offender to appear in court. If the individual signs the promise to appear, and properly identifies himself, he will not be fingerprinted or photographed and will not be taken into custody.
 - B. Procedurally there are options left to the local magistrate, and hence, to the alleged offender.
 - 1) If the magistrate sets bail for alleged offenders, those who have no prior convictions for possession of marijuana may choose to forfeit bail and avoid any further proceedings. An alleged offender with such a prior conviction may forfeit bail only if the magistrate determines that requiring a court appearance will cause him undue hardship.
 - 2) If the magistrate decides not to set bail and authorize the above procedures, an alleged offender will appear in court and be apprised of his right to an attorney, his right to test the evidence against him and his right to a speedy trial. He may also be eligible to participate in the Drug Offender Diversion Program (P.C. 1000).
 - C. The maximum fine for conviction is \$100.00.
 - D. After three or more convictions for this offense within a two-year period, the fourth conviction requires the offender to enter the Drug Offender Diversion Program, if a program will accept him.
 - E. All records of the event - the citation, court proceedings, conviction, etc. - will be destroyed or permanently obliterated after two years.
2. Simple possession of more than one ounce of marijuana is a misdemeanor. (Possession of marijuana for sale is a felony.)
 - A. Police have an option to arrest or to cite an alleged offender.
 - B. As in current procedures, an alleged offender is arraigned on the charges and is apprised of his right to an attorney, his right to test the evidence against him and his right to a speedy trial. He may also be eligible to participate in the Drug Offender Diversion Program.

- C. The maximum penalty is six months in county jail and/or \$500.00 fine.
 - D. The same records destruction procedures apply as above, including the destruction or permanent obliteration of state "RAP" sheets in the Department of Justice.
3. Simple possession of any amount of "concentrated cannabis" may be prosecuted as either a felony or a misdemeanor. Concentrated cannabis is defined as "the separated resin, whether crude or purified, obtained from marijuana". (Includes hashish and hash oil.)
- A. Police will arrest an alleged offender and take him into custody as a felon.
 - B. The district attorney or the court will determine whether the case will be handled as a misdemeanor or a felony.
 - C. The same rights and court procedures apply as in 2.B. above.
 - D. The maximum penalty is one year in county jail and/or \$500.00 fine, or state prison for one to five years.
 - i. Records destruction provisions do not apply.
4. Transporting or giving away one ounce or less of marijuana is treated the same as possessing one ounce or less, except that the diversion provision (1.D. above) is not mentioned.
5. It will no longer be unlawful to possess marijuana smoking paraphernalia, nor will it be a violation to visit a place where marijuana is being used.
6. While marijuana intoxication in public will still remain a violation, being under the influence of marijuana will no longer be a Health and Safety Code violation with a mandatory minimum ninety-day jail sentence.
7. Any person who was arrested and/or convicted of a marijuana possession or specified misdemeanor marijuana offense prior to January 1, 1976, can have certain arrest, citation and court records destroyed or permanently obliterated.
- A. The procedure begins with an application to the California Department of Justice.
 - B. The Department, upon verifying the applicant's identity and offense, and upon the applicant's payment of not more than \$37.50, shall notify the Federal Bureau of Identification of the destruction of the records, and shall destroy its own records and request that the appropriate law enforcement agency, probation department and Department of Motor Vehicles destroy their records. The petition and order itself will also be destroyed.

8. No marijuana record over two years old which is subject to destruction under these provisions shall be deemed an accurate or relevant record. No employer may ask a potential employee about an arrest or conviction for such a marijuana offense more than two years from the date of its occurrence.
9. Diversion under Penal Code Section 1000 et. seq. remains an option for qualified offenders charged with any of the three marijuana sections (1, 2 or 3 above).

APPENDIX 2

SB 95 AND THE 1976-77 DRUG ABUSE BUDGET

Early in 1976 the Legislature held hearings on the Governor's proposed 1976-77 budget. Because the budget has to be presented well before the effects of new legislation can be determined, recommended budgetary changes based on recently enacted legislation are necessarily founded on assumptions and projections. Some assumptions were made about the effects of California's new marijuana law (SB 95-Moscone) as it relates to the need for community drug treatment programs for persons diverted by the courts under the Drug Offender Diversion Statute (Penal Code 1000, et. seq.). Specifically, under Item 286 in the proposed budget for the State Office of Narcotics and Drug Abuse, page 695, it was stated that "Legislation passed in 1975-76 will reduce the number of persons apprehended for possession of marijuana and enable the reduction of \$1,500,000 currently budgeted for marijuana diversion programs."

The history of this proposed \$1.5 million cut in the Short-Doyle drug abuse budget began when Department of Health analysts working on budgetary matters made some assumptions about the impact of Senate Bill 95, the marijuana reform measure signed by the Governor on July 9, 1975 (Chapter 248). The first assumption was that persons cited for possession of one ounce or less would no longer choose to participate in the Drug Offender Diversion Program in lieu of a small fine.

The second assumption was that the need for drug programs would decrease commensurately. As these assumptions related to drug abuse program funding, the corollary supposition followed that the counties had been using a significant portion of their Short-Doyle allocations to fund programs which were treating or counseling marijuana divertees. While the decrease in marijuana diversions was evident at the time of the hearings, the assumptions about marijuana-related program funding, and more significantly, county drug program needs, were seriously questioned by county drug program administrators and others at the time of the budget hearings.

Additionally, there was evidently no consideration given during the budget preparation to the impact of Assembly Bill 1274 (Sieroty), signed on October 1, 1975 (Chapter 1267). This bill expanded the number of divertible offenses to include cultivators of marijuana and persons prosecuted for 11550 H&S, for being under the influence of narcotics. It was not anticipated that the additional number of persons diverted as a result of AB 1274 would offset the large numbers of marijuana possessors who would prefer a small fine to diversion. However, at the time of the Legislative hearings on the drug budget, preliminary diversion data for January and February 1976, indicated that individuals who were more heavily involved in hard drugs were being diverted by the courts, thereby requiring more intensive drug treatment resources in many communities.

These issues surfaced during Legislative hearings on the drug abuse budget in February and March 1976. There was a great deal of resistance to the proposed budget cut from public health and local government officials who perceived it as a threat to the very existence of already overcrowded drug treatment programs. Following considerable testimony from county drug program coordinators and administrators, as well as a large number of current and former addicts, the Legislature agreed to restore the proposed \$1.5 million reduction in the drug abuse budget. However, it was requested that the Department of Health and the Department of Justice prepare a report on the effects of the new marijuana law, in time for the Legislative Analyst to include a review of the report in the analysis of the 1977-78 budget bill. This report is submitted in response to that request.

APPENDIX 3

ARREST AND CITATION DATA

There are a number of reasons why we must qualify the statewide arrest and citation data upon which a part of this report is based. First, in the collection of data from law enforcement agencies by the Department of Justice, Bureau of Criminal Statistics, a system is used for counting multiple offenses. For coding purposes, to avoid counting an offender more than once, the Bureau uses a hierarchy system for capturing in the data only the most serious offense in each incident. For example, marijuana possession in 1975 was a felony arrest, the penalty being a possible ten years in state prison. If an individual was arrested for possession of a concealed weapon, or driving under the influence of a drug, both misdemeanors, and he or she had an ounce of marijuana in a pocket or purse found at the time of detention or during the booking search, the marijuana offense would go into the data system, with the weapon or driving offense lost statistically. By way of contrast, under SB 95, the same incident would result in the marijuana citation being lost statistically because it is a low-level misdemeanor. We tried to determine how this hierarchy data collection system would affect our comparative data.

From 34 of the state's largest law enforcement agencies, we received estimates on the type of marijuana-related cases they are encountering under SB 95:

1. Out of 100 marijuana incidents encountered this year by your department, estimate the percentage of each type of case (Categories A through H will be used to describe types of cases below.).

A. 11357b (one ounce or less) offense only	47.6%
B. 11357c (more than one ounce) offense only	9.0%
C. 11357b plus additional traffic infraction	10.4%
D. 11357c plus additional traffic infraction	1.8%
E. 11357b plus additional misdemeanor offense	16.2%
F. 11357c plus additional misdemeanor offense	2.7%
G. 11357b plus additional felony offense	7.3%
H. 11357c plus additional felony offense	5.0%
	100.0%

According to these estimates, 68.8% of all the marijuana possession offenders are arrested or cited either solely for the marijuana, or are stopped for an additional traffic infraction which presumably would not result in a custody arrest. At the other extreme, the estimated 12.3% of marijuana incidents occurring in conjunction with felonies are definitely not reflected in the data in 1976, but would probably not be reflected in the data in 1975 either because most other felonies were considered more significant than possession of marijuana, and carried a more severe penalty. Therefore, for our purposes, approximately 81% of the statewide arrest and citation data are validated for comparison in both 1975 and 1976 despite the hierarchy system.

Our concern regarding arrest coding rests with the estimated 19% misdemeanor offenses occurring in conjunction with a marijuana offense. In 1975, 100% of these incidents would presumably have been counted as marijuana arrests, whereas in 1976 the one ounce misdemeanor citations are not being counted. Additionally, for the 11357c misdemeanors, we can estimate that half will be lower than the concurrent other misdemeanor, and half higher.

We can use the law enforcement estimates above and the adult arrest data from Table 2 to calculate a potential difference in 1975 and 1976 half year arrest data resulting from the Bureau of Criminal Statistics hierarchy data collection system. We have 8,944 citations for 11357b counted in the data. If there are another 16.2% of the total citations which are not counted, then 8,944 represents only 83.8% of the citations, and there should be an additional 1,729 11357b citations for a total in the first six months of 1976 of 10,673. If we do the same type of computation for the 11357c cases, we estimate that 1,750 arrests in our data are 97.3% of the total, with 49 cases which occur in conjunction with other misdemeanors. Estimating that half of the other misdemeanors are of a higher level than the 11357c H&S offense, an estimated 25 cases might be lost to the data in the first half of 1976 which would have been included in 1975. If we add 1,729 - 11357b and 25 - 11357c offenders to the 1976 data, it would increase the 12,913 possession cases to 14,667.

If we used this new 1976 figure in calculating the difference between arrests and citations in the first half of 1976 and arrests in 1975, the percentage decrease in enforcement in the two years would be 39.8% instead of 47.0%. We thus estimate that possibly 7.2% of the marijuana possession arrests and citations for adults are being lost statistically in 1976 which would have been counted in 1975. However, because of the speculative nature of these computations, we will use the original data figures in further analyses.

A second reason to be cautious about drawing definitive conclusions based on the comparison of half year 1975 with half year 1976 arrest register arrests is that all of the data for both years was not available from such large law enforcement agencies as the Los Angeles, Orange, Alameda, Ventura and San Diego sheriff's departments and the Long Beach, San Diego, Oakland and San Jose city police departments, among others. The reason these agencies are missing in the comparative data is that they had not yet been reporting individual arrests on the Bureau's monthly arrest and citation register in 1975. While our data include the same law enforcement agencies for both years, there are reports to suggest that inclusion of several of these large agencies might require some modifications of the percentage change between our 1975 and 1976 data. However, it does not appear that such agencies are moving contrary to the overall trend toward reduction of enforcement of the marijuana possession laws.

We offer two further comments to qualify the data presented. The arrest and citation data for the first six months of 1976 may not ultimately represent half of the year's arrests and citations. It has been pointed out by more than one law enforcement observer who noted the reduced level of arrests and citations early in 1976, that police and sheriff's departments got off to a slow start under the new law. This assertion is borne

out by the data when the first quarter of the year is compared to the second quarter. Of the 10,095 arrests and citations in 1976 for marijuana possession and cultivation on the Bureau of Criminal Statistics' monthly arrest and citation register, 4,334 or 42.8% occurred in January through March, while 5,761 or 57.2% occurred in April, May and June.

And finally, a healthy suspicion about the short-term results of a data collection system of the magnitude employed in California should be one tool of the analyst, particularly when a new law creates new reporting requirements. For example, the possibility exists that some marijuana citations are not being recorded by law enforcement because of their low status. Also, the record destruction provisions of SB 95 have reportedly encouraged many agencies to avoid the necessity of creating certain records at all.

While none of the data qualifications discussed in this appendix should be ignored, the very considerable data used as a basis for report findings indicate a significant decrease in marijuana possession offenders arrested or cited in 1976 compared to arrests in previous years.

APPENDIX 4

CRIMINAL JUSTICE COSTS

If we look only at the reduced number of individuals arrested for possession of marijuana between 1975 and the first half of 1976, we would expect a significant decrease in fiscal costs and workload at each stage of the criminal process. A survey of law enforcement agencies and district attorneys will provide assistance in comparing 1976 with 1975 criminal justice processing costs. However, the data in this section is derived from rough estimates, and therefore should be taken as qualitative trend information rather than a conclusive quantitative cost analysis.

Law Enforcement Costs

In the report of the California Senate Select Committee on the Control of Marijuana, it was estimated that the 1972 cost of an arrest was \$171. The basic method used to calculate this figure was developed by the Legislative Analyst and the Bureau of Criminal Statistics by estimating that 25% of law enforcement costs were for criminal activity prevention, and 6% of felony and misdemeanor arrests were for marijuana. If we update this \$171 per case cost by the 30% increase in law enforcement expenditures since 1972, a more accurate figure would be \$222 per arrest in 1975-76. The custody arrest of 24,351 adult marijuana possessors therefore generated a cost to local enforcement agencies of approximately \$5,405,922 (24,351 x \$222) in the first half of 1975. By comparison, for the same time period in 1976, the custody arrest costs for 3,811 marijuana offenders would be \$846,042 (3,811 x \$222).

The numbers of marijuana offenders are summarized below:

	First Half 1975	First Half of 1976		
	11357	11357a&c	11357b & 11360c	Total
Custody Arrests	24,351	3,761	50	3,811
Citations	--	191	8,910	9,102
TOTAL	24,351	3,953	8,960	12,913

The cost of issuing a citation appears to be significantly less than a custody arrest. A California Highway Patrol representative estimated that one and a half hours is required to transport and book a suspected felon in the nearest jail. Because of distance it may be less time for local police departments. We got some very rough estimates of processing times for 11357b citation cases compared to 11357 felony arrests in 1975 from

30 law enforcement agencies. While the responses varied greatly, the average case handling time for the citation was 166 minutes, compared to an average of 282 minutes for 11357 H&S felony arrests in 1975. If we apply this ratio to the \$222 custody arrest cost, we can estimate that processing one citation case costs law enforcement \$131, and the cost for 9,102 citations in the first half of 1976 is approximately \$1,192,362.

Besides the arrest or citation processing cost differential, time served in jail prior to trial occurred for 1975 offenders but not for the 1976 cited marijuana possessors. Incarceration data is difficult to obtain because records by offense apparently are not kept. Estimates from 17 law enforcement agencies asked about the number of prearrest days of incarceration for 11357 H&S offenders in 1975, averaged out to 1½ days. For pretrial days of incarceration, their estimate was an average of 9 days.

Using an average \$15 per day for county jail costs per man (it is somewhat higher for women), prearrest incarceration for marijuana possessors in the first half of 1975 would be \$547,898 (24,351 x 1½ x \$15). The 9 days of pretrial detention appears high in light of the diversion grants and lenient misdemeanor dispositions ultimately meted out, particularly in the larger counties. By arbitrarily reducing this estimate by half, the costs would still be an additional \$1,643,693 (24,351 x 4½ x \$15). Comparative costs for 1976 offenders would be similar per person rates for 11357a H&S (concentrated cannabis) offenders, or \$223,054 (2,203 x 4½ x \$15). The 1,750 arrested as misdemeanants for 11357c H&S (possession of more than one ounce) according to the survey, spent less time in jail than similar offenders the previous year. If we estimate that they spent only half as long, we can calculate a cost of \$78,750 (1,750 x 3 days x \$15).

The overall cost to law enforcement agencies for arresting and citing marijuana possession offenders is estimated at \$7,597,513 (\$5,405,922 + \$547,898 + \$1,643,693) for the first half of 1975, and \$2,340,208 (\$846,042 + \$1,192,362 + \$223,054 + \$78,750) for the first half of 1976. In looking at the comparative figures for estimating the impact of SB 95 upon enforcement of the marijuana laws, the 1975 figure should be considered conservative because it does not include the costs for 11364 H&S (paraphernalia) and 11365 H&S (visiting) arrests. Possibly up to 2,000 such arrests of adults did not occur in 1976 as a result of decriminalization of these offenses as they pertain to marijuana. Because of wide variations in the handling of juveniles, both before SB 95 and under SB 95, cost estimates for juvenile marijuana offenders have not been attempted.

Judicial System Costs

The Senate Select Committee on Control of Marijuana report in dealing with fiscal costs of enforcing marijuana laws noted that the cost of arrests was merely the tip of the iceberg. Using data from 1972 and earlier, it was estimated that the criminal justice system costs beyond the arrest range from \$1,200 to \$2,800 per arrest. A large proportion of these

estimated costs pertained to trial costs and particularly incarceration costs, both of which in 1975 appear to be somewhat lower. For example, our disposition data from the Bureau of Criminal Statistics indicates that for 11357 H&S (possession) and 11358 H&S (cultivation) offenders in 1975, there were a total of 479 trials in lower court and 57 trials in superior court compared to a Senate Select Committee report estimate of 1,510 trials. Tables 5 and 6 break out marijuana case processing in the court system.*

The diversion impact study completed by Touche Ross and Company computed diversion case costs by criminal justice agency and compared these costs to pre-diversion costs for similar cases. Thus, it was found from survey and interview data that diversion case processing costs the district attorneys \$95 instead of \$190; public defenders \$50 instead of \$160; probation departments \$280 instead of \$390, and the courts \$20 instead of \$35.** We used these figures to compute the 1975 and 1976 criminal justice costs for diverting marijuana offenders:

COMPARATIVE DIVERSION CASE COSTS

	<u>First Half of 1975</u>	<u>First Half of 1976</u>
District Attorney Costs	13,824 x \$ 90 = \$1,244,160	2,515 x \$ 90 = \$ 226,350
Public Defender Costs	13,824 x 50 = 691,200	2,515 x 50 = 125,750
Probation Costs	13,824 x 280 = 3,870,720	2,515 x 280 = 704,200
Court Costs	13,824 x 20 = 276,480	2,515 x 20 = 50,300
	\$6,082,560	\$1,106,600

For 1975 the 13,824 diversions for marijuana represented approximately 68% of marijuana possession cases prosecuted; in 1976 diversions represented only 20% of such cases prosecuted. We can use the Touche Ross figures to calculate costs for 11357 H&S cases not diverted in 1975, and 11357a and 11357c H&S cases not diverted in 1976, but these case costs will not apply to the 11357b H&S citation cases which were not diverted.

- * The Bureau of Criminal Statistics coded cultivation and possession cases together.
- ** While \$20 sounds low, if we use 1975 California Judicial Council Court Impact Study findings for guidance, we learn on page 85 that an average case-related minute in municipal court costs \$1.42, meaning that the average diversion case would take 14 minutes. In practice, the larger courts may push them through more rapidly.

COMPARATIVE NON-DIVERSION CASE COSTS

	<u>First Half of 1975</u>	<u>First Half of 1976</u>
District Attorney Costs	8,660 x \$190 = \$1,645,400	2,447 x \$190 = \$464,930
Public Defender Costs	8,660 x 160 = 1,385,600	2,447 x 160 = 391,520
Court Costs	8,660 x 35 = 303,100	2,447 x 35 = 85,645
	<u>\$3,344,100</u>	<u>\$942,095</u>

The total costs for processing marijuana cases in the first half of 1975, except for court dispositions, was an estimated \$9,426,660 (\$6,082,560 + \$3,344,100). The total costs for the 1976 cases were approximately \$2,048,695 (\$1,106,600 + \$942,095), not counting court dispositions or the generally expeditious handling of 7,220 11357b H&S cases. The 1975 cost figures are quite conservative, because jail or probation dispositions for part of the 8,660 non-diverted convicted offenders would increase the costs significantly.

Marijuana Enforcement

If we add the law enforcement costs and the judicial system costs together, the savings appear quite substantial.

	<u>First Half 1975</u>	<u>First Half 1976</u>
Law Enforcement	\$ 7,597,513	\$2,340,208
Judicial System	9,426,660	2,048,695
	<u>\$17,024,173</u>	<u>\$4,388,903</u>

APPENDIX 5

MARIJUANA SEIZURES

Seizure information from California law enforcement agencies is not routinely available from a single source. Therefore, for the purposes of this report, certain selected agencies were contacted and such seizure data as was available was obtained. It is tabulated below. Every effort was made to obtain the data from the larger agencies, and in as uniform a manner as possible. While data is included from the Department of Justice and from the Drug Enforcement Administration, it should be recognized that these agencies do not work at the street level and therefore would not be expected to reflect any changes due to the impact of Senate Bill 95. Data has been included from the Department of Justice Laboratories, which do receive material for analysis on a statewide basis from local agencies.

1. Department of Justice Laboratory Data

The Department of Justice Laboratories do not keep data or statistics showing weights of drugs submitted to their labs nor are they able to segregate the number of marijuana submissions to their labs. They do have the following figures showing total drug analysis workload.

	<u>Average</u>
January-June 1975 cases	1500/month
July-December 1975 cases	1400/month
January-June 1976 cases	1125/month

It is their belief that the drop in the latter part of 1975 and the further decrease in 1976 does reflect a lesser number of marijuana cases.

2. Bureau of Investigation and Narcotic Enforcement - Department of Justice

1975 (full year)

1,886,763 grams

1975 (1st 10 months)

1,109,751 grams

1976 (1st 10 months)

756,364 grams

3. Drug Enforcement Administration

Western Region - California-Nevada-Hawaii

7-1-74 to 6-30-75

298,555 lbs.

7-1-75 to 6-30-76

213,406 lbs.

Los Angeles Office

7-1-74 to 6-30-75 15,023 lbs.
7-1-75 to 6-30-76 54,425 lbs.

4. Los Angeles Police Department

1-1-75 to 12-31-75 4,990 lbs.
1-1-76 to 9-30-76 9,986 lbs.

5. Los Angeles Sheriff's Department

1-1-75 to 12-31-75 2,560 lbs.
1-1-76 to 9-30-76 6,650 lbs.

6. Ventura Sheriff's Office

7-1-75 to 6-30-76 42,000 lbs.

7. San Diego Police Department and Sheriff's Office Narcotic Task Force

1-1-75 to 12-31-75 8,098,892 grams
1-1-76 to 10-30-76 6,470,192 grams

8. Orange County Sheriff's Office

1-1-75 to 12-31-75 89,805 grams
1-1-76 to 10-30-76 46,647 grams

9. Anaheim Police Department

1-1-75 to 12-31-75 262,893 grams
1-1-76 to 10-30-76 79,596 grams

10. Santa Ana Police Department

1-1-76 to 10-30-76 6,384 grams
(1975 data unavailable)

11. San Francisco Police Department

1975 217,468 grams
1976 data unavailable at this time.

12. Oakland Police Department

1975 (no seizure data available) 982 cases
1976 (1st 10 months) 833 cases

13. San Jose Police Department

No seizure data available.

14. Sacramento County Sheriff's Office

1975	45,570 grams
1976 (10 months)	36,010 grams

15. Sacramento Police Department

1975	127,397 grams
1976 (10 months)	50,772 grams

APPENDIX 6

DRIVING UNDER THE INFLUENCE OF INTOXICANTS

There are four Vehicle Code offenses which involve drugs, or alcohol and drugs:

23101 CVC -- (felony) -- Driving under the influence of alcohol or alcohol and drugs combined, and causing death or bodily injury.

23102 CVC --- (misdemeanor) -- Driving under the influence of alcohol or alcohol and drugs combined.

23105 CVC -- (misdemeanor) -- Driving under the influence of any drug.

23106 CVC -- (felony) -- Driving under the influence of any drug and causing bodily injury.

ARRESTS FOR DRIVING UNDER THE INFLUENCE OF INTOXICANTS*

	OFFENSE	TOTAL 1975	FIRST HALF OF 1975	FIRST HALF OF 1976	PERCENT CHANGE
Adults --	23101 CVC	3,621	1,746	2,093	+19.9%
	23102 CVC	252,120	128,044	130,132	+ 1.6%
	23105 CVC	4,616	2,228	3,258	+46.2%
	23106 CVC	146	61	43	-29.5%
Juveniles--	23101 CVC	184	71	98	+38.0%
	23102 CVC	4,213	2,060	2,154	+ 4.6%
	23105 CVC	236	105	180	+71.4%
	23106 CVC	13	8	-0-	-0-

* While the percentages are based on comparative Department of Justice Arrest and Citation entries for both years, the number of arrests in all but the 23102 CVC categories are estimated.

The data indicate an increase in arrests between the first half of 1975 and the first half of 1976 for three of the four above offenses for both adults and juveniles, including a large increase in persons driving under the influence of a drug. It should be noted that these figures are subject to the previously described limitations in the statistical coding system used by the Bureau of Criminal Statistics (see Appendix 2). For example, a significant but unknown proportion of persons arrested for possession of marijuana come to the attention of law enforcement because of "erratic" driving. In 1975, marijuana possession was a felony, and although it was often an additional offense, possibly discovered during a search, it took precedence over a misdemeanor arrest for either 23102 or 23105 CVC in the statistics. In 1976, these two misdemeanor driving offenses reportedly take precedence over both 11357b and 11357c H&S. Therefore, if there were no change in the number of such "erratic driving" incidents, we would expect some relatively small increase in driving under the influence arrest data and a commensurate decrease in marijuana possession arrest statistics.

APPENDIX 7

DRUG OFFENDER DIVERSION STATUTE

JANUARY 1, 1976 -

(Original statute amended by AB 1274, Chapter 1267, approved by Governor October 1, 1975, as follows:)

Section 1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics and restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found ineligible the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his attorney.

Section 1000.1. (a) If the district attorney determines that this chapter may be applicable to the defendant, he shall advise the defendant and his attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

(2) A general explanation of the roles and authorities of the probation department, the district attorney, the community program, and the court in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert the defendant and that he may have to stand trial for the alleged offense.

(4) A clear statement that should the defendant fail in meeting the terms of his diversion, or should he be convicted of a misdemeanor which reflects the divertee's propensity for violence, or should the divertee be convicted of any felony, he may be required, after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his right to a speedy trial the district attorney shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court.

(c) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, which is made during the course of any investigation conducted by the probation department or drug treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to the investigation.

No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or drug program worker subsequent to the granting of diversion, shall be admissible in any action or proceeding.

In the event that diversion is either denied, or is subsequently revoked once it has been granted, neither the probation investigation nor statements or information divulged during that investigation shall be used in any sentencing procedures.

Section 1000.2. The court shall hold a hearing and, after consideration of the probation department's report and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his right to a speedy trial and if the defendant should be diverted and referred for education, treatment, or rehabilitation. If the court does not deem the defendant a person who would be benefited by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case.

At such time that a defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing.

The period during which the further criminal proceedings against the defendant may be diverted shall be for no less than six months nor longer than two years. Progress reports shall be filed by the probation department with the court not less than every six months.

Section 1000.3. If it appears to the probation department that the diveree is performing unsatisfactorily in the assigned program, or that the diveree is not benefiting from education, treatment, or rehabilitation, or that the diveree is convicted of a misdemeanor which reflects the diveree's propensity for violence, or if the diveree is convicted of a felony, after notice to the diveree, the court shall hold a hearing to determine whether the criminal proceedings should be reinstated. If the court finds that the diveree is not performing satisfactorily in the assigned program, or that the diveree is not benefiting from diversion, or the court finds that the diveree has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the diveree has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

Section 1000.4. This chapter shall remain in effect until January 1, 1979, and on such date is repealed.

Section 1000.5. Any record filed with the Department of Justice shall indicate the disposition in those cases diverted pursuant to this chapter. Upon successful completion of a diversion program the arrest upon which the diversion was based shall be deemed to have never occurred. The diveree may indicate in response to any question concerning his prior criminal record that he was not arrested or diverted for such offense. A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the diveree's consent, be used in any way which could result in the denial of any employment, benefit, license, or certificate.

Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities by this act such that related costs are incurred as a part of their normal operating procedures.

APPENDIX 8

THE DRUG OFFENDER DIVERSION PROGRAM

Criminal Justice System Diversion

Based on the data provided by county probation departments to the Bureau of Criminal Statistics from 1973 through 1975, Table 7 includes the data collected by individual diversion grants. We have calculated the offense categories for counties that are not included in order to obtain full year totals for 1973-75. For 1976, we have extrapolated the fourth quarter diversion based upon the data being collected by the State Office of Narcotics and Drug Abuse from the county probation departments. The following table is the result of these computations:

ESTIMATED DIVERSION TOTALS BY OFFENSE

	<u>1973-74</u>	<u>%</u>	<u>1975</u>	<u>%</u>	<u>1976</u>	<u>%</u>
Marijuana Offenses	37,989	74.6	18,040	74.3	5,835	48.9
"Hard" Drug Offenses	7,078	13.9	3,229	13.3	5,621	47.1
Other Drug Offenses	5,398	10.6	2,962	12.2	477	4.0
Non-Drug Offenses	458	.9	49	.2	-0-	-0-
TOTAL	<u>50,923</u>	<u>100.0</u>	<u>24,280</u>	<u>100.0</u>	<u>11,933</u>	<u>100.0</u>

We can reasonably estimate that at least 2,500 of the "other drug" offenses in 1975 were marijuana-related paraphernalia (11364 H&S) or visiting (11365 H&S) offenses. The remaining 462 "other" drug offenses could have been in the "hard" drug category. On the other hand, in 1976 the smaller "other" drug category is estimated to include at least 75% "hard" drug-related offenses. Therefore, for 1975 there were 18,040 marijuana possession diversions and 2,500 misdemeanor marijuana diversions, compared to 3,229 "hard" drug diversions and 462 "hard" drug-related diversions.

Drug Program Cost Data for Diversion

The Los Angeles County Drug Abuse Program Coordination Office developed a funding matrix for diversion costs by taking percentages of total program budgets for each program identified as having diversion referrals among

its clients. For calendar year 1975 the cost of diversion client services was \$371,966. In 1976 costs increased 20%, to \$446,184, despite the enactment of SB 95 and the reduction of court diversions for marijuana offenses. If we conservatively estimate that it costs twice as much on the average to treat or counsel a hard drug divertee than a marijuana divertee, we can estimate that 1975 program costs were \$190,864 for marijuana divertees and \$180,891 for hard drug divertees. The 1976 breakdown is calculated at \$182,971 for marijuana divertees and \$262,434 for hard drug divertees.

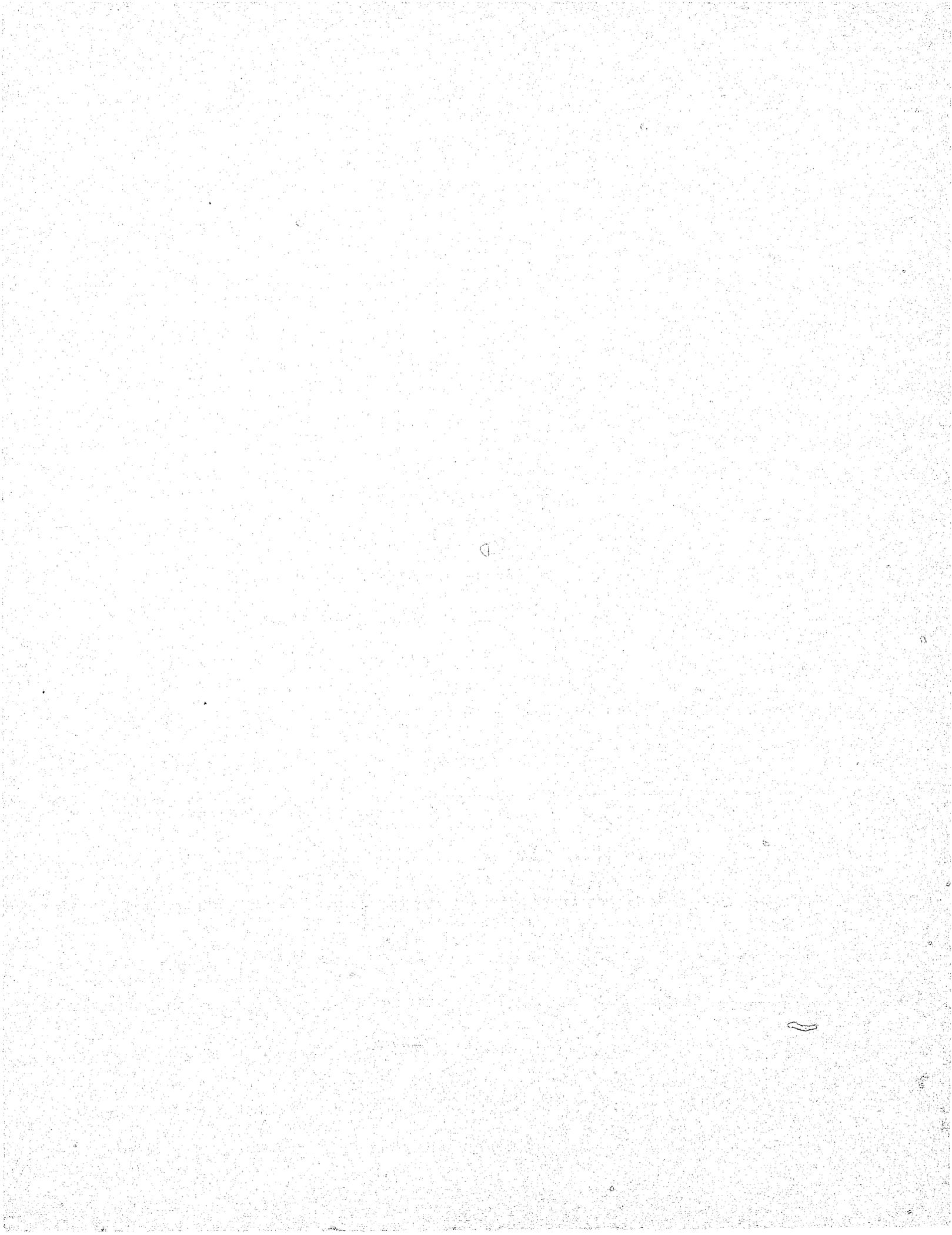
The San Diego Drug Abuse Office provided similar program data. In 1975 it cost state funded drug programs approximately \$248,570 to handle 2,306 divertees, or \$74,270 for marijuana offenders and \$174,300 for hard drug offenders. In 1976 there was a 38% reduction of resources spent for diversion clients, or a total of \$155,200. We assumed again that hard drug offenders would take twice the program resources as marijuana divertees. Therefore marijuana divertees cost an estimated \$42,160 and hard drug divertees cost about \$113,040.

Orange County drug program costs for divertees increased 19% between 1975 and 1976, from \$335,840 to \$400,414. In 1975, marijuana divertee costs are estimated at \$228,536, while hard drug costs were \$107,304. Under SB 95, marijuana diversions dropped by 45% and costs decreased to \$188,632. Treatment and counseling for hard drug divertees cost an estimated \$211,782. These figures are based on budgetary data from the county drug program coordinator's office.

Combining the data from these three counties, we find that comparative costs for handling marijuana divertees between 1975 and 1976 decreased 16%, from \$493,670 to \$413,763. The same comparison for hard drug divertee costs shows an increase of 27%, from \$462,495 to \$587,256. Overall diversion client costs for education, treatment or rehabilitation in state funded drug programs were approximately \$956,165 in 1975 and \$1,001,000 in 1976, an increase of nearly 5%.

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