

# REPORT: THE WAR ON DRUGS MEETS EDUCATION

(a Drug Policy Alliance publication)



## INTRODUCTION

Schools should provide environments that foster student development and help students attain the highest levels of education. Schools should also support students who are struggling with health and social issues. But harsh disciplinary policies and increased police presence, fueled in part by the war on drugs, have led to the criminalization of youth in schools, especially youth of color. Underlying this criminalization are assumptions propagated by the drug war that students who possess drugs or commit other policy violations cannot be good students; do not deserve an education or support; and must be removed from schools before they disrupt other students' learning. We must disentangle faulty drug war logic from our educational systems in order to provide the support and opportunity our youth deserve.

Schools were and remain an explicit front in the war on drugs, thereby making students targets. Through funding and incentives to increase school police, surveillance equipment, zero-tolerance policies, random drug testing, and abstinence-only drug education delivered by law enforcement, federal and state policymakers coerced educational environments to adopt the drug war mentality. These policies have extended into higher education, disenfranchising whole swaths of communities from access to education.

Emphasis on enforcement and punishment creates an adversarial relationship between students and school officials and undermines the role that schools should play for students: a safe place for learning and support.

Denying education to students, primarily students of color, for drug possession and other policy violations leads to negative consequences, including increased unemployment, income inequality, costly health problems, and incarceration. This report looks at the various ways that the war on drugs has affected the education of young people in the United States in both the public and private spheres. The Drug Policy Alliance offers this report in the hopes that it will lead to a deeper discussion of the individual and collective harms that have been caused by a half-century of the drug war and its infiltration of our education systems.

## THE FEDERAL STORY

On September 15, 1986, President Ronald Reagan and his wife, Nancy, sat side by side on a couch in their White House living quarters and delivered what was described as a rare joint address in which they called for a national crusade against drug use. President Reagan declared that “[d]rug abuse is a repudiation of everything America is” and announced that he would soon present a series of proposals aimed at creating “a drug-free America.”<sup>1</sup> First Lady Reagan’s remarks were directed at the nation’s parents: “We want you to help us create an outspoken intolerance for drug use. For the sake of our children, I implore each of you to be unyielding and inflexible in your opposition to drugs.”<sup>2</sup> The address made clear that the war on drugs was a major priority for the administration and that youth and schools would be primary focal points.

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Since then, federal laws and policies have forced the war on drugs mentality into education settings. These efforts can be divided into three broad categories: prevention, surveillance, and punishment. The government's prevention efforts used non-scientific, moralistic, abstinence-only messaging in an unsuccessful attempt to persuade youth to not use drugs. Surveillance describes the government's use of policies and technologies to monitor youth's suspected drug use, including random drug testing and searches. Punishment includes suspension and expulsion for violations involving drugs and exclusion from federal benefits based on past drug-related convictions. Each category is explored further in the sections below.

## **PREVENTION**

Drug use prevention targeting children and teenagers was considered a critical component of the war on drugs. During President Reagan's first term, the First Lady promoted her "Just Say No" campaign. Teaming up with a major New York ad agency, the First Lady presided over a multi-million dollar advertising campaign targeting 12 to 14-year-olds that went on throughout the 1980s, and "carpet-bombed the airwaves with PSAs."<sup>3</sup> "Just Say No" became a cornerstone of drug prevention and education for the decades to come.<sup>4</sup>

With the Drug Free Schools and Community Act, embedded in the Anti-Drug Abuse Act of 1986, Congress codified a series of findings which justified implementation of abstinence-only education and prevention aimed at youth for years to come:

1. *Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.*
2. *Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.*

3. *The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.*
4. *The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.*
5. *Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.*
6. *Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.*

The Act's stated purpose was to "establish programs of drug abuse education and prevention through the provision of Federal financial assistance" to the states and to institutions of higher education, and between 1986 and 1994, Congress appropriated close to \$3 billion to carry it out.<sup>5</sup>

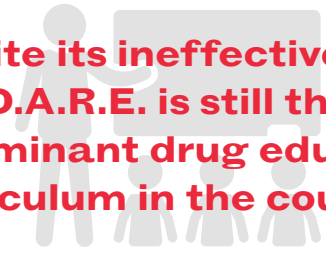
These funds supported the nationwide expansion of the Drug Abuse Resistance Education (D.A.R.E.) program. D.A.R.E. was the brainchild of Los Angeles Police Department Chief of Police Daryl Gates, an avid anti-drug warrior who once opined that "casual drug users should be shot to death."<sup>6</sup> Beginning in the early 1980s, D.A.R.E. placed police officers in fifth and sixth grade classrooms to deliver a curriculum that was supposed to build self-esteem and resistance to peer pressure and delay experimentation with drugs. Ten percent of the state grants authorized by the Drug-Free Schools and Communities Act of 1986 were set aside for police-staffed, in-school drug education programs, with D.A.R.E. as the only drug use prevention program explicitly named in the Act.<sup>7</sup> In June 1988, the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice (DOJ) actively encouraged schools and communities to apply for federal funding for "this exciting approach to preventing substance use among school children."<sup>8</sup> From 1988 to 2011, U.S. presidents recognized National D.A.R.E. Day on the third Thursday of April.<sup>9</sup> Initially targeting elementary school children, D.A.R.E. expanded into junior and senior high school classes as well. With the support of the federal government, D.A.R.E. rapidly proliferated, and at its height, it was active in 80 percent of U.S. schools.<sup>10</sup>

Early evaluations of D.A.R.E.'s effectiveness began to cast doubt on whether the program achieved the intended outcomes. By 1991, there were more than a dozen published studies that found that the program had no measurable effect on drug use. An influential meta-analysis published in the American Journal of Public Health in 1994 concluded that "D.A.R.E.'s core curriculum effect on drug use relative to whatever drug education (if any) was offered in the control schools is slight and, except for tobacco use, is not statistically significant."<sup>11\*</sup> In 1998, an evaluation by a University of Chicago researcher of urban, suburban, and rural sixth graders confirmed earlier findings and made an additional finding that D.A.R.E. was associated with an increased level of drug use among suburban youth. In spite of D.A.R.E.'s efforts to undermine the research findings, the program's popularity began to wane and Congress took the unusual step of calling for D.A.R.E. to revise its curriculum.<sup>12</sup> With an infusion of money from the Robert Wood Johnson Foundation in 1998, D.A.R.E. revamped its program to create a new D.A.R.E., which maintained the cornerstone abstinence-only messaging. A meta-analysis conducted in 2004 had much the same finding: "Our results confirm the findings of a previous meta-analysis indicating that Project D.A.R.E. is ineffective."<sup>13</sup> Despite its ineffectiveness, D.A.R.E. is still the predominant drug education curriculum in the country and continues to be used in almost 30 percent of elementary schools around the country.<sup>14</sup>

The federal government also harnessed the power of social marketing to disseminate its abstinence-only brand of drug education to the nation's youth. Between 1998 and 2004, Congress appropriated close to \$1 billion for the National Youth Anti-Drug Media Campaign, supervised by the Office of National Drug Control Policy (ONDCP).<sup>15</sup> It evolved from the advertising efforts of the Partnership for a Drug-Free America, and it targeted 9 to 18-year-olds and their parents. Its reach was vast; anti-

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\* This study by the Research Triangle Institute was funded by the Department of Justice and was publicly criticized by D.A.R.E., initiating an adversarial relationship between D.A.R.E. and the research community that lasted for years. See Greg Berman and Aubrey Fox, "Lessons from the Battle Over D.A.R.E.," Center for Court Innovation, Bureau of Justice Assistance, 2009, <https://www.courtinnovation.org/sites/default/files/DARE.pdf>. See also a 2003 finding by the Government Accountability Office that stated, "All of the evaluations suggested that D.A.R.E. had no statistically significant long-term effect on preventing youth illicit drug use." U.S. General Accounting Office, "Youth Illicit Drug Use Prevention," GAO-03-172R, January 15, 2003, <https://www.gao.gov/assets/100/91676.pdf>.



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drug messages were disseminated through local, cable, and network television, radio, websites, magazines, and movie theaters. The advertisements ranged from the lurid to the silly and especially targeted marijuana. One ad which ran during a Super Bowl attempted to link drug purchases to terrorism.<sup>16</sup> Another series of ads falsely attempted to link marijuana use with traffic accidents, unplanned pregnancies, carelessness with firearms, and listlessness.<sup>17</sup>

According to a \$43 million evaluation done under the auspices of the National Institute on Drug Abuse (NIDA), the National Youth Anti-Drug Media Campaign was found to have no significant favorable effects of campaign exposure on marijuana initiation among youth not using marijuana or on cessation and declining use among young people who did use marijuana.<sup>18</sup> In fact, there was evidence that exposure to the campaign tended to normalize teenage marijuana use and weaken anti-drug norms among non-users.<sup>19</sup> Additional studies carried out during the 2000s came to the same conclusion.<sup>20</sup> The Campaign turned out to be a missed opportunity to actually educate young people and a waste of resources doled out to advertising firms.

The drug war's abstinence-only prevention messaging has hindered schools' ability to provide supportive environments where youth can learn from and trust trained educators. The abstinence-only message has encouraged people to move away from effective prevention and drug education by relying on law enforcement instead of teachers and feeding youth the lie that total abstinence is the only acceptable method of dealing with drugs. Youth learn to distrust educators and law enforcement when the information they are provided in programs like D.A.R.E. does not match reality, and they are unlikely to raise any issues with drug use to authority figures who only accept abstinence. Importantly, educators miss opportunities to provide realistic drug education and information that youth actually need to keep themselves safe. Youth deserve better and should be provided with realistic, science- and health-based education about drugs.

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## **SURVEILLANCE**

The second tactic for waging the war on drugs in schools is surveillance of students. Surveillance includes subjecting students to random drug tests and searches, as well as using drug-sniffing dogs, cameras, metal detectors, and other technologies to constantly monitor students for drug-related activity. Heavy surveillance creates an environment of fear and distrust that prevents the establishment of the supportive environment that schools should provide to students. This section details school surveillance efforts carried out in the name of the war on drugs.

Student drug testing began to take hold in the early 1990s after the Supreme Court upheld the constitutionality of urine drug testing of certain public employees.<sup>21</sup> Schools began to subject students to random (i.e., suspicionless) drug tests as a condition for participating in extracurricular activities or even just school attendance. The main rationale for testing students was the belief that it would deter students who did not use drugs from ever trying and would cause students who did to stop. Although it faced resistance from some parents, students, and educators, the practice spread, and in 2016, according to the Centers for Disease Control, 38 percent of all U.S. school districts with middle schools or high schools had some form of student drug testing policies.<sup>22</sup>

Although student drug testing promoters – including representatives of what has become a multi-million dollar industry – try to minimize the privacy concerns of urine testing of adolescents, these policies subject students to intrusive and humiliating circumstances. A group of students in Indiana sued their high school over its random testing program, which was described in detail in the U.S. Court of Appeals for the Seventh Circuit's opinion:

*“Students are selected on a random basis without advance notice. First, they fill out paperwork and list any over-the-counter or prescription medications that they are taking. Next, they remove all outer garments and leave all bags and purses outside the collection facility. Then they are asked to wash their hands with water only, and the collector checks the stall visually for anything unusual, flushes the toilet, and treats the water with dye. While the student is producing the sample, the collector remains outside the facility and notes any unusual circumstance, behavior, or appearance of the student or of the specimen.”<sup>23</sup>*

Students who refuse to take the test are deemed to have admitted they are under the influence of drugs or alcohol, a violation of school rules that will result in discipline, up to and including suspension or expulsion.<sup>24</sup>

Unfortunately, the U.S. Supreme Court has upheld the constitutionality of random drug testing policies in schools, and the federal government encouraged their adoption by providing technical assistance and funding.<sup>25</sup> In 2002, the director of the Office of National Drug Control Policy (ONDCP) dismissed the concerns of those who saw student drug testing as a blow against the right to privacy and stated, without evidence: “Already, testing has been shown to be extremely effective at reducing drug use in schools and businesses all over the country. As a deterrent, few methods work better or deliver clearer results.” In 2006, ONDCP teamed up with the Department of Education to provide grants to school districts to support their random drug testing programs, and President George W. Bush requested an additional \$17.9 million in FY 2008 to continue the grants.<sup>26</sup>

Rigorous studies have not found any evidence that student drug testing programs deter students from drug use. A 2003 study supported by the Robert Wood Johnson Foundation and carried out by the Institute for Social Research at the University of Michigan concluded:

*“There are no significant differences in marijuana use or the use of other illicit drugs as a function of whether or not the school has (a) drug testing of any kind, (b) drug testing of students based on cause or suspicion, or (c) drug testing of athletes. Nor is there evidence that the heavy drug-using segment of the student population is deterred from using marijuana or other illicit drugs by random or for-cause testing.”<sup>27</sup>*

A 2013 meta-analysis of 14 years of data from nationally representative samples of middle and high school students found that while random student drug testing among the general high school student population was associated with “moderately lower marijuana use,” it was also associated with “moderately higher use of other illicit drugs.”<sup>28\*</sup> The researchers question whether student drug testing “is worth this apparent tradeoff” and recommend that schools approach testing “with caution.”<sup>29</sup> In 2015, the American Academy of Pediatrics released a policy statement saying it opposed random drug testing of students because of “the limited evidence of efficacy and potential risks associated with the procedure.”<sup>30</sup>

Drug testing is not the only form of surveillance to which students are subjected. Despite no evidence that police in schools improve safety, the number of police in schools continues to grow each year.<sup>31</sup> Rather than protecting youth, police presence has led to a dramatic increase in disciplinary measures that disproportionately impact students of color.<sup>32</sup> On the other hand, schools with more support staff like social workers have better educational outcomes.<sup>33</sup> Every dollar spent on police in schools is one not spent on teachers, nurses, social workers, counselors, and mental health professionals. Ten million students are in schools that have law enforcement but no social workers.<sup>34</sup> Twenty-four states have almost as many police and security officers in schools as they do school counselors.<sup>35</sup>

With ever-increasing numbers of law enforcement in schools, surveillance and searches of students can only be expected to increase. In one egregious case, school officials conducted a strip search of a 13-year-old girl suspected of giving a classmate ibuprofen (i.e., Advil or Motrin), during which she had to pull her bra and the elastic on her underwear out for inspection. The U.S. Supreme Court later held that this conduct violated the student’s Fourth Amendment right to be free of unreasonable search and seizure, but the damage and mentality that allowed this to happen remain.<sup>36</sup> Police also routinely use specially-trained dogs to sniff students’ backpacks for contraband.<sup>37</sup>

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\* This could be because students know that marijuana remains in the system longer than other substances, and so to avoid detection, they choose to use drugs that are metabolized more rapidly.

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Constant surveillance, especially of people of color, is a hallmark of the war on drugs, and it has expanded with full force into schools. Policing, drug testing, and searching students have eroded trust in school officials and forced schools away from becoming supportive environments where youth can thrive without effectively addressing youth drug use. Increased surveillance, in conjunction with punitive policies (described in the next section), contribute to poor student outcomes, including discipline and expulsion. Youth should not be subjected to constant surveillance and invasive procedures but should instead be offered supportive services when they do have health or other needs.

## **PUNISHMENT**

The third major category of the drug war’s infiltration of our educational systems is use of harsh punishment for people found to have committed drug-related violations. These punitive policies disproportionately impact students of color and set many students on the path to the criminal legal system. The policies create the opposite of a supportive environment and deter students from seeking help. Even years after someone commits a drug-related violation, it can prevent them from attending higher education. This section outlines how the war on drugs has punished students.

In 1989, the first ONDCP National Drug Control Strategy described the role schools would play in implementing the war on drugs:

*“We have recently improved our knowledge about what works in preventing young people from using drugs...The passive approach – presenting young people with information on the harmful effects of drugs, often in a context devoid of moral judgment, did little to curb demand. In fact, it may even have fueled it by stimulating young people’s curiosity about drugs. What does work is a more confrontational approach in which every facet of society clearly communicates that drug use is unacceptable. Schools have a major role to play in prevention, not only by presenting accurate information about drugs, but also by developing and enforcing firm, consistent policies that discourage their use and sale.”<sup>38</sup>*

It also singled out the “simple and straightforward” policy followed at that time by Anne Arundel County in Maryland as a model program. Students caught using or possessing drugs were reported to the police and suspended for one to five school days. In order to return to school, the student had to participate in counseling and agree to participate in the district’s after-school drug program. A second offense led to expulsion.<sup>39</sup>

This harsh, prohibitionist tone set the stage for the rapid expansion of zero-tolerance policies in the 1990s. These policies prescribe severe disciplinary measures, including expulsion, for any student conduct violation, regardless of circumstances. Federal law spurred expansion across the country by requiring zero-tolerance laws for having a gun at school in order to receive federal education funding.<sup>40</sup> Many states and localities expanded these policies to apply to all disciplinary infractions, including drug violations.<sup>41</sup> These policies remove any ability for school officials to support students and promote harsh punishment over resources and education.

For people who are arrested and convicted on drug charges, punitive policies that prevent them from accessing higher education have been the norm. Since targeted enforcement of people of color pervades the entire criminal legal system, from policing to sentencing and beyond, these institutional barriers impact people of color the most. Black people are nearly three times more likely than white people to be arrested for a drug law violation, and more than six times as likely to serve time for a drug-related conviction, despite people of all races using and selling drugs at similar rates.<sup>42</sup> Much as official segregation slammed the doors of higher education in

their faces, the punitive policies and practices described below have created barriers for young people of color to access higher education and gain employment.

Because of racist policing, prosecuting, and sentencing, people of color, especially young Black people, are greatly overrepresented in our prisons and among those with drug-related criminal histories. Black people represent 12.5 percent of illicit drug users but are 29 percent of those arrested for drug law violations and are 33 percent of those incarcerated in state facilities for drug law violations.<sup>43</sup> Because of intergenerational poverty stemming from centuries of discrimination, young people of color are also most in need of financial assistance in order to attend college. The former federal ban on Pell Grants for incarcerated students, combined with the Higher Education Act’s Aid Elimination Penalty and the requirement of college admissions offices that applicants disclose past convictions, have deprived hundreds of thousands of people of access to higher education.

## **The Former Ban on Pell Grants**

Today, postsecondary education opportunities in the nation’s prisons are scarce. This is not because of the lack of academic eligibility; in fact, 64 percent of those in state and federal prison have either a GED or have graduated from high school.<sup>44</sup> But, according to the latest data from 2014, only nine percent of incarcerated people completed a postsecondary program while in prison.<sup>45</sup> The low level of participation is not for lack of interest either. That same year, 70 percent of people in prison expressed a desire to enroll in an academic program, including 18 percent who hoped for an associate degree, 29 percent who hoped for a college degree or trade school certificate, and 5 percent who hoped for a master’s degree.<sup>46</sup>

Prison education programs were not always so scarce. In 1972, the Federal Pell Grant Program began to provide financial support for education for low-income undergraduate students, including people in prison. By the early 1990s, there were more than 770 postsecondary programs in nearly 1,300 prisons,<sup>47</sup> and there was a broad consensus, based on a wealth of social science research, that higher education in prison correlated with lower recidivism rates and, as a result, reduced public spending.<sup>48</sup> But as the war on drugs escalated, Pell Grants for people in prison came under

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attack and became a casualty of the Violent Crime Control and Law Enforcement Act of 1994 (i.e., the 1994 Crime Bill). In its final version, the Violent Crime Control and Law Enforcement Act added an amendment to the Higher Education Act of 1965 banning grants of any kind to people who were incarcerated in any federal or state prison.<sup>49</sup> What had been a relatively robust prison education system quickly withered and died. In New York State, there were nearly 70 programs in April 1994. Four months later, there were only four left.<sup>50</sup>

The ban on Pell Grants coincided with a major upsurge in drug arrests nationwide, from under 1 million in 1990 to 1.5 million in 1994.<sup>51</sup> More than four-fifths of those arrests were for possession only.<sup>52</sup> By 1994, 26 percent of people incarcerated in state and federal prisons were serving sentences for drug law violations, up from less than 10 percent in 1980.<sup>53</sup> The figures were even starker for women: between 1990 and 1996, the rate of women's drug possession convictions increased by 41 percent.<sup>54</sup> The Pell Grant ban was motivated, in part, by animus generated by the war on drugs, and it crushed the life chances of many thousands of people who were incarcerated for drug charges. In 2014, it was estimated that some 463,000 people currently in state prisons would be eligible for Pell Grants.<sup>55</sup>

For over a quarter of a century, the ban denied access to higher education for incarcerated people, who are disproportionately people of color. Fortunately, the ban on Pell Grants for incarcerated people was repealed as part of the omnibus spending and COVID-19 relief legislation enacted in December 2020.<sup>56</sup>

## The Former Aid Elimination Penalty

In 1998, Congress amended the Higher Education Act of 1965 to exclude students with drug convictions, whether for a felony or a misdemeanor, from receiving federal financial aid to attend college.<sup>57\*</sup> It applied to both federal student loans and Pell Grants. The provision generated swift opposition from a coalition of education, civil rights, religious, and criminal legal reform organizations, but to no avail. According to the Coalition for Higher Education Act Reform, over 180,000 would-be students were denied financial aid for college because of drug convictions between the 2000 and 2005 academic years.<sup>58</sup> For a very substantial number of these students, the lack of financial aid meant, at the very least, the postponement of a college education. For many, it amounted to an opportunity-ending barrier.<sup>59</sup>

In 2006, Congress changed the law to apply only to applicants who were convicted of a drug law violation *while they were receiving student aid*. This baby-step reform did narrow the class of students affected, but it caused thousands of students to drop out of college. During the 2016-17 student aid cycle, for example, 1,032 Free Application for Federal Student Aid (FAFSA) applicants were deemed ineligible because they had a drug-related conviction while receiving aid or failed to answer the question about past convictions.<sup>60</sup> Unfortunately, we have no way of knowing the number of people who were deterred by the question and never attempted to fill out the application. According to a spokesperson for the Institute for Higher Education Policy, "there is a drastic deterrent and discouraging factor by the question even being on the FAFSA."<sup>61</sup> The aid elimination penalty most greatly impacted students of color, since they are disproportionately convicted of drug law violations.

For over 20 years, the aid elimination penalty prevented people from obtaining federal student aid to attend higher education. Fortunately, this policy was repealed as part of the omnibus spending and COVID-19 relief legislation enacted in December 2020.<sup>62</sup> The FAFSA will no longer ask people if they have been convicted of a drug law violation.

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\* The new law provided a table explaining the periods of ineligibility. A first offense for the possession of a controlled substance rendered the applicant ineligible for one year, the second offense, for two years, and the third offense, for an indefinite period. For sale convictions, the periods were two years for the first offense, and an indefinite period for the second offense.

## College Admissions

The decades-long war on drugs created an enormous pool of justice-involved young people, many of them with convictions and a permanent record. In 1980, 400,000 people were arrested for marijuana possession nationwide. By 2010, that number had risen to close to 900,000.<sup>63</sup> In 2010, the arrest rate for marijuana possession for Black people was 716 per 100,000, while the arrest rate for white people was 192 per 100,000.<sup>64</sup> Many of the arrests were of young people of college age; most of them pleaded guilty to the mostly misdemeanor charges brought against them; and all of them have a criminal record.<sup>65</sup>

In 2009, the Center for Community Alternatives and the American Association of Collegiate Registrars and Admissions Officers conducted a survey of higher education institutions to learn how prevalent considering a person's arrest and conviction record was when making admissions decisions. The results were disturbing:

- 66 percent of the responding colleges collected arrest and conviction history about applicants.
- Self-disclosure through the college application or the Common Application<sup>66\*</sup> was the most typical way of collecting that information.
- Of those schools that collected information, most of them had added steps to their admissions process, such as consulting with campus security personnel or requiring a letter from a corrections official.
- Drug and alcohol convictions, misdemeanor convictions, and any felony youth offender adjudications were all considered negative factors by 75 percent of the respondents.<sup>67\*\*</sup>

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\* The Common Application is used by more than 800 colleges and universities in the U.S. Between 2006 and 2018, it asked about the applicant's conviction history. In August 2018, Common App, as it is known, announced that it would be dropping the question from the application beginning in the 2019-2020 academic year. This doesn't mean that institutions cannot ask the question in their own admissions applications.

\*\* The rationale for requiring the disclosure of a conviction history is the protection of student safety, but as this report points out, in spite of the sporadic high-profile cases of gun violence, almost always by students who have no criminal record, campuses are safer than the public as a whole.

In addition to the many applicants who disclose their histories and are denied admission as a result, there are the untold numbers of would-be qualified applicants who are deterred from applying because of the disclosure requirement, known as application attrition. As one such person put it, "I started the application process, but stopped in my tracks when I encountered the question: Have you ever been convicted of a crime? I thought to myself, 'why apply?' They are just going to reject me. So I stopped my application."<sup>68</sup>

The war on drugs has led to extremely punitive school policies intended to remove students and exclude them from future educational opportunities. While there has been some recent progress to chip away at these policies, hundreds of thousands of people have been excluded because of them. Federal policies have led schools across the nation to target students and create hostile learning environments.

## CASE STUDY: THE NEW YORK STORY

### PREVENTION

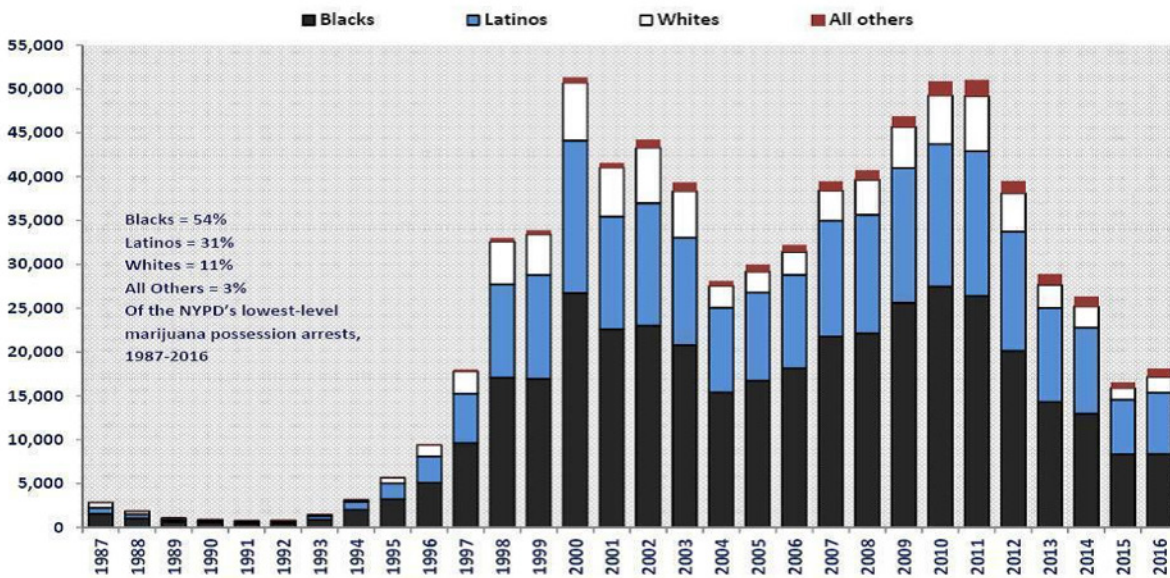
The intersection of the war on drugs and education in New York closely tracks the policies implemented at the federal level. D.A.R.E. was, and still is, the default drug education program in the state, and D.A.R.E.-NEW YORK's website proudly presents photos of fifth grade graduates of the program from around the state.<sup>69</sup> The New York State D.A.R.E. Officers' Association offers "update trainings" for D.A.R.E. officers throughout the state.<sup>70</sup>

### SURVEILLANCE

Drug testing of participants in extracurricular activities on both a for-cause and random basis was and is not uncommon in New York's middle and high schools. If anything, drug testing is on the rise as concern about opioids is causing school boards to consider broader testing policies and has led the New York State Association of School Attorneys to remind school board officials that in New York, the written request or consent of a parent is required before testing can take place.<sup>71</sup> In a highly publicized case in 2019, four 12-year-old girls suspected of marijuana use were strip searched by a nurse and assistant principal in a public middle school in



### 30 Years of Marijuana Possession Arrests and Race in New York City, 1987-2016



Source: New York State Division of Criminal Justice Services (NYDCJS), Albany. All are 221.10 arrests only where marijuana possession was the highest or only charge.

Harry G. Levine, Sociology Department, Queens College, City University of New York, and The Marijuana Arrest Research Project: <http://marijuana-arrests.com/> Harry.Levine@Ct.cuny.edu March 2017

Binghamton, New York. The girls were Black and Latinx, and their parents described them as devastated and traumatized by the search.<sup>72\*</sup>

## PUNISHMENT

### The Ban on Grants for Higher Education

New York's experience with giving incarcerated people access to higher education mirrors the federal government's. In 1974, the legislature created the Tuition Assistance Program (TAP), a needs-based grant program that gave low-income New Yorkers grants to attend public or private postsecondary institutions in the state. Until 1995, TAP grants were available to people in prison, and the state had a robust higher education system in prisons. By 1994, with funding from Pell Grants and TAP, 23 two- and four-year colleges awarded associate and bachelor's degrees to about 3,500 people in 45 state prisons.<sup>73</sup> But a year after Congress imposed the ban on Pell Grants for incarcerated people, Governor George Pataki signed legislation doing the same with respect to TAP grants, and the number of programs dwindled to just four.<sup>74</sup> Since then, some local colleges have been

partnering with nearby correctional facilities to secure private foundation funding so that incarcerated people can register for courses. But this arrangement leaves a substantial gap; between 2010 and 2014, an average of 924 people per year were enrolled and receiving course credit, compared to 3,500 people before the TAP and Pell Grants were withdrawn.<sup>75</sup>

### Aid Elimination Penalties

The federal Higher Education Act's 1998 Aid Elimination Policy eliminating financial aid for students with any drug law violations was devastating for low-income New Yorkers, especially people of color. Beginning in the mid-1990s, New York City launched an unprecedented marijuana arrest crusade. Even though possession of small amounts of marijuana had been decriminalized by the state legislature in 1977, the New York Police Department used a loophole in the law to arrest thousands of mostly young, mostly Black and Latinx people for having their marijuana "in public view." More often than not, these arrests came as results of unconstitutional stop-and-frisks, subjecting them to misdemeanor charges and, in the vast majority of cases, criminal convictions. Between 1997 and 2016, the NYPD

\* A lawsuit was filed on behalf of the girls by the NAACP Legal Defense and Education Fund charging racial bias.

## **New York's decades-long marijuana arrest crusade has limited the life chances of a generation or more of Black and Latinx New Yorkers.**

made more than 500,000 racially targeted arrests for marijuana possession. Eighty-six percent of these arrests and jailings for marijuana possession were of Black and Latinx people, even though government studies consistently show that people of all races use marijuana at similar rates.<sup>76</sup> Fifty-eight percent of the arrests were of young people between the ages of 16 to 25, the prime years for college attendance.<sup>77</sup> New York's decades-long marijuana arrest crusade has limited the life chances of a generation or more of Black and Latinx New Yorkers. Deprived of access to financial aid, likely thousands of college-aged New Yorkers have had to postpone or abandon higher education altogether.

### **College Admissions**

New York's public higher education system has also been exclusionary when it comes to applicants with conviction records. Until recently, the State University of New York (SUNY), which was established to provide postsecondary education to working class and low-income residents, queried whether an applicant had a past conviction in its application for admission.<sup>78</sup> If applicants checked the box, they were required to submit to a supplementary conviction history review process, including providing the admissions office with various documents such as a recommendation from the person's parole or probation officers, a report from the prison psychiatrist, or a behavioral assessment.<sup>79</sup> A study completed in 2015 based on data provided by 30 SUNY schools looked at the application attrition rate for applicants who checked the box compared to all others. The rate of attrition was three times higher for those with conviction histories.<sup>80\*</sup>

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\* In September 2016, the SUNY board voted 8-2 to remove from the 64-campus system's application a question asking applicants to declare prior felony convictions. This was a victory for the broad coalition of educators and criminal legal reform advocates who had pushed SUNY to "ban the box."

## **CASE STUDY**

As a young man, Adrien struggled with drug issues which led to his incarceration. In prison, he took college courses provided by Siena College and did well, with a 4.0 grade point average. Upon his release, he applied to SUNY New Paltz and checked "yes" on the criminal history box. He received a letter from the "Ex-Offender Admissions Review Committee" with a request for documents, including proof of permanent residence, reports from the prison administrator, the prison psychologist, and his parole officer, along with a copy of his full criminal record. He was also required to have a personal interview with the Review Committee. "I felt like I was being set up to fail," he said. "I could never be able to complete the supplemental requirements. These tasks seemed impossible to me – kind of like the twelve labors of Hercules, except in this case there were only six."<sup>81</sup>

## **WHERE WE ARE TODAY**

Reforms to extirpate the war on drugs from our country's vast educational system are moving at a glacial pace, but they are moving nonetheless. The Drug Policy Alliance's reality-based, scientifically accurate, and compassionate drug education program, called "Safety First: A Reality-Based Approach to Teens and Drugs," has been translated into multiple languages and more than 300,000 copies have been distributed worldwide. The Safety First curriculum was first piloted and evaluated at Bard High School Early College in Manhattan in the spring of 2018.<sup>82\*\*</sup> Every ninth grader took the course as part of the adolescent health curriculum required by New York State. The program will be evaluated by the Research Foundation of the City University of New York, and if the results are positive, it is anticipated that more schools will adopt it.<sup>83</sup>

On December 20, 2020, drug policy reform advocates scored a major victory when Congress included language in the year-end omnibus and COVID-19 relief package that reinstated Pell Grant eligibility for

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\*\* Safety First was expanded to five schools within the San Francisco Unified School District during the 2018-2019 school year.

incarcerated people and eliminated the Aid Elimination Penalty, which denied federal student aid to people convicted of a drug law violation while receiving such aid in the past. A serious effort to restore Pell Grants for people in prison and to eliminate the question about drug convictions from FAFSA – particularly by incarcerated and formerly incarcerated people – had been underway for years.<sup>84</sup>

Efforts to expand access to higher education for people in prison are also underway in New York State, as directly impacted people, advocates, educators, and researchers press to “Turn on the TAP” and end the ban on TAP funding. A bill to repeal the ban, supported by the Education from the Inside Out Coalition and sponsored by State Senator Velmanette Montgomery and Assemblyman Jeffrion Aubry, has been introduced every year since 2009.<sup>85</sup> In 2017, Governor Cuomo awarded more than \$7 million in grants to various colleges in the state to offer courses to people in prison.<sup>86</sup> Styled as a “public safety strategy” to reduce recidivism, the funding came from bank settlements secured by the Manhattan District Attorney’s office.<sup>87</sup> This funding along with donations from private foundations have expanded access, but until public funding is fully restored, only a fraction of all the people in prison who are eligible will be able to take college courses. It is estimated that if TAP were restored, college education programs would be able to enroll up to 3,234 people a year, up from the current average of 924.<sup>88</sup>

## CONCLUSION

Instead of critical thinking, enlightenment, and access to higher achievement and economic opportunity, the war on drugs has produced miseducation, surveillance, punishment, and discrimination. “Just say no” and “zero-tolerance” rhetoric has not led to a drug-free U.S. Instead, it has turned schools from places of supportive learning and trust to places of punishment and miseducation. The drug war’s targeting of middle and high school students has led to the widespread adoption of suspicionless drug testing programs, searches, and other policies subjecting students to constant surveillance.

Barriers to higher education, whether through the denial of public funding or discriminatory admissions policies, is a senseless waste of human potential and a denial of humanity. Because of the racism embedded in the criminal legal system, people of color bear the greatest losses. Driven entirely by the desire to punish, the federal and state policies that have banned people in prison from receiving financial support is not only cruel; it is detrimental to individual and community wellbeing given the mountain of data showing that postsecondary education for people in prison significantly lowers the likelihood of returning to prison or jail. Discriminatory college admissions policies that consider past arrests or convictions to be a negative factor have deprived thousands of qualified students from achieving their goals and have deprived the country as a whole of their talents. People and communities cannot thrive when so many of its people are shut out of its colleges and universities.

Our schools should focus on providing safe, supportive environments built on mutual trust between students and educators. The war on drugs has prevented this by instilling punitive policies based on surveillance and misinformation. We must uproot the drug war from our education systems and allow people to attain support and the highest level of educational achievement.

## Acknowledgments

Almost five years after Drug Policy Alliance’s “White Faces, Black Lives” conference and 50 years after Richard Nixon’s declaration of the war on drugs, DPA releases these historical reports and accompanying resources to document the massive reach of the drug war, both within and beyond the criminal legal system. As more and more of the public calls for an end to decades of punitive drug policy, we must understand the deep roots of the drug war across systems, and we must stay attuned to ways in which the drug war warps and sinks its roots deeper into our lives.

In 2016, DPA’s New York Policy Office and the Department of Research and Academic Engagement hosted “White Faces, Black Lives,” a conference that convened organizers, researchers, and policymakers to combat the increasingly popular but misguided viewpoint that we were entering a kinder, gentler era of the drug war because the face of the opioid crisis was white. Black people, particularly Black people who use drugs and their family members, knew that not only were Black people being impacted by the overdose crisis but that, despite decades of positive reforms, the drug war was far from over. After meetings with people directly impacted by the drug war and family law, education, employment, immigrant, housing, treatment, and justice movement partners, DPA then launched “Color of Pain,” a website documenting the role of racism in drug policy and mapping the wide scope of the drug war.

The publication of “Uprooting the Drug War” is possible because of a rich legacy of writers, thinkers, partners, and doers within and beyond the drug policy reform movement. This project - and past, present, and future organizing and advocacy to end the drug war - is enriched by the experience and expertise of people who use drugs, incarcerated and formerly incarcerated people, and all people harmed by the drug war. A profound thank you to Elizabeth Brico, Lauren Johnson, Steven Mangual, Miguel Perez Jr., Emily Ramos, and Jasmin Reggler for sharing and documenting their stories in these reports of how the drug war has impacted their lives and the lives of their loved ones. Deep gratitude to our movement partners who shared their insight and expertise and were willing to review drafts of these reports and provide indispensable feedback: Mizue Aizeki, Erin Burn-Maine, Gabrielle de la Guéronnière, Jeanette Estima, Tommasina Faratro, Kesi Foster, Nancy Ginsburg, Shayna Kessler, Emma Ketteringham, Amber Khan, Pamela Lachman, Marie Mark, Roberta “Toni” Meyers Douglas, Erin Miles Cloud, Tracie Gardner, Johanna Miller, Jeffrey A. Nemetsky, Victoria Palacio, Lisa Sangoi, Christopher Watler, and Alison Wilkey. We are also grateful to the organizations who took part in building our understanding in so many areas: Bronx Defenders, Brooklyn Community Housing and Services, Center for Employment Opportunities, Federation of Protestant Welfare Agencies, Immigrant Defense Project, John Jay College Institute for Justice and Opportunity, Legal Action Center, Legal Aid Society, Make the Road New York, Movement for Family Power, National Advocates for Pregnant Women, New York Civil Liberties Union, and Vera Institute. Current and former members of DPA’s New York Policy Office conceptualized this project and saw it through until its publication: thank you to Chris Alexander, Kassandra Frederique, Dionna King, Kristen Maye, Melissa Moore, Elena Riecke, Christiana Taylor, and Tejas Venkat-Ramani. Members of DPA’s Policy Team Aliza Cohen, Lindsay LaSalle, Jules Netherland, and Kellen Russoniello assisted in editing these reports. DPA expresses profound appreciation to Loren Siegel, a longtime DPA thought partner and the principal author of these historical reports.

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