

GAO

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Report to the Chairman, Select  
Committee on Narcotics Abuse and  
Control, House of Representatives

April 1992

DRUG CONTROL

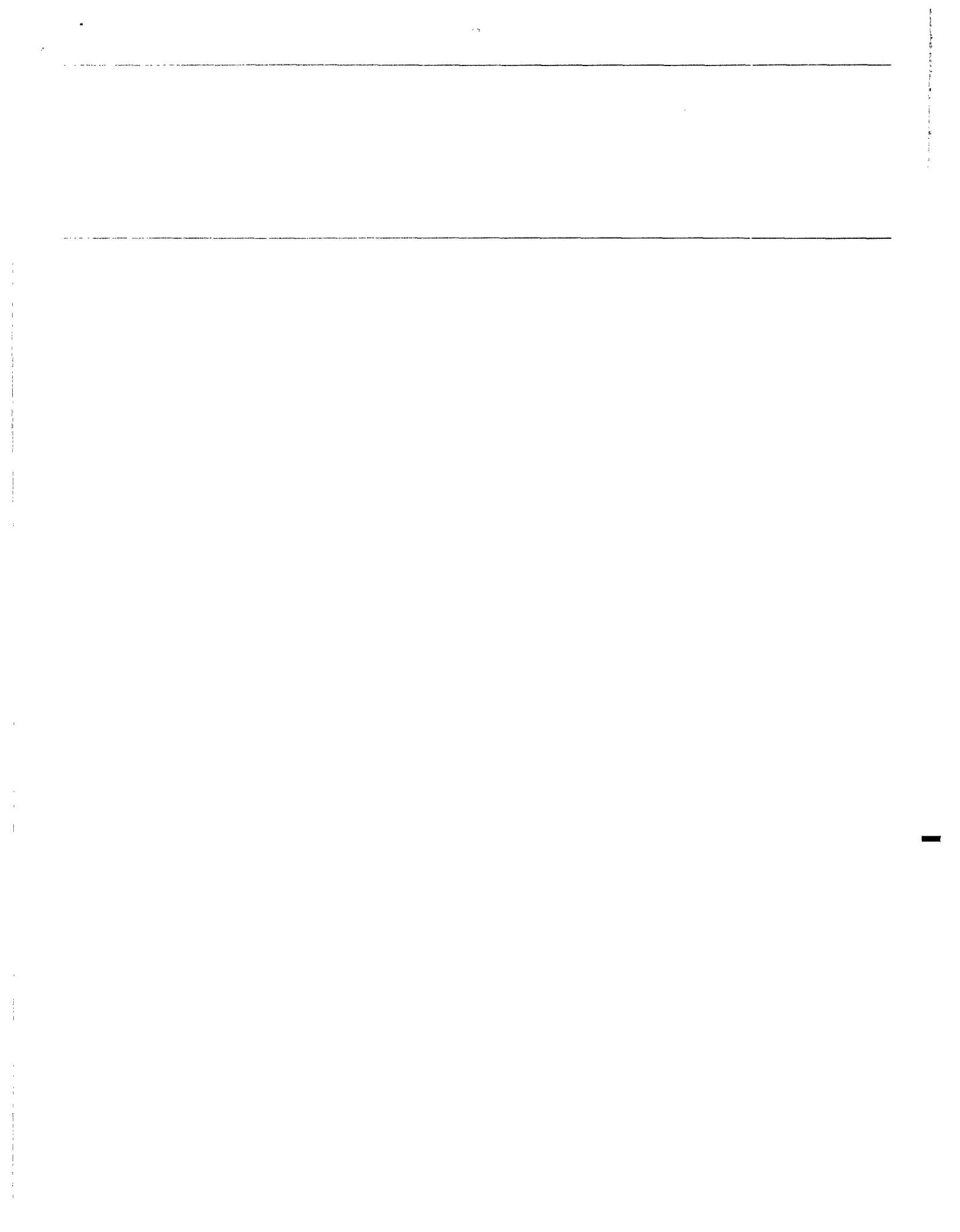
Difficulties in Denying  
Federal Benefits to  
Convicted Drug  
Offenders



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**General Government Division**

B-247703

April 21, 1992

The Honorable Charles B. Rangel  
Chairman, Select Committee on  
Narcotics Abuse and Control  
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the implementation of section 5301 of the 1988 Anti-Drug Abuse Act. Under section 5301, as implemented by September 1990 Department of Justice guidelines, federal and state court judges have the discretion to impose sentences that would make convicted drug offenders (possessors and traffickers) ineligible to receive certain federal benefits. The responsibility to carry out those sentences resides with the federal agencies responsible for administering the benefits covered by section 5301. Those benefits include all types of federal contracts and over 400 federal grants, licenses, and loans (e.g., guaranteed student loans). Excluded are veterans, social security, and welfare benefits (e.g., Medicaid).

Imposing sentences that would make convicted drug offenders ineligible to receive federal benefits is the result of just one of many recent legislative initiatives for dealing with the nation's drug problem. To further deter drug offenders, legislative proposals also have been introduced to deny drug offenders access to federal benefits regardless of the sentence imposed. To provide baseline information for deliberating on such a change, our objectives were to

- assess the status of federal and state court and federal agency efforts to deny convicted drug offenders access to federal benefits,
- examine available data for insight into the impact that benefit denial has had on drug offenders, and
- gather data on the possible effects of making benefit denial a mandatory sanction on conviction of a drug offense.

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**Results in Brief**

Through June 1991, the first 9 months that the guidelines were in effect, less than 1 percent of all drug offenders convicted during that period was given a sentence that included federal benefit ineligibility. To increase federal and state court use of the discretionary sentencing authority authorized by section 5301, the Department of Justice has funded demonstration grants and has undertaken other initiatives, such as

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coordinating with other federal agencies, to establish procedures for denying benefits and notifying state judicial officers on how to use the procedures.

Although it is premature to judge the precise impact that Justice's efforts could have on court use of section 5301 sentencing authority, we do not expect to see widespread withholding of federal benefits from drug offenders. Our opinion is based on the following factors:

- the views held by those who may affect the imposition of the sentence—judges and other criminal justice officials—that the sentence would not have much impact on many of the offenders convicted in federal and state courts,
- accepted court sentencing practices such as excluding many first time drug offenders—those charged with possession— from receiving such a sentence, and
- federal benefit administration policies and practices such as those that preclude the interruption or termination of ongoing benefits.

Amending the act to eliminate judicial discretion in applying the sanction, as has been contemplated in recent legislative proposals, would result in denying access to federal benefits to an increased number of offenders. However, our discussions with criminal justice officials and evaluation of available data showed there is much uncertainty over whether the limited results that could be realized would be worth the costs. For example, given that many of the offenders denied access to federal benefits would also be sentenced to prison terms that exceed the benefit ineligibility period, the offenders would not necessarily have federal benefits to lose. Yet, according to state court officials, the administrative burden and costs associated with processing information on those offenders would increase significantly.

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## Background

With passage of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), Congress adopted the principle that to successfully reduce the drug problem in this country, both the supply of and demand for drugs has to be attacked. Likewise, criminal justice officials have maintained that the best drug control strategy is to keep pressure on all avenues through which illegal drugs are made available or desirable and to hold drug users accountable for their actions.

Accordingly, section 5301 of the act provides for denying federal contracts, grants, licenses, and loans to persons convicted of drug trafficking and/or drug possession.<sup>1</sup> Under this provision, federal and state court judges have the discretion to impose sentences specifying that the offenders are ineligible for any or all covered benefits for periods up to 10 years or for life, depending on the type of offense. For example, the maximum ineligibility period is to be 12 months for a first drug possession conviction. After three or more trafficking convictions, however, an offender is to be permanently ineligible for all federal benefits regardless of the court-imposed sentence.

Although the legislative history of section 5301 is not extensive, a number of reasons for passage are discernable from the floor debates. One reason was to convey the message that taxpayers should not have to subsidize drug offenders by giving them federal benefits. Some Members of Congress expressed the opinions that even occasional drug use was a very serious matter and that conviction should call for serious consequences such as the loss of federal benefits. Another reason was to encourage drug offenders to seek drug rehabilitation. Under section 5301, the courts can suspend a previously imposed sentence if the offender completes, or makes a good faith effort to enroll in, an acceptable rehabilitation program. Further, section 5301 was an attempt to deter drug use and reduce the demand for drugs by targeting that segment of the population—the occasional, recreational user—that was recognized as being responsible for a large share of the drug demand nationally.

To instill a greater deterrent effect on drug offenders and potential offenders, some Members of Congress have sought to alter section 5301. A number of legislative proposals have been introduced in the House of Representatives during the past few years to eliminate judicial discretion in denying convicted drug offenders access to federal benefits covered by the 1988 act. Two such bills, H.R. 1491 and H.R. 2118, were introduced in the 102nd Congress.

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## Scope and Methodology

To address our three objectives, we did our work in Florida, Michigan, Mississippi, New York, and Rhode Island. Florida, Mississippi, and New York were selected because federal courts in these states accounted for over 70 percent of the 60 benefit ineligibility sentences imposed by federal

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<sup>1</sup>The Department of Justice assumed responsibility for publishing a list that identifies each type of benefit covered by section 5301. The benefits range from guaranteed student loans to licenses for hydroelectric projects. Some categories of benefits such as welfare, social security, and veterans benefits were specifically exempted by the 1988 act.

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courts nationwide as of February 28, 1991. Rhode Island was selected because its state court system was the only one that had imposed the sentence. In Michigan, neither federal nor state courts had done so.<sup>2</sup>

To obtain information at the federal level on section 5301's impact on drug offenders and the implications of making benefit denial a mandatory sanction, we met with officials from the federal courts, federal law enforcement agencies, and national organizations representing court and law enforcement agency interests. In Florida and Mississippi, we interviewed federal district court judges who had imposed the sentence and the chief judges from these districts. In both Michigan, where the sentence had not yet been imposed, and New York, where it had been infrequently imposed, we interviewed federal judges who heard drug cases and the chief judges. Also, in these states we interviewed Federal Bureau of Investigation and Drug Enforcement Administration officials regarding the characteristics of drug offenders being arrested and convicted and the impact that benefit denial may have on those offenders.

To assess the capabilities of federal agencies to carry out federal benefit ineligibility sentences and the impact the sentences may be having, we visited the five federal agencies—the departments of Agriculture, Education, Energy, and Health and Human Services and the Federal Communications Commission (FCC)—responsible for administering over 50 percent of the grant, license, and loan benefits covered by section 5301. At these agencies, we obtained documentation on agency procedures, discussed with agency officials how the procedures were implemented, and reviewed relevant agency performance data.

In assessing sentence impact, we also analyzed federal court data on drug offender demographics, convictions, and sentences to determine what types of drug offenders were sentenced to benefit ineligibility and to determine if any trends or patterns existed that would indicate whether those drug offenders differed from other drug offenders not so sentenced. To do the analysis, we reviewed Justice Department and U.S. Sentencing Commission case files on drug offenders sentenced by federal courts to benefit ineligibility as of February 28, 1991.<sup>3</sup> We also compared data from these cases with data on the universe of drug offenders convicted in

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<sup>2</sup>Accounting for the number of sentences is based on information filed with the Department of Justice as specified in the September 11, 1991, guidelines implementing section 5301.

<sup>3</sup>Because the commission had not received information on 4 of the 60 convicted offenders denied eligibility for benefits as of February 28, 1991, our analyses covered 56 sentences.

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federal court during fiscal year 1990.<sup>4</sup> We did not review these data for reliability.

To obtain information on benefit denial from a state perspective, we interviewed state court administrators in Florida, Michigan, Mississippi, and New York. We discussed the provision's impact and implications of making benefit ineligibility a mandatory sanction. In Rhode Island, which received a Justice Department grant designed to demonstrate state use of section 5301, we interviewed a judge, a prosecutor, and grantee officials to obtain their views on the effectiveness of section 5301. To ensure that nationwide views were considered, we discussed these matters with officials from the National Center for State Courts, National District Attorneys Association, National Association of Criminal Defense Lawyers, and National Association of Police Chiefs.

We did our work between February and December 1991 in accordance with generally accepted government auditing standards.

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## Ineligibility Sentences Imposed Infrequently

On September 11, 1990, 22 months after passage of the Anti-Drug Abuse Act, the Justice Department issued final guidelines for implementing section 5301. During the first 9 months under these guidelines, imposition of the sentence by courts—both federal and state—was infrequent, affecting about 0.1 percent of federal and state court drug convictions.

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## Federal Court Sentences Infrequent

As of June 30, 1991, federal court-imposed benefit ineligibility sentences totaled 111 (an average of about 12 per month). Comparing this number of ineligibility sentences to an estimated universe of federal drug convictions showed that federal judges had imposed the ineligibility sentence on about 1 percent of persons convicted on drug charges in federal court.<sup>5</sup> Moreover, these sentences were imposed by only 18 district court judges sitting in 8 of the 94 federal court districts.

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## Few State Court Sentences

Since there are about 18 drug convictions in state courts for each drug conviction in federal court, the widespread imposition of the benefit ineligibility sentence is largely dependent on state court sentencing

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<sup>4</sup>The universe data, which were the most current available, were collected by the U.S. Sentencing Commission from the Federal Probation Sentencing and Supervision Information System (FPSSIS) database.

<sup>5</sup>The estimated universe was based on average monthly federal court primary charge conviction data for fiscal year 1990, the most recent data available.

practices. State court use of the discretionary authority provided by section 5301, however, has been almost nonexistent.

As of June 30, 1991, with the sentencing of 51 convicted drug offenders to federal benefit ineligibility, Rhode Island's state court system was the only one that had implemented the discretionary sentencing authority provided by section 5301. By that date, Rhode Island had been operating for 11 months under a 1-year grant from the Justice Department to demonstrate that state courts could effectively implement section 5301. The 51 Rhode Island sentences represented about 0.03 percent of the estimated state court drug convictions nationwide during the first 9 months under the Department of Justice guidelines.<sup>6</sup>

To further demonstrate the feasibility of section 5301, the Department of Justice awarded another 1-year demonstration grant, beginning in March 1991, to Imperial County, Calif., and renewed Rhode Island's grant through June 1992. In addition, Justice had undertaken other initiatives to promote the use of section 5301 sentencing authority. In coordination with other federal agencies, Justice established procedures for imposing the sentence, notified state judicial officers on how to use the procedures, and awarded a grant to the National Center for State Courts to help states implement the procedures. The Center also examined state laws and concluded that judges in many states, because of such factors as the need to adhere to sentencing guidelines, may not have the authority to impose a benefit ineligibility sentence.

To address the sentencing authority issue, the Department of Justice awarded a grant to the National District Attorneys Association in January 1991 to develop model legislation for states. Since then, the Association has worked with states to adopt this legislation.

## Status of Federal Agency Efforts

Under Department of Justice procedures, federal and state courts are to report information on benefit ineligibility sentences (including offenders' names) through a newly established Department of Justice clearinghouse to the General Services Administration (GSA). In turn, GSA is to publish the names in the monthly List of Parties Excluded From Federal Procurement or Nonprocurement Programs (debarment list).<sup>7</sup> Federal agencies are to

<sup>6</sup>The estimated universe was derived from Bureau of Justice Statistics estimates on state court primary charge convictions in 1988, the most recent data available.

<sup>7</sup>GSA also maintains an automated telecommunications system that may be queried for individual names but does not provide for large-scale computerized records matching.



use this debarment information in administering contracts and benefit programs.

On the basis of our work at the Justice clearinghouse, GSA and the five federal agencies responsible for administering over 50 percent of the grant, license, and loan benefits covered by the provision, we found the following:

- One of the five agencies (FCC) had, as of mid-1991, not yet implemented procedures for withholding federal benefits, other than contracts. But the procedures had been drafted, public comments obtained, and final deliberations were under way.
- Another agency (the Department of Education's, Office of Student Financial Assistance) was following interim procedures until a computerized process could be developed. The Department of Education was working with the Department of Justice's clearinghouse to establish a computer matching program.
- Except for the Department of Education's Office of Student Financial Assistance, none of the five agencies had established tracking systems to monitor their actions to withhold benefits from individuals sentenced to benefit ineligibility. Given the decentralized contracting and grantmaking functions of the federal government, not having such tracking systems has been an accepted government practice under the federal debarment effort operated under GSA guidance.

Given the absence of agency data on benefits withheld, we asked the five agencies to query their automated systems to determine if any of the 60 individuals sentenced to benefit ineligibility by federal courts as of February 1991 were receiving federal benefits. The results of this check, although limited, could serve as an indicator of the impact that the sentences may be having on drug offenders. This check showed that two agencies had awarded benefits to 3 of the 60 convicted drug offenders, but only 2 of these offenders had benefits that could be withheld. Following are descriptions of the situations:

- The Department of Agriculture had approved a benefit to one of the offenders, but prior to the date of conviction. The benefit was not suspended because section 5301 had been interpreted by the departments of Agriculture and Justice and other agencies included in our study to apply only to new applications for benefits processed after the agency received notification of the court-imposed sentence.

- The Department of Education's Office of Student Financial Assistance had sent financial aid approvals to 2 of the 60 offenders but later notified them that they were ineligible to receive assistance. Because of the millions of persons applying for student benefits, this office's procedures call for reviewing sentencing information after making approval decisions. According to Education officials, this interim procedure is to continue until a computerized matching arrangement can be worked out with the Justice clearinghouse.

## Court Sentencing Practices Limit Use of the Benefit Denial Sentence

We discussed the infrequent federal court use of the sentencing authority provided by section 5301 with federal judges in four district courts and federal law enforcement officials in those four districts and Washington, D.C. Twenty-eight of the 30 officials we interviewed believed that use of the authority by federal courts had little or no impact on most drug offenders sentenced in federal court for one or more of the following reasons:

- most convicted drug offenders were not believed to be receiving (or would request) any of the federal benefits subject to denial;
- most convicted drug offenders were believed to be traffickers and distributors, receiving mandatory prison sentences that were considered much harsher than denying them access to federal benefits; and/or
- most convicted drug offenders served their incarceration and benefit ineligibility sentences concurrently.

In general, the officials indicated that the sentence would be effective only in those situations where an offender actually had something to lose.<sup>8</sup> For example, an occasional user arrested for drug possession may be dependent, in part, on federal benefits such as a small business loan, educational assistance, or a federal license. For the most part, federal officials indicated that drug charges against such a person would be heard in state courts. They explained that federal drug cases involve primarily drug trafficking and distribution charges.

We examined available sentencing data and files for insights into the impact of the sentence as a means to corroborate the views expressed by the federal criminal justice officials. Regarding the characteristics of the offenders and whether or not they were receiving federal benefits, we could find little available data. Appendix I contains the demographic,

<sup>8</sup>One federal judge, who frequently imposed the sentence, did so without regard to the likelihood of immediate impact. The judge hoped that, if by chance in the future, the offender sought a federal benefit subject to denial, the offender might be persuaded to enter a drug rehabilitation program.

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conviction, and sentencing information we were able to obtain on the 56 offenders sentenced to benefit ineligibility as of February 28, 1991, and the universe of 1990 convicted drug offenders. According to those data, the characteristics of the drug offenders sentenced to benefit ineligibility, in many respects, resembled the characteristics of the universe of drug offenders. However, those sentenced to benefit ineligibility were more likely to be repeat offenders.

We also analyzed the federal sentencing files on drug offenders sentenced as of February 28, 1991, to obtain additional insight into criminal justice officials' views on the overlapping nature of benefit ineligibility and incarceration periods. (See app. II.) Of the 56 sentencing files containing sufficient information for us to examine, the period of benefit ineligibility ran concurrently with the incarceration period in all but two instances.<sup>9</sup> In those two instances, one offender was sentenced to probation without incarceration, and the other was to serve the benefit ineligibility sentence upon release from prison. In 31 of the remaining 54 benefit denials, the length of incarceration exceeded or equaled the benefit ineligibility period.

Given the federal criminal justice officials' views that benefit ineligibility sentencing is more of a state court sentencing issue, we discussed the matter with Rhode Island criminal justice officials. They described the limitations in imposing the sentence on drug users as follows:

- When an otherwise law-abiding citizen is arrested on a first time drug possession charge, the drug offender is generally offered participation in a diversion program that may involve, among other things, community service and drug and alcohol treatment. Upon successful completion of the diversion program, the criminal record would be expunged, as is typical in other states. Thus, there is no conviction and no ineligibility sentence.
- Even for a second offense the pattern has held that an individual would plead nolo contendere and be sentenced to probation. Under Rhode Island law, this action does not constitute a conviction and therefore section 5301 authority would not be applicable. Also, sentencing guidelines in Rhode Island exclude possession of marijuana as a drug violation warranting a benefit ineligibility sentence.

In general, according to Rhode Island criminal justice officials, drug addicts and traffickers comprise the bulk of drug convictions and are the

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<sup>9</sup>According to a Department of Justice official, judges have the discretion to make benefit denial concurrent with or consecutive to the incarceration period.

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primary recipients of benefit ineligibility sentences. However, these individuals are believed not to be applicants for or recipients of benefits covered by section 5301, thus raising doubts about the impact of the provision.

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## Administrative Practices Limit Benefit Denial Actions

In assessing the status of federal agency efforts to carry out benefit ineligibility sentences, we noted the following practices that would limit how frequently benefits are withheld:

- Convicted drug offenders are not at risk of losing ongoing benefits because all five agencies and the Department of Justice have interpreted section 5301 to apply only to new benefit applications, not to ongoing benefits.
- Convicted drug offenders are not significantly at risk of having benefit applications turned down if they apply immediately following sentencing. According to Agriculture officials, there is a 3- to 4-month time lag from the imposition of a benefit ineligibility sentence to the date agency personnel would be aware of the sentence. They said the lag is due to the time taken by the courts and the Department of Justice to get the information to GSA, the time GSA takes to publish that information in the debarment list, and the time taken by federal agencies to copy and distribute the list to offices processing benefit applications.<sup>10</sup>
- Serious repeat offenders may not be at risk of losing federal benefits. Although federal agencies are responsible for not approving benefits to drug traffickers convicted of a third offense, no reporting system exists for the courts to provide that conviction information to agencies unless the offender is sentenced to benefit ineligibility.
- Convicted drug offenders may not be at risk of losing federal benefits if they apply for benefits under an institution or company name. The information made available to federal agencies specifies individual names, not associated company or institution names. Yet, federal contracts and grants are frequently awarded to companies and institutions rather than individuals.

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<sup>10</sup>These officials also noted that they have not found the automated system operated by GSA to be a practical alternative to the printed debarment list because of the cumbersome nature of the automated system.

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## **Mandatory Imposition Would Add to Administrative Burden but Would Not Overcome Existing Limitations**

Since passage of section 5301 in 1988, several legislative changes have been proposed to eliminate discretion in denying federal benefits to convicted drug offenders. In general, the proposals as introduced in the 102nd Congress eliminate court sentencing as the mechanism for imposing the sanction. Instead, the proposed statutory language specifies that individuals convicted of drug offenses in federal or state courts are to be ineligible to receive federal benefits.<sup>11</sup> Thus, federal agencies responsible for administering federal benefits (and withholding those benefits when appropriate) would be responsible for imposing the sanction and would depend on receiving information on all drug convictions from federal and state courts and/or a uniform national reporting system. As of June 30, 1991, only Rhode Island state courts had reported some conviction information, but only in those instances in which the state court had imposed benefit ineligibility sentences. Moreover, according to a Justice official, no existing reporting system is capable of supporting federal agency needs.

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## **Increased Administrative Responsibilities Would Accompany Change**

To obtain views on the potential administrative burden that could be expected if legislation were passed requiring federal and state courts to report all drug convictions to the Department of Justice clearinghouse, we met with 20 federal court officials in Florida, Michigan, Mississippi, and New York; Rhode Island state court officials; and officials of national organizations representing federal and state criminal justice interests.

Although their views varied, a majority of the officials said the courts' administrative systems would be affected. Eleven of the 20 federal officials said court administrative responsibilities would increase with four of them indicating that any additional work could be incorporated into existing administrative systems. In general, federal courts account for about 5 percent of drug convictions nationwide.

In contrast, the National Center for State Courts, an organization that represents the interests of the court systems that account for about 95 percent of drug convictions nationwide, believed that state court administrative resources could become so overburdened that court personnel would eventually stop processing information to the Justice clearinghouse. Similarly, our discussions with Rhode Island officials indicated that continued federal funding of administrative costs was needed for Rhode Island to continue implementing section 5301.

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<sup>11</sup>Such legislative proposals would not affect how the federal and the 50 state governments establish sentencing practices for courts within their jurisdictions or specify what constitutes a criminal act punishable by those courts.

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Our analysis of the potential work load nationwide showed that, on the basis of fiscal year 1990 federal court drug conviction data and Bureau of Justice Statistics estimates on state court drug convictions in 1988 (the most recent data available), it would be reasonable to expect, on average, about 20,000 drug trafficking and possession convictions each month. Reporting all of these convictions would represent over a thousand-fold increase over current reporting levels that were averaging about 18 convictions per month through June 1991. Also, in discussing this issue with officials from the five federal agencies we visited, officials from four of the agencies thought they would need to purchase computer systems to process the increased amount of information.

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### Limited Results After Change

Even if a reporting system were established in which all federal and state courts would report information on all drug convictions to a central source, such as the Department of Justice clearinghouse, a number of limitations in the existing benefit denial effort, as detailed in preceding sections of this report, may not be overcome. For example,

- given such practices as use of diversion programs, the sanction would probably not be imposed on occasional drug users.
- given the characteristics of drug offenders appearing in the court system, the sanction would be imposed primarily on drug addicts and traffickers who court officials believed were not likely to receive federal benefits and who already face other more severe sanctions such as imprisonment.
- given the policy that only new benefit applications are subject to section 5301, convicted drug offenders would not be at risk of having ongoing benefits interrupted, only losing access to future benefits.
- given the time lag in getting debarment listings to offices processing benefit applications and the policy that ongoing benefits are not to be terminated, some convicted drug offenders may not be at risk of losing federal benefits during their ineligibility period.
- given that current administration of the sanction is based on individual names, a convicted drug offender may not be at risk of losing federal benefits if the offender applies for benefits under a company or institutional name.

Despite these limitations, criminal justice officials pointed out that some positive results could be derived from making federal agencies responsible for imposing the sanction. These include the following:

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- Benefit ineligibility would become more predictable and uniform because it would apply to all convicted drug offenders.
  - A clearer message would be sent that doing drugs would result in the loss of eligibility to receive federal benefits.

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## Conclusions

Even though it is too early to judge the precise impact that Justice Department efforts could have on increasing court use of the discretionary sentencing authority authorized by section 5301, we do not expect to see a widespread withholding of federal benefits from drug offenders, because the views held by many of those who may affect the imposition of the sentence that the sentence would not have much impact on many of the offenders, accepted state court sentencing practices that would exclude many first time drug offenders and federal benefit administration policies and practices such as those that preclude the interruption of ongoing benefits.

Amending the act to eliminate judicial discretion in applying the sanction, as envisioned by bills introduced in the 102nd Congress, would result in denying access to federal benefits to an increased number of drug offenders. However, given that many of the current limitations in using the sanction would not be negated by the change, it is not clear how much would actually be accomplished and whether the results would be worth the cost. In particular, given diversion programs, many drug users (possessors) would not be at risk of losing access to federal benefits. Moreover, many of the offenders denied access to benefits would not have any federal benefits to lose. However, the administrative burden and costs would increase. By one measure—the amount of information to be processed—the added information would represent a thousand-fold increase over current information and, by one account, could be sufficiently burdensome to cause state court personnel to not process reporting forms.

Nonetheless, some gains (although not quantifiable) could be attained. Administration of the sanction could become more predictable, more uniform, and send a clearer message that drug use would result in the loss of eligibility to receive some federal benefits.

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## Matter for Congressional Consideration

In deliberating on whether to eliminate court discretion in making convicted drug offenders ineligible to receive federal benefits, Congress needs to consider if the benefits that may be achieved would be worth the burden placed on the courts and administrative agencies.

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## Agency Views

We discussed the matters contained in this report with Office of National Drug Control Policy and Justice Department officials. The officials from both agencies generally agreed with the information presented but said that they believe the existing provision has more of a deterrent effect than available data may indicate. For example, Justice officials pointed to the "chilling" effect that the possibility of losing federal benefits could have on a student's or other individual's decision to try or use drugs.

To instill a greater deterrent effect, the National Drug Control Policy officials favored making the sanction mandatory. But, given the prevalence of diversion programs, both Drug Policy and Justice officials recognized that the possibility of losing access to benefits faced by otherwise law-abiding students or others charged with possession for the first time is quite limited.

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We plan no further distribution of this report until 30 days from its issue date unless you publicly release its contents earlier. After 30 days, we will send copies to interested parties and also make copies available to others upon request.

The major contributors to this report are listed in appendix III. If you need additional information on the contents of this report, please contact me on (202) 275-8389.

Sincerely yours,



Lowell Dodge  
Director, Administration  
of Justice Issues





# Characteristics of 56 Convicted Drug Offenders Sentenced to Federal Benefit Ineligibility Compared With the 1990 Universe of Convicted Drug Offenders

This appendix compares the characteristics of 56 drug offenders sentenced to benefit ineligibility as of the end of February 1991 with the universe of drug offenders convicted in federal court during fiscal year 1990. The universe data were collected by the U.S. Sentencing Commission from the Federal Probation Sentencing and Supervision Information System database. Totals for the universe of drug convictions vary in each of the tables due to missing data elements. Percentage totals may not actually add to 100 due to rounding.

Table I.1: Sex of Offenders

Sex	56 Offenders		Universe	
	Number	Percent	Number	Percent
Male	49	88	10,772	87
Female	7	12	1,648	13
<b>Total</b>	<b>56</b>	<b>100</b>	<b>11,420</b>	<b>100</b>

Table I.2: Marital Status of Offenders

Marital status	56 Offenders		Universe	
	Number	Percent	Number	Percent
Single	21	38	4,248	37
Married	17	31	4,107	36
Divorced	12	22	1,448	12
Separated	5	9	676	6
Cohabitation	<sup>a</sup>	<sup>a</sup>	1,070	9
<b>Total</b>	<b>55<sup>b</sup></b>	<b>100<sup>b</sup></b>	<b>11,549</b>	<b>100</b>

<sup>a</sup>Included under the single status.

<sup>b</sup>Marital status missing for one case.

Table I.3: Education of Offenders

Education	56 Offenders		Universe	
	Number	Percent	Number	Percent
8th grade or less	7	12	2,331	19
Some high school	12	21	3,601	30
High school/general equivalency diploma	25	45	3,647	30
Some college/ associate degree/ vocational ed.	10	18	2,078	17
College graduate	2	4	444	4
Postgraduate work	0	0	92	1
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,193</b>	<b>100</b>

**Appendix I  
 Characteristics of 56 Convicted Drug  
 Offenders Sentenced to Federal Benefit  
 Ineligibility Compared With the 1990  
 Universe of Convicted Offenders**

**Table I.4: Employment Status of Offenders**

Employment <sup>a</sup>	56 Offenders		Universe	
	Number	Percent	Number	Percent
Employed less than 6 months	32	57	4,815	42
Employed 6 months or more	20	36	6,754	58
No employment history indicated	4	7	not recorded	not recorded
<b>Total</b>	<b>56</b>	<b>100</b>	<b>11,569</b>	<b>100</b>

<sup>a</sup>Employment for the 12-month period before date of arrest.

**Table I.5: Prior Convictions of Offenders**

Prior Convictions <sup>a</sup>	56 Offenders		Universe	
	Number	Percent	Number	Percent
Zero	21	38	9,044	78
One	13	23	1,756	15
Two	4	7	502	4
Three	6	11	150	1
Four	6	11	65	1
Five	4	7	26	<sup>b</sup>
Six	1	2	17	<sup>b</sup>
Seven	1	2	4	<sup>b</sup>
Eight or more	0	0	15	<sup>b</sup>
<b>Total</b>	<b>56</b>	<b>100</b>	<b>11,549</b>	<b>100</b>

<sup>a</sup>Includes drug and all other convictions.

<sup>b</sup>Represents less than 1 percent.

**Table I.6: Disposition of Offenders' Cases**

Disposition	56 Offenders		Universe	
	Number	Percent	Number	Percent
Guilty plea	35	62	9,746	79
Jury trial/ trial by judge	20	36	2,525	20
Both guilty plea/trial	1	2	40	<sup>a</sup>
Nolo contendere	<sup>b</sup>	<sup>b</sup>	11	<sup>a</sup>
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,322</b>	<b>100</b>

<sup>a</sup>Represents less than 1 percent.

<sup>b</sup>Not recorded separately.

**Appendix I**  
**Characteristics of 56 Convicted Drug**  
**Offenders Sentenced to Federal Benefit**  
**Ineligibility Compared With the 1990**  
**Universe of Convicted Offenders**

**Table I.7: Inclusion of Probation in Sentences of Offenders**

Sentence includes probation	56 Offenders		Universe	
	Number	Percent	Number	Percent
Yes	1	2	1,056	9
No	55	98	11,260	91
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,316</b>	<b>100</b>

**Table I.8: Inclusion of Supervised Release in Sentences of Offenders**

Sentence includes supervised release	56 Offenders		Universe	
	Cases	Percent	Cases	Percent
Yes	55	98	11,101	90
No	1	2	1,191	10
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,292</b>	<b>100</b>

**Table I.9: Inclusion of Fine in Sentences of Offenders**

Sentence includes fine	56 Offenders		Universe	
	Number	Percent	Number	Percent
Yes	14	25	2,188	18
No	42	75	10,110	82
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,298</b>	<b>100</b>

**Table I.10: Length of Prison Sentences of Offenders**

Prison term	56 Offenders		Universe	
	Number	Percent	Number	Percent
Life imprisonment	0	0	53	<sup>a</sup>
No prison	1	2	1,065	9
1 to 12 months	2	4	1,226	10
13 to 60 months	27	48	4,824	39
61 to 120 months	21	37	2,768	23
121 months or more	5	9	2,346	19
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,282</b>	<b>100</b>

<sup>a</sup>Represents less than 1 percent.

# Comparison of Prison and Federal Benefit Ineligibility Sentences for 56 Offenders

**Table II.1: Comparison of Prison and Ineligibility Sentences for 40 Drug Trafficking Offenders**

Number of months	Number of instances prison term exceeds ineligibility period	Number of instances ineligibility period exceeds prison term	Number of months instances prison term and ineligibility period are equal
No difference	0	0	3
1 to 12	4	3	0
13 to 24	1	1	0
25 to 36	4	6	0
37 to 48	2	6	0
49 to 60	2	0	0
61 to 120	2	2	0
121 and over	2	2 <sup>a</sup>	0
<b>Total</b>	<b>17</b>	<b>20</b>	<b>3</b>

<sup>a</sup>Both are permanent denials of benefits for third drug trafficking conviction.

**Table II.2: Comparison of Prison and Ineligibility Sentence for 16 Possession Offenders**

Number of months	Number of instances prison term exceeds ineligibility period	Number of instances ineligibility period exceeds prison term
1 to 12	1	3 <sup>a</sup>
13 to 24	1	0
25 to 36	3	0
37 to 48	2	2 <sup>b</sup>
49 to 60	3	0
61 to 120	1	0
121 and over	0	0
<b>Total</b>	<b>11</b>	<b>5</b>

<sup>a</sup>One case involving a probation sentence (no prison term) included a 12-month benefit ineligibility period.

<sup>b</sup>The benefit ineligibility period in one case is to be served upon completion of the prison term.

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# Major Contributors to This Report

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**General Government  
Division,  
Washington, D.C.**

**Weldon McPhail, Assistant Director, Administration of Justice Issues  
Thomas M. Richards, Assignment Manager**

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**Detroit Regional  
Office**

**Henry L. Malone, Evaluator-in-Charge  
Jerry W. Aiello, Senior Evaluator  
Sarah C. Mierzwiak, Evaluator  
Subhash Chandra, Evaluator  
Sharon L. Fucinari, Technical Analyst  
Jean M. Freeman, Computer Technician**

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