

Memo: Comparison between Alaska and Wyoming Possession Laws and Current Corrections Outcomes

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Current Legal Regime

<b><u>Substance</u></b>	<b><u>Alaskan Felony Limits</u></b>	<b><u>Wyoming Felony Limits<sup>1</sup></u></b>
Cocaine	Any amount = felony.	3 grams
Heroin	Any amount.	3 grams (powder form); 300 milligrams (liquid form)
Methamphetamine	Any amount.	3 grams
LSD	Any amount.	300 milligrams
Psychedelic Mushrooms	Any amount.	3 grams
Oxycodone/controlled pharmaceuticals (IA & IIA)	Any amount	3 grams in “pill or capsule form”

	<b><u>Alaska Statute</u></b>	<b><u>Wyoming Statute</u></b>
<b><u>“Three Strikes” Language</u></b>	No three strikes language; automatic felony.	“Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars (\$5,000.00), or both.”

<sup>1</sup> Source: Wyoming Statute 35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession. Available at: <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title35/T35CH7AR10.htm>

## Current Outcomes

<u>Category</u>	<u>Alaska</u>	<u>Wyoming</u>
Total Corrections Population, 2011	5,957 <sup>2</sup>	3,734 <sup>3</sup>
Per capita correction populations, 2011, based on U.S. Census estimates	5,997 : 723,860 = 1 prisoner per 129 residents	3,734 : 567,356 = 1 prisoner per 152 residents
Percent of offenders (for AK) or probationers (for WY) who successfully complete supervision and do not return to custody within three years of release from supervision. (2008 population) <sup>4</sup>	Felons: 61 Misdemeanants: 52 (recidivism rate of 48% for misdemeanants and 39% for felons, within just <b>two</b> years from release)	Felons: 66 Misdemeanants: 54 (recidivism rate of 46% for misdemeanants and 34% for felons, within <b>three</b> years from release)
Percent of Illicit Drug Use Including Marijuana in Past Month, Age 12+ (2009-2010) <sup>5</sup>	14.15	7.07
Percent of Illicit Drug Use Excluding Marijuana in Past Month, Age 12+ (2009-2010) <sup>6</sup>	3.98	3.27

<sup>2</sup> Alaska Department of Corrections, Offender Profile, at 7 (2011).

<sup>3</sup> See The Sentencing Project, Wyoming: Total Offender Population (2011). Available at:

<http://www.sentencingproject.org/map/statedata.cfm?abbrev=WY&mapdata=true>. It is difficult to perform an exact comparison for prisoners, as Wyoming does not operate a unified jail/prison system, as does Alaska. However, this count tracks closely to the Wyoming DOC Annual Report with regard to the prison population; the added jail population is based on a 2009 estimate.

<sup>4</sup> See Wyoming Department of Corrections Annual Report, REPORT PERIOD: FY2011 (July 1, 2010 through June 30, 2011); Alaska Judicial Council, *Criminal Recidivism in Alaska, 2008 and 2009*, at 39 (November 2011). Available at: <http://www.ajc.state.ak.us/reports/recid2011.pdf>. Measures of offenders versus probationers are not precisely the same, but more inclusive “offenders” measurement for WY would likely further skew the statistics in WY’s favor, due to the higher success rate in WY’s parolee population.

<sup>5</sup> Substance Abuse and Mental Health Services Administration, “Appendix C: Comparison of the 2008-2009 and 2009-2010 Model-Based Estimates (50 States and the District of Columbia).” Available at:

<http://www.samhsa.gov/data/NSDUH/2k10State/NSDUHsae2010/NSDUHsaeAppC2010.htm#tabC.1>

<sup>6</sup> *Id.*

Proposed Legal Regimes

<b><u>Substance</u></b>	<b><u>Alaska</u></b>	<b><u>Wyoming (Current)</u></b>
Cocaine	3 grams	3 grams
Heroin	500 milligrams	3 grams (powder form); 300 milligrams (liquid form)
Methamphetamine	3 grams	3 grams
LSD	300 milligrams	300 milligrams
Psychedelic Mushrooms	3 grams	3 grams
Oxycodone/ controlled pharmaceuticals (IA & IIA)	15 or more tablets, ampules, or syrettes	3 grams in “pill or capsule form”

	<b><u>Alaska Statute</u></b>	<b><u>Wyoming Statute</u></b>
<b><u>Three Strikes Language</u></b>	“...any amount of a schedule IA or IIA controlled substance, and, two or more times within the preceding five years, the person was convicted under (i) AS 11.71.010 - 11.71.050; or (ii) a law or ordinance of this or another jurisdiction with elements similar to those of an offense under the provisions described in (i) of this subparagraph... [is guilty of a felony.]”	“Any person convicted for a third or subsequent offense under this paragraph, including convictions for violations of similar laws in other jurisdictions, shall be imprisoned for a term not more than five (5) years, fined not more than five thousand dollars (\$5,000.00), or both.” <sup>7</sup>

<sup>7</sup> Source: Wyoming Statute 35-7-1031. Unlawful manufacture or delivery; counterfeit substance; unlawful possession. Available at: <http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title35/T35CH7AR10.htm>