

Marijuana: FACT SHEET

December 2018

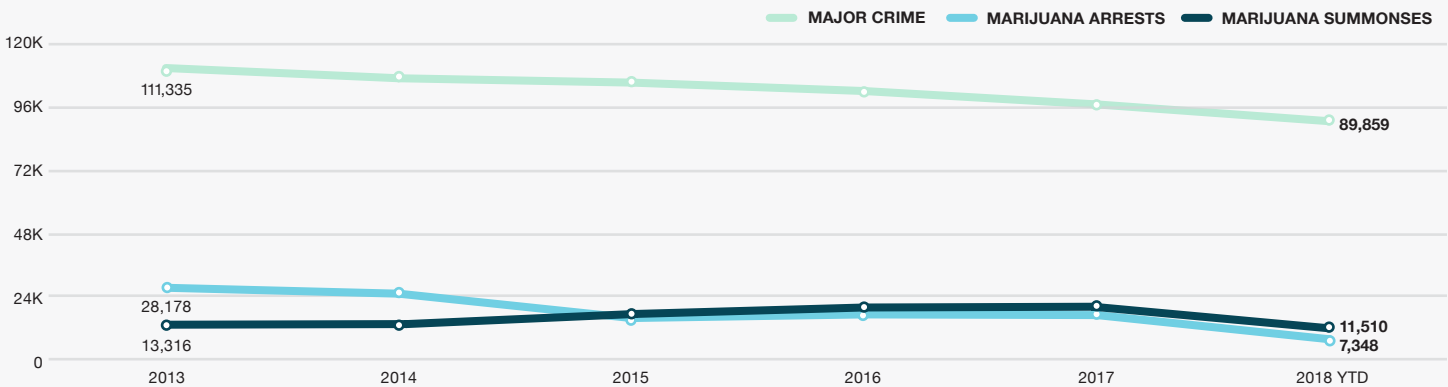
New York State Law: Marijuana: In New York State, it is illegal to smoke or possess marijuana.¹ Smoking or possessing a small amount of marijuana in public is a class B misdemeanor, which is punishable by up to three months in jail. Private possession of marijuana is a violation, which is punishable by up to 15 days in jail or a fine. (See Appendix A for statute.)

Low level offenses, such as smoking or possessing marijuana, are generally classified as misdemeanors or violations. Most low level offenses result in either a civil or criminal summons, which are tickets to return to court at a later date, but some result in an arrest. Failure to appear in court after a criminal summons or an arrest can result in a warrant. There is no warrant associated with civil offenses.

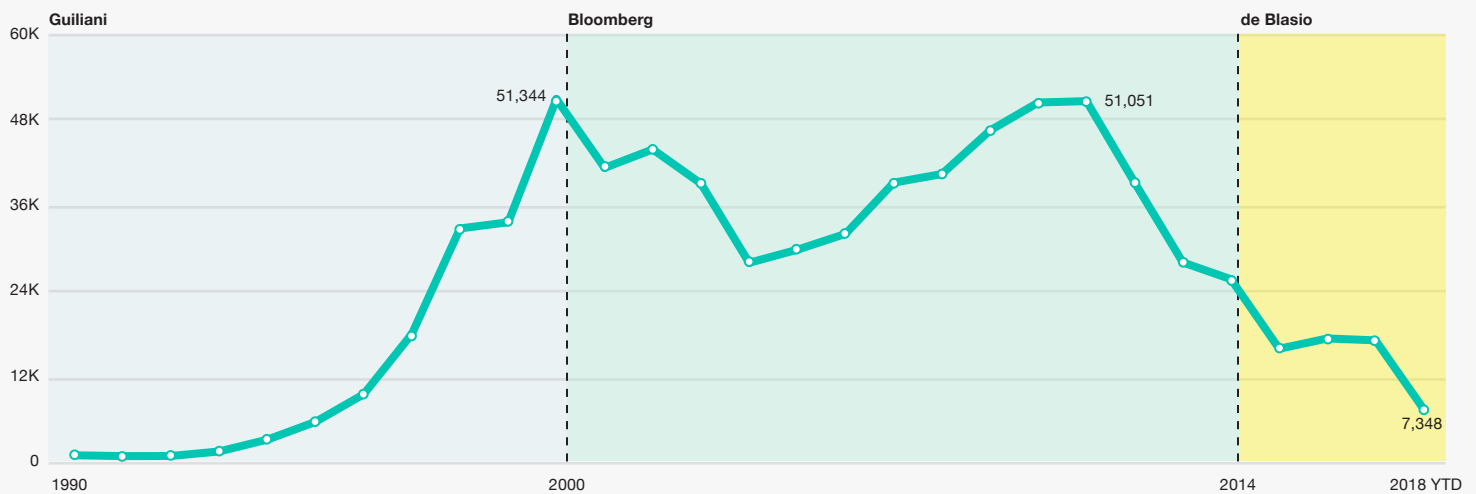
Marijuana Arrests in NYC are Down: Over the past five years, NYC has lightened the touch of marijuana enforcement through policy changes. Marijuana enforcement has declined as crime in NYC has also declined.

Marijuana arrests are down by approximately 57% since last year.

Marijuana Possession Arrests and Summonses² and Major Crime³ 2013-2018 YTD



Marijuana Arrests by Administration



Average annual arrests for marijuana are down by approximately 50% since 2013.

Mayor	Marijuana Arrests per Year	Change in Annual Arrests from Previous Administration
Koch	905.5	
Giuliani	24,220	+2,575%
Bloomberg	38,361	+58%
de Blasio	19,058	-50%

Sources: NYPD through 9/30/18, MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS. See Appendix B.

¹ Under the Compassionate Care Act in New York State, there is an exception for the use of medical marijuana.

² Includes arrests for PL 221.10 01 (criminal possession of marijuana in the 5th degree) and summonses issued for PL 221.05 (unlawful possession of marijuana). Unless otherwise noted, "marijuana arrests" refer to PL 221.10 01. See Appendix A.

³ Major crime includes murder, rape, robbery, felony assault, burglary, grand larceny, and grand larceny auto.

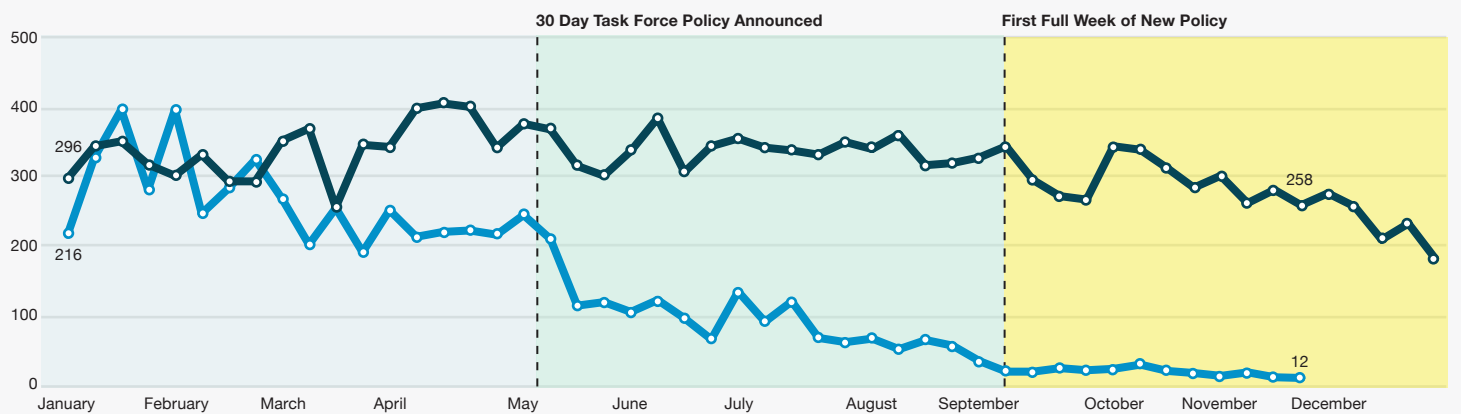
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Marijuana Possession Arrests are Down Due to Recent Policy Changes:

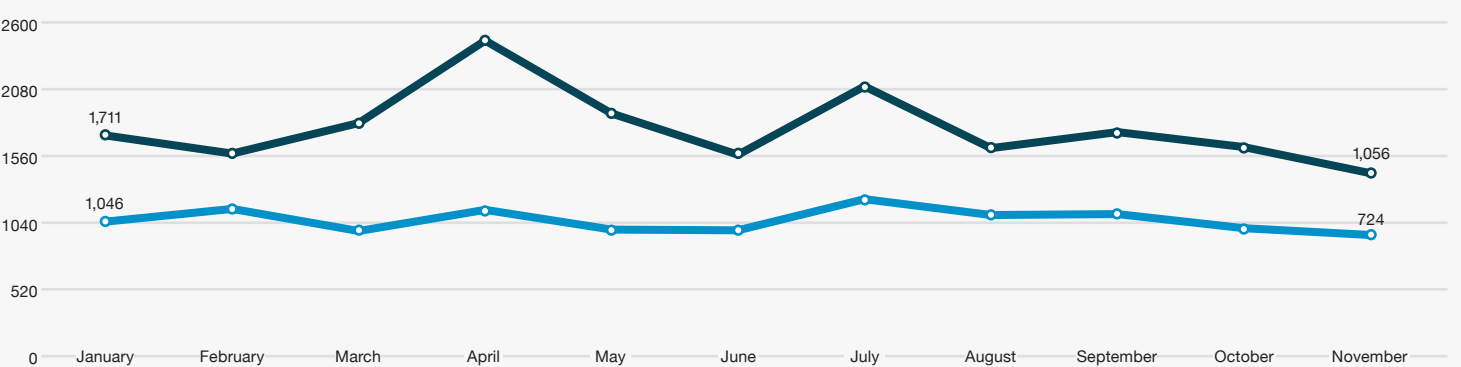
- 1. Change in Public Possession Enforcement:** In November of 2014, the NYPD changed its policy to issue criminal summonses instead of arresting for possession of marijuana in open view, with some exceptions. That policy led to a 37% decline in arrests from 2014 to 2015.
- 2. Change in Public Consumption Enforcement:** In May of 2018, at the Mayor's request, the Police Commissioner convened a 30-day working group to determine a new policy for marijuana enforcement in the city. That group recommended issuing criminal summonses instead of making arrests for marijuana consumption in public. The NYPD changed its policy to issue criminal summonses for marijuana consumption in public with some exceptions. Despite the fact that the policy did not go into effect until September 1, 2018, marijuana arrests declined immediately after the policy was announced in June 2018.

Since the NYPD changed its policy for public consumption enforcement, marijuana arrests (PL 221)⁴ are down (92%), and criminal summonses for marijuana are also down (30%). In November, criminal summonses for marijuana dropped by 31% compared to 2017 (from 1,056 in 2017 to 724 in 2018).

Weekly Marijuana Arrests (PL 221)



Monthly Marijuana Summons Issuance



In 2018, there have been approximately 10,000 arrests for misdemeanor marijuana offenses (PL 221). Marijuana arrests are the fourth most common misdemeanor arrest charge. They make up ~9% of all misdemeanor arrests.

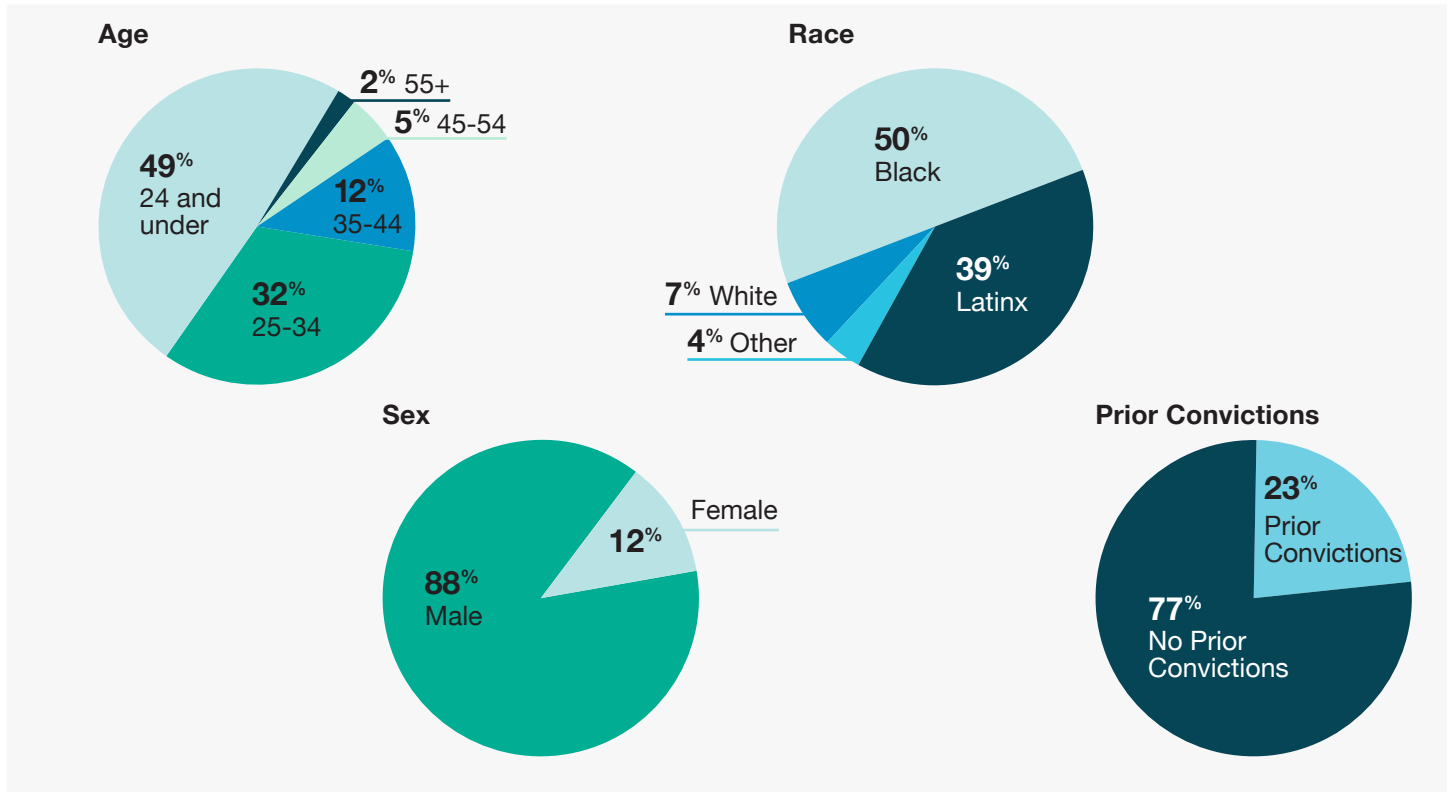
Offense	2018 Rank	2013 Rank	Total Arrests	Percent of Misdemeanor Arrests
Assault (PL 120)	1	2	~27,400	25%
Petit Larceny (PL 155)	2	4	~17,400	16%
Possession of Controlled Substance (PL 220)	3	5	~11,100	10%
Marijuana Offenses (PL 221)	4	3	~9,800	9%
Other Theft (Incl. Fare Evasion) (PL 165)	5	1	~8,400	8%

Sources: NYPD through 11/30/18. See Appendix B; MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS.

⁴ PL 221 includes all marijuana offenses (including sale and felony possession). Approximately 75% of arrests in this law section are for misdemeanor possession (PL 221.10 01).

Marijuana: FACT SHEET

Who is Arrested for Marijuana?



Race: In 2013, approximately 86% of marijuana possession arrests were of Black or Latinx people. That number in 2018 is 89%. This disparity has persisted despite declines in arrests and despite evidence that rates of marijuana use are roughly the same for White and Black people.⁵

In the first six months of 2018, 72% of criminal summonses for marijuana possession were issued to Black or Latinx people.

Enforcement Type	Percent Black or Latinx					
	2013	2014	2015	2016	2017	2018
Marijuana Convictions	94%	95%	95%	95%	93%	n/a
Marijuana Arrests	87%	88%	89%	86%	87%	89%
Marijuana Summonses ⁶	n/a	n/a	n/a	n/a	72%	72%

This arrest disparity is larger than disparities for other misdemeanor arrests, felony arrests, and admissions to jail.

Race	DOC Admissions	All Arrests	Felony Arrests	Misdemeanor Arrests	Marijuana Arrests
% Black & Latinx	84%	82%	84%	80%	89%

Note: All percentages for 2018

Sources: MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS. See Appendix B; NYPD Summons Data (through 6/30/18).

⁵ SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2015 and 2016.
⁶ Prior to 2017, race data was not collected on summons forms.

Marijuana: FACT SHEET

Neighborhoods: Before and after the policy changes, many of the neighborhoods with the highest levels of marijuana enforcement remained the same. These neighborhoods tend to have higher numbers of Black and Latinx residents.

Neighborhood	Arrest Rank	
	2018 YTD	2017
South Bronx	1	2
Bedford Park	2	15
Kensington	3	12
Soundview	4	4
Morris Heights	5	6
East Harlem	6	3
Fordham	7	37
Brownsville	8	13
Coney Island	9	9
University Heights	10	40

Note: PL 221, Out of 77 Precincts.

Neighborhood	Summons Rank	
	2018 YTD	2017
Queens Village	1	1
Woodside	2	2
Eastchester	3	4
East New York	4	3
Kensington	5	7
University Heights	6	17
Morris Heights	7	6
Gramercy	8	11
St. George	9	8
Schuylerville	10	9

Note: PL 221, Out of 77 Precincts.

Neighborhoods with high arrest volume also tend to have high poverty rates.

Six of the precincts with the highest poverty rates are also in the top 10 for marijuana arrest volume.

Neighborhood	Marijuana Arrest Volume Rank	Poverty Rate Rank
South Bronx	1	2
Bedford Park	2	10
Kensington	3	30
Soundview	4	16
Morris Heights	5	7
East Harlem	6	13
Fordham	7	1
Brownsville	8	8
Coney Island	9	24
University Heights	10	4

Age: Most marijuana arrests are of young people, with 28% of arrestees under the age of 25 and 61% under the age of 35. Summonses are issued to a slightly older population, a quarter of whom are over 45.

Age	Percents of Arrests	Percents of Summonses
24 & Under	28%	27%
25-44	52%	50%
45+	20%	24%

Sources: NYPD (through 11/30/18); MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS, NYPD (through 6/30/18).

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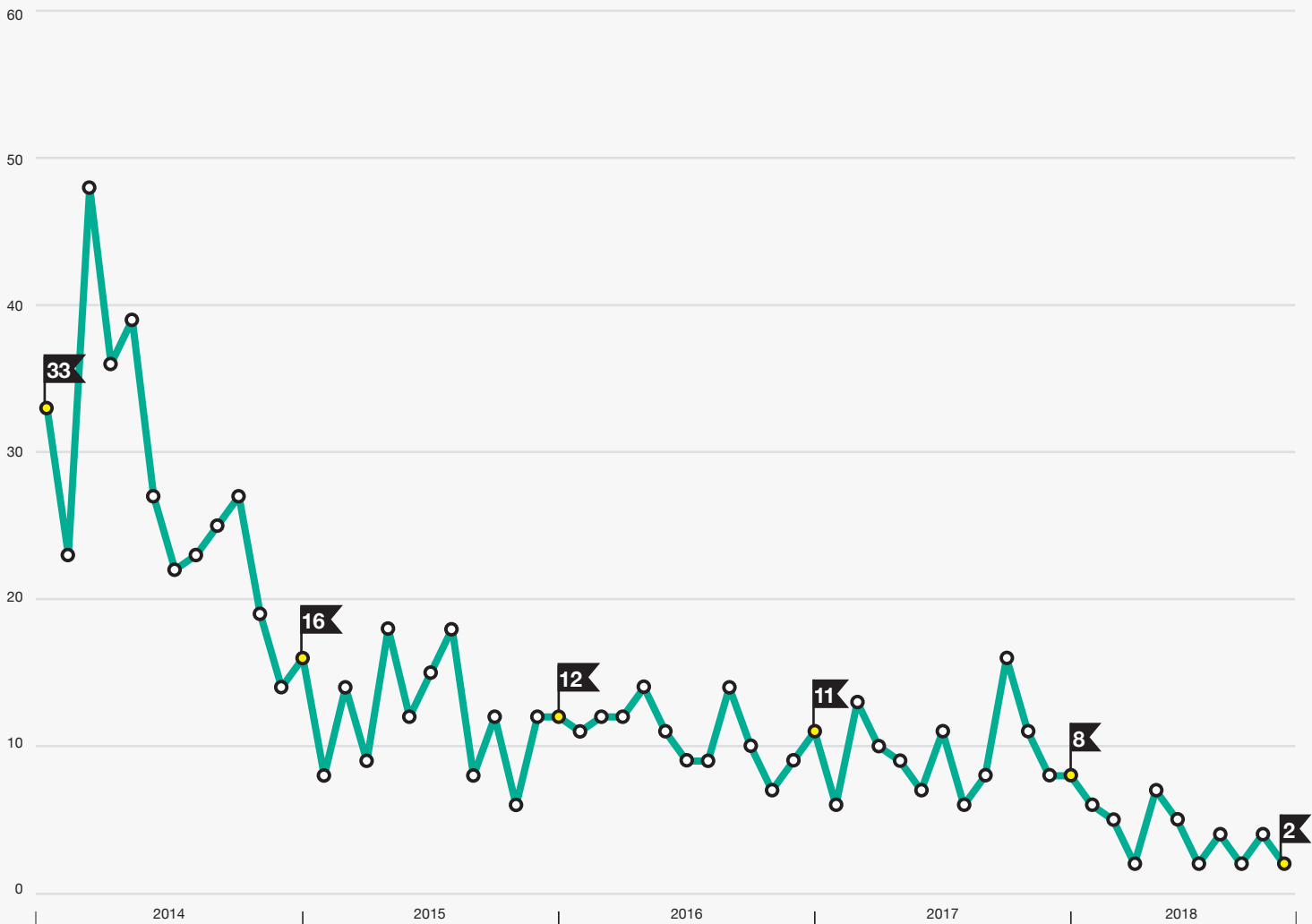
Criminal conviction history: Most people arrested for marijuana have no prior convictions. As enforcement has declined, the proportion of arrested people with no criminal history has increased.

Year	Marijuana Possession Arrests		
	No Prior Convictions	Prior Convictions	Percent with No Prior Convictions
2013	18,531	9,647	66%
2014	18,380	7,408	71%
2015	11,697	4,236	73%
2016	13,028	4,365	75%
2017	13,746	3,375	80%

What Happens to People Who Get Arrested for Marijuana?

Marijuana arrests rarely result in jail time: Since October 1st, 2018, there have been 6 people detained in a city jail on misdemeanor marijuana possession charges (PL 221.10 01). Sometimes the cause for that detention is a warrant or hold on another case. On any given day in 2018, there has been one person in DOC custody for a misdemeanor marijuana possession charge⁷ Any arrest, even one that does not result in any jail time, is very disruptive and subsequent convictions can have implications for, among other things, immigration, housing, employment, or financial aid.

Monthly Admissions to DOC for Marijuana Possession



Sources: MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS; DOC (through Nov. 2018). See Appendix B.

⁷ Includes only individuals with a top charge of PL 221.10 01

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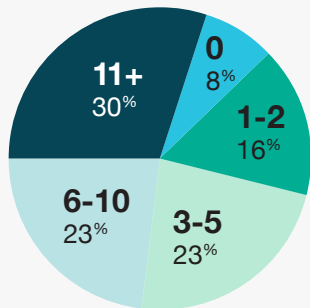
Annual convictions: In 2017, 7% of those convicted for marijuana were first time offenders; 93% had a criminal history.

Year	Convicted to Marijuana Possession Charge		
	No Prior Convictions	Prior Convictions	Percent with No Prior Convictions
2008	514	5,165	8%
2009	510	5,675	8%
2010	410	5,192	7%
2011	414	4,723	7%
2012	375	4,168	8%
2013	235	2,771	7%
2014	170	2,191	6%
2015	107	1,087	8%
2016	95	1,108	7%
2017	85	899	7%

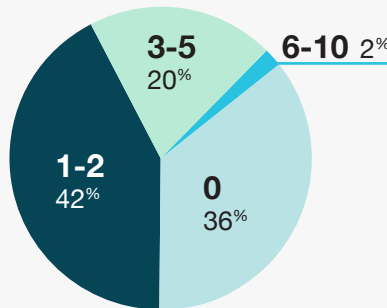
Individuals who are convicted of misdemeanor marijuana possession charges have criminal histories that include mostly misdemeanor convictions. Few have prior felony convictions or prior violent felony convictions.

Criminal Histories for Individuals Convicted on a Misdemeanor Marijuana Possession Charge in 2017

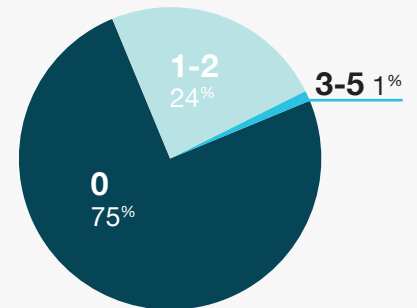
Number of Prior Misdemeanor Convictions



Number of Prior Felony Convictions



Number of Prior Violent Felony Convictions



Warrants: People who do not show up to court are issued a warrant and could be arrested if they come into contact with law enforcement. 35% of criminal summonses for marijuana result in a warrant, and there are currently 10,500 outstanding summons warrants for marijuana, most from the last 10 years.

APPENDIX A

§ 221.05 Unlawful possession of marihuana. A person is guilty of unlawful possession of marihuana when he knowingly and unlawfully possesses marihuana. Unlawful possession of marihuana is a violation punishable only by a fine of not more than one hundred dollars. However, where the defendant has previously been convicted of an offense defined in this article or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period.

§ 221.10 Criminal possession of marihuana in the fifth degree. A person is guilty of criminal possession of marihuana in the fifth degree when he knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning or open to public view; or
2. one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams.

Criminal possession of marihuana in the fifth degree is a class B misdemeanor.

APPENDIX B

Arrests for all PL 221 Offenses

Week Ending Date	2017 Arrests	2018 Arrests	Week Ending Date	2017 Arrests	2018 Arrests
7-Jan	296	216	8-Jul	340	92
14-Jan	342	326	15-Jul	336	121
21-Jan	349	394	22-Jul	330	69
28-Jan	316	280	29-Jul	348	63
4-Feb	300	394	5-Aug	338	68
11-Feb	330	246	12-Aug	359	53
18-Feb	292	282	19-Aug	315	66
25-Feb	292	323	26-Aug	318	58
4-Mar	350	267	2-Sep	326	36
11-Mar	367	202	9-Sep	342	21
18-Mar	255	254	16-Sep	294	21
25-Mar	344	191	23-Sep	271	26
1-Apr	341	251	30-Sep	266	23
8-Apr	396	213	7-Oct	342	25
15-Apr	403	220	14-Oct	337	31
22-Apr	398	222	21-Oct	311	22
29-Apr	340	216	28-Oct	283	19
6-May	374	244	4-Nov	300	15
13-May	366	210	11-Nov	261	20
20-May	314	115	18-Nov	280	13
27-May	300	120	25-Nov	258	12
3-Jun	335	106	2-Dec	275	
10-Jun	382	123	9-Dec	256	
17-Jun	305	97	16-Dec	209	
24-Jun	342	67	23-Dec	232	
1-Jul	353	135	30-Dec	182	

Criminal Summons Issuance for Marijuana Possession (PL 221.05)

Month	2017 Summonses	2018 Summonses
Jan	1,711	1,046
Feb	1,567	1,154
Mar	1,810	966
Apr	2,466	1,146
May	1,886	978
Jun	1,558	972
Jul	2,102	1,237
Aug	1,610	1,102
Sep	1,738	1,110
Oct	1,619	990
Nov	1,411	932

APPENDIX B

Misdemeanor Marijuana Possession (PL 221.10) Arrests

Year	Arrests
1990	826
1991	706
1992	722
1993	1,368
1994	3,042
1995	5,562
1996	9,478
1997	18,026
1998	32,996
1999	33,873
2000	51,344
2001	41,588
2002	44,209
2003	39,359
2004	28,124
2005	29,980
2006	32,228
2007	39,487
2008	40,712
2009	46,895
2010	50,857
2011	51,051
2012	39,500
2013	28,178
2014	25,788
2015	15,933
2016	17,393
2017	17,121
2018 YTD	7,348

Demographics for Misdemeanor Marijuana Possession (PL 221.10) Arrests

Age	Arrests
24 and Under	3,624
25-34	2,359
35-44	866
45-54	362
55+	137

Race	Arrests
White	514
Black	3,641
Hispanic	2,895
Other	298

Sex	Arrests
Male	15,087
Female	2,034

Prior Convictions	Arrests
Prior Convictions	3,875
No Prior Convictions	13,246

Note: 2013-2018 YTD include just PL 221.10 01

Admissions to DOC on a Top Charge of PL 221.10.01

Month	2014	2015	2016	2017	2018
Jan	33	16	12	11	8
Feb	23	8	11	6	6
Mar	48	14	12	13	5
Apr	36	9	12	10	2
May	39	18	14	9	7
Jun	27	12	11	7	5
Jul	22	15	9	11	2
Aug	23	18	9	6	4
Sep	25	8	14	8	2
Oct	27	12	10	16	4
Nov	19	6	7	11	2
Dec	14	12	9	8	

Criminal Histories for Individuals Convicted on a Misdemeanor Marijuana Possession Charge in 2017

Number of Prior Misdemeanor Convictions

None	8%	59
1 to 2	16%	114
3 to 5	23%	163
6 to 10	23%	160
11+	29%	207

Number of Prior Felony Convictions

None	36%	250
1 to 2	42%	293
3 to 5	20%	144
6 to 10	2%	16

Number of Prior Violent Felony Convictions

None	75%	525
1 to 2	24%	170
3 to 5	1%	8

Sources: MOCJ Analysis of 2018 Computerized Criminal History data (through 11/23) provided by DCJS; DCJS, DOC

APPENDIX C

SEALING STATUTES OVERVIEW: CPL 160.58:

- Allows the court or the defendant to make an application to seal convictions for up to 3 eligible misdemeanors
 - DA's Offices are provided minimum 30 day notice to comment to the court on the application
- There are four categories the court can consider when sealing a conviction:
 1. The circumstances and seriousness of the offense or offenses that resulted in the conviction or conviction;
 2. The character of the defendant, including his or her completion of the judicially sanctioned treatment program as described in subdivision one of this section;
 3. The defendant's criminal history; and
 4. The impact of sealing the defendant's records upon his or her rehabilitation and his or successful and production re-entry and reintegration into society and on public safety

CPL 160.59:

- Allows people who have been convicted in no more than two cases (only one of which can be a felony) to apply to seal certain convictions, if:
 - One or none of the cases were felonies and it has been at least 10 years since sentencing or release
- Convictions for the following crimes are not eligible to be sealed:
 - Sex offense defined in Penal Law Article 130
 - Offense requiring registration as a sex offender
 - Sexual performance by a child defined in Penal Law Article 263
 - Class A felony
 - Violent felony defined in Penal Law § 70.02
 - Felony conspiracy to commit an ineligible offense
 - Felony attempt to commit an ineligible offense

CURRENT SEALING APPLICATION METHODS:

- OCA provides an online application process on their website:
nycourts.gov/FORMS/cpl_160.59_sealing_application/index.shtml
- Individuals can contact their previous attorneys