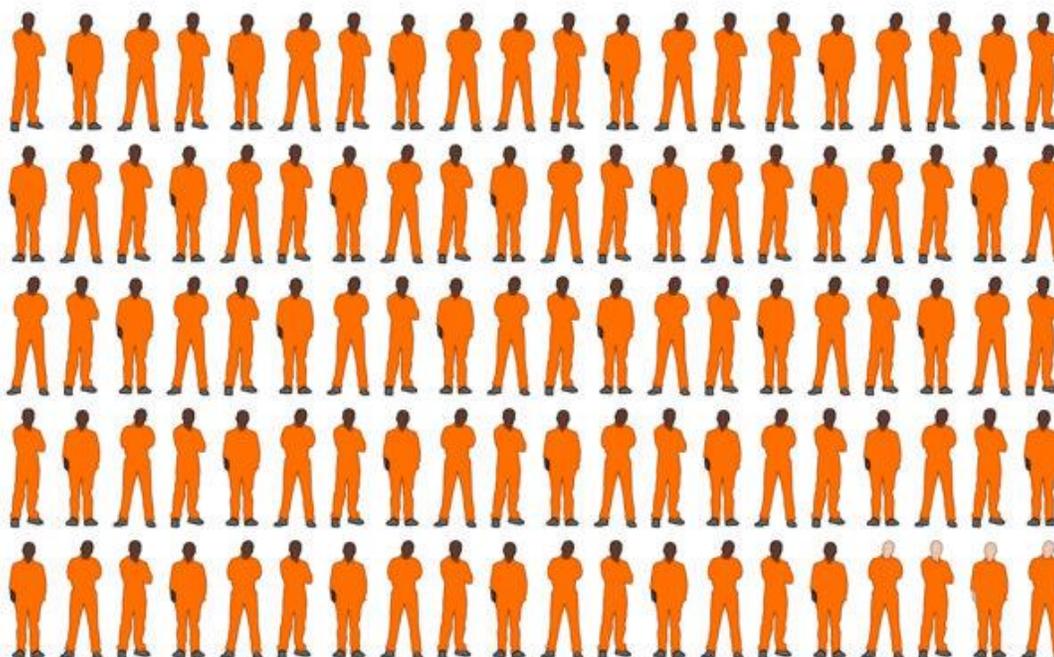


Structural Racism and Cannabis: Black Baltimoreans still disproportionately arrested for weed after decriminalization

By [Ethan McLeod, Andy Friedman and Brandon Soderberg](#)

December 28, 2018



Ninety-six out of 100 people arrested for cannabis possession in Baltimore from 2015-2017 were black, data from the FBI show.

While decriminalization in Maryland has significantly reduced the number of cannabis-related arrests, data indicate the Baltimoreans still being arrested for cannabis remain almost entirely and disproportionately black.

During 2015, 2016 and 2017, Baltimore police arrested 1,448 adults and 66 juveniles for cannabis possession, according to Baltimore Police Department data supplied by the FBI.

Of those arrestees, 1,450 were black. That's 96 percent.

In total, according to internal BPD data obtained via the Maryland Public Information Act, the department filed nearly 3,200 individual charges for misdemeanor cannabis possession during that same period. Most of those charged, our research showed, were in predominantly black parts of Baltimore.

Baltimore Fishbowl, in collaboration with [the Baltimore Institute for Nonprofit Journalism](#) and data researcher Andy Friedman, looked at misdemeanor cannabis possession charges for 2015, 2016 and 2017 and analyzed the data, breaking it down by ZIP code and then race. Those were the first three years in which possession charges could be accounted for in full since decriminalization took effect October 2014. Data for 2018 will not be available until sometime next year.

Those three years were also pivotal in the legacy of policing in Baltimore. The death of Freddie Gray in police custody, a staggering rise in homicides, an [investigation](#) by the U.S. Department of Justice and the subsequently enacted [consent decree](#)—a court-enforced, legally binding document requiring a police department to adopt reforms—all happened during this period. This was a moment when the department had the opportunity to reconsider policing, including how it policed one of the lowest-level and [most common](#) drug offenses: cannabis possession.

That was not the case. Data show arrests for possession among adults and juveniles rose 15 percent last year, from 471 in 2016 to 544 in 2017, per the FBI-supplied data. All but 18 of those 544 arrestees last year were black.

“What the evidence that you have here shows is that no matter where you are in Baltimore, if you are black, you’re gonna be policed differently,” said Sonia Kumar, a senior staff attorney for the ACLU of Maryland.

Councilman Brandon Scott, chair of the City Council’s Public Safety Committee, said the overrepresentation of black residents in weed possession arrests makes a clear case for why Maryland should change its cannabis laws.

“Recreational marijuana should be legal in the state of Maryland,” Scott said. “I think that hopefully folks that will see this data—that is not surprising or shocking to me—will see that.”

Fixing “Our Failed Prohibition Policy”

In April 2014, former Gov. Martin O’Malley signed into law [a bill](#) reducing the penalty for possession of fewer than 10 grams of cannabis to a simple citation and fine.

Then-Del. Heather Mizeur, a vocal supporter of full-on legalization, had originally proposed decriminalizing possession of up to an ounce, [saying](#) doing so could help “make sure people’s lives aren’t ruined with our failed prohibition policy.” Even Lt. Gov. Anthony Brown, Mizeur’s far more middle-of-the-road Democratic primary opponent for governor at the time, [supported it](#), saying criminalization of cannabis “has a disproportionate impact in enforcement of our marijuana laws on young African-Americans.”

Her bill wound up dying in the House Judiciary Committee, but another proposal put forth by Sens. Bobby Zirkin, a Democrat, and Alan Kittleman, a Republican (later elected Howard County executive), setting the threshold at 10 grams passed in both houses and landed on O’Malley’s desk.

Lawrence Brown, an assistant professor in the School of Community Health and Policy at Morgan State University, has popularized the concept of [the “White L” and “The Black Butterfly”](#) to illustrate stark economic and opportunity disparity in Baltimore (our mapped cannabis arrests mostly fall outside of the White L). He recalls advocates saying decriminalization “would help reduce racial bias in policing” but is not surprised it hasn’t delivered on that promise.

“It did not erase the racial disparity in police arrests,” Brown said. “This likely has a lot to do with where BPD patrols and which areas are hyper-policed.”

When O’Malley, who initially opposed the bill (citing cannabis as a gateway drug), finally signed it, he called decriminalizing cannabis “an acknowledgment of the low priority that our courts, our prosecutors, our police and the vast majority of citizens already attach to this transgression of public order and public health.”

The bill took effect on Oct. 1, 2014, allowing anyone caught with less than that 10 gram amount to receive a citation, rather than be arrested. Misdemeanor pot possession was recategorized as having anything over 10 grams and up to 50 pounds—yes, that’s pounds—and remained punishable by up to one year in prison or a \$1,000 fine.

The number of cannabis citations in Baltimore has climbed significantly in each full year since decriminalization took effect, going from 44 in 2015 to 200 in 2016 to 429 in 2017.

[Research](#) and [statistics](#) show decriminalization immediately helped put fewer people in contact with the justice system for being caught with weed on them. Misdemeanor arrests and charges, however, have remained more or less static, and many people in Baltimore are still criminally prosecuted for having cannabis. And nearly all of them are black.

The ACLU’s Kumar said that the findings from the arrest data point to “cumulative institutional racism” by Baltimore law enforcement, which is not a surprise, she added, given the BPD’s history of discriminatory policing. The 2016 Department Of Justice investigation into BPD discussed the disparate rates of arrests for drug crimes among black Baltimoreans, including cannabis.

For further evidence, there’s also the ACLU’s own past research indicating a racial bias among police toward enforcing drug laws. The ACLU’s 2013 report, “[The War On Marijuana In Black and White](#),” remains a seminal read on the topic.

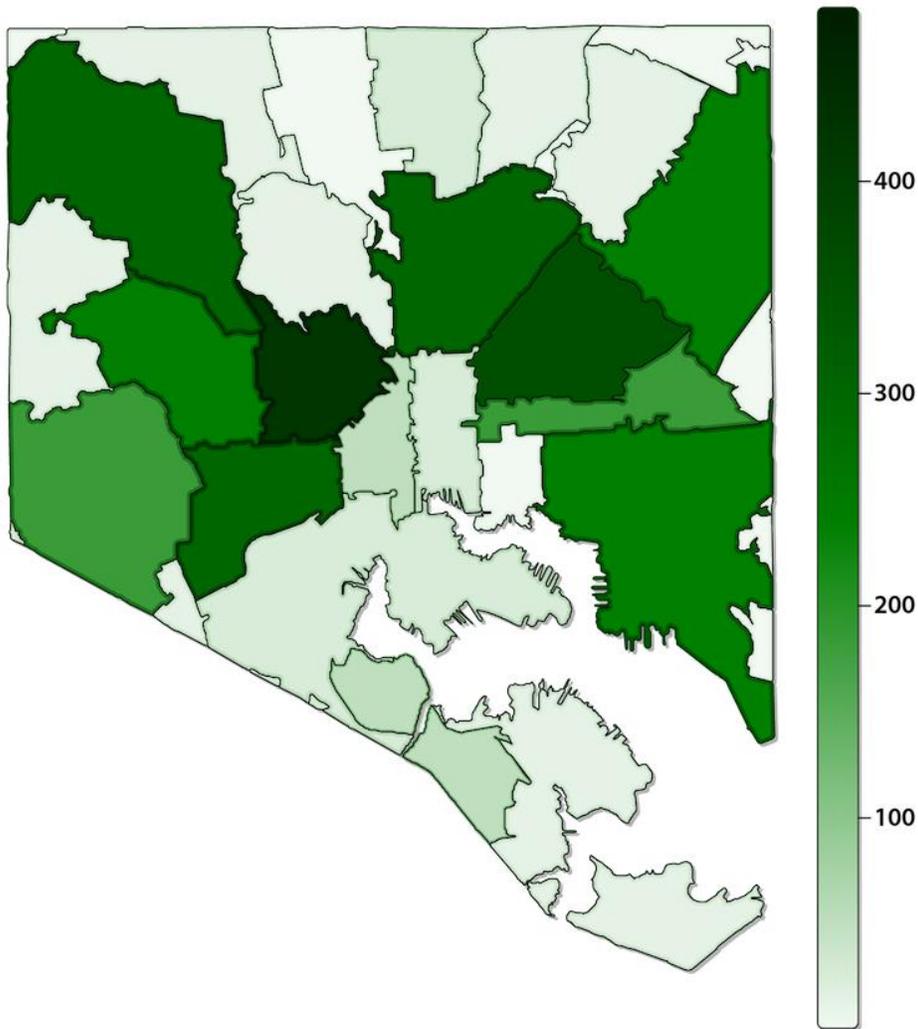
“This is how structural racism works,” Kumar said. “Institutions operate together to funnel people into disparate outcomes.”

And consider this: The very word “marijuana” has racist origins. What began as Mexican slang for pot was popularized by Harry Anslinger, the first commissioner of U.S. Treasury Department’s Federal Bureau of Narcotics and anti-drug propagandist, to vilify cannabis and stoke anti-Mexican sentiment in the country, and connect cannabis usage to people of color.

A growing group of cannabis advocates believes the word—which persists it seems, in part because the word sounds technical or scientific but is not—should not be used.

This is why we have chosen to use the word “cannabis” throughout this piece.

How our Data Came Together



Total misdemeanor
cannabis possession arrests by zip code, 2015-2017. Graphic by Charlie Herrick and Andy Friedman /
Research by Andy Friedman

We began with a Maryland Public Information Act request to the Baltimore Police Department asking for a list of every charge for misdemeanor cannabis possession (CJIS code 1-0573) for 2015, 2016 and 2017. From BPD, we received a list containing a total of 3,189 charges. Each one included a date, the arresting officer, the ZIP code where the arrest took place and several internal identification numbers.

The list of nearly 3,200 criminal cannabis charges did not include the race of the arrestees. However, the ZIP codes offer clues, based on how black or white those areas of Baltimore are, and in a city as segregated Baltimore, this is particularly easy to surmise.

With available U.S. Census data on demographics and income for each ZIP code, we totaled the number of charges in each ZIP and looked at each area's racial composition and median income. The demographic data came from the 2010 U.S. Census—the most recent full accounting—and median income data came from the U.S. Census' 2016 American Community Survey.

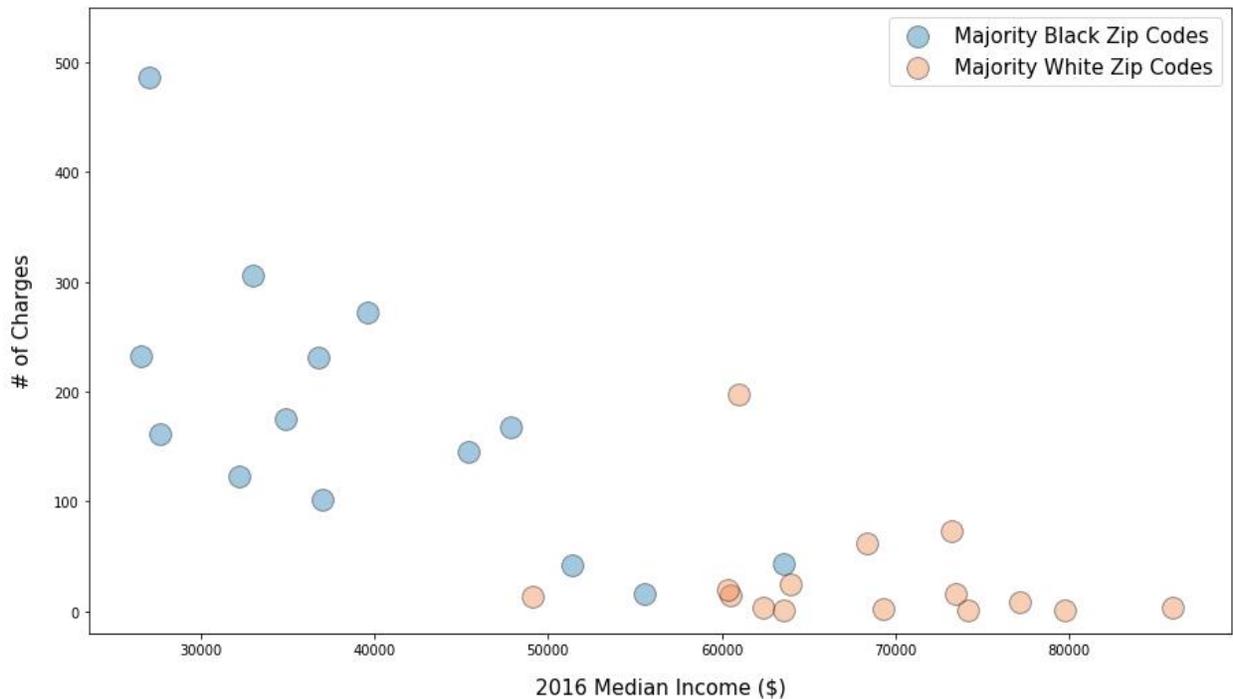
What we found: Far more people were arrested for cannabis possession in areas with large black populations, even when controlling for income.

For example, the largest number of charges, 486, occurred in 21217, stretching northward from Harlem Park to the edge of Druid Hill Park, and eastward from Penn North and Easterwood to Station North. Census data indicated 87 percent of the ZIP's residents are black, and the median household income was around \$27,000, among the lowest in the city.

ZIP codes with majority black populations saw far more possession charges during 2015, 2016 and 2017 than whiter ZIPs, which in some cases saw zero arrests.

Income data also showed police have filed the most charges in poorer black neighborhoods. One of the many byproducts of Baltimore's longstanding segregation and divestment is that only three majority-black ZIP codes (21214 in Northeast Baltimore, 21207 in Southwest Baltimore and 21239 stretching from Morgan State University to Calvert Hall) had a median annual household income greater than \$50,000 in 2016. During the three years we analyzed, all of those ZIP codes logged fewer than 100 charges.

2015-17 Misdemeanor Cannabis Charges by Zip Code v. 2016 Income



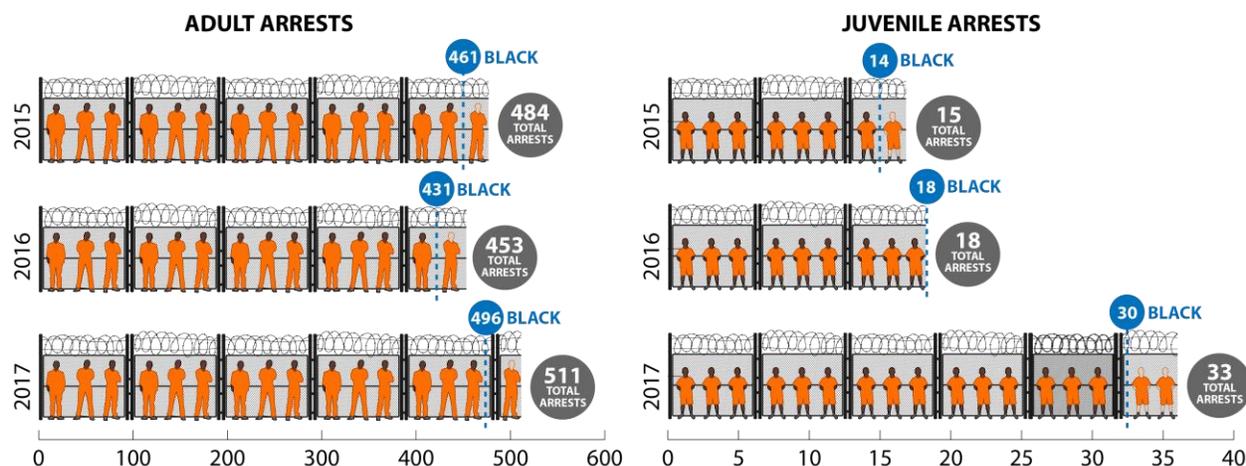
The number of misdemeanor cannabis possession charges filed in Baltimore zip codes from 2015-2017, scaled by median incomes. Graphic and research by Andy Friedman

Income alone is not an indicator of arrest frequency. Police simply haven't focused on low-income white locales the way they have fixated on low-income black locales in the last several years. Only one white ZIP code (21224, which includes Canton and Highlandtown) saw more than 100 charges over those three years, and the poorest majority-white ZIP code (21222, near Dundalk) had fewer than 50 charges.

Our findings of police bias in enforcement from the data were bolstered by the figures from the FBI showing the total number of arrests made by BPD for 2015, 2016, and 2017. The federal agency collects

these figures from local police departments annually and then culls it down to only include cases in which the requested crime (in this case, we requested cannabis possession) was the most serious charge, a standard known as the [Hierarchy Rule](#). (So, if someone were arrested for a gun offense and cannabis possession, the FBI would not include that case as a possession arrest.) For Baltimore, there were 1,514 such arrests.

Here's how these arrests were broken down by adults and juveniles, with black arrestees separated out from the total.



The number of cannabis possession arrests in Baltimore from 2015-2017, by adult or juvenile status and race. Graphic by Charlie Herrick / Research by Andy Friedman

Then Medical Cannabis Came Along

These thousands of charges over three years for cannabis came not only after decriminalization, but as medicinal cannabis was phased in. This year, dispensaries began springing up in Baltimore, a first step toward the reality of legalization, but also yet another example of how disparately cannabis is viewed and policed.

“For one group of people, ‘I pay my money, I smoke weed, it’s legal, I am never at risk of any sort of adverse consequence for it,’” Kumar observed. Meanwhile, she said, another group of people—primarily black Baltimoreans—“continue to be at risk.”

This is a [typical tale](#) of cannabis as it slowly crawls towards legalization: The system attempts to correct itself, businesses cash in on something they could not previously monetize and the most vulnerable people barely benefit and still find their lives upended by a selectively enforced law.

Medicinal cannabis cards allow some patients to possess up to 120 grams, 12 times the legal threshold for a civil citation. The ability to obtain a card, meanwhile, is prohibitive. The symptoms are limited to cachexia, anorexia, wasting syndrome, severe pain, severe nausea, seizures, severe or persistent muscle spasms, glaucoma, post-traumatic stress disorder and chronic pain. And an applicant must have one or more of those conditions diagnosed by a medical professional to obtain a card.

Moreover, one must illustrate “a bona fide provider-patient relationship” with the medical professional, [which involves](#) a review of medical records and an in-person assessment, among other steps. There’s also an up-front cost, [usually around \\$200](#), that most providers charge to certify a patient

to receive cannabis (discounts are sometimes offered for veterans), and the state now requires all patients to also purchase an ID card for \$50.

As of [early November](#), more than 70,000 patients have registered with the state to receive cannabis recommended by a doctor, and more than 70 dispensaries are up and running around the state as of Dec. 5. Eight of them are in Baltimore, with three more on the way. The state logged [more than \\$95 million](#) in retail sales during the first year.

When medicinal cannabis licenses were being decided in 2016, the Natalie M. LaPrade Maryland Medical Cannabis Commission gave none of its 15 licenses to black-owned cannabis businesses (For reference, [The Sun reported](#) last year that more than 140 groups applied for licenses). In response, the Legislative Black Caucus of Maryland highlighted how the commission ignored “geographic diversity” and also claimed they couldn’t acknowledge racial diversity without first doing a diversity study. The Legislative Black Caucus also demanded a bill that expands the number of approved growers and makes room for black-owned cannabis companies. It did not pass that year.

Gov. Larry Hogan’s office did order the [diversity study](#), and it confirmed what many had pointed out: that the state’s medical cannabis industry lacks minority representation (as well as female owners).

“Maryland will likely be a passive participant in a discriminatory marketplace if it fails to continue to address the issue,” a summary of the study said.

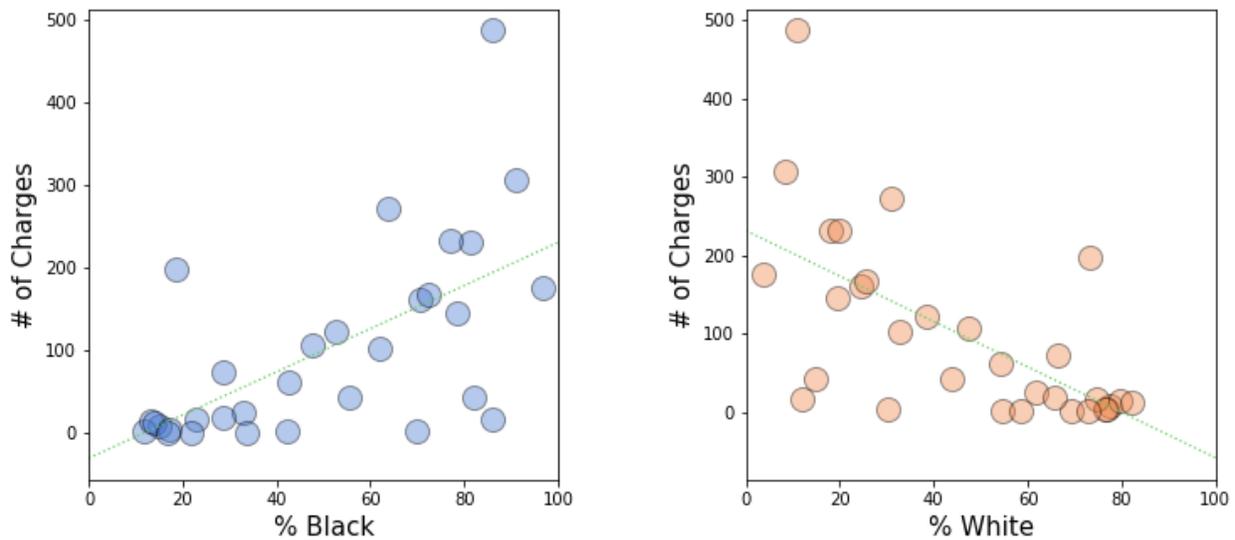
In 2018, another bill focused on encouraging racial parity in the cannabis business was introduced. It [passed in April](#). Commission spokeswoman Jennifer White said this month the agency will award four additional growing licenses and 10 processing licenses, and is in the process of finalizing a new application that takes racial parity into account.

Councilman Scott wants it to go further. He suggested setting aside a certain number of licenses for people who were arrested for cannabis crimes in the past to enable them to enter the legal cannabis business.

“That’s a direct tie into allowing those who have been directly victimized by a system that has been focusing only on African-Americans to flip the script,” Scott said.

Currently, a felony drug conviction prevents one from obtaining a growing or dispensing license.

2015-17 Misdemeanor Cannabis Charges by Zip Code v. % Race



Blacker zip codes saw more cannabis possession charges from 2015-2017, while whiter zip codes saw few charges. Graphic and research by Andy Friedman

The 10-Gram Problem

Maryland set a low bar when lawmakers decriminalized the possession of 10 grams of cannabis or less.

The state is [among 22](#) that have decriminalized at least some quantity of cannabis. However, it is the lowest in the country, and only two other states, [Illinois](#) and [Missouri](#), share this threshold. Others like Connecticut and North Carolina have adopted an only slightly higher, but more conventional limit of 14 grams (roughly half an ounce, which is a relatively common amount of weed to purchase) and the most common limit among states is one ounce, or around 28.5 grams.

In 2018, Zirkin proposed raising the limit to an ounce. His bill [passed](#) the state Senate but didn't get a vote in the House of Delegates.

Kate Bell, general counsel for the cannabis-advocacy nonprofit Marijuana Policy Project, stressed that raising the limit to an ounce would further reduce the number of Baltimoreans entering the justice system, which was in part, the point of decriminalization.

"Most states have a one-ounce threshold," Bell said. "Ten grams is really too low, as is illustrated by the number of people still being charged with possession."

Del. David Moon, a Montgomery County Democrat who's [pushed](#) to fully legalize and tax cannabis in Maryland, has deemed the 10 gram threshold "completely arbitrary" and problematic. Moon said that the low threshold has also contributed to "over-the-top responses" from police.

"How else will they know if it's 10 grams or less?" Moon said. "The police in some counties therefore break out scales on small amounts of marijuana, hoping to catch residents over the line. I've even heard reports of police trying to count the weight of the bag in their measurements, to try and tip people over 10 grams."

Neill Franklin, a former police officer of 34 years, and an avid supporter of legalization who runs the Law Enforcement Action Partnership, cited a trend, post-decriminalization, toward charging people who have multiple packages of cannabis with intent to distribute. This happens Franklin said, even when those packages add up to less than 10 grams and there's no additional evidence.

"It's not like they have other evidence where they have a client base or packaging material, scales—you know, the things [that] would be evidence. It's just multiple packs," Franklin said.

While Maryland continues penalizing cannabis possession, 10 states—Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont and Washington—plus Washington D.C. have legalized cannabis for recreational adult use.

And even in non-legal states, officials have actively sought to deprioritize arresting individuals for cannabis possession. Leaders in large cities such as New York and Philadelphia have recently taken a stand. This past year, Manhattan District Attorney [Cyrus Vance](#) and Philadelphia D.A. [Larry Krasner](#) ordered police to stop arresting people for smoking in public or carrying weed. Both cited disparate enforcement patterns that negatively affect people of color and prison systems overburdened with low-level drug offenders.

The racial disparity and the high number of charges in Baltimore mirror findings from New York. An analysis of NYPD arrests for pot possession before the state's recently relaxed enforcement of low-level offenses [showed](#) black men were being disproportionately charged, even after the state had decriminalized possession of fewer than 25 grams in 1977, and expanded that legal change to possession "in public view" in 2014.

After the 2014 change, a [Village Voice analysis](#) found possession arrests rebounded and began rising in 2016.

In Baltimore, the State's Attorney's Office decides whether to pursue charges in court or drop them after pre-trial detention. The State's Attorney's Office declined to comment on how often prosecutors pursue misdemeanor possession charges in Baltimore. They also declined to respond when asked whether State's Attorney Marilyn Mosby would consider a citywide policy of not pursuing low-level cannabis possession charges.

Defense attorney Ivan Bates, who ran for state's attorney against Mosby during the spring primary election, was critical of the office's lack of transparency and its focus on obtaining convictions in cases that arguably should have been thrown out. He said he believes Baltimore should follow New York and Philadelphia in backing off of pursuing cannabis possession charges.

"I follow the Larry Krasner school of thought on marijuana possession and prosecution," Bates said. "I don't believe in prosecuting small amounts of weed."

Franklin added: "We definitely need some guidelines from our prosecutors to say, 'Hey, if you don't have clear-cut evidence that this person is selling, we're not going to be charging people with possession with intent to distribute.'"

The higher the legal threshold—at its peak, full-on legalization—the less time and energy law enforcement and courts spend arresting people for having cannabis. A frequent talking point in

Baltimore is how the police are understaffed and overworked while funding for the department rises every year.

“It does seem bizarre to me to think of how much we’re told that police don’t have enough time, don’t have enough resources to do their jobs, and then there’s this thing about hundreds of arrests for marijuana possession, and whether that’s really the best use of police resources,” said the ACLU’s Kumar.

Scott said data suggested the focus on policing weed possession and use is misplaced: “If I could direct [police] to focus in, this is what I would tell them: focus in on the violence and the people committing the violence.”

BPD’s Beef with our Data

Baltimore Police Department spokesman Matt Jablow declined to comment for this story.

Months earlier, BPD took issue with our data and analysis. In August, then-BPD spokesperson T.J. Smith surmised that most of the city’s 3,189 misdemeanor possession charges from 2015 through 2017 came with more serious offenses, and suggested the concentration of arrests in black ZIP codes was misrepresentative.

“This is not exclusively 3,000 people over the past three years who were arrested for possessing marijuana,” Smith asserted.

Smith said he took a sample of 20 charges (out of the total of nearly 3,200), checked them against Central Booking records and found the vast majority of that small set included more serious offenses like handgun possession and drug distribution, among others.

“Based on a sample that we’ve taken of what you guys have obtained, these people weren’t exclusively arrested for possession of marijuana,” he said. “It would be completely misleading to suggest that we’re arresting more people for marijuana possession.”

Councilman Scott said he is interested in a more robust look at the arrests where people had cannabis charges along with more serious offenses, particularly gun charges.

“I also would like to see BPD take out that data and show how it relates to guns. If someone has a marijuana charge, but they have a gun in the car, that’s a little different,” he said. “I think we should focus in on violent acts and violent criminals and not people smoking weed.”

Brown, of Morgan State University, suggested looking beyond police enforcement.

“It’s also important to remember that our city leaders (especially the mayor) help dictate and condone police tactics and strategies,” Brown said. “Until city leaders disrupt and dismantle the hyper-policing of redlined black communities, the patterns of racial bias in marijuana arrests will only continue.”

Smith went on to argue that the most accurate way to show Baltimore policing trends for cannabis possession would be to look at data for the number of citations issued for possession of under 10 grams.

We attempted to follow up on that, and filed an MPIA request asking for data that would include the locations—including ZIP codes—of citations between 2015, 2016 and 2017. With that information, we

could have mapped them out and assessed how it compared with our map indicated the bulk of the charges were concentrated in heavily black ZIP codes.

Our public information request for that information was never fulfilled by BPD. The department acknowledged receipt of our request on Sept. 14, one day after it was filed, but the agency has since been unresponsive to follow-up emails. Smith left the department on Oct. 10, and Jablow has not offered any follow-up on the MPIA request, despite exchanging several emails and eventually declining comment for this story.

Four months have passed since BPD acknowledged receipt of Baltimore Fishbowl's MPIA request. Maryland law provides for 30 days for an agency to complete a request, though there is no penalty for taking longer.

What we do know: The aforementioned tenfold increase in citations from 2015 to 2017 (44 in 2015, 200 in 2016 and 429 in 2017) pales in comparison to the thousands of criminal charges filed for possession over the last several years. To be fair, the BPD's perspective is that misdemeanor possession is viewed differently by the law and is therefore an entirely different concern than a citation.

Police did not respond to our requests to speak with Acting Police Commissioner Gary Tuggle, a longtime U.S. Drug Enforcement Administration agent and former Philadelphia division chief with years of experience in the U.S. war on drugs.

Ultimately, Smith stopped responding to follow-up emails, including one where we inquired about the 1,514 total adults and juveniles that the FBI's data said were arrested primarily for possession over those three years.

Meanwhile, attitudes toward cannabis usage by police appear to be changing slightly. In June 2017, officials loosened the rules for past cannabis use among police job applicants statewide. Previously, a potential recruit would be rejected immediately if they said they had used cannabis more than 20 times in their life or five times since turning 21. The new policy, approved by the Maryland Police Training and Standards Commission and reviewed by Attorney General Brian Frosh, determined an applicant can now be rejected for cannabis use only if they say they've used it in the last three years.

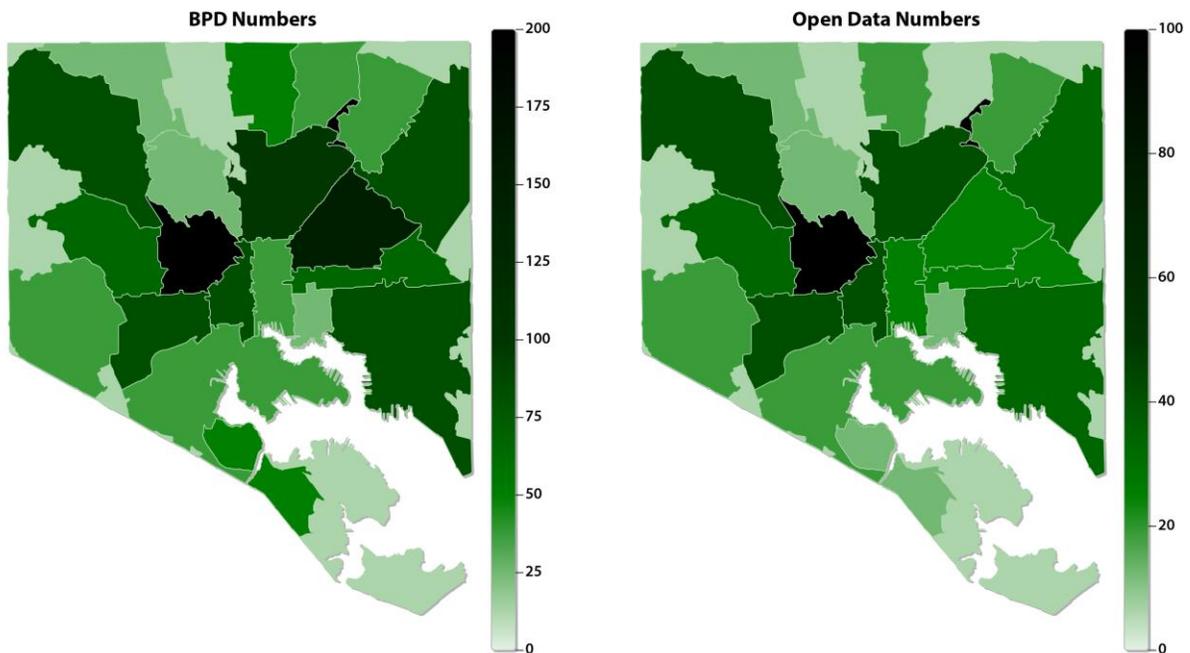
According to data obtained in an MPIA request, BPD rejected 431 applicants for prior cannabis use between 2015 and 2017. The department hired 409 officers during the same period, per department figures.

Franklin believes cannabis could help police officers deal with the stresses of the job.

"I think that we're starting to see not just across the country but outside of the country, that cannabis is being effectively used to deal with PTSD," Franklin said. "Knowing the high rate of alcoholism within the policing ranks and how problematic that is, I think cannabis could be an effective way to help mitigate that. A lot of these folks drink and consume alcohol at the levels they do because of the stress of the job."

In Pursuit vs. Open Data

TOTAL 1-0573 ARRESTS BY ZIP CODE, 2017



A comparison of 2017 charges mapped out by zip code from two datasets. Graphic by Charlie Herrick and Andy Friedman / Research by Andy Friedman

The other story this data tells is one that isn't about cannabis. It concerns the BPD's disorganization and disinterest in transparency, or even clarity on the very subject of data.

The list of misdemeanor cannabis charges provided by BPD in response to our initial public information request came from the department's In Pursuit Arrest records, which are not publicly available. However, the department also regularly publishes arrest data on the city's [Open Data](#) website.

There were serious discrepancies between the two data sets, we found. While the In Pursuit data set was somewhat limited in its scope—offering no demographic information about arrestees—the Open Baltimore data set was more robust, providing the race and gender of every person charged with a crime.

However, when one compares the data for misdemeanor possession charges from 2015 through 2017, Open Baltimore showed significantly fewer arrests than the In Pursuit Arrest data sent in response to

our MPIA request. For example, BPD reported 1,109 misdemeanor marijuana arrests in 2017 in its In Pursuit Arrest data set, while Open Baltimore only counts 492.

It's worth noting that the same pattern of racial bias appears in Open Data, even with the disparate totals. Out of those 492 charges for misdemeanor cannabis possession last year, 479 of the arrestees were black. That's a little more than 97 percent.

That BPD would not fulfill simple data-oriented information requests, or even respond to emails in a timely manner about a major issue that law enforcement is currently reconsidering, does not bode well for the department. As Baltimore awaits the confirmation of its next police commissioner—the fourth in less than a year, and the 10th since 2000—major transparency issues persist about how nominee Joel Fitzgerald was chosen, his background check and more.

A lack of transparency is a gateway to corruption. We implore our future commissioner—likely to be Fitzgerald—to address these issues.

The Fourth Amendment

Retired police officer Franklin stressed that despite decriminalization, the smell of cannabis remains a legal cause for police to pull over drivers in Maryland.

“Marijuana is still the number one reason the police are using to sidestep the Fourth Amendment and get into people's car, pocket or home,” Franklin said. “Constitutionally, it's wrong.”

The Fourth Amendment prohibits law enforcement from making unreasonable searches and seizures.

Police claiming to smell cannabis they did not or could not smell is not an uncommon occurrence on the streets. There are examples in which officers have claimed they could smell unburned, packaged weed from outside a car whose windows were rolled up or across lanes of traffic. Two different members of the federally indicted Gun Trace Task Force used this very tactic to justify car stops and subsequent vehicle searches.

“What recourse do we have when crooked cops say they smell it and don't smell it?” Franklin posed.

The courts have taken up the issue. A case that went all the way to the Maryland Court of Appeals last year began when three men were pulled over by police in November 2014, just after decriminalization had taken effect. Detectives said they could smell burnt cannabis coming from the car. After one of the men freely admitted they had been smoking—he even handed the detective a rolled blunt with less than half a gram of weed in it—a detective searched him and said they found a handgun in his pants. The man was arrested for gun charges.

In Baltimore City Circuit Court, the man's lawyer argued that his client freely admitting he had committed a ticketable offense—possession of fewer than 10 grams of cannabis—did not amount to probable cause, and that officers had no way of knowing whether he had more than 10 grams when they first smelled the burning weed. The search therefore should have been denied and the evidence thrown out, his lawyer argued.

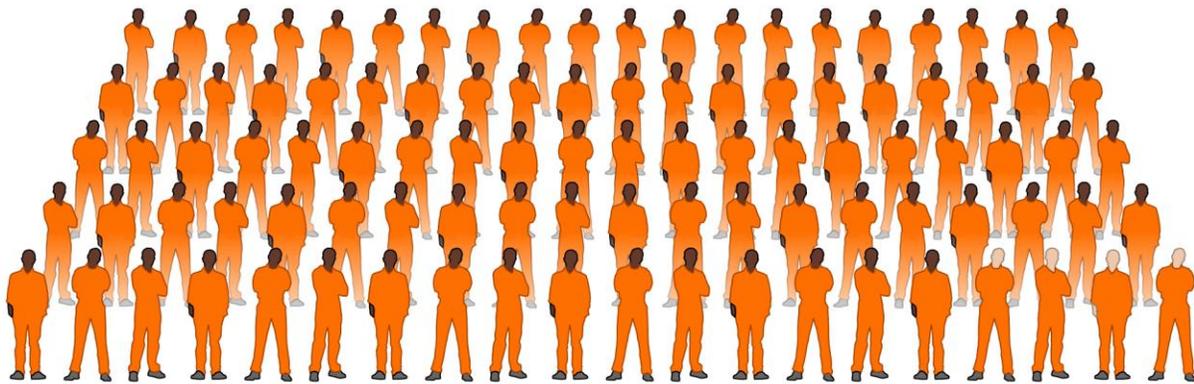
The court sided with police, and the man was convicted of gun charges. He appealed to the Maryland Court of Appeals in 2016, arguing that the smell officers had detected did not suggest possession of more than 10 grams. While the Court of Appeals agreed, its panel of judges interpreted that argument

differently. In 2017, when judges [upheld the ruling](#), they argued that since cops could not be trained to determine from odor alone whether someone has more than 10 grams, they should just be able to search anyone lest “a myriad of crimes... go undetected.”

Franklin said the Court of Appeals decision all but admits that police use cannabis as cause to search people.

“Police have no problem saying, ‘We need this so we can search people. We need this so we can find evidence of other crimes committed,’” Franklin said. “It’s wrong.”

Decriminalization is Not Enough



Ninety-six out of 100 people arrested for misdemeanor cannabis possession in Baltimore from 2015-2017 were black. Graphic by Charlie Herrick

Data cannot calculate or tell the entire story of petty cannabis possession charges in Baltimore. An arrest for that crime goes beyond a \$1,000 fine or the presumed night or two spent behind bars before making bail. For those who cannot afford bail, pre-trial detention can keep them behind bars for weeks or even months until they see a judge, creating numerous new personal or professional obstacles as they await trial.

There are also the hours one will lose to an arrest, the potential seizure and/or impounding of property, and the trauma endured from being detained in Central Booking. Arrestees in Baltimore are taken to that facility in the notorious Baltimore City Detention Center, the subject of an [ACLU lawsuit](#) that was reopened in 2015 and settled the next year, and a place known for [overcrowding](#) and once [controlled by gang members](#). In 2018, at least [three inmates](#) have died in Central Booking.

To consider the 511 arrested for misdemeanor possession in Baltimore in 2017 alone, Bell said, is devastating.

“That’s over 500 people who wouldn’t otherwise be in the criminal justice system,” the Marijuana Policy Project’s general counsel said. “That’s over 500 people who may lose their job, may have a harder time finding a place to live. And those impacts are felt not only by the individual but their family and their community as well.”

The overrepresentation of black people in cannabis arrests also implies to a large swath of Baltimore that the law operates differently for them depending on the color of their skin, further fueling mistrust and frustration.

“Whether it’s 1,500 or 15 people arrested, when you have disparity issues, that in itself is a reason to end the policy,” Franklin said. “If policy cannot be equitably applied then you need to get rid of it.”

Decriminalization is not enough, he says.

“Decriminalization? Yeah, it was OK for a year or two, but we just need to end it now and regulate it,” Franklin said. “We’ve already seen what other states have done and the sky has not fallen.”

“It should be legal,” Scott said. Referencing the [recent claim](#) the state cannot afford the recommendations of the Kirwan Commission, he added, “it would allow us to fund education and other things in our city and in our state.”

Keeping possession criminalized at any level will lead to disparate outcomes, said Bell.

“Removing this ability to criminalize people just for using something that’s a substance that’s safer than alcohol, who are otherwise law-abiding citizens, will help keep Baltimore safer.”