

HB 2153 Impact Analysis

Open Justice Oklahoma

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2023-07-13

0.1 Introduction

Oklahoma's 2023 legislative session saw the introduction of HB 2153. This bill, rolling back provisions of State Question 780, would make possession of a controlled substance (excluding marijuana) a felony crime after the fourth such conviction in ten years. While the punishment for a misdemeanor possession conviction is up to \$1,000 dollars and/or up to one year confinement, a felony conviction for the same crime can result in a fine of up to \$5,000 dollars and/or up to 5 years imprisonment.

This analysis uses historical data on convictions for possession of a controlled substance to better understand how prevalent the situation of having four or more convictions within 10 years is, and thereby, estimate the number of people who would be impacted by this legislation should it be enacted into law in a future legislative session.

0.2 Data

0.2.1 Source

Open Justice Oklahoma maintains a database of administrative court records which includes information on all criminal misdemeanors and felonies filed in Oklahoma beginning in 2001. Case information is systematically collected from publicly available data hosted on the [Oklahoma State Court Network \(OSCN\)](#) website.

- **Initial data pull:** All CF / CM cases filed Jan 1 2001 - Dec 31, 2022, statewide

```
data <- ojo_tbl("case", .con = ojodb) |>
  filter(
    case_type %in% c("CM", "CF"),
    date_filed >= "2001-01-01",
```

```

    date_filed < "2023-01-01"
  ) |>
  left_join(
    ojo_tbl("count", .con = ojodb),
    by = c("id" = "case_id"),
    suffix = c("", "_count")
  ) |>
  ojo_collect()

```

Our initial data pull has **2,460,554 rows**. Since only the 13 official OSCN counties report the charges in each case, we are limited to just those for this analysis of drug possession charges. **1,440,253 of the rows** were from these counties, and **1,438,749 had non-missing values** for count_as_filed.

- **Full list of OSCN counties:** Tulsa, Oklahoma, Cleveland, Rogers, Payne, Comanche, Garfield, Canadian, Logan, Adair, Pushmataha, Roger Mills, Ellis

In the data, there were 740,744 unique **cases** filed in OSCN counties, compared to 1,761,045 cases filed statewide. In other words, 42.06% of the cases were filed in the 13 OSCN counties. Accordingly, we can approximate what the statewide results might look like by assuming our end result accounts for roughly 42% of the total population affected by HB 2153.

- **Data availability, per county:**

District	N Rows	N with Nonmissing Charge	Percent Missing Charge
TULSA	503,027	502,948	0.02%
OKLAHOMA	486,993	486,751	0.05%
CLEVELAND	124,083	124,074	0.01%
ROGERS	78,098	78,072	0.03%
PAYNE	61,604	60,560	1.69%
COMANCHE	47,052	47,012	0.09%
GARFIELD	38,612	38,607	0.01%
CANADIAN	37,579	37,568	0.03%
LOGAN	25,094	25,087	0.03%
ADAIR	18,518	18,490	0.15%
PUSHMATAHA	14,420	14,419	0.01%
ROGER	2,942	2,930	0.41%
MILLS			
ELLIS	2,231	2,231	0%

- **Data availability, per filing year**

Year	N Rows	N with Nonmissing Charge	Percent Missing Charge
2001-2003	171,592	170,865	0.42%
2004-2006	179,679	179,363	0.18%
2007-2009	184,855	184,793	0.03%
2010-2012	184,765	184,682	0.04%
2013-2015	234,559	234,476	0.04%
2016-2018	227,896	227,819	0.03%
2019-2021	195,667	195,554	0.06%
2022-2024	61,240	61,197	0.07%

0.2.2 Methodology

This analysis looks across all 13 counties which report data on charges filed, and across all complete years of misdemeanor and felony data for charges of possession of a controlled substance. We then use a text classification tool to assist with finding all the simple drug possession charges in the data, which allows us to finally report the number of convictions on such charges per defendant.

Our figures are likely to underestimate the total number of convictions by a relatively small, but still methodologically significant amount due to the expungement of records over time. The magnitude of this bias will be greater for earlier years, but can be roughly quantified by exploiting the court case id schema mandated by the Oklahoma Supreme Court.

0.2.3 Cleaning / classifying count data

The UCCS tool provides estimates of the probability that each classification was correct. We use regex pattern matching to further examine all classifications with a confidence of less than 80%.

The 20 most common verbatim count descriptions -- looking only at charges that were **included** -- are shown below:

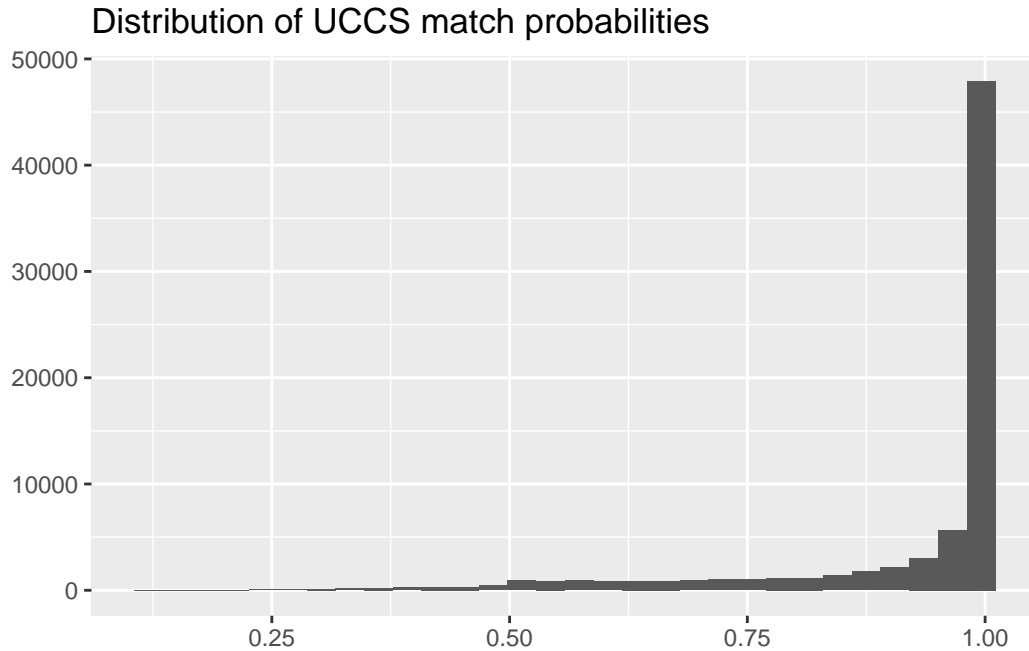
count_as_disposed	n
UNLAWFUL POSSESSION OF CONTROLLED DRUG	12318
POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE	10312
POSSESSION OF CONTROLLED DRUG	10268
UNLAWFUL POSSESSION OF CONTROLLED DRUG METHAMPHETAMINE	4874
POSSESSION OF CONTROLLED SUBSTANCE	4566
POSSESSION OF A CDS METHAMPHETAMINE	4541
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE METH	4160
POSSESSION OF MARIJUANA	4006

MARIJUANA MISDEMEANOR	3853
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE MARIJUANA	3086
POSSESSION OF A CDS MARIJUANA	2718
UNLAWFUL POSSESSION OF MARIJUANA	2567
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE MARIJUANA SCHD I	2516
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE METH SCHD II	2064
POSSESSION OF A CDS SCHD II	2058
POSS OF CDS	2029
UNLAWFUL POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE	1928
CONTROLLED DRUG SCHEDULE II FELONY	1534
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE	1292
POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE SCHED II	1230

The 20 most common verbatim count descriptions -- looking only at charges that were **excluded** -- are shown below:

count_as_disposed	n
DUI ALCOHOL	29961
POSSESSION OF DRUG PARAPHERNALIA	24833
DRIVING UNDER SUSPENSION DUS	24195
UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA	21474
OBSTRUCTING AN OFFICER	19190
PUBLIC INTOXICATION	19048
BURGLARY SECOND DEGREE	17865
LARCENY OF MERCHANDISE FROM RETAILER	17307
DRIVING WHILE UNDER THE INFLUENCE	17203
ASSAULT AND BATTERY DOMESTIC	17038
VIOLATION OF COMPULSORY EDUCATION ACT	15400
BOGUS CHECK	15020
VIOLATION OF PROTECTIVE ORDER	13403
POSSESSION OF PARAPHERNALIA	12465
FAILURE TO CARRY INSURANCE SECURITY VERIFICATION FORM	11183
CONCEALING STOLEN PROPERTY	10637
UNAUTHORIZED USE OF VEHICLE	9370
DRIVING UNDER THE INFLUENCE OF ALCOHOL	8544
RESISTING AN OFFICER	8510
DRIVING WITHOUT A DRIVER S LICENSE	8492

Finally, we add the defendant info onto each case so we can see how many have 4+ simple possession charges.



Of the **152,557 total rows / charges** in the data, **148,127** have an associated person record (**97.1%**).

0.3 Results

0.3.1 How many simple possession charges per defendant?

To begin, we'll remove charges that have yet to be disposed (`disposition` is NA or something aside from `DISMISSED`, `DEFERRED`, or `CONVICTED`), then count how many each individual defendant has in the data.

0.3.2 How many non-marijuana simple possession charges per defendant?

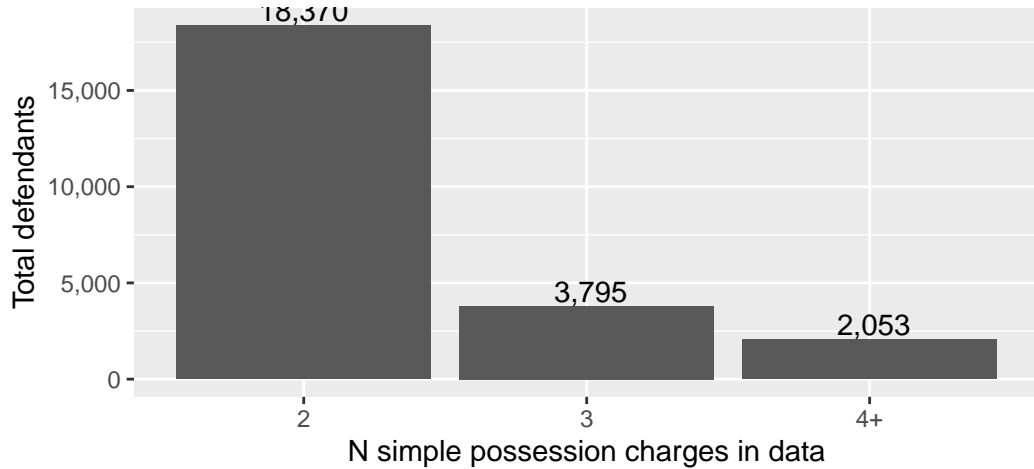
Next, we'll repeat this same analysis with marijuana-specific charges removed, as they would be excluded from HB 2153:

0.3.3 How many defendants have 4+ non-marijuana simple possession charges in a ten-year timespan?

Finally, HB 2153 stipulates that the felony charge only comes into effect after 3+ simple possession **convictions** in a **ten year time-span**. Therefore, we'll filter out charges that

Simple possession charges per defendant

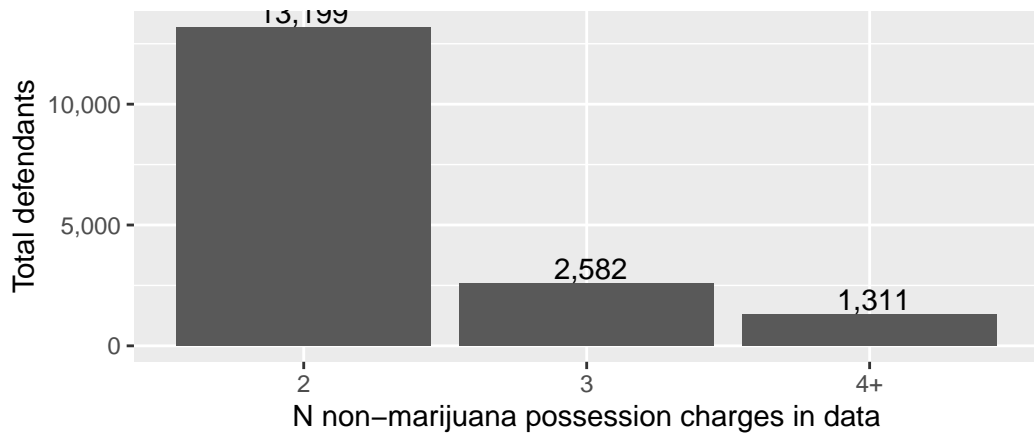
All CF / CM simple possession charges
filed 2001–2022



This data is based on the total number
of charges in our dataset, not cases

Non-marijuana simple possession charges per defendant

Non-marijuana CF / CM simple possession charges
filed 2001–2022



This data is based on the total number
of charges in our dataset, not cases

ended in a dismissal (leaving only convictions and deferred / suspended dispositions) and repeat the analysis with an added 10-year rolling time-frame.

```
# A tibble: 723 x 2
  count_as_disposed charge_desc
  <chr>             <chr>
1 UNLAWFUL POSSESSION OF CONTROLLED DRUG Possession~
2 POSSESSION OF A CDS COCAINE BASE SCHED II Possession~
3 POSSESSION OF A CDS COCAINE SCHED II Possession~
4 POSSESSION OF A CDS SCHD II Possession~
5 POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE Distributi~
6 POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE WITHOUT A PRESCRIPT~ Possession~
7 UNLAWFUL POSSESSION OF CONTROLLED DRUG SECOND AND SUBSEQUENT Possession~
8 POSSESSION OF A PRECURSOR SUBSTANCE WITH OUT PERMIT ATTACHED Distributi~
9 POSSESSION OF CONTROLLED SUBSTANCE Possession~
10 POSSESS PRECURSOR SUBSTANCE Distributi~
# i 713 more rows

# A tibble: 1 x 1
  n
  <int>
1 1239
```