

HB 2153 Impact Analysis

Open Justice Oklahoma

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We estimate that at least

1 Introduction

Oklahoma's 2023 legislative session saw the passage of HB 2153. This bill, rolling back provisions of State Question 780, makes 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 is the situation of having four or more convictions within 10 years. This estimate can inform expectations of impact upon implementation of HB 2153.

2 Data

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 **2,460,551 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. **1,440,250 of the rows** were from these counties, and **1,438,746 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. Cases filed in the 13 OSCN counties therefore represent 42.06% of total cases. If we assume a similar disposition rate to these 13 counties in the other 64, we can then apply a multiplier of 2.38 to extrapolate our result to a statewide estimate.

- **Data availability, per county:**

| District | N Rows | N with Nonmissing Charge | Percent Missing Charge |
|------------|---------|--------------------------|------------------------|
| TULSA | 503,027 | 502,948 | 0.02% |
| OKLAHOMA | 486,990 | 486,748 | 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 | | | |

| District | N Rows | N with Nonmissing Charge | Percent Missing Charge |
|----------|--------|--------------------------|------------------------|
| 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 | 61,237 | 61,194 | 0.07% |

2.2 Methodology

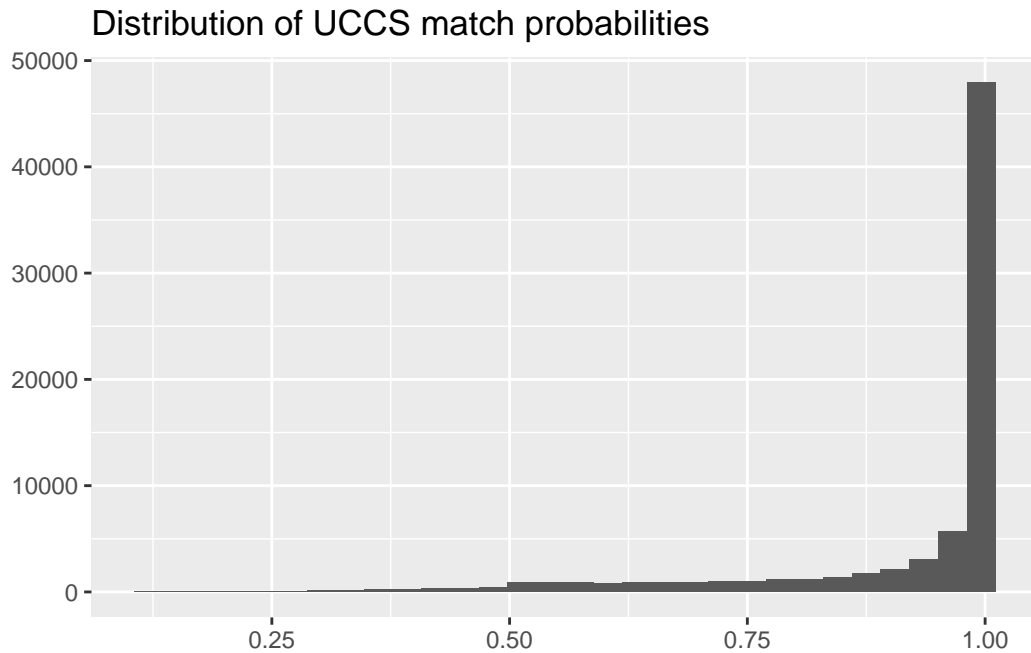
This report analyzes data from 13 counties which report data on charges as filed and disposed, across all complete years of misdemeanor and felony data for charges of possession of a controlled substance. We then use a text classification tool to assist with finding all the simple drug possession charges 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.

2.3 Classifying Charge Descriptions

We use the (TOC tool)[<https://cjars-toc.isr.umich.edu/>] developed by researchers at the University of Michigan’s Institute for Social Research to perform an initial classification of free-text charge descriptions into the Unified Crime Classification Standard (UCCS). The TOC tool provides estimates of the probability that each classification was correct. We set a threshold of 80% confidence, below which pattern matching techniques are used to further classify records for which the TOC tool has lower performance.

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 information on the defendants in each case in order to determine how many have 4 or more simple possession charges.

Of the **152,556 total rows / charges** in the data, **148,126** have an associated person record (**97.1%**). Records without this unique identifier assigned by the court system are excluded from further analysis.

3 Results

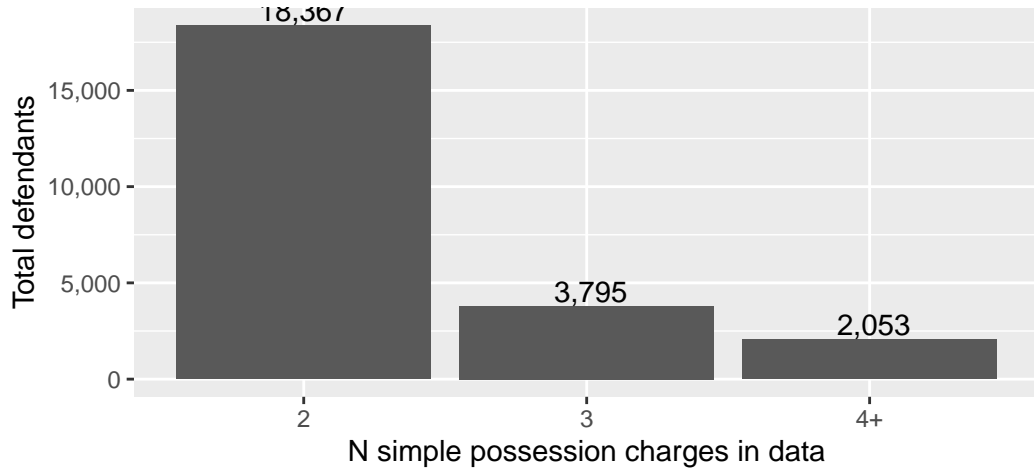
3.1 Distribution of Simple Possession Charges

Excluding indisposed cases, we count how many simple possession charges each individual has from 2001 through 2022.

Next, we repeat this same analysis excluding descriptions mentioning marijuana, as HB 2153 provides an exception for these charges.

Simple possession charges per defendant

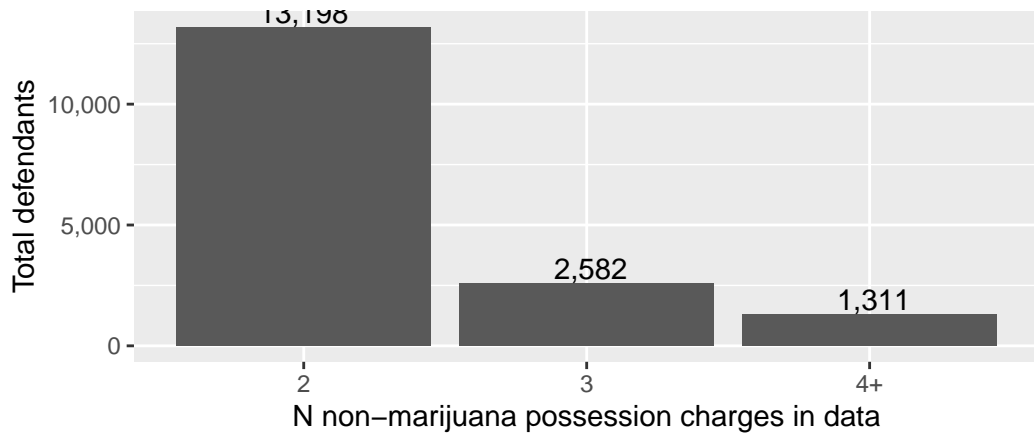
All CF / CM simple possession charges
filed 2001–2022



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

Finally, HB 2153 stipulates that the felony charge only comes into effect on the fourth or higher simple possession **conviction** within a **ten year time-span**. We therefore limit our count of charges to only those within a rolling 10 year window, arriving at our final result for OSCN counties. Applying the multiplier derived above, we then find an estimate for the number of individuals who, since 2001, have been convicted with simple drug possession four or more times.

| OSCN | Statewide |
|------|-----------|
| 1239 | 2945.599 |