

# The Intercept\_

## The War On Pot Marches On: In Nearly Half The Country, Marijuana Arrests Have Gone Up Since 2014

Tana Ganeva

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**Support for legalizing** marijuana is surging among the public, as the position moves closer to the mainstream of the Democratic Party. This week, Senate Minority Leader Chuck Schumer, D-N.Y., a politician adept at reading and responding to the public mood, introduced a bill to decriminalize cannabis at the federal level. And in some states, pot is already being taxed and regulated.

Underneath that progress, however, a war is still raging. New data published [here for the first time](#) show that in at least 21 states, more people were arrested in 2016 than in 2014. Meanwhile, thousands of people who were arrested previously for what is now legal in many places continue to languish in prisons.

Fate Winslow is one of them. Crammed in a dorm with more than 80 other prisoners at the Louisiana State Penitentiary in Angola, he is serving out a life sentence. “Now pack[ed] in like sardines,” he wrote in a recent letter from the prison. They’re double-bunked and there’s no air conditioning to fight the Louisiana heat. “How is it fit to get 86 bodies no air?” he wondered. “Well you see the picture — very hot.”

“Let’s just say there are good days and bad days,” he wrote.

Winslow is sentenced to life imprisonment and hard labor without benefit of parole, probation, or suspension of sentence. Here’s why: In 2008, the year America elected a president who cemented his coolness by revealing he’d smoked pot the *right* way, Winslow played middleman in a deal that wound up with an undercover cop in possession of two dime bags of marijuana. He was homeless at the time and says he needed the \$5 he got from the transaction to buy food.

The cop had initially asked Winslow for “a girl.” Instead of “a girl,” Winslow got some pot from a white dealer. Police arrested Winslow, but not the dealer, even though a marked \$20 bill was found on the latter. For that — or perhaps for having the temerity to go to trial — Winslow was found guilty by the predominantly white jury and given life without parole.

He's been in the Angola prison, infamous for its history of violence and overcrowding, for almost a decade. Angola is also well-known for a prison rodeo, advertised as the "Wildest Show in the South." Rodeo fans pay \$20 to watch prisoners take part in events like bull riding, where "Inexperienced inmates sit on top of a 2,000 pound Brahma bull," and like "Bust Out," where "All six chutes open simultaneously, releasing six angry bulls, with temporarily attached inmate cowboys."

Winslow's bad luck might be extreme: a confluence of racism, the brutal way we treat homeless people, and habitual offender laws ("three strikes and you're out!") ushered in by Republican and Democratic lawmakers at the height of drug and crime panics. Winslow did have priors, but they were nonviolent. "His previous convictions were unarmed burglaries at ages 17 and 27, cocaine possession at 37," Matthew Feeney, a Cato Institute policy analyst, pointed out. "I know it's an overused phrase, but I don't know how some cops and lawmakers sleep at night."

**Though the length** of his sentence is extreme, Winslow is not alone in getting busted for possessing a drug that's legal in several states and decriminalized in many others.

Jon Gettman, associate professor of criminal justice at Shenandoah University, used data from the FBI's Uniform Crime Report to put together previously unpublished arrest data, which he provided to The Intercept.

The data show that in at least 21 states, pot arrests went up from 2014 to 2016, even as weed has been legalized and decriminalized in other states and cities. Complete data were not available for Florida, Illinois, Alabama, and Washington, D.C.

Gettman says the idea that we've taken a laxer approach to pot prohibition is not true across the board. "In some places, arrest rates are not only plugging along, they're going up," he told The Intercept. "The idea that marijuana prohibition is going away is not supported by the data."

In Arkansas, arrests jumped 30 percent from 2014 to 2016. In Hawaii, they went up 51 percent. New Jersey saw a 31 percent increase in marijuana arrests, from 27,208 in 2014 to 35,700 in 2016. In other states, they've stayed at the same high levels. Georgia arrested 27,738 people for pot in 2014; 27,548 in 2015; and 28,223 in 2016. In Texas, arrests hovered in the 60,000s during those years.

Meanwhile, in states that had legalized or decriminalized pot as of 2016, people were still getting arrested, albeit at lower rates. Georgia, for instance, has twice the population of Colorado, but arrested more than five times as many people. In Colorado, which boasts a thriving legal market, 5,771 people were arrested for marijuana in 2014, down from 10,438 in 2012, the year voters legalized it. That number was lower in 2016, but not by much: 5,098. The overwhelming majority of arrests were for possession. As NPR reported, these tend to be low-income, young people of color running afoul of the strict regulations imposed in legal markets.

"Marijuana law enforcement becomes a convenient and useful tactic in the implementation of other law enforcement policies," Gettman said. "You have to ask, 'What purpose do pot arrests serve the local police?'"

Take New York City. Pot possession arrests fell from 26,390 in 2014 to 18,120 in 2016, according to [data](#) assembled by the Marijuana Arrest Research Project and the Drug Policy Alliance. Yet police officers continue to target young people of color: Between 2014 and 2016, 86 percent of pot arrests were of blacks and Latinos.

“Police like these arrests and want to keep them,” said [Harry Levine](#), a professor of sociology at the City University of New York, who tracks arrest rates in the city. “They give ordinary cops overtime pay,” he said, thanks to court appearances and other paperworks needs. There are other incentives. “The police department also channels it into places where they want cops to go. And, they’re easy arrests to make — teens aren’t dangerous or threatening. After all, cops want to get home at the end of the day. A teen with marijuana, there’s not a lot of chance of getting shot or stabbed. Furthermore, teens are probably unlikely to have AIDS, HIV, or hepatitis,” Levine noted. “Unlike drunks or junkies, they’re not going to throw up in the police cruiser. And there’s only some people police can arrest with impunity.”

Nationwide, there’s an endless list of factors that might influence pot arrest rates. Do police make a lot of traffic stops? Do they target certain areas or populations, like people they suspect might be undocumented? Are they trying to establish authority on the street by busting teenagers? New York’s stop-and-frisk program, in which police used a loophole to conduct illegal searches of primarily black and brown young people, is a classic example. The policing of homeless people like Winslow, which happens all over America, is another.

A few other factors drive the arbitrary nature of marijuana arrest rates. There’s some diversion from states where it’s legal, and the creation of black markets driven by the high cost of taxed legal pot. People might be less discreet in public, thinking they’re not going to get busted for weed, Gettman says. It’s also possible that there might be backlash among some police against the growing public acceptance of marijuana. Jeff Sessions, America’s top cop, is famously anti-pot. The attorney general reversed the Cole memo, an Obama-era policy memo that advised federal law enforcement to leave legal state markets alone, in January 2018.

Still, many people continue to profit thanks to legal pot markets, and states are drawing much-needed tax revenue from legalized marijuana.

The unfairness of this is not lost on Winslow. And he has a pretty good idea of why he might die in prison for selling a bag of weed for \$5.

“We both [know] no money no justice that’s just the way the world is,” he wrote.

He finds it strange that people successfully crowd fundraise for pets, but no one seems to care much about people in prison. “I see where people send money to save a dog, a cat ... ” he wrote.

He hopes someday he’ll also win out, and a rich person will take an interest in his case and help him get a lawyer.

“A rich person ... ha ha ... luck does happen.”