

# MARIJUANA MOMENT

## Justice Department Report Shows 61 Percent Decline In Federal Marijuana Prisoners As States Started Legalizing

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The number of people in federal prison over marijuana dropped 61 percent from 2013 to 2018—a greater reduction than any other drug type—as the first states enacted legalization, according to a new report from the Justice Department’s Bureau of Justice Statistics (BJS).

Overall, the federal prison system saw the number of people incarcerated over drugs decrease by 24 percent during that time period. However, as BJS Director Alexis Piquero pointed out in a press release on Thursday that prisoners of the war on drugs “still accounted for a large share—almost half—of the people in [Bureau of Prisons] custody in 2018.”

“At the same time, we saw differences by the type of drug involved, with more people incarcerated for heroin and methamphetamines and fewer for marijuana and cocaine,” he said.

While cannabis cases fell 61 percent, the number of people incarcerated over crack and powder cocaine also decreased significantly, over the five-year period, down 45 percent and 35 percent, respectively. There were smaller decreases for opioids (four percent).

BJS said that the reductions “were partly offset by growth in the number of persons serving time for heroin (up 13 percent) and methamphetamine (up 12 percent).”

The report also shows that nearly all people who were incarcerated in federal prison for drug-related convictions were for trafficking, rather than simple possession—though there was an interesting shift in trends for incarceration over possession, too. In 2013, 2014 and 2015, the number of non-trafficking drug prisoners hovered in the mid-500s. That quickly dropped in 2016, down to 150 such prisoners. In 2017, it further decreased to 114. And finally, in 2018, there were only 54 people in federal prison over drug possession—less than 0.1 percent of the total prison population.

Yet that same year, there were 71,501 people behind federal bars over drug trafficking, representing about 47.4 percent of all BOP detainees.

A racial demographic breakdown shows that Hispanic people accounted for the majority of people incarcerated over marijuana (59.3 percent), followed by white people (19.3 percent) and Black people (18.4 percent).

Among those serving longer sentences (at least 20 years), “more than half of the males were black and over 40 percent of the females were white,” Piquero said.

While the decline in cannabis cases does overlap with the launch of the first adult-use marijuana retailers in 2014, it should be pointed out that the findings are limited by the fact that the newly released data ends at 2018. And the five years since 2018 have seen more state markets come online and criminal legal enforcement priorities continue to shift.

Unlike the BJS report, the U.S. Sentencing Commission (USSC) did track federal drug trafficking cases up through 2022 in a report that was released in March, and it did show an ongoing decline.

The number of federal cannabis trafficking offenders has fallen from about 5,000 in 2013 to just under 806 last year, USSC found. Meanwhile, trafficking cases involving powder cocaine, fentanyl and methamphetamine increased from 2021 to 2022.

Meanwhile, federal data from Customs and Border Protection (CBP) that was released in January shows that cannabis seizures fell to a record low in Fiscal Year 2022, continuing an enforcement trend that advocates attribute to the state-level legalization movement.

A report from the Government Accountability Office (GAO) that was released last year also paints a clearer picture of who is getting caught up in its enforcement activities. At checkpoints across the country, agents are mostly taking small amounts of marijuana from American citizens, rather than making large busts of international cartels like some might assume.

Also, consistent with other studies and federal reports, the analysis revealed a significant decline in cannabis seizures at checkpoints overall since 2016. In 2016, there were 70,058 pounds of marijuana seized at checkpoints by Border Patrol, compared to 30,828 pounds in 2020.

FBI’s Uniform Crime Reporting (UCR) program has similarly shown a notable decrease in cannabis “arrests” that are made at the local and state level as more states enact reform. (However, experts have raised questions about the quality of FBI’s data, based on alleged confusion among law enforcement agencies about reporting requirements.)

In another report from last year, the Congressional Research Service said that the spread of legal cannabis states domestically, combined with international reform efforts, has reduced demand for illicit marijuana from Mexico.

As part of its Fiscal Year 2023 performance budget summary submitted to Congress last year, the Drug Enforcement Administration (DEA) also acknowledged that as more marijuana is being produced domestically in the U.S., it’s undermining illicit cannabis trafficking across the southern border.

A study released by the Cato Institute in 2018 found that “state-level marijuana legalization has significantly undercut marijuana smuggling.”

Federal prosecutions of drug-related crimes overall increased in 2019, but cases involving marijuana dropped by more than a quarter, according to an end-of-year report released by Supreme Court Chief Justice John Roberts in December.