

Data Request

The following data on convictions and sentences imposed, including racial breakdowns, were requested for a three-year time period:

- Number of convictions and active sentences imposed for marijuana-related offenses
- Average sentence length for individuals convicted of *Possession with Intent to Distribute 10 pounds or less of marijuana* (North Carolina Gen Stat. § 90-95(b)(2))
- Average sentence length for individuals convicted of *Possession of over 1 and a half ounces but less than or equal to 10 pounds* (North Carolina Gen Stat. § 90-95(d)(4))

Data Sources and Description

NC Sentencing and Policy Advisory Commission, FY 2017 – FY 2019 Felony and Misdemeanor Statistical Report Data.¹ These data include information on convictions and sentences imposed for the *most serious conviction* on a given day of court.²

Approach

Sentencing Commission staff identified all marijuana-related offense codes in the Administrative Office of the Courts' (AOC) management information system and selected those convictions from FY 2017 through FY 2019. The AOC offense codes differentiate between marijuana offenses and Schedule VI offenses; however, given the relatively small numbers of Schedule VI convictions,³ these convictions were combined with marijuana convictions for analysis and are referred to simply as "marijuana convictions." For analysis, felony convictions for marijuana offenses were occasionally categorized as: sell/deliver, conspiracy to sell/deliver, manufacture, possession with intent, and possession. Similarly, race categories were often collapsed into two broader categories (white, nonwhite) to mitigate the effect of small numbers on analysis.

Limitations

The analysis contained in this document is bivariate. Findings should be interpreted with caution where there are low numbers of convictions.

Findings

Felony Marijuana Convictions

- In each year examined, at least 75% of felony marijuana convictions were in the Possession with Intent and Simple Possession categories (*Table 1, Figure 1*).

Racial Distribution

- Black offenders comprised over 60% of felony marijuana convictions in each year examined; white offenders comprised approximately 30% each year (*Table 2*).

¹ <https://www.nccourts.gov/documents/publications/structured-sentencing-statistical-reports>

² Information on convictions that did not fit within the appropriate cell in the Felony and Misdemeanor Punishment Charts were excluded from analysis. Approximately 2% of felony convictions and 2% of misdemeanor convictions were excluded.

³ Overall, Schedule VI offenses comprised 11% of felony marijuana convictions and 18% of misdemeanor marijuana convictions. Although data are not available to determine, convictions for Schedule VI offenses may include offenses other than marijuana (e.g., synthetic cannabinoid offenses committed prior to 12/1/17, others). However, Schedule VI offenses captured under their own specific offense codes (e.g., synthetic cannabinoids) were not included in this analysis.

Racial Distribution (continued)

- In FY 2019, differences in the racial distribution were found across the categories of drug convictions (Figure 2).

Active Sentences Imposed

- Overall, 7-8% of felony marijuana convictions resulted in active sentences; 8-9% of nonwhite offenders and 4-6% of white offenders received active sentences (Table 3).
- Some of the differences in active rates between white and nonwhite offenders may be explained by differences in prior record level. In FY 2019, a greater percentage of white offenders were in the lower prior record levels (more likely to receive a nonactive sentence) whereas a greater percentage of nonwhite offenders were found in the higher prior record levels (more likely to receive an active sentence) (Figure 3 and Table 4).

Felony Marijuana Possession with Intent Convictions (G.S. §90-95(b)(2))

- For each year, over 70% of offenders convicted of felony marijuana possession with intent offenses were convicted of *Possession with Intent to Sell or Deliver Marijuana* (Table 5).
- Nonwhite offenders comprised between 73-78% of convictions for felony possession with intent offenses, which are all Class I felonies. There was no difference in active rates for white and nonwhite offenders in FY 2017 and FY 2018 (7% in both years) (Figure 4).
- Due to small numbers, findings for convictions with active sentences were not interpreted. The average minimum suspended sentence lengths imposed for non-active sentences were the same for white and nonwhite offenders in each of the years examined (Table 6).

Felony Marijuana Possession Convictions (G.S. §90-95(d)(4))

- For each year, nonwhite offenders comprised approximately two-thirds of convictions for felony possession of marijuana (Class I). There was no difference in active rates for white and nonwhite offenders in FY 2018 and FY 2019 (4% and 3% respectively) (Figure 5).
- Due to small numbers, findings for convictions with active sentences were not interpreted. The average minimum suspended sentence lengths imposed for non-active sentences were the same for white and nonwhite offenders in each of the years examined (Table 7).

Misdemeanor Marijuana Convictions

- For the years examined, *Possession of Marijuana up to ½ Ounce* accounted for 50-53% of misdemeanor marijuana convictions, followed by *Possession of Marijuana Paraphernalia* with 21-22% (Table 8).

Racial Distribution

- Black offenders comprised at least 50% of misdemeanor marijuana convictions in each year examined; white offenders comprised over 40% each year (Table 9).
- In FY 2019, differences in the racial distribution were found across the misdemeanor offenses examined (Figure 6).

Active Sentences Imposed

- For the years examined, 12-13% of misdemeanor marijuana convictions resulted in active sentences. Similar rates of active sentences were found for white and nonwhite offenders. (Table 10).
- In FY 2019, the largest differences in active rates between white and nonwhite offenders were found with convictions for *Possess Marijuana >½ to 1½ Ounces* (13% and 17% respectively) and *Possess Marijuana Paraphernalia* (15% and 10% respectively) (Figure 7).

- In FY 2019, nonwhite offenders comprised 70% of Class 1 and 58% of Class 3 marijuana convictions. The distribution of white and nonwhite offenders by prior conviction level was similar. Overall, a similar percentage of white and nonwhite offenders received active sentences (13% and 11% respectively). Little difference was found in the average length of active sentences imposed (*Figure 8 and Table 11*).
- Differences in active rates by offense class and prior conviction level may be due to the use of pretrial credit to impose a sentence to time served, which can be imposed by the judge if the term of imprisonment is equal to or less than the total amount of time the offender has spent in pretrial confinement (*Table 12*).
- In FY 2019, white offenders convicted of Class 1 misdemeanor marijuana offenses received longer active sentences than nonwhite offenders; however, white offenders also had a greater amount of pre-trial credit on average. Overall, white and nonwhite offenders convicted of Class 1 misdemeanor marijuana offenses served similar sentences (9 days and 10 days respectively). Few differences were found between white and nonwhite offenders receiving active sentences for Class 3 misdemeanor marijuana offenses (*Table 12*).

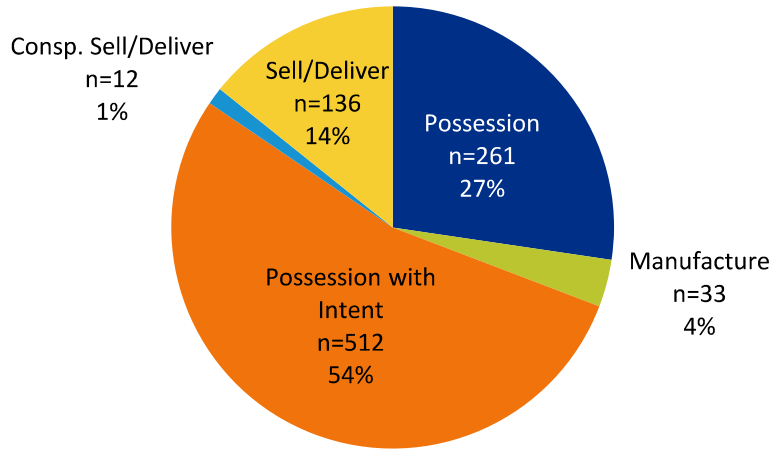
Felony Marijuana Convictions

Table 1: Felony Marijuana Convictions by Fiscal Year

Offense Class	Offense	FY 2017		FY 2018		FY 2019	
		#	%	#	%	#	%
Sell/Deliver		212	19	198	20	136	14
Class H	Sell Marijuana	113	10	116	12	67	7
	Sell Sch VI CS	17	2	19	2	20	2
	Sell/Deliver Marijuana	44	4	30	3	29	3
	Sell/Deliver Sch VI CS	13	1	18	2	8	1
Class I	Deliver Marijuana	16	1	13	1	8	1
	Deliver Sch VI CS	2	0	0	0	1	0
	Sell/Deliver Marijuana	6	1	2	0	2	0
	Sell/Deliver Sch VI CS	1	0	0	0	1	0
Conspiracy to Sell/Deliver		15	1	9	1	12	1
Class H	Conspire Sell Marijuana	0	0	2	0	2	0
	Conspire Sell Sch VI CS	1	0	0	0	0	0
	Consp Sell/Deliver Marijuana	7	1	4	1	4	1
	Consp Sell/Deliver Sch VI CS	0	0	1	0	3	0
Class I	Conspire Deliver Marijuana	2	0	0	0	0	0
	Conspire Deliver Sch VI CS	2	0	0	0	1	0
	Consp Sell/Deliver Marijuana	2	0	0	0	2	0
	Consp Sell/Deliver Sch VI CS	1	0	2	0	0	0
Manufacture		60	5	42	4	33	4
Class I	Manufacture Marijuana	50	4	33	3	27	3
	Manufacture Sch VI CS	10	1	9	1	6	1
Possession with Intent		531	46	498	49	512	54
Class I	PWISD Marijuana	390	34	365	36	370	39
	PWIMSD Marijuana	101	9	85	8	102	11
	PWIMSD Sch VI CS	40	3	48	5	40	4
Possession		330	29	260	26	261	27
Class I	Possession Marijuana	298	26	229	23	234	24
	Possession Sch VI CS	32	3	31	3	27	3
Total		1,148	100	1,007	100	954	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Figure 1: FY 2019 Felony Marijuana Convictions by Offense Category



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Felony Statistical Report Data

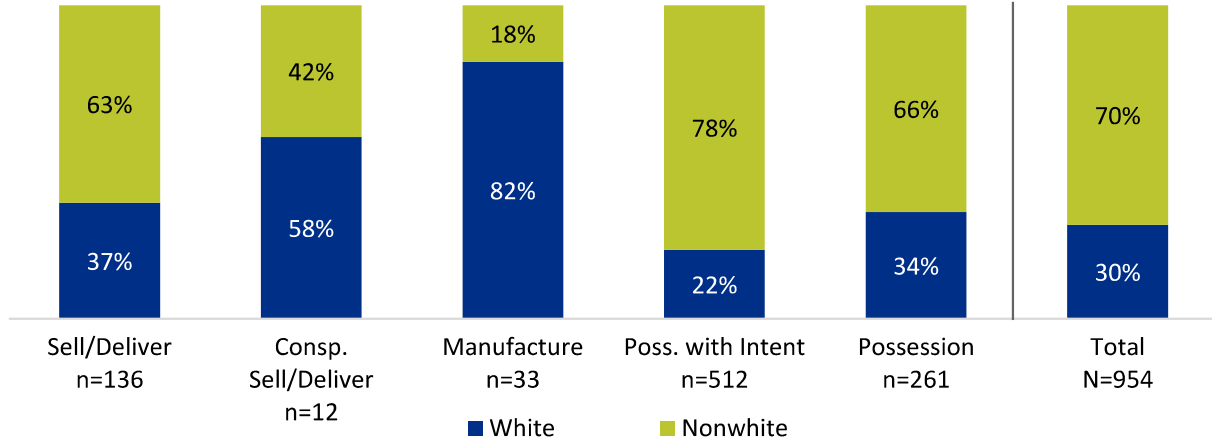
Racial Distribution

Table 2: Felony Marijuana Convictions by Race and Fiscal Year

Race	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
White	362	32	307	30	289	30
Black	725	63	648	64	599	63
Hispanic	29	2	26	3	35	4
Native American	11	1	9	1	7	1
Other	21	2	17	2	24	2
Total	1,148	100	1,007	100	954	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Figure 2: FY 2019 Felony Marijuana Convictions by Offense Category and Race



Note: Findings should be interpreted with caution where there are low numbers of convictions.
 SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Felony Statistical Report Data

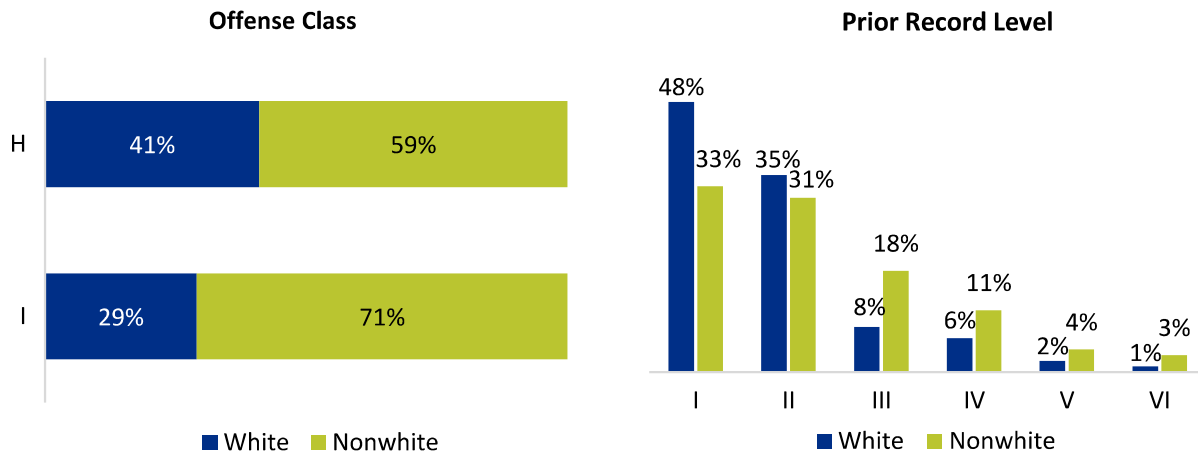
Active Sentences Imposed

Table 3: Felony Marijuana Convictions by Type of Punishment, Race, and Fiscal Year

Overall						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	86	7	78	8	73	8
Non-Active	1,062	93	929	92	881	92
Total	1,148	100	1,007	100	954	100
White						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	14	4	19	6	16	6
Non-Active	348	96	288	94	273	94
Total	362	100	307	100	289	100
Nonwhite						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	72	9	59	8	57	9
Non-Active	714	91	641	92	608	91
Total	786	100	700	100	665	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Figure 3: FY 2019 Felony Marijuana Convictions by Offense Class, Prior Record Level, and Race



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Felony Statistical Report Data

Table 4: FY 2019 Felony Marijuana Sentences Imposed by Offense Class, Prior Record Level, and Race

Offense Class	Race	Prior Record Level						Total
		I	II	III	IV	V	VI	
H	White	C/I/A n = 28 4% Active 4 min	I/A n = 19 5% Active 8 min	I/A n = 1 100% Active 8 min	I/A n = 3 67% Active 12 min	I/A n = 3 67% Active 13 min	A n = 0 0% Active n/a min	C/I/A n = 54 13% Active 10 min
	Nonwhite	n = 28 0% Active n/a min	n = 28 21% Active 6 min	n = 6 33% Active 10 min	n = 10 20% Active 9 min	n = 4 25% Active 15 min	n = 3 100% Active 13 min	n = 79 18% Active 9 min
I	White	C n = 110 0% Active n/a min	C/I n = 82 0% Active n/a min	I n = 23 0% Active n/a min	I/A n = 15 40% Active 7 min	I/A n = 1 100% Active 9 min	I/A n = 4 50% Active 9 min	C/I/A n = 235 4% Active 7 min
	Nonwhite	n = 195 0% Active n/a min	n = 179 0% Active n/a min	n = 111 0% Active n/a min	n = 63 38% Active 6 min	n = 23 44% Active 6 min	n = 15 60% Active 9 min	n = 586 7% Active 7 min
Total	White	C/I/A n = 138 1% Active 4 min	C/I/A n = 101 1% Active 8 min	I/A n = 24 4% Active 8 min	I/A n = 18 44% Active 8 min	I/A n = 4 75% Active 11 min	I/A n = 4 50% Active 9 min	C/I/A n = 289 6% Active 8 min
	Nonwhite	n = 223 0% Active n/a min	n = 207 3% Active 6 min	n = 117 2% Active 10 min	n = 73 36% Active 6 min	n = 27 41% Active 7 min	n = 18 67% Active 10 min	n = 665 9% Active 7 min

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Felony Statistical Report Data

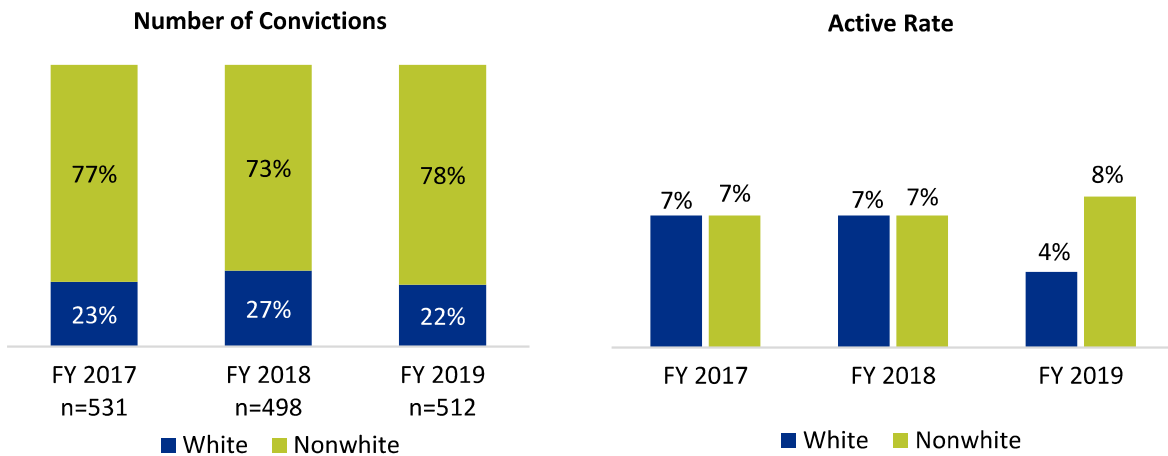
Felony Marijuana Possession with Intent Convictions (G.S. §90-95(b)(2))

Table 5: Felony Marijuana “Possession with Intent” Convictions by Offense and Fiscal Year

Offense	Offense Class	FY 2017		FY 2018		FY 2019	
		#	%	#	%	#	%
PWIMSD Marijuana	I	101	19	85	17	102	20
PWIMSD Sch VI CS	I	40	8	48	10	40	8
PWISD Marijuana	I	390	73	365	73	370	72
Total		531	100	498	100	512	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Figure 4: Felony Marijuana “Possession with Intent” Convictions by Race and Fiscal Year



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Table 6: Average Minimum Sentence Length in Months for Felony Marijuana “Possession with Intent” Convictions by Type of Sentence, Race, and Fiscal Year

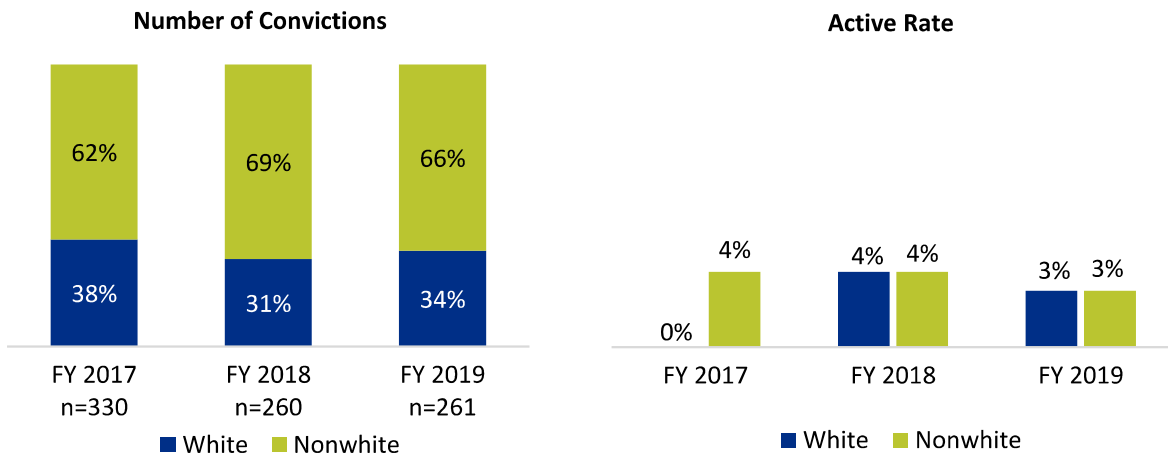
Type of Sentence	FY 2017		FY 2018		FY 2019	
	#	Avg	#	Avg	#	Avg
Active						
White	9	8	9	8	5	8
Nonwhite	30	7	27	7	33	7
Active Total	39	8	36	7	38	7
Non-Active						
White	114	6	124	6	110	5
Nonwhite	378	6	338	6	364	5
Non-Active Total	492	6	462	6	474	5

Note: Findings should be interpreted with caution where there are low numbers of convictions.

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Felony Marijuana Possession Convictions (G.S. §90-95(d)(4))

Figure 5: Felony Marijuana Possession Convictions by Race and Fiscal Year



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Table 7: Average Minimum Sentence Length in Months for Felony Marijuana Possession Convictions by Type of Sentence, Race, and Fiscal Year

Type of Sentence	FY 2017		FY 2018		FY 2019	
	#	Avg	#	Avg	#	Avg
Active						
White	0	n/a	3	8	3	7
Nonwhite	9	7	7	7	6	6
Active Total	9	7	10	7	9	6
Non-Active						
White	126	5	77	5	86	5
Nonwhite	195	5	173	5	166	5
Non-Active Total	321	5	250	5	252	5

Note: Findings should be interpreted with caution where there are low numbers of convictions.

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Felony Statistical Report Data

Misdemeanor Marijuana Convictions

Table 8: Misdemeanor Marijuana Convictions by Fiscal Year

Offense Class	Offense	FY 2017		FY 2018		FY 2019	
		#	%	#	%	#	%
Class 1	Poss Marij >1/2 to 1 1/2 Oz	1,247	9	1,358	9	1,513	10
Class 3	Possess Marij up to 1/2 Oz	7,267	53	7,474	51	7,144	50
	Simple Possess Sch VI CS	2,228	16	2,645	18	2,757	19
	Possess Marij Paraphernalia	2,970	22	3,137	22	2,952	21
Total		13,712	100	14,614	100	14,366	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Misdemeanor Statistical Report Data

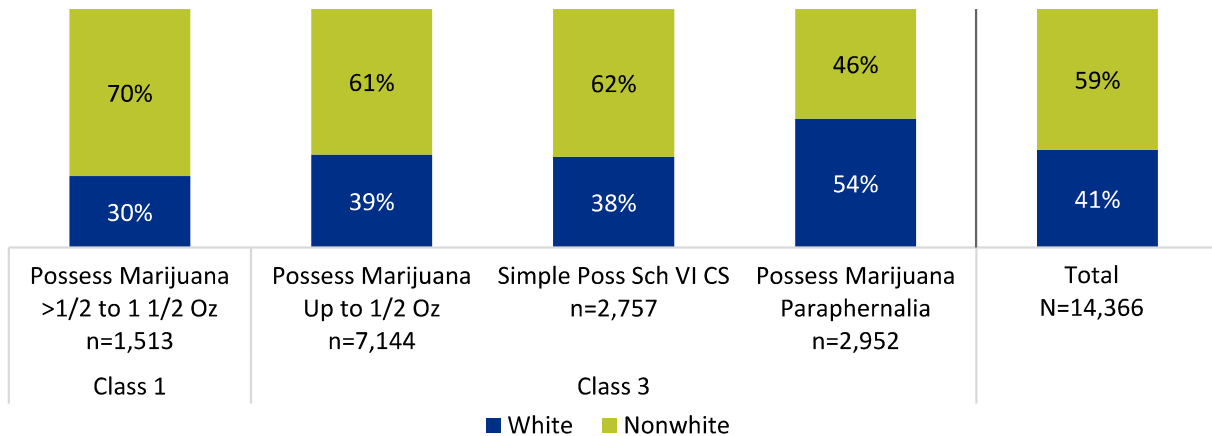
Racial Distribution

Table 9: Misdemeanor Marijuana Convictions by Race and Fiscal Year

Race	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
White	5,930	43	6,258	43	5,855	41
Black	6,843	50	7,373	50	7,538	52
Hispanic	497	4	529	4	571	4
Native American	179	1	167	1	151	1
Other	263	2	287	2	251	2
Total	13,712	100	14,614	100	14,366	100

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Misdemeanor Statistical Report Data

Figure 6: FY 2019 Misdemeanor Marijuana Convictions by Offense and Race



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Misdemeanor Statistical Report Data

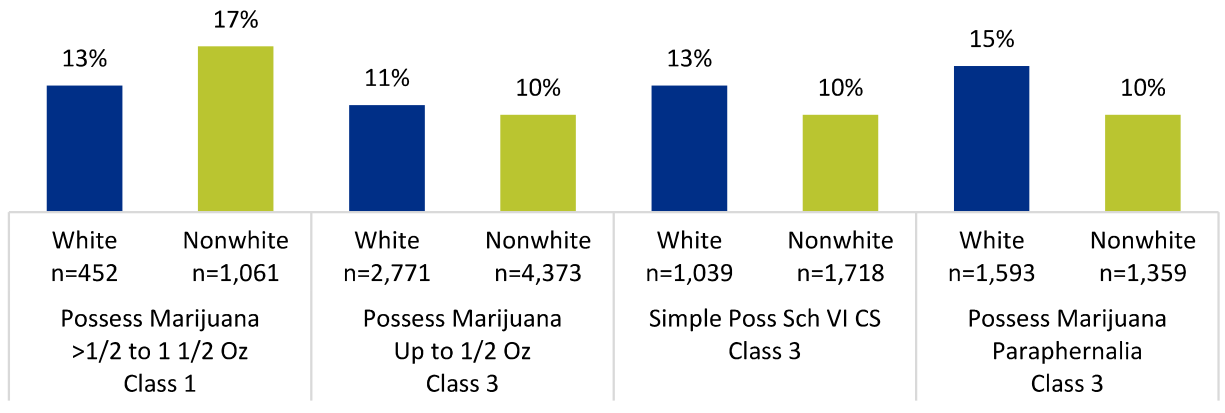
Active Sentences Imposed

Table 10: Misdemeanor Marijuana Convictions by Type of Punishment, Race, and Fiscal Year

Overall						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	1,750	13	1,714	12	1,669	12
Non-Active	11,962	87	12,900	88	12,697	88
Total	13,712	100	14,614	100	14,366	100
White						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	726	12	730	12	743	13
Non-Active	5,204	88	5,528	88	5,112	87
Total	5,930	100	6,258	100	5,855	100
Nonwhite						
Type of Punishment	FY 2017		FY 2018		FY 2019	
	#	%	#	%	#	%
Active	1,024	13	984	12	926	11
Non-Active	6,758	87	7,372	88	7,585	89
Total	7,782	100	8,356	100	8,511	100

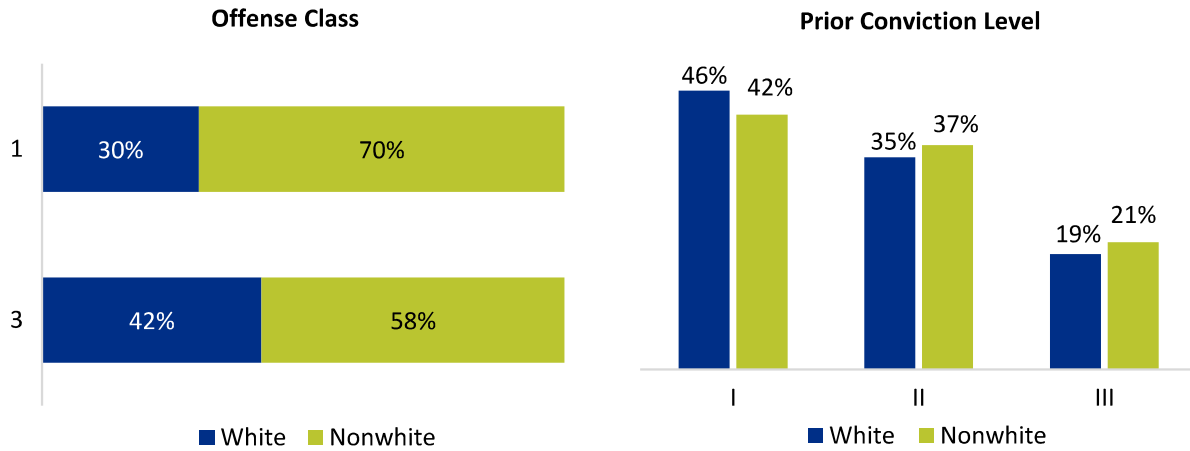
SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2017 – FY 2019 Misdemeanor Statistical Report Data

Figure 7: FY 2019 Active Rates for Misdemeanor Marijuana Convictions by Offense and Race



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Misdemeanor Statistical Report Data

Figure 8: FY 2019 Misdemeanor Marijuana Convictions by Offense Class, Prior Conviction Level, and Race



SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Misdemeanor Statistical Report Data

Table 11: FY 2019 Misdemeanor Marijuana Sentences Imposed by Offense Class, Prior Conviction Level, and Race

Offense Class	Race	Prior Conviction Level			Total
		I 0 Prior Convictions	II 1-4 Prior Convictions	III 5+ Prior Convictions	
1	White	C/I/A n = 176 9% Active 22 days	C/I/A n = 201 12% Active 18 days	C/I/A n = 75 25% Active 52 days	C/I/A n = 452 13% Active 30 days
	Nonwhite	n = 306 8% Active 20 days	n = 466 21% Active 22 days	n = 289 19% Active 35 days	n = 1,061 17% Active 26 days
3	White	C n = 2,533 7% Active 8 days	C/I n = 1,861 11% Active 7 days	C/I/A n = 1,009 30% Active 11 days	C/I/A n = 5,403 13% Active 9 days
	Nonwhite	n = 3,247 5% Active 6 days	n = 2,662 9% Active 7 days	n = 1,541 22% Active 12 days	n = 7,450 10% Active 9 days
Total	White	C/I/A n = 2,709 7% Active 9 days	C/I/A n = 2,062 12% Active 8 days	C/I/A n = 1,084 29% Active 14 days	C/I/A n = 5,855 13% Active 11 days
	Nonwhite	n = 3,553 5% Active 8 days	n = 3,128 11% Active 11 days	n = 1,830 21% Active 15 days	n = 8,511 11% Active 12 days

Note: Active sentences in cells in which an Active punishment is not a sentencing option may be attributed to the use of credit for time served.

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Misdemeanor Statistical Report Data

**Table 12: FY 2019 Misdemeanor Average Length of Active Sentences by
Offense Class and Prior Conviction Level**

Offense Class	Race	Sentence Imposed	Number of Prior Convictions			Overall
			0	1-4	5+	
1	White	Avg Active Sentence (Days)	22	18	52	30
		Avg Credit for Time Served (Days)	22	10	34	21
		Avg Time to be Served (Days)	0	8	18	9
		# of Active Sentences	15	25	19	59
	Nonwhite	Avg Active Sentence (Days)	20	22	35	26
		Avg Credit for Time Served (Days)	20	12	20	15
		Avg Time to be Served (Days)	0	10	14	10
		# of Active Sentences	25	97	56	178
3	White	Avg Active Sentence (Days)	8	7	11	9
		Avg Credit for Time Served (Days)	8	7	7	7
		Avg Time to be Served (Days)	0	0	4	2
		# of Active Sentences	173	212	299	684
	Nonwhite	Avg Active Sentence (Days)	6	7	12	9
		Avg Credit for Time Served (Days)	6	7	8	7
		Avg Time to be Served (Days)	0	0	4	2
		# of Active Sentences	167	248	333	748

Note: Due to rounding, the average time to be served may not equal the average active sentence minus the average credit for time served. All misdemeanor active sentences were included in the average Credit for Time Served, including those with zero days.

SOURCE: NC Sentencing and Policy and Advisory Commission, FY 2019 Misdemeanor Statistical Report Data