

Toronto marijuana arrests reveal 'startling' racial divide

Toronto police data obtained by the Star breaks down arrests by neighbourhood and shows disproportionate numbers for Black people when it comes to pot possession charges.

Toronto lawyer Annamaria Enenajor says disproportionate criminal convictions for marijuana possession for Black Canadians are a "legacy of racism." (JIM RANKIN / TORONTO STAR) | ORDER THIS PHOTO

There's little evidence to show that marijuana use differs among Black and white people. But Toronto police data from 2003-2013 shows very different rates of marijuana possession charges, according to a Star analysis. (DARRYL DYCK / THE CANADIAN PRESS FILE PHOTO)



Anthony Morgan, a human rights lawyer and community activist, says the federal government should set up an "active mechanism" to remove charges related to marijuana possession, post-legalization. (JIM RANKIN / TORONTO STAR) | ORDER THIS PHOTO



Toronto lawyer Daniel Brown says the Toronto police TAVIS unit has criminalized a generation of young black males over marijuana, a substance that is on the verge of being legal. (JIM RANKIN / TORONTO STAR) | [ORDER THIS PHOTO](#)



Toronto lawyer Annamaria Enejor says disproportionate criminal convictions for marijuana possession for Black Canadians are a "legacy of racism." (JIM RANKIN / TORONTO STAR) | ORDER THIS PHOTO



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Black people with no history of criminal convictions have been three times more likely to be arrested by Toronto police for possession of small amounts of marijuana than white people with similar backgrounds, according to a Toronto Star analysis.

They've also been more likely to be detained for bail, the data shows.

The disparity is largely due to targeting of Black people by Toronto police, according to criminologists and defence lawyers interviewed by the Star, who note that surveys show little difference in marijuana use between Black and white people.

Anthony Morgan, a human rights lawyer and community activist, called the statistics "another example of the failed war on drugs."

As Canada moves toward the legalization of marijuana, the Star examined 10 years' worth of Toronto Police Service marijuana arrest and charge data, obtained in a freedom-of-information request.

From 2003 to 2013, Toronto police arrested 11,299 people whose skin colour was noted — and who had no prior convictions — for possessing up to 30 grams of marijuana. These individuals were not on parole or probation when arrested.

According to how police recorded skin colour, 25.2 per cent of those people were Black, 52.8 per cent were white, 15.7 per cent were brown, and 6.3 per cent were categorized as "other."

For Black people, the rate of arrest is significantly higher than their proportion of Toronto's population in the 2006 census, which is 8.4 per cent. Whites represented 53.1 per cent of people in the city.

“I can’t say I’m surprised by the glaring disproportionality,” says Danardo Jones, director of legal services at the African Canadian Legal Clinic, “but these are just startling numbers.”

The Star matched “brown” and “other” skin colour categories used by police with ethnic backgrounds used by Statistics Canada. That put the city’s “brown” skinned population at 14.7 per cent and those in the “other” category at 23.8 per cent.

Toronto police did not dispute the Star’s analysis but in an email response, the service said it continues to believe the Star’s use of census data for comparison to carding and charge data is “misleading.”

“This is not to suggest that there is not a continued need for education and training on the issue of disparity and fair and impartial policing, of which the TPS is committed,” police said in the email.

The police marijuana data also indicates Black people are more likely to receive different treatment after an arrest — a finding consistent with [Star analyses](#) that date back to 2002.

Most of the 11,299 people without prior convictions were released at the scene when caught with small amounts of marijuana. But 15.2 per cent of Black people — the highest rate among the racial groups — were detained for a bail hearing. That compares to only 6.4 per cent of whites.

The data released to the Star does not indicate whether the marijuana charges were accompanied by a second, more serious offence, which can affect how people are released or detained. It’s likely that people held for bail are facing another charge.

In response to Star queries, police said 54 per cent of the marijuana possession arrests in the data involved at least one other criminal charge.

Other discretionary factors that can impact not being released at the scene or being held for bail include having been stopped by police before (carding), no ID, no fixed address, having been let go once already on a possession arrest, attitude, where you were stopped and who you were with. The data doesn’t indicate these things.

Young people, ages 12 to 18, represent 22 per cent of arrests for possession between 2003 and 2013.

The disparity in police treatment is even greater when it comes to youth with no prior convictions who are 12-18. Among Black kids, the proportion detained for bail remains at 15 per cent. But the rate for white kids falls to 3.2 per cent.

Morgan, a lawyer with Falconers LLP, describes the “over-policing” of Black people as a consequence of racism.

Yet, looking at the proportions of people of all ages released unconditionally — meaning a marijuana offence was noted in a police database but the charge not formally laid — there was little difference by skin colour.

About one in five people arrested were released unconditionally with no charge, say police.

The 2015 Ontario Student Drug Use Survey, conducted by the Centre for Addiction and Mental Health, found 19 per cent of 1,000 Toronto high school students reported using cannabis at least once in the past year. Of those, 39 per cent were white; 14 per cent Black; and 47 per cent “other” or mixed race. (The Black proportion for ages 12-18 in the 2006 census was 12 per cent.)

“There’s very little evidence to suggest that Black people actually use more drugs,” says Scot Wortley, a University of Toronto criminology professor, whose Toronto Youth Crime Victimization Survey in 2000 showed similar marijuana use for Black and white youth.

If monitoring by law enforcement were equal, you would expect similar charge rates for Black and white people, Wortley adds.

Yet an analysis of all marijuana possession offences noted in the police data from 2003 to 2013 reveals greater disproportionate results.

A third of the 40,635 marijuana charges during that decade — 33.8 per cent — were against Black people. The charges were for possession of no more than 30 grams, and for possession for the purpose of trafficking.

Marijuana possession arrests and offences noted in the data steadily increased during that decade. The trend parallels the police practice of “carding” people not involved in crimes. A [2010 Star investigation](#) found that Black people in Toronto are 3.2 times more likely to be stopped, questioned and documented by police than white people. The ratio remained constant in three subsequent Star examinations of carding data.

“I think the overlap is clear,” Jones, of the African Canadian Legal Clinic, says of the rise in carding and marijuana charges. “If you over-police, or you over-surveil, you are going to find particular kinds of offences kind of shoot up.”

The Star shared its analysis with Toronto police in May and provided an updated version in early June, along with findings it sought comment on. In late June, the service emailed a response that did not address most areas the Star sought comment on.

Aggregate stats for the years after the decade covered in the data, released to the Star by police, show marijuana charges peaked in 2012, at 5,200, and decreased steadily through 2016, when only 2,303 were recorded.

“This (decrease) can be attributed to a number of factors including a decrease in the number of interactions police are having with the community and the reassignment of resources to other (illegal drug) priorities, such as trafficking and other substances,” the service said in the email.

“It is also possible that officers are choosing to exercise their discretion when it comes to arresting individuals for marijuana possession,” it continued. “Generally speaking, more of that can be expected as the TPS uses a diversion program specific to young people who are found to be committing less serious crimes.

“However, as long as the possession of marijuana continues to be illegal, the Service will continue to lay charges as appropriate.”

Criminal defence lawyers and criminologists say it’s no coincidence that marijuana charges increased along with carding stops during the decade covered by the data. The stops often result in searches, and charges if marijuana is found.

The now-disbanded Toronto Anti-Violence Intervention Strategy (TAVIS), a police tactical unit set up in 2005, carded Black people more disproportionately than any other police unit. The provincially funded program was deployed in neighbourhoods where recent violence had taken place, and where populations tend to be poorer and more diverse.

“It’s really sad when you realize the effects of TAVIS and what they call proactive community policing,” says Daniel Brown, a Toronto lawyer who has regularly defended clients on marijuana charges. “What it’s really done is

criminalize an entire generation of young Black males, over something that's now on the verge of being legal.

“What TAVIS taught officers to do is shake down young black males, because if you look hard enough you're probably going to find something,” he adds.

“They didn't go into the parks of Forest Hill to shake down the rich white kids. They spent their time in the parks and community centres of the Jane and Finch corridor, and it was like shooting fish in a barrel.”

The data obtained by the Star shows that neighbourhoods with the fewest marijuana charges are typically whiter and wealthier. Kofi Hope argues pot smoking in these places has gained a “quasi legalized” status, with police often saying little more than “put it out.”

“There is not the same interest of police in controlling young people in Rosedale or Forest Hill,” says Hope, executive director of the CEE Centre for Young Black Professionals, which provides skills training and career development programs for young Black people.

Liberal MP Bill Blair, police chief in Toronto during most of the time period covered by the marijuana data, has in his new role as the government's point person on legalization acknowledged the disparities.

“I think there's a recognition that the current enforcement disproportionately impacts poor neighbourhoods and racialized communities, and there's something unjust about that,” Blair was quoted as saying in a 2016 Maclean's profile. He has also described the disparity as “one of the great injustices in this country.”

The Star provided Blair, parliamentary secretary to the justice minister and attorney general, a copy of the marijuana analysis in early June and asked for an interview. At publication time, he had not responded.

The government has so far released no plans regarding Canadians saddled with criminal records because of marijuana.

High numbers of marijuana charges and high levels of carding generally overlap in the city's poorer, more diverse neighbourhoods, the Star analysis found. Areas that are wealthier and whiter see lower levels of both.

“One of the things I find most troubling, although not surprising, is that cannabis possession arrests increased in tandem with the practice of carding

in Toronto,” says Akwasi Owusu-Bempah, an assistant sociology professor at the University of Toronto with an extensive background in criminology. Like others interviewed for this story, the Star shared with him its analysis.

Carding, he notes, was used as a measure of performance and officers professionally benefited from filling out more contact cards and were encouraged to do so by their superiors.

“As carding was so concentrated among the poor and racialized, they have disproportionately experienced the negative consequences — including criminalization,” says Owusu-Bempah. “So what we have is a situation where police officers benefited personally from the further marginalization of vulnerable Torontonians.”

Between 2003 and 2010, the neighbourhood where Toronto residents were most likely to be arrested for possession was in police patrol zone 144, on the western edge of downtown. (Police reclassified and reshaped some zone boundaries in 2011, including zone 144, making it difficult to examine and compare anything after 2010.)

Police documented at least 580 pot possession offences in the area bordered by King St. W. to the south, Bloor St. W. to the north, Bathurst St. to the west and Spadina Ave. to the east. It is home to Kensington Market, Chinatown, hip Queen St. W. and Alexandra Park, a community that has struggled with drugs and violence.

One of more than 70 police patrol zones in the city, the area is also where police were busy carding people, on average, about 15 times each day, from 2008 to 2013. The Black population is 7 per cent, white 53 per cent in the zone, which attracts a lot of people from other areas.

Alexandra Park, a rent-geared-to-income community for much of its history, is a socially vibrant place where people “live a lot of their lives in the outdoor spaces,” says Bridget Sinclair, director of community services at St. Stephen’s Community House. It also has a history of tension with police.

In late 2009 and into 2010, police kept close watch on a dispute between rival gangs — one based in Alexandra Park, the other in Regent Park. Members of both gangs were “actively involved in drug trafficking, assaults, robberies and firearms-related offences,” according to minutes of a community police liaison committee. The dispute played a role in a 2012 shooting at the Eaton Centre that claimed two lives and injured six.

Police flooded the area with officers, including those from TAVIS.

TAVIS was “very much a part of the neighbourhood in ways that were not positive for many people,” says Sinclair, whose organization provides supports to Alexandra Park residents. “And there were some very big incidents that happened between police and young people during the years that data has been collected.”

Much has changed since then, including a redevelopment project that has displaced many of the subsidized housing residents whose homes were demolished or renovated, and market-priced condos built.

A dramatic growth in marijuana dispensaries in the last two years has attracted partiers from the nearby Entertainment District and ensured a visible police presence. But Sinclair says police are trying to rebuild their relationship with the community.

In June, the provincial government, in conjunction with Toronto police, announced funding for a “pre-charge” diversion program allowing officers discretion in laying charges. Youth would avoid court and a record by working in community-based programs. St. Stephen’s is one of those programs.

The area of the city with the next highest number of pot possession charges between 2003 and 2010 is zone 121, a pocket of the Weston-Mt. Dennis neighbourhood that has, proportionately, the largest Black population in the city at 27 per cent, and where police also carded heavily. Police averaged 22 contact cards per day from 2008 to 2013. It was the highest carded area in 2009 and 2010, with close to 30 contact cards filled out each day. From 2003 to 2010, police recorded 550 pot possession offences in the zone.

In 2012, the Star [profiled the neighbourhood](#) that had been plagued by gun homicides and targeted by the TAVIS unit.

The relationship between youth and police was “toxic,” said one youth worker at the time. Mark Saunders, now Toronto’s police chief, had been brought in to run 12 Division, which includes zone 121. Violent crime decreased but tensions ran high, with young people reporting they were routinely stopped. Often, the stops involved searches.

Saunders was working on improving relations.

“I get it when you’re talking about toxic,” Saunders told the Star in 2012. “But I’m getting phone calls from people who are very excited. They’re going, ‘Great, when are you coming out into the community?’ ”

By mid-2013, carding had plummeted amid increasing controversy and a rule that required police to issue a carding “receipt.” The practice was suspended Jan. 1, 2015, by Saunders’s then boss, Blair. New provincial carding regulations kicked in this year.

From 2003 to 2013, police noted only 111 marijuana possession charges in patrol zone 325, the lowest number. The north Toronto area includes Hoggs Hollow, home to multimillion-dollar homes, and the Rosedale Golf Club. Nearly 80 per cent of the people who live there are white. Between 2008 and 2013, police carded about four people a day.

The second lowest number of marijuana charges noted — 123 over 10 years — was in zone 533, which includes tony Yorkville and university frat houses. Three-quarters of residents are white. Police carded on average 13 people a day between 2008 and 2013.

Annamaria Enenajor, a Toronto criminal defence lawyer with a focus on civil rights, sees what she describes as policing bias on her walks to her office near University of Toronto student housing.

“I don’t see them doing raids on those frat houses,” she says. “It’s all drunken white boys over there. I walk by and I definitely smell weed.

“It comes from the legacy of racism and the reality of racism,” she adds. “Mistakes by white Canadians are forgivable and mistakes by Black Canadians are deviant and require punishment.”

Morgan says the drug statistics “expose what many in and outside of Black communities have recognized as a war on Blacks.”

He notes that for many Black teens, getting searched for marijuana is their first interaction with authorities. Those charged often can’t afford a lawyer and rarely get the option of settling their charge with a donation to charity, for example.

They instead appear in a courtroom where everyone, from the judge to the administrative clerk, tends to be white. “The sense that ‘the system is out to get me’ ends up having a very visual representation,” Morgan says.

Court appearances get missed and bail conditions broken, often something as minor as breaking curfew by a half-hour. That forces a downward spiral into the justice system followed by more serious charges, and the humiliation and possible job loss that comes with jail time.

A criminal record “further entrenches an underclass status,” Morgan says. “It’s almost like a scarlet letter that they feel they carry around. And it increases the sense of being watched and targeted by systems, a sense that systems are waiting for them to fail.”

METHODOLOGY

The Star obtained Toronto Police Service marijuana possession arrest and charge data for 2003 to 2013 in a freedom-of-information request.

The data includes information about 34,646 arrests of 27,635 individuals, and 40,634 associated offences for simple possession and possession for the purpose of trafficking. Some people were arrested multiple times for marijuana offences over the timeframe examined.

Instead of names, police released randomly generated unique numbers for individuals. Included in the data are gender, age, skin colour, exact charge, the patrol area where the arrest occurred and how people were released. Also included were indicators for whether people had previous convictions, or were on bail, probation or parole at time of arrest.

Police identify people as having one of four skin colours (black, brown, white and other). The Star compared arrest and charge rates by skin colour to Toronto’s population, using Statistics Canada data from the 2006 census. This is far from perfect, since the census data does not have categories for “brown” and “other” in its ethnic and racial breakdown.

As the Star has done numerous times since a groundbreaking [2002 series](#) into race, policing and crime in Toronto, and subsequent examinations of [carding data](#), ethnicities and racial categories were placed into either “brown” or “other” based on clues in the police data, including birth countries where the country was other than Canada.

Associated non-marijuana charges were not included in the data. For example, if an individual was simultaneously charged with simple possession and a firearms offence, the firearms offence is not present in the data requested. An

associated, more serious charge can affect how an individual is released, or held for a bail hearing.

Also not included in the data are outcomes for cases that headed to court, which the police do not track.

Data for the year 2013 is incomplete, as the police service switched over to a new records management system late that year. That was the cut-off point for the Star's request.

The Star shared its findings with police before publication. Police expressed no concerns with the analysis but have historically been critical of the Star for using census data for baseline comparisons. In many such comparisons, it is the only baseline available.

In an emailed response to the Star, the service said it “continues to believe the comparison between the ethnicity of those charged with a crime and the ethnicity breakdown of the city based on census data is misleading.”

The Star has made available by PDF, below, a detailed findings package. To obtain the underlying dataset contact reporter Jim Rankin at jrankin@thestar.ca.