

A Decision on Drug-Based Crimes to Cause Divide

By: Cameron Tyo

On September 30th, 2019, Ryan Mears, the top prosecutor of Marion County, decided for his office to no longer prosecute certain offenses revolving around marijuana. If a person possesses less than one ounce of marijuana, they are not to face formal charges from the prosecutor's office were his stance on things. The reason for this was because Ryan believed charging for crimes such as this disproportionately impacted people of color and that it gave prosecutors less time to prosecute for more violent crimes as court dates would be filled to charge for smaller crimes.

This decision was one of the first where drug crimes of any severity would be dropped. This caused a divide in the relationship between the Marion courthouse and the police department. Gary Woodruff, commissioner of the Marion Police Department at the time of this decision mentioned in a statement right after Mear's decisions that the Marion police would still be able to write summons and arrest people who have a tiny bit of hemp as it still breaks state law. Mears made it clear that his decisions were all moral and not political. When this announcement was made, everyone was confused about the changes in arresting procedures and how this would impact Marion. From this point onward, other prosecutors from different counties have decided to stop charging for certain drug-related crimes. Prosecutors have some jurisdiction in deciding what crimes to charge and not. But how are these decisions made?

Factors of a Prosecutor's Decision:

A county's population size can have a significant impact on a prosecution's decision on what crimes they charge people for. Take the county of Montgomery County, Indiana, which, according to census data, has 38,573 people and Marion County, which, according to stats Indiana, has 968,460 currently residing. These numbers show that more people in an area lead to more criminal activity. More crimes happen, whether it be murder or petty crime as per Marion's Sheriff Office public records and because of this, the prosecutor's office is given a ton of cases; prosecutors must decide what to charge for based on many different factors like whether someone has committed a petty or big crime and If they have to choose, a prosecutor is going to charge someone for a murder crime rather than possession of marijuana as public records showed. They charge for and sentence people for crimes that are severe and, when dealt with, can make the county safer. They might charge based on whether someone is committing a first-time offense or not. This is similar to the stance Mears took. However, Montgomery County, which is smaller, might have fewer crimes to handle and therefore charges people no matter the crime they commit

because they have the time to schedule hearings, etc. In fact Montgomery County has only a crime rate of 21.1 which is slightly lower to the US average as stated by the [Montgomery County's Police Department](#).

Many people especially older folks used to the law might find it immoral in general to not charge for marijuana cases as Indiana law itself states that it is illegal to use for recreational purposes. Someone who has been wanting prosecutors to be made accountable for their actions when it comes to not charging for drug-related crimes is Senator Aaron Freeman. According to the Indiana General Assembly, Aaron Freeman, for the last five to six years, has been trying to pass a bill that enforces prosecutors to charge people for crimes that break state rules. This bill has come to be known as Senate Bill 284.

"I've made many enemies from both the Democratic and Republican parties in the Indy office throughout the years. I can't help but think that is why my bill keeps getting vetoed. Nonetheless, I'll keep pursuing getting this bill passed for the sake of morality," Freeman said.

Freeman's piece of legislation targeted specific individuals like Mears, who had made the decision to decline charging for small marijuana crimes. Freeman himself used to work as a deputy prosecutor at Marion County.

"I know Marion prosecutors are capable of managing schedules and ensuring that people who commit crimes are charged as such, even those of marijuana. I used to work as one there, I would know. So why change now? Surely, the rise of crime hasn't been so significant since my time of departure that they have to drop some charges to make room for sentencing dates for others," Freeman also had to say.

It is believed that people are reluctant to sign on to the bill as its passing might cause prosecutors to resign if some of their jurisdiction is taken away from them.

One of these individuals that think this is Rodney Cummings, who is currently a Marion prosecutor.

He mentions how many experienced prosecutors feel like it their duty to charge for a crime as they see fit and also revealed how prosecutors are typically assigned certain cases to charge for and handle.

"I typically handle cases of felony and murder and charge accordingly," Cummings had to say."

"Many of the newer prosecutors are in charge of managing misdemeanor cases such as possession of marijuana, etc."

It is not hard to imagine that a much less inexperienced prosecutor might not know whether they should charge a person for something or not, no matter the cost. If this works similarly to Marion in other counties, it would explain why some people get charged for similar cases, and others don't. Prosecutors have different visions that help them reach their verdict. In most serious cases, people are typically charged, but the amount might be different. The prosecutor's thoughts on the case change this, and every prosecutor thinks differently.

Public's Reaction to the Law

It has been noted by many that the court system might not be the greatest, and as such, when people get accused of similar crimes but get different sentences, people are often confused and get angry with the courts and, more importantly, the prosecution that made the decision.

Whitney Riggs, a public information officer (PIO) for the Indiana Prosecuting Attorney's Council, mentioned how sometimes the documents in manuscript form describe a prosecutor's reason for filing a charge against someone, and they are often so different depending on the situation. The prosecutor's mood could also play a factor.

“There would be times when angry civilians would call our office to complain about someone being charged with a crime, and I would have to direct them to where they should be complaining: one of the many counties' courthouses,” Riggs mentioned about how the public act when similar cases gets straighten out differently from one another.

Mears made what he thought was the right decision in the long run, and while some people could see why he decided not to charge people who were caught with small doses of marijuana, many others thought of this situation as immoral. It was sort of like an act of encouraging people to break the state laws. However, prosecutors make the decisions on what to charge for, and there are so many factors, internal and external, that lead them to their decisions. This causes decisions to be inconsistent with others, but this is how the court system works and has for a while now and no where is this more prevalent than bigger counties such as Marion county.