



# County of San Diego

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TO: Governor's Office of Business and Economic Development (GO-Biz)

FROM: Andrew Strong  
Director, Office of Equity and Racial Justice

## COMMERCIAL CANNABIS SOCIAL EQUITY PROGRAM AND ASSESSMENT

The San Diego Cannabis Equity Assessment was prepared by Womxn's Work Consulting, LLC. The County hired this third-party vendor to study the impacts of cannabis criminalization and the war on drugs on communities in San Diego County and provide policy recommendations for creating social equity in the County's adult-use recreational cannabis market. The recommendations will be taken into consideration and reviewed by the County. Implementation of the recommendations included in this Assessment will depend on a thorough review of legal viability and approval by the Board of Supervisors.

The County is grateful for Womxn's Work Consulting's invaluable service in preparing the Assessment. If you have questions concerning the assessment or next steps with the County's Commercial Cannabis Social Equity Program development, you can contact me, Andrew Strong, Director of the Office of Equity and Racial Justice at [Andrew.Strong@sdcounty.ca.gov](mailto:Andrew.Strong@sdcounty.ca.gov) or 619-531-5526. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Andrew L. Strong Jr.", written over a white background.

ANDREW L. STRONG JR.  
Director



# JUSTICE IN THE 4/20 INDUSTRY

THE COUNTY OF SAN DIEGO SOCIAL EQUITY  
ASSESSMENT

OCTOBER 2022



PREPARED BY: WOMXN'S WORK CONSULTING, LLC

## Acknowledgements

### To Our Community:

This report would not have been possible without your brave contributions. The diverse community of San Diego county was critical to this report: you not only answered our questions, but posed new ones and told us who else to discuss with. In a world where people face retaliation at work, community, school and the leasing office because they are system-impacted, it is brave to share how the War on Drugs ravaged your life, family and community. When people in power constantly speak over and for you, it is courageous to boldly share your vision for a future where more people can thrive without fear of further prosecution and can overcome their past to build generational wealth. In a society where our communities are pitted against each other, it is heroic to trust one another and share your fears and concerns with one another. In a country built on the enslavement and genocide of Black and Indigenous it is revolutionary, to plan for reparations and land rematriation. You did all of these things in interviews, on phone calls with our organizers, on online survey responses, during focus groups and in community listening sessions. We did our best to honor all of the data you shared in the following report. However, this report is only one step in the continued journey we are on together towards healing and liberation.

### In Power,

*The Justice in the 4/20 Industry Team*

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***A special thank you to Ebonay Lee whose brilliance, bravery and foundational work has been so essential to advancing the local movement for social equity in the legal recreational cannabis industry.***



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# Executive Summary

## Background

San Diego County has high and disparate cannabis prohibition enforcement rates. Based on data publicly available from the California Department of Justice (1980-2016), San Diego county has a per capita drug related arrest rate higher than the state's per capita drug related arrest rate. Within the county, different communities have received the brunt of cannabis enforcement. For example, despite having similar cannabis usage rates to white county residents, Black, Latiné<sup>1</sup>, Pacific Islander and Native American/Indigenous populations in the county have experienced disproportionately high arrest rates compared to their white counterparts.

Proposition 64 establishes a goal to transition people into the regulated adult-use cannabis market, making social equity programs necessary. The Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) (Proposition 64), approved in 2016, calls for cannabis regulation that “reduces barriers to entry into the legal, regulated market.” There are many barriers to entry into the regulated cannabis market. For example, the County of San Diego license fee is currently \$49,460 for medical cannabis. Additionally, brick-and-mortar retail or facilities and equipment for growing, manufacturing, warehousing and distribution can cost tens or hundreds of thousands of dollars. These barriers are even higher for communities that have been disproportionately impacted by the War on Drugs, as histories of incarceration are associated with more limited access to capital. Furthermore, Black, Latiné and indigenous permittees with criminal records are more likely to be viewed as in need of surveillance, institutionalization, and unfreedom. Additionally, trauma-associated with criminalization and the impacts of incarceration on family and community cohesion-presents barriers to accruing capacities and expertise levels for entrepreneurial success, emotional and psychological wellness, family and relational cohesion, mentality shaped by survival, and many other possible dynamics that impact the ability of a social equity entrepreneur to navigate work-life balance in personal, family, and community contexts, as well as the pressure and attention coming from business leadership and the scrutiny anticipated on a government support program.

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<sup>1</sup> The terminology Latiné is used throughout this assessment. This is a gender neutral term that is used to refer to people who have ancestry in Latin America. Latino, Latina and Latinx are also used to describe people who have ancestry in Latin America. In San Diego county, many community members that are Latiné are also Hispanic (i.e., from a country where Spanish is spoken). However, not all Latiné people are Hispanic, thus the broader term is usually used. If the term Hispanic is used it is because population data that specifically characterizes Hispanic people is being described.



The County of San Diego established a mandate for community reinvestment. In January 2021 the Board of Supervisors directed staff to develop a Socially Equitable Cannabis Program. The County's Request for Proposals (RFP) for this Social Equity Assessment explicitly expands the socially equitable cannabis program beyond diversifying actors in the existing cannabis industry: "The Socially Equitable Cannabis Program shall not be limited to providing equitable business ownership, operation, or employment opportunities within the cannabis industry. Rather, it shall also address and repair the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and its impacts at the individual, familial/generational, and community level, over time." This vision for the County of San Diego's Socially Equitable Cannabis Program orients the County of San Diego towards the community-wide reparations that are critical to promoting social equity.

## Key Assessment Findings

- On January 27, 2021 the County of San Diego's Board of Supervisors approved a board letter that directed the establishment of a Social Equity Program to "help rectify the injustices caused by the War on Drugs."
- According to this assessment's analysis of San Diego county cannabis-related arrest data, Black San Diegans are arrested at a rate that is 5 times the white arrest rate; Pacific Islander San Diegans are arrested at a rate that is 3 times the white arrest rate; Latiné San Diegans are arrested at a rate that is 2 times the white arrest rate; Indigenous San Diegans are arrested at a rate that is 30% higher than the arrest rate for white San Diegans.
- Similarly, according to analysis of San Diego county cannabis-related arrest data, there is evidence that low-income people have been disproportionately arrested.
- Further, among groups that were disproportionately arrested for cannabis-related charges there is evidence that Black/African American, Pacific Islander and low-income communities were disproportionately arrested for charges that are associated with longer and more severe charges in San Diego according to analysis of local cannabis-related arrest data.
- Legalizing cannabis is overwhelmingly popular among San Diego County voters. The potential benefits include advances in natural medicine, relief from mass incarceration epidemic, safer communities, and economic opportunity.
- People and communities impacted by the War on Drugs have been frozen out of the economic boon of legal cannabis. This makes racial and economic disparities worse, even as we try to rectify the failed war on drugs.
- Changing illicit cannabis business over to legal cannabis is not only an issue of enforcement. Cracking down against illicit cannabis can run counter to decriminalization



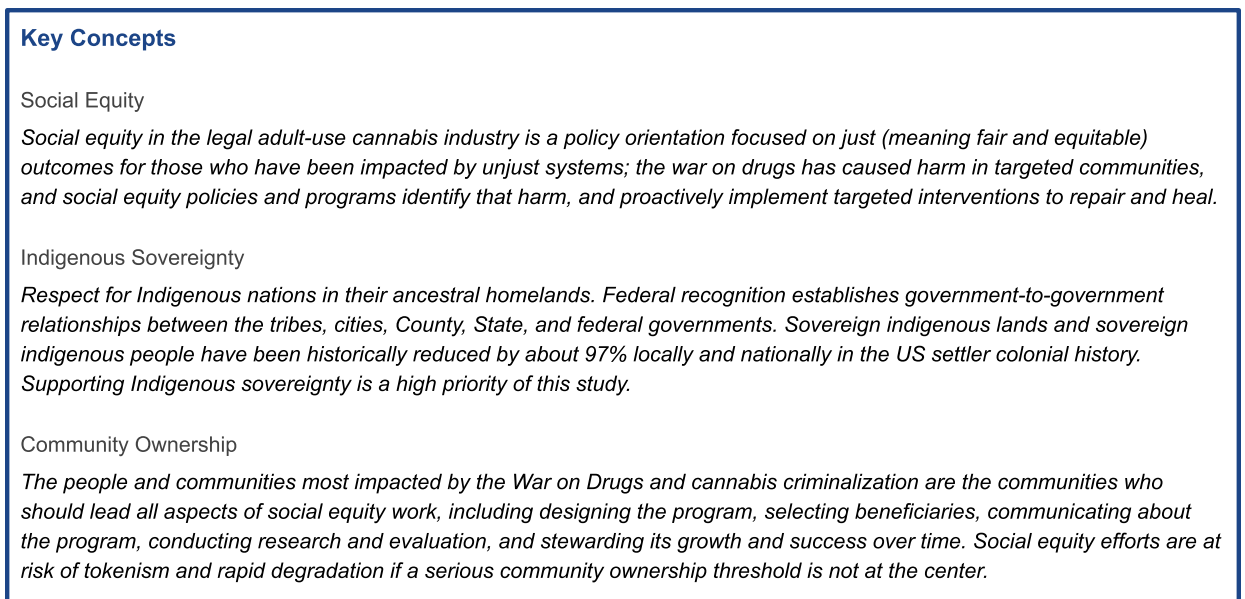
and social equity if search and seizure penalties follow established racially disparate War on Drugs patterns. Industry regulation and taxation that allows competitive pricing for legal cannabis relative to illicit may help increase the legal market share, which would increase tax revenue to the County and State.

- Social equity programs center those who have been most impacted by the war on drugs and cannabis criminalization, but there are different views on whether this means including a small number of eligible individuals in the existing businesses, or improving quality of life and life outcomes for entire impacted communities through deeper reinvestments. Inclusion programs are less likely to make meaningful equitable changes.
  - Social equity is viewed differently based on where one is located: political and economic elites tend to view social equity as inclusion of a few responsible and capable impacted people into existing systems, while social equity advocates tend to strive for broader social changes and reparations for past harms done.
    - Inclusion may be more expedient and attractive to a larger base, but is unlikely to change underlying inequitable conditions by itself
    - Transformative change is more difficult in terms of securing buy-in and may not always yield short-term measurable results, but is required for equitable outcomes
- Social equity entrepreneurs in legal cannabis will likely need a range of supports regarding personal and familial well being, regarding advocacy protecting them from further criminalization, bias, and exploitation, and regarding professional development within the highly regulated industry. The Social Equity Entrepreneurs (SEE) program must leverage and coordinate these supports prior to implementation.
- The SEE will need significant support over a longer period of time. Eligibility criteria and program benefits should be phased in over time and studied carefully through a community-driven and community-owned evaluation and implementation process.

## Summary of Recommendations

Justice in the 4/20 industry means addressing the disparate impacts of the War on Drugs that Black, Indigenous and people of color and low-income communities disproportionately felt. The SEE program can accomplish this by placing disproportionately impacted communities in the driver seat of policy implementation and evaluation, supporting these disproportionately impacted communities as people overall and as entrepreneurs through community reinvestment and technical assistance, and creating a cannabis industry where social equity entrepreneurs can thrive through policy regulations that focus economic opportunity on social equity entrepreneurs and lower barriers that they disproportionately face. The following section summarizes policy and program recommendations for the County to enact. “PART II- RECOMMENDATIONS” comprises the full explanation of recommendations to the County.

**Share power with stakeholders by engaging stakeholders equitably, honoring data sovereignty and building community awareness and education.**<sup>2</sup> Prioritize those individuals and communities that have been most impacted by the war on drugs and cannabis criminalization. It is not equitable when impacted people are not central to decision-making and speaking for themselves. Convene and support community collaboratives that are composed of at least 50% social equity eligible participants. These collaboratives will oversee permit selection, an anti-stigma campaign, micro-finance, research and reporting, decarceration and expungement, community reinvestment, and more. Under community guidance public awareness and education efforts should be seen not only as a tool to promote program participation, but also a tool to heal community wounds from the War on Drugs. Finally, evaluate all social equity efforts under community guidance to promote data sovereignty and community ownership. Moreover, social equity is not one-and-done, and program features like eligibility requirements and benefits should be phased in over time with careful attention to community-led research and evaluation. All participants, contributors, supporters, and leaders must commit to building and strengthening social equity efforts and outcomes. The County of San Diego should facilitate social equity leadership, while paying close attention to the Key concepts of social equity, Indigenous sovereignty and community ownership (Figure 1).



**Figure 1. Key concepts**

**Support indigenous sovereignty through land repatriation and increasing access to the regulated cannabis industry.**<sup>3</sup> Partnering with tribal leadership, the County should explore

<sup>2</sup>See “Share Power with Stakeholders” starting on page 106 for more information.

<sup>3</sup>See “Support Indigenous Sovereignty” starting on page 119 for more information.



existing and previous land return efforts and learn from best practices. Access to land may, at the tribes' discretion, increase opportunities for tribes to participate in the legal adult-use recreational cannabis industry. The County should also support tribe-to-tribe cannabis commerce. Additionally, the County should proactively offer access to deidentified public data that can support advocacy on state and federal levels (e.g., cannabis arrest data for Native American/American Indian (NA/AI) and tribal lands).

**End cannabis criminalization and open opportunity for directly impacted by expanding expungement efforts, investing in diversion and restorative justice and non-carceral regulation enforcement.**<sup>4</sup> The War on Drugs and cannabis criminalization have failed to lessen illegal drug use and have failed to make our communities safer. Social equity in the cannabis industry provides the opportunity to focus on alternatives to incarceration, like expungement, jail diversion, and restorative justice, and to educate people about the deeper roots and impacts of stigmatization. Cannabis criminalization has been a major driver of racially inequitable values and systems in the U.S. The County should build on its existing expungement efforts by implementing automatic record clearing and hosting expungement events that support community healing anti-stigma education. Additionally, re-review thousands of records that were recommended by the State DOJ, but found to not meet criteria for dismissal or reduction. If the initial decision is upheld, report aggregate de-identified data explaining why they were not reduced or dismissed. Enforce cannabis market regulations and facilitate conversion of legacy markets in a non-carceral manner.

**Creating an accessible and responsive Social Equity Entrepreneurs Program by defining program eligibility based on disproportionately impacted communities and permitting cannabis businesses through a transparent and equity-focused process.**<sup>5</sup> A cannabis industry should be by and for social equity. Permits should go to social equity businesses only, and smaller local operations should be encouraged by regulatory design, including lower taxes on cultivation and manufacturing compared to retail and business-sale, lower taxes on social equity licensees, and higher taxes on sale of business to large and non-local entities. Public awareness and technical assistance should support eligible communities in accessing gainful opportunities in a thriving industry.

**Financially support Social Equity Entrepreneurs by increasing access to capital and providing equitable technical assistance, tax structure and zoning policy.**<sup>6</sup> Social Equity Entrepreneurs (SEE) have been most impacted by the War on Drugs and cannabis criminalization, and will likely bring to the County's program a range of personal and professional needs that should proactively be supported. Professionally, knowledge of cannabis, business management, heavy regulated industry, financing lots of capital, and

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<sup>4</sup>See "Decriminalize and Open Opportunity for Directly Impacted: Expungement, Diversion, and Restorative Justice" starting on page 121 for more information.

<sup>5</sup>See "Creating an Accessible and Responsive Social Equity Entrepreneurs Program" on page 127 for more information.

<sup>6</sup>See "Financially Supporting Cannabis Equity Entrepreneurs" on page 93 for more information.



navigating complex community dynamics are all important. Providing technical assistance, training, opportunities for engagement with social equity aligned investors and a social equity fund that can provide micro-grants and loans can help overcome these barriers. Additionally, tax, licensing and zoning structure should be written to reduce financial and regulatory barriers for SEE.

**Reinvest in Community Development, Economic Justice and Health.**<sup>7</sup> The County should use cannabis tax revenue to support assistance to social equity entrepreneurs, and leverage additional County programs, funds, and grant writing assistance to expand supports to impacted communities more broadly. Reinvestment should focus on disproportionately impacted communities and include investments in housing and public health. Additionally, reinvestments should include development and holistic support of SEE program-eligible cannabis workforce. Personally, employment, income, former/current incarceration, family support, health and wellness, housing, education, and many more may be high priorities for SEE.

**Empower youth through establishment of an equitable regulated adult-use recreational cannabis market.**<sup>8</sup> Elevate alternatives to incarceration for youth who have been disproportionately criminalized for cannabis use. Include transition age youth (16-25) on all decision making bodies for the social equity program. Support **adult** transition age youth (21-25) as cannabis social equity entrepreneurs by establishing a social equity youth empowerment fund, administered by a community collaborative with at least 50% social equity eligible Transition Age Youth (16-25).

**Sustainably fund the Social Equity Entrepreneurs Program.**<sup>9</sup> The County should leverage existing County programs and funding sources to provide SEE and community reinvestment benefits. Additionally, use established state funding and local cannabis tax revenue to fund SEE program and community reinvestment programming. Finally, the County should develop SE-licensees capacity to raise funds.

To begin to repair impacts of the War on Drugs and to support gainful opportunities in the legal cannabis industry for those who have been most impacted by the War on Drugs, the County of San Diego should establish a Social Equity Entrepreneurs (SEE) program that decriminalizes cannabis and strengthens community ownership in both policy and practice.

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<sup>7</sup>See “Reinvest in Community Development, Economic Justice and Health” on page 148 for more information.

<sup>8</sup>See “Empower Youth” starting on page 156 for more information.

<sup>9</sup>See “Sustainably Funding the Social Equity Entrepreneurs Program” starting on page 158 for more information.



# INTRODUCTION



**WOMEN'S  
WORK**



## Introduction

Social equity has emerged as a leading standard for cannabis legalization and regulation because the War on Drugs has failed and, without intervention, legalization would further expand the race, wealth, and criminalization gaps of the past five decades. The War on Drugs, defined as more aggressive and militarized enforcement, prosecution, and conviction of illegal drug activity, has led to mass incarceration, racially disparate criminal justice outcomes, and a more violent society across the board. Social equity in the legal cannabis industry centers those who have been most impacted by the War on Drugs, specifically cannabis criminalization, and opens up for them well-supported opportunities for ownership in cannabis businesses. More than that, social equity centers communities that have been most impacted by the War on Drugs and identifies reinvestments into the wellbeing and flourishing of the people and places to directly repair damage from America's longest war.<sup>10</sup> *Justice in the 420 Industry* examines how we get free from the downward cycle, and uplift our precious, unjustly targeted and harmed communities.

The County of San Diego<sup>11</sup> has, in a fairly short span of time, shifted from active resistance to cannabis legalization to building policy and programming for legal adult-use social equity cannabis business in the unincorporated areas of the county. Spanning 3,752 square miles<sup>12</sup> San Diego County includes eighteen federally recognized American Indian nations who have been isolated to the north and east since the 1770s, African American communities that have been pushed south and east for the past one hundred years, and immigrant and refugee communities from Central America, the Caribbean, and around the world. The War on Drugs has impacted San Diego law enforcement, gang policing, federal-local joint terrorism policing, district attorney agendas, jailing and prisons, and more. Over the past decade in San Diego, Sheriff and city police budgets have increased nearly 50%, while Health and Human Services, the number one budget category, has dropped from 40% to 36% of County spending, and other categories like transportation, parks, and libraries pale by comparison.<sup>13</sup> Governments throughout San Diego County will need to follow through on major transformations in order to protect our most impacted communities from further harm.

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<sup>10</sup>See John Hudak. "Biden should end America's longest war: The War on Drugs." Brookings. Accessed June 21, 2022. <https://www.brookings.edu/blog/how-we-rise/2021/09/24/biden-should-end-americas-longest-war-the-war-on-drugs/>.

<sup>11</sup>See Figure 2 for a definition of the County of San Diego and other key terminology that will be used throughout this work.

<sup>12</sup>See San Diego County Fact Sheet. January 2014. Accessed June 21, 2022. <https://www.sandiegocounty.gov/economicroundtable/docs/ertfact2014.pdf>.

<sup>13</sup>See Jeff McDonald, Lauryn Schroeder, and Greg Moran. "San Diego's rising police, Sheriff's budgets eat into other public services." *San Diego Union-Tribune*. Accessed June 21, 2022. <https://www.sandiegouniontribune.com/news/watchdog/story/2020-06-14/rising-police-sheriffs-budgets-eating-into-other-public-services>.



San Diego's cannabis industry is evolving from the 2012 "green rush" toward big business, corporate, and multi-state operator drivers, lifting industry accessibility away from local owner operators and small businesses. In general terms, reducing illicit cannabis business is an obvious requirement for successful legalization, but prohibitive regulatory terms and further criminalization through crackdowns on illicit dispensaries and grows highlight the complex political and economic conditions within which social equity must take shape.

Social equity programs throughout California and across the US have shown mixed results as cities, counties and states have wrestled with their own local realities expressing the broad patterns of racism and racial inequity resulting from cannabis criminalization. Part of the challenge for social equity programs is balancing the more narrow cannabis industry-specific context and the broader community context around it, while also recognizing that inclusion of people who have been impacted by the War on Drugs into existing government and business systems may not go deep enough to repair damage done. If able to accomplish their stated goals, social equity programs will be able to redirect and redistribute the economic benefits of this multi-billion dollar industry<sup>14</sup> to build, rather than dismantle, our racialized, targeted, profiled, and surveilled communities and neighborhoods.

This report contains two parts: 1) a social equity assessment of the impacts of the War on Drugs and cannabis criminalization in San Diego County, emphasizing the unincorporated areas, and 2) recommendations for a Social Equity Entrepreneurs (SEE) program that supports ownership opportunities for cannabis business operators who have been most impacted by the War on Drugs that will be designed and implemented by the County of San Diego.

Womxn's Work LLC is an all Black women, family-owned consultancy firm that is proud to bring you this culmination of four months of data gathering, policy analysis, community engagement, and intensive study of the possibilities of social equity for our precious communities throughout the county. We eagerly await the design and implementation of the County of San Diego's Social Equity Entrepreneurs (SEE) program and offer the fruits of this extensive team effort to help guide our repair of decades of harm from the War on Drugs.

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<sup>14</sup>See Jan Conway. "Legal vs. Illicit Cannabis sales in California, U.S. 2019-2024." statista.com. Accessed June 21, 2022.  
<https://www.statista.com/statistics/1075946/legal-vs-illicit-cannabis-sales-california-us/#:~:text=In%202019%2C%20sales%20in%20the,billion%20U.S.%20dollars%20that%20year>.

**Figure 2. Definition of Key Terminology**

- **San Diego County** = the spaces, places, and people making up the entire county, including 4,261 square miles of land and more than 3.35 million people according to the US Census.
- **The County of San Diego** = the government of the County, in which the citizens are served by the Board of Supervisors (5 Supervisors for the 5 districts), 25,624 employees, and a \$7.15 billion budget for Fiscal Year 2022-23.
- **San Diego** = in everyday use, this could refer to the City of San Diego, which is the largest and most influential of the 18 incorporated cities within the County, or it could refer to the County as a whole or the County government depending on context.
- **Legacy market** = market of cannabis sales that operated before cannabis decriminalization
- **Multi-State Operator (MSO)** = large entities that operate cannabis businesses in multiple jurisdictions often across state lines. MSOs are generally viewed as a threat to social equity and local prosperity by local cannabis stakeholders.
- **Social Equity Entrepreneur** = the County's proposed name for its program to support social equity entrepreneurs operating in the unincorporated areas.

## Definition of Social Equity

*Social equity in the legal adult-use cannabis industry is a policy orientation focused on just (meaning fair and equitable) outcomes for those who have been impacted by unjust systems; the War on Drugs has caused harm in targeted communities, and social equity policies and programs identify that harm, and proactively implement targeted interventions to repair and heal.*

The California Governor's Office of Business and Economic Development (GO-Biz) conceptualizes social equity in terms of directly addressing the specific needs of those impacted by the War on Drugs as they attempt to take up opportunities in regulated cannabis. The \$35 million in GO-Biz funding this fiscal year has gone toward cannabis equity, with the solicitation elaborating:

"The term "equity" recognizes that because different individuals or groups have different histories and circumstances, they have different needs and unequal starting points. Using an equity approach, individuals and groups receive different resources, opportunities, support, or treatment based on their specific needs. By providing what each individual or group needs, they can have equitable or fair outcomes. Therefore, cannabis equity programs should be distinct from other types of assistance programs by their focus and intentionality in understanding the specific systemic barriers and



injustices different individuals or groups face when trying to access opportunity in the cannabis marketplace.”<sup>15</sup>

Recognizing that the War on Drugs has impacted families, youth, neighborhoods, communities, relationships, wellness, and more, the County of San Diego centers cannabis entrepreneurs, and expands the focus to include reparative reinvestment into the broader targeted communities. The County of San Diego says of their proposed program:

The Socially Equitable Cannabis Program shall not be limited to providing equitable business ownership, operation, or employment opportunities within the cannabis industry. Rather, it shall also address and repair the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and its impacts at the individual, familial/generational, and community level, over time.<sup>16</sup>

This social equity assessment and the program recommendations recognize the central tasks of community empowerment and building community ownership to accomplish these stated goals. Impacted entrepreneurs and communities can best articulate their own needs, and can best evaluate the effectiveness of interventions on their behalf. Social equity for commercial cannabis thus refers to both the *process* of centering those who have been most impacted by cannabis criminalization, and the *outcomes* of the policy shift from causing harm to repairing harm.

## Purpose of the Report

The *Justice in the 420 Industry* report assesses social equity in San Diego’s cannabis industry and analyzes “the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and the collective policies of the War on Drugs and their impact at the individual, familial/generational, and community level, over time.”<sup>17</sup> The equity assessment sketches a data driven portrait of what the War on Drugs has looked and felt like from the direct perspectives of those who have been most impacted. The second part of the report presents legally viable recommendations to inform the Social Equity Entrepreneurs program in thematic groupings that clarify the breadth of scope, particularity of detail, and specificity of industry components that elevated to the foreground in

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<sup>15</sup>See Governor’s Office of Business and Economic Development. Cannabis Equity Grants Program for Local Jurisdictions: Grant Solicitation, Fiscal Year 2021-2022. October 2021. Accessed June 21, 2022. <https://static.business.ca.gov/wp-content/uploads/2021/09/CEG-Program-Grant-Solicitation-FY-2021-22.pdf>.

<sup>16</sup>Quoted from the County of San Diego Request for Proposals for “Social Equity Assessment for Commercial Cannabis,” February 2022.

<sup>17</sup>Quoted from the County of San Diego Request for Proposals for “Social Equity Assessment for Commercial Cannabis,” February 2022.



our intensive research. The appendices include extensive analyses and legal opinions that have been incorporated into the report, yet offer significant resources on their own.

We have presented an integrated report that defines, re-defines, elaborates, and exemplifies “what is social equity” along the way. What brought us to this point? Where can we go from here for large scale course correction, and what starting points allow us to make adjustments forward? It is our hope that all stakeholders who meaningfully take up the challenge of making social equity work in San Diego can benefit from the wealth of hundreds of research participants and narrators whose stories and public testimonies illuminate *Justice in the 420 Industry*. Social equity entrepreneur hopefuls, residents of impacted communities, industry leaders and lobbyists, investors and elected officials alike can find throughout this report patient and consistent reminders of how to center social equity and what we have to lose if we fail to do so as the County of San Diego leads us toward a social equitable legal cannabis industry for all.

## Methodology

Through community organizing, community-based research, and social equity oriented analysis this assessment will characterize the local impacts of the War on Drugs and inform recommendations for policies and program characteristics that will ensure an equitable cannabis market and community reinvestment in San Diego county<sup>18</sup>. To this end twenty-eight semi-structured interviews were conducted with community members, activists, politicians and cannabis growers and retail owners. Additionally, five semi-structured focus groups were completed with a diverse set of stakeholder groups. Five hybrid-virtual and in-person multilingual community listening sessions were held throughout the County of San Diego added to the qualitative set. Also a community survey was disseminated via phone and web. Two hundred seventy-one responses were collected. Additionally, to further analyze the impacts of the War on Drugs, barriers and facilitators to entry into the regulated market, need for community reinvestment and viability of program components data was analyzed from a variety of public data sources including the U.S. Census Bureau, SANDAG’s Automated Regional Justice Information System and TRAC Immigration. This community-based mixed methods research provided a comprehensive evaluation of the impacts of the War on Drugs, the barriers to and facilitators of entry into the regulated cannabis industry, needs for social equity entrepreneur support and community reinvestment. Findings from this assessment have informed policy and program recommendations.

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<sup>18</sup>See “Appendix C: Detailed Explanation of Methodology” for more detailed discussion of methodology and diversity of research subjects, questions discussed and themes represented in the data set.

# PART I : ASSESSMENT



**WOMEN'S  
WORK**

# **Social Equity Assessment of the Impacts of the War on Drugs and the Cannabis Industry in San Diego County**

The objectives established by Proposition 64 necessitates social equity in the regulation of legal adult-use cannabis market and investment of tax revenue. The Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) (Proposition 64), approved in 2016, calls for cannabis regulation that “reduces barriers to entry into the legal, regulated market<sup>19</sup>.” Reducing barriers to entry into the legal, regulated market requires socially equitable cannabis market regulation. The Governor’s Office of Business and Economic Development (GO-Biz) defines “equity” as recognition “that because different individuals or groups have different histories and circumstances, they have different needs and unequal starting points”. GO-Biz recommends that equity requires individuals and groups receive different resources, opportunities, support, or treatment based on their specific needs resulting from their different circumstances, resulting in fair outcomes<sup>20</sup>.

Access to the financial and capital resources necessary for industry are not equitably distributed in our society. Further, disproportionate cannabis-related criminalization and incarceration creates additional barriers to individuals from disproportionately-impacted communities transitioning into the legal, regulated market. Negative impacts of the War on Drugs have been broad and transformative for US society. During the post-Emancipation era of segregation, social structures around economic opportunity, investment, and enforcement ensured that race and class stratification persisted. Redlining, voter disenfranchisement, and white terrorism are frequently identified as these mechanisms. The War on Drugs represents the pivot from explicit structures of racial segregation to implicit structures where crime and disposability became the new “race-neutral” terms to perpetuate systemic racism. Moral panic around the threat of many racialized communities has driven policy across all salient areas of US politics during the War on Drugs, and the resulting disparities have been catastrophic. These disparate policies led to disproportionate harm on communities, stripping these communities of resources that are now critical to entry into the legal, regulated cannabis market.

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<sup>19</sup>State of California - Department of Justice - Office of the Attorney General. “Attorney General Bonta Announces Eradication of More Than One Million Marijuana Plants as Part of Interagency Effort to Combat Illegal Grows,” October 17, 2021. June 21, 2022. Accessed <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-eradication-more-one-million-marijuana-plants>.

<sup>20</sup>Koch, Will. “Cannabis Equity Grants Program for Local Jurisdictions - Grant Solicitation,” n.d., 25.



To address the reality of unequal distribution of resources and opportunity due in part to the War on Drugs, local equity programs promote socially equitable regulation of the cannabis market. The Governor’s Office of Business and Economic Development (GO-Biz) administers the Cannabis Equity Grants Program for local jurisdictions. GO-Biz funds local equity programs that support equity applicants and licensees to reduce barriers of entry in the legal market. GO-Biz supports programs that have the following functions: offering technical support, regulatory compliance assistance, and assistance with securing the capital necessary to begin a business will further the stated intent of the AUMA by reducing barriers to entry into the regulated cannabis industry. In pursuit of equity, GO-Biz also encourages local jurisdictions to ensure that persons most harmed and economically disadvantaged by cannabis criminalization are offered assistance, and priority licensing when possible, to enter the multibillion-dollar cannabis industry as entrepreneurs.

In addition to supporting equity licensees, the equity programs have a broader goal of addressing harm caused by cannabis prohibition and the War on Drugs. GO-Biz states that the purpose of the Cannabis Equity Grants Program for Local Jurisdictions is to advance economic justice for populations and communities harmed by cannabis prohibition and the War on Drugs. Moreover, GO-Biz aims to advance the wellbeing of communities that have been negatively or disproportionately impacted by cannabis prohibition and the War on Drugs.

Social equity (SE) has many definitions and characteristics in general and in relation to cannabis. The definitions of social equity in general are discussed in the “How to think about social equity” section below. As discussed above, SE in cannabis has two main focuses: 1. Diversifying successful entrepreneurs in the industry; 2. Addressing the broader impacts of the War on Drugs. Further, the understanding of social equity and its application to the regulation of cannabis social equity is defined by each local jurisdiction. Local jurisdictions’ equity programs vary in their focus on community reinvestment and recognition of community-wide impacts of the War on Drugs<sup>21</sup>. Some local equity programs have a very limited focus on community reinvestment to address community-wide impacts of the War on Drugs that threaten the wellbeing of disproportionately impacted communities and limit opportunity for those community members to enter the regulated cannabis market.

Additionally, local jurisdictions’ equity programs vary in how broad eligibility criteria are. Stricter eligibility criteria focus more resources on a smaller population that has been more negatively and disproportionately impacted by the War on Drugs. On the other hand, more broad eligibility criteria ensure that more people receive support in entering the regulated cannabis industry. However, these individuals may include those that are less directly and disproportionately harmed by the War on Drugs.

This social equity assessment (SEA) seeks to support the County in avoiding the common shortcomings of cannabis equity programs.<sup>22</sup> Many cannabis equity programs have

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<sup>21</sup> See Appendix D for more details on which jurisdictions’ programs were comparatively analyzed.

<sup>22</sup> The Governor’s Office of Business and Economic Development requests two critical documents from local jurisdictions establishing social equity programs: a social equity assessment





experienced significant limitations and shortcomings. Inequitable legal cannabis policy infrastructure and inadequate cannabis equity programs have left the cannabis market systemically inaccessible to communities disproportionately impacted by the War on Drugs. Throughout California, cannabis social equity assessments and cannabis social equity programs have been established after licenses and permitting for non-equity applicants. This has allowed non-equity businesses to capture a significant advantage in the markets, further raising barriers of entry for communities significantly impacted by the War on Drugs. Often when cannabis social equity assessments are completed, they establish the need for a social equity program without providing sufficiently comprehensive recommendations for the program and the cannabis-related policies that will impact the social equity program's equity and efficacy. We recognize that this Scope of Work establishes the need for more comprehensive and thorough recommendations. Additionally, a barrier we have seen in many cannabis social equity assessments is that they fail to honor the wide-reaching impacts of the War on Drugs or the connections between the War on Drugs, segregations, War on Terror and other systems of violence. Our understanding of the War on Drugs honors its complexity, this is reflected in this social equity assessment's methodology.

Additionally, this SEA seeks to meet the county-specific needs. This SEA will answer questions that are critical to designing a community-tailored social equity program:

- Which communities have been/are disproportionately impacted in San Diego County?
- What should be the scope of the County of San Diego's Social Equity Entrepreneur program for the unincorporated areas of the county?
- Which communities should be eligible for the social equity entrepreneur program?
- What should be the scope of community reinvestment in reparations for the impact of the War on Drugs throughout the county?

Furthermore, due to the numerous sovereign tribal nations that exist within the San Diego county boundaries, this assessment evaluates the impacts of the War on Drugs on indigenous sovereignty. As this research team is not led by people indigenous to this land or members of local tribal nations, it is important to state that we recognize that native people are experts on how to support their sovereignty. We have sought this expertise through interviews and focus groups. Furthermore, our acknowledgement of this expertise informed our recommendations on community engagement and indigenous sovereignty.

Moreover, before beginning this project, Womxn's Work's community relationships underlined the deep need for an equitable legal cannabis market and an efficacious cannabis social equity program in San Diego County. Community members reported predatory programs targeting communities with little to no access to financial capital, using multi-level marketing techniques to pressure communities into borrowing money from a predatory lender

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which identifies those disproportionately impacted by the War on Drugs and local equity program (LEP) manual that outlines the program and policy components that define the social equity program. Part 1 of this document is the County of San Diego's social equity assessment. Part 2 includes policy and program recommendations that should inform the LEP manual. Many social equity assessments include program and policy recommendations that inform that jurisdiction's LEP manual.



to invest \$16,000 in their cannabis business at astronomical interest. These predatory actors create additional obstacles to community members starting their own cannabis businesses. These predatory schemes thrive in communities where residents with limited resources cannot enter the market. Conducting this equity assessment will ensure that San Diego county's cannabis market, primarily disparately impacted communities in unincorporated areas of San Diego, promote equity and opportunity, while protecting communities that are healing from the impacts of the War on Drugs from further exploitation.

Through community organizing, community-based research, and equity and action-oriented analysis this assessment will support the creation of legally viable cannabis policy. This assessment seeks to answer the call for a cannabis social equity assessment that clearly recommends criteria for policies and program characteristics that will ensure an equitable cannabis market and address the community-wide harms of the War on Drugs in San Diego county.

Part I of this report will sketch what social inequity as it relates to the War on Drugs, cannabis criminalization and the emerging regulated adult-use recreational cannabis market has looked like in San Diego County. This assessment will provide the foundation for the roadmap to the County of San Diego's local equity program that is expounded upon in the second part of the report.

## What the War on Drugs Looks like in San Diego

The War on Drugs is the increased policing of, more aggressive prosecution of, and increased sentencing for illegal drug activity. Its origin is commonly associated with the Nixon administration's 1971 retaliation against his political enemies, the anti-war and civil rights movements. Cannabis criminalization has deeper roots in frustrated European colonial management of class and race hierarchies, labor, and morality in Asia and Africa.<sup>23</sup> Genetic researchers have traced human cultivation of *cannabis sativa* as far back as 12,000 years ago and the uses of cannabis and the closely related hemp plant include an array from textiles to engineering, fuel to medicine, food to personal care, and much more (Small and Marcus 2002).<sup>24,25</sup> According to one local entrepreneur, if chemology had been pursued aggressively since Ford introduced his 1941 hemp car, "we would have already circled to the stars and continued along that route."<sup>26</sup> Instead, we have gotten miseducation, stigma, more

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<sup>23</sup>See Mills 2009. Additional reference to forthcoming unpublished manuscript by T.J. Tallie on cannabis, race, and labor in colonial Natal 1850-1910.

<sup>24</sup>Yarlaggada, Tara. 2021. "Scientists discover the ancient birthplace of marijuana". *Inverse*. (July 16). Accessed June 10, 2022. <https://www.inverse.com/science/scientists-discover-the-birthplace-of-marijuana>.

<sup>25</sup> Small, E., D. Marcus, J. Janick, and A. Whipkey. "Hemp: A New Crop with New Uses for North America." *Undefined*, 2002. Accessed June 21, 2022. <https://www.semanticscholar.org/paper/Hemp%3A-a-new-crop-with-new-uses-for-North-America.-Small-Marcus/1fa436c8300708c6dc3fad6adee68d676c8601f1>.

<sup>26</sup>See The Henry Ford. "Soybean Car." Accessed June 10, 2022. <https://www.thehenryford.org/collections-and-research/digital-resources/popular-topics/soy-bean-car/>.



racism, and mass incarceration. How are we better off as a society with this shocking mishandling of the power of *cannabis sativa*?

By all indications, the War on Drugs has failed: failed to reduce drug use, failed to reduce crime, failed to discourage corruption, and failed to make communities safer.<sup>27</sup> One researcher pointed out, “It’s all the same war,” connecting cannabis criminalization to the fuller War on Drugs: “it was crack cocaine in the 80s, broken windows policing in the 90s, opioids in the 2000s.” Spending on incarceration has steadily increased as “dangerous” communities have found decreasing support for foundational social programs. Tough on crime approaches, including mandatory minimum sentences, have crossed over the tipping point where incarceration makes people more likely to commit more serious crimes upon release, rather than rehabilitating and restoring people to the community upon reentry.<sup>28</sup> Cannabis criminalization has truly been a gateway to this bleak picture of state violence and social strife.

San Diego has come a long way from the late 1970s cannabis frolicking documented in *Fast Times at Ridgemont High* to the “documentation” of infants on state gang registries.<sup>29</sup> <sup>30</sup> In 2005, the County of San Diego Board of Supervisors fought statewide legalization of “medical marijuana”, in spite of popular support throughout the county (In 2006, 67 percent of San Diego county voters supported Proposition 215 and in 2016 57 percent cast their ballots in favor of Proposition 64).<sup>31,32</sup> The County of San Diego District Attorney Bonnie Dumanis followed in 2009 with the “Operation Endless Summer” sting<sup>33</sup>; federal, county, and municipal

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<sup>27</sup>See Federique 2021; Global Commission on Drug Policy 2018; Global Commission on Drug Policy 2011; Grossi 2020; Lopez 2016; Morhaim 2021; and Pearl 2018.

<sup>28</sup>Butler, Paul. 2010. *Let's Get Free: A Hip-Hop Theory of Justice*. New York: New Press: Distributed by Perseus Distribution.

<sup>29</sup>Crowe’s ethnographic portrait, captured in Amy Heckerling’s 1982 film *Fast Times at Ridgemont High* starring Sean Penn, Jennifer Jason Lee, and Judge Rienhold, was based on Clairemont High School, situated just ten miles north of downtown near the University of California, San Diego.

<sup>30</sup>See Davis 2019. “Few people have successfully removed themselves from state gang database”. *Voice of San Diego* (Dec 19). Accessed June 10, 2022. <https://voiceofsandiego.org/2019/12/09/few-people-have-successfully-removed-themselves-from-state-gang-database/>.

<sup>31</sup> January 09, Americans for Safe Access on and 2006. “POLL SHOWS SAN DIEGO SUPPORTS MEDICAL MARIJUANA LAW.” Americans for Safe Access. Accessed June 26, 2022. [https://www.safeaccessnow.org/poll\\_shows\\_san\\_diego\\_supports\\_medical\\_marijuana\\_law](https://www.safeaccessnow.org/poll_shows_san_diego_supports_medical_marijuana_law).

<sup>32</sup> Vasquez, Vince. “Proposition 64 Analysis in San Diego County,” n.d., 27.

<sup>33</sup>See CBS8. “Undercover drug sting in military housing in San Diego nets 33 arrests. February 10, 2009. Accessed June 10, 2022. <https://www.cbs8.com/article/news/undercover-drug-sting-in-military-housing-in-san-diego-nets-33-arrests/509-b67e9507-2501-4d9b-80fb-1f8fb5e80659> and Jeff McDonald and Steve Liewar. “33 arrested in drug sting with 19 suspects sought. *San Diego Union-Tribune*. February 11, 2009. Accessed June 10, 2022. <https://www.sandiegouniontribune.com/sdut-1m11drugs233323-33-arrested-drug-sting-19-suspects-2009feb11-story.html>.

police raids have continued through the present despite a widespread cultural turn with cannabis.

Beyond direct enforcement, one stakeholder reflected that County regulations in 2010 were designed “to make businesses wither on the vine, and it’s really good at it. I don’t consider that to be true regulation or true licensing, because anything that is designed to basically strangle the infant in its cradle, relatively speaking, is not a real ordinance in my opinion.” The stigma thrust, most pointedly, upon the county’s Black and brown communities and on brown immigrant communities from south of the border, has driven advances in technological surveillance and broad “joint” policing tactics that are relatively invisible from the suburbs, but impact the rights and civil liberties of all San Diegans.<sup>34</sup> Cannabis criminalization and the War on Drugs have been used to justify stricter immigration policies, vigilante policing by white supremacists, expansion of the U.S.-Mexico border wall, and racially inequitable counter terrorism enforcement.<sup>35</sup>

Unfortunately, the expansion of police power and spending has left the County vulnerable to corruption, exemplified in the recent case of Sheriff’s Captain Marco Garmo, showing that organized crime has moved into the cannabis industry and has largely shielded itself from more serious law enforcement vulnerability. Garmo functioned like a “mob boss” by selling guns and extorting illegal dispensaries while tipping them to planned police actions.<sup>36</sup> If one’s goal has been the consolidation of undemocratic political and economic power based on moral panic, racism, and the displacement of communities, as made clear in its 1971 origin story, the War on Drugs has been an important asset. But a reasonable glance at the past and present of the War on Drugs in San Diego and beyond shows that it has not been suitable for effective governance.

The War on Drugs is often discussed in past tense, but it continues to be waged. While there is a general trend towards legalization of adult recreational-use of cannabis, not all prohibited drugs are being swept up in the political wave of decriminalization. Further, adult recreational-use cannabis is illegal federally and in many states. Additionally, in jurisdictions where cannabis possession is legal, barriers to entry means that the legacy market continues to operate outside of regulated structures. These cannabis producers and

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<sup>34</sup>See Figueroa 2019. ““Police praise ‘Smart Street Light’ program as a crime-solving tool; wary critics want more oversight.” *San Diego Union-Tribune* (December 22). Accessed August 10, 2022. <https://www.sandiegouniontribune.com/news/public-safety/story/2019-12-22/police-praise-smart-street-light-program-as-a-crime-solving-tool-wary-critics-want-more-oversight#:~:text=San%20Diego%20Police%20Chief%20David.injury%20collisions%2C%E2%80%9D%20Nisleit%20said>. See Gershom 2018. “The DEA and ICE are hiding surveillance cameras in streetlights.” *Quartz* (November 9). Accessed August 10, 2022. <https://qz.com/1458475/the-dea-and-ice-are-hiding-surveillance-cameras-in-streetlights/>

<sup>35</sup>See Douzet 2009; Grandin 2019; New York Advisory Committee to the U.S. Commission on Civil Rights 2004; and U.S. Department of Justice 2005.

<sup>36</sup>See The United States Attorney’s Office, Southern District of California. “Former Sheriff’s Captain sentenced to prison for illegal gun deals and corruption. United States Department of Justice. March 12, 2021. Accessed June 10, 2022. <https://www.justice.gov/usao-sdca/pr/former-sheriff-s-captain-sentenced-prison-illegal-gun-deals-and-corrption>.



retailers that still operate in the illicit market continue to be swept up in War on Drugs tactics. For example, in San Diego County, the Campaign Against Marijuana Planting (CAMP) eradicated 22,497 plants from 4 sites.<sup>37</sup> Additionally, those who believe they are operating within the law can still be arrested if they do not understand the intricacies of cannabis regulations. Continuing to invest in and wage an inherently inequitable and unjust war while pursuing social equity presents serious problems. Locally, cannabis-related arrests continue to disproportionately affect Black and Brown adults and youth despite no difference in cannabis use between racial groups.<sup>38</sup> If the County of San Diego hopes to have an equitable regulated cannabis market, it cannot entrust market regulations to be enforced by systems and institutions (including the Sheriff's Department) that have and continue to wage an unjust War on Drugs.

## Impacts of the War on Drugs and Cannabis Criminalization

While the War on Drugs has failed to deliver on its promises of lessening illegal drug activity and improving community safety, its impacts have been devastating for many communities. It is telling that people in the 1960s US who did not want more war (the American War in Vietnam), who wanted an end to militarism, poverty, and racism (in Martin Luther King, Jr.'s less celebrated message<sup>39</sup>), and who peacefully demanded their participation in democracy<sup>40</sup>, were branded un-American and handed five decades of expanded domestic war, racism, and inequality. With anti-Black and anti-“hippie” intentions, it comes as no surprise that the War on Drugs has held up a legacy of racially disparate enforcement and punishment that has too dramatic a statistical footprint to be evaded by even the most ardent apologists, deniers, and scapegoaters. Cannabis criminalization has been a key foundation to this policy blueprint, and social equity gives us a pathway to stop digging a bigger hole.

### Increased racism

From a structural perspective, the purpose of racism is to manage narrow access to

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<sup>37</sup> State of California - Department of Justice - Office of the Attorney General. “Attorney General Bonta Announces Eradication of More Than One Million Marijuana Plants as Part of Interagency Effort to Combat Illegal Grows,” October 17, 2021. Accessed June 21, 2022. <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-eradication-more-one-million-marijuana-plants>.

<sup>38</sup> Marx, Jesse. “Post-Legalization, Marijuana Enforcement Still Hits Minorities Harder.” Voice of San Diego, December 3, 2019. Accessed June 21, 2022. <http://voiceofsandiego.org/2019/12/03/post-legalization-marijuana-enforcement-still-hits-minorities-harder/>.

<sup>39</sup>Dr. King opposed the American War in Vietnam in his April 4, 1967 speech “Beyond Vietnam” highlighting the “poverty, racism, and militarism” that stymied civil rights at home and human rights at home and abroad. See Martin Luther King, Jr. “Beyond Vietnam: A Time to Break the Silence.” Riverside Church, New York City. April 4, 1967. Accessed June 10, 2022. [https://www.crmvet.org/info/mlk\\_viet.pdf](https://www.crmvet.org/info/mlk_viet.pdf).

<sup>40</sup>See John Erlichman's recollections about President Nixon's 1971 declaration of the War on Drugs and its direct intent to validate policing and state violence against “Blacks” and “hippies” here: [drugpolicy.org](http://drugpolicy.org). “A History of the Drug War.” Accessed June 10, 2022. <https://drugpolicy.org/issues/brief-history-drug-war>.

opportunity by 1) defining ahead of time who is eligible for opportunity, and 2) justifying the closing off of opportunity as dictated in the definition. The Black, brown, and indigenous community experiences of the War on Drugs highlight these mechanisms and their adaptability. Consider the poignant analogy of the 2012 legalization “green rush” to the 1850s “gold rush”<sup>41</sup>. Following the US invasion of Mexico in 1846, the speculative building of fortunes for industrious “49ers” and their financiers came at the cost of dispossession of northern Mexican landed elites and displacement of California Indian nations up and down the state. The State of California officially apologized in 2019 for state-sanctioned genocide, including the slaughter of an estimated 16,000 indigenous people<sup>42</sup>, and the accompanying adoption and boarding school systems continue to be explored for their complicity in the brutality.<sup>43</sup>

While larger economic interests, venture capital for the most part, line up to profit from the legalization of cannabis, California Indian tribes can operate their own cannabis businesses on their federally recognized reservations, but run into policy barriers when considering operation in the larger markets dominated by white ownership in their unceded homelands. Thirty-five of California’s one hundred and nine federally recognized tribes have commercial cannabis active or in development, and twenty-five have created the California Native American Cannabis Association (CNACA) to support tribal engagement with the legal cannabis industry, but the State of California has established “regulations which treat tribal nations as business entities rather than sovereign governments, establishing requirements that either don’t apply to tribal nations or which tribal nations as sovereign governments cannot meet due to their federal designation as dependent sovereign nations (i.e. CEQA requirements).”<sup>44</sup>

These structural barriers facing indigenous people entering the legal cannabis industry are particularly egregious in light of how the War on Drugs has damaged indigenous sovereignty. Fifty-four percent of survey respondents agreed or strongly agreed that the War on Drugs has hindered indigenous sovereignty in San Diego (Figure 3).

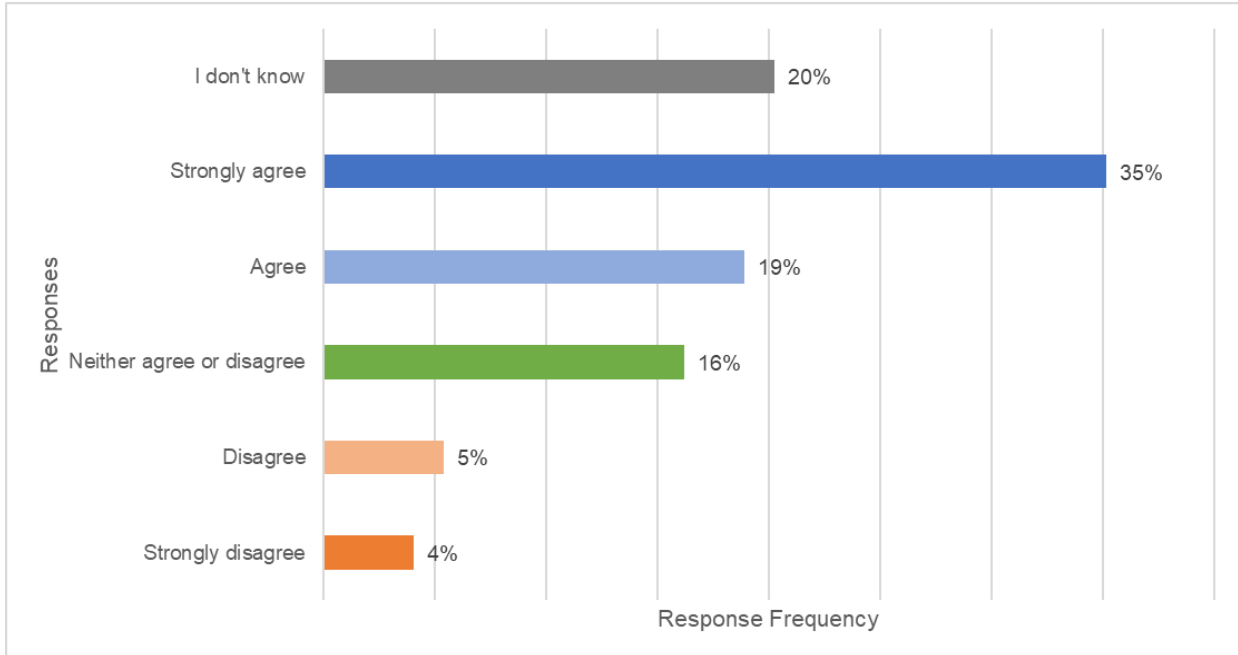
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<sup>41</sup>For example, *Weed Week’s* August 19, 2020 article “The Green Rush: What is it? Is the Green Rush Over?” opens with, “The green rush is to marijuana what golden nuggets are to river panners – opportunity. As the legalization of cannabis have expanded throughout North America, so too have market caps and entrepreneurial spirit. Business owners and investors alike rushed to capitalize on marijuana as the legalized industry grew. But like any new industry, there are growing pains to endure.” <https://www.weedweek.com/all-about-weed/green-rush/> (Accessed June 10, 2022).

<sup>42</sup>See Erin Blakemore. “California Slaughtered 16,000 Native Americans. The State Finally Apologized For the Genocide”. *history.com*. June 19, 2019. Accessed June 10, 2022. <https://www.history.com/news/native-american-genocide-california-apology>.

<sup>43</sup>See Nick Estes and Aileen Brown. “Where are the indigenous children who never came home?” *High County News*. September 25, 2018. Accessed June 10, 2022. <https://www.hcn.org/articles/tribal-affairs-where-are-the-indigenous-children-that-never-came-home-car-lisle-indian-school-nations-want-answers> and Ranjani Chakraborty “How the U.S. stole thousands of Native American children. *Vox*. October 14, 2019. Accessed June 10, 2022. <https://www.vox.com/2019/10/14/20913408/us-stole-thousands-of-native-american-children>.

<sup>44</sup>See California Bureau of Cannabis Control 2019. “Tribal Participation in the Legal Cannabis Industry”, p.1. Accessed June 22, 2022. [https://bcc.ca.gov/about\\_us/meetings/materials/20190628\\_tribal\\_ind.pdf](https://bcc.ca.gov/about_us/meetings/materials/20190628_tribal_ind.pdf).



**Figure 3.** Web community survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs has hindered Indigenous sovereignty in San Diego County” Seventy-four community members responded to this question of the 83 that completed the web survey.

The War on Drugs strengthens a racial hierarchy that upholds settler colonialism and threatens indigenous sovereignty. As evidenced in analyses of arrest and incarceration data conducted for communities around the world, the criminalization of drugs has led to racially disparate arrest and incarceration rates despite no racial differences in drug use<sup>45</sup>. Our analysis of local arrest data and community knowledge highlights how the War on Drugs has led to disproportionate arrests and incarceration of Black, Brown and Indigenous peoples despite similar cannabis use<sup>46</sup>. This racially disparate criminalization and incarceration upholds a racial hierarchy where Black, Brown and indigenous communities lose access to social and economic resources. (The social and economic impacts of criminalization on individuals, families and communities are discussed further on pgs. 52-57) Moreover, maintenance of racial hierarchy is essential to preserving colonialism and stifling indigenous sovereignty locally. Racism was used to paint indigenous Californians as a looming enemy that should be exterminated. At California’s second State of the State Address, the governor, Peter Hardenman Burnett, referred to “the Indian foe” and said, “That a war of extermination will continue to be waged between the races until the Indian race becomes extinct must be expected.”<sup>47</sup> Additionally, the state-sanctioned genocide of indigenous people was supported

<sup>45</sup>Daniels, Colleen, Aggrey Aluso, Naomi Burke-Shyne, Kojo Koram, Suchitra Rajagopalan, Imani Robinson, Shaun Shelly, Sam Shirley-Beavan, and Tripti Tandon. “Decolonizing Drug Policy.” *Harm Reduction Journal* 18, no. 1 (November 27, 2021): 120. Accessed June 22, 2022. <https://doi.org/10.1186/s12954-021-00564-7>.

<sup>46</sup> See the analysis on pgs. 34-35 for more details.

<sup>47</sup>Blakemore, Erin. “California Slaughtered 16,000 Native Americans. The State Finally Apologized For the Genocide.” HISTORY. Accessed June 15, 2022. <https://www.history.com/news/native-american-genocide-california-apology>.



by a state-sanctioned campaign to “civilize” the original owners and caretakers of this land. Through California’s missionary and boarding school systems colonialists-including the newly established state of California-enslaved and killed local indigenous people under the guise of “civilizing” them<sup>48,49,50</sup>. The need to “civilize” indigenous people was based on their distinctness from whiteness. In these ways, the racial hierarchy maintained in part by the War on Drugs is foundational to the degradation of indigenous sovereignty.

Additionally, the War on Drugs has been used globally and locally as a neo-colonial tool to subject indigenous people to settler laws, thus threatening their sovereignty. Globally Western colonialists spread the idea that drugs like cannabis and opium are evil, increasing laws that criminalized colonized people in countries like Kenya, South Africa and India. These laws are still entrenched in the legal systems of colonized countries. For example, India’s highest court-in conflict with international human rights law-has considered drug crimes “more heinous than murder<sup>51</sup>.” In Kenya, colonialist-led cannabis prohibition laid the foundations for the 1994 Narcotic Drugs and Psychotropic Substances (Control) Act, which still governs Kenya’s drug policy<sup>52</sup>. The War on Drugs continues to threaten local indigenous people’s sovereignty by forcing the adoption of non-Native laws. The continued federal prohibition of cannabis means that to fully participate in the regulated cannabis market on their unceded lands local tribes like Santa Ysabel must subject themselves to California state regulation despite having their own robust laws and regulatory systems.<sup>53 54</sup>

The War on Drugs and continued federal cannabis criminalization limits indigenous tribes’ access to economic opportunity, threatening indigenous sovereignty. Local indigenous

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<sup>48</sup>Blakemore, Erin. “California Slaughtered 16,000 Native Americans. The State Finally Apologized For the Genocide.” HISTORY. Accessed June 15, 2022. <https://www.history.com/news/native-american-genocide-california-apology>.

<sup>49</sup>KCRW. “‘Kill the Indian, Save the Man’: CA Lawmaker Demands Answers into Deadly Native American Boarding School System,” July 20, 2021. Accessed June 15, 2022. <https://www.kcrw.com/news/shows/kcrw-features/indigenous-boarding-schools-california-james-ramos>.

<sup>50</sup>Wee | @ewee, Dogmo Studios | Eliza. “Indian Boarding Schools - Gold Chains: The Hidden History of Slavery in California | ACLU NorCal.” ACLU of Northern CA, June 28, 2018. Accessed June 15, 2022. <https://www.aclunc.org/sites/goldchains/explore/indian-boarding-schools.html>.

<sup>51</sup>Daniels, Colleen, Aggrey Aluso, Naomi Burke-Shyne, Kojo Koram, Suchitra Rajagopalan, Imani Robinson, Shaun Shelly, Sam Shirley-Beavan, and Tripti Tandon. “Decolonizing Drug Policy.” *Harm Reduction Journal* 18, no. 1 (November 27, 2021): 120. Accessed June 15, 2022. <https://doi.org/10.1186/s12954-021-00564-7>.

<sup>52</sup>Daniels, Colleen, Aggrey Aluso, Naomi Burke-Shyne, Kojo Koram, Suchitra Rajagopalan, Imani Robinson, Shaun Shelly, Sam Shirley-Beavan, and Tripti Tandon. “Decolonizing Drug Policy.” *Harm Reduction Journal* 18, no. 1 (November 27, 2021): 120. Accessed June 15, 2022. <https://doi.org/10.1186/s12954-021-00564-7>.

<sup>53</sup>“California Tribes and Cannabis.” Accessed June 15, 2022. <https://www.500nations.com/California-Cannabis.asp>.

<sup>54</sup>Fertig, Natalie. “Tribes Left behind by America’s Marijuana Laws.” POLITICO. Accessed June 15, 2022. <https://www.politico.com/news/2022/04/05/tribes-marijuana-laws-00022899>.



tribes experience high poverty rates and limited access to capital<sup>55</sup>. This threatens their sovereignty as a nation's ability to care for its people, organize its members, and advocate in its interests with the U.S. government at the city, county, state and federal levels require financial resources. The U.S. government has "a long, ugly history" of keeping indigenous nations in poverty, removing indigenous people and sovereignty from the best land, and extracting tax revenue off of gainful economic efforts.<sup>56, 57, 58</sup> For example, the US government requires indigenous nations that operate casinos on their reservations to share tax revenue while the US government occupies stolen indigenous lands<sup>59</sup>. The criminalization of cannabis due to the War on Drugs limits local indigenous nations' economic opportunities which threatens their sovereignty.

The War on Drugs and continued federal cannabis criminalization limit indigenous tribes' access to ancestral cultural and healing practices that incorporate prohibited plants, threatening cultural sovereignty. The War on Drugs-as implemented by the United States and other Western colonizing nations -has limited indigenous peoples' ability to practice traditional customs. For example, people indigenous to the land now called Colombia have been prohibited from performing rituals that incorporate coca leaves<sup>60</sup>. Locally, there has been interest among Kumeyaay leaders of incorporating cannabis-although it is a nonnative plant-into healing practices<sup>61</sup>. The continued federal prohibition of cannabis would limit the incorporation of cannabis and indigenous-led evolution of cultural practices. In this way, the War on Drugs limits indigenous cultural expression, threatening local indigenous nations' sovereignty.

Vigilantes and officials delivered "Indian removal" to make way for settler expansion, and criminal justice authorities have, over the same period of time, utilized imprisonment and

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<sup>55</sup> CPI San Diego, "Poverty, Income, and Earnings in the City of San Diego, 2018," Center on Policy Initiatives, April 26, 2020. Accessed June 15, 2022. <https://cpisandiego.org/city-of-san-diego-poverty-income-earnings/>.

<sup>56</sup>Fertig, Natalie. "Tribes Left behind by America's Marijuana Laws." POLITICO. Accessed June 15, 2022. <https://www.politico.com/news/2022/04/05/tribes-marijuana-laws-00022899>.

<sup>57</sup>Washington Post. "Tribes at Odds with Calif. Officials over the Right to Sell Marijuana." Accessed June 14, 2022. [https://www.washingtonpost.com/national/tribes-at-odd-with-calif-officials-over-the-right-to-sell-marijuana/2019/03/24/7c3bad1a-4e8d-11e9-8d28-f5149e5a2fda\\_story.html](https://www.washingtonpost.com/national/tribes-at-odd-with-calif-officials-over-the-right-to-sell-marijuana/2019/03/24/7c3bad1a-4e8d-11e9-8d28-f5149e5a2fda_story.html).

<sup>58</sup>"California Tribes and Cannabis." Accessed June 15, 2022. <https://www.500nations.com/California-Cannabis.asp>.

<sup>59</sup>Fertig, Natalie. "Tribes Left behind by America's Marijuana Laws." POLITICO. Accessed June 15, 2022. <https://www.politico.com/news/2022/04/05/tribes-marijuana-laws-00022899>.

<sup>60</sup>Daniels, Colleen, Aggrey Aluso, Naomi Burke-Shyne, Kojo Koram, Suchitra Rajagopalan, Imani Robinson, Shaun Shelly, Sam Shirley-Beavan, and Tripti Tandon. "Decolonizing Drug Policy." *Harm Reduction Journal* 18, no. 1 (November 27, 2021): 120. Accessed June 15, 2022. <https://doi.org/10.1186/s12954-021-00564-7>.

<sup>61</sup>Mahaffey, Denise. "Events." Accessed June 14, 2022. <https://www.kumeyaay.com/events/296-diversity-in-business-at-southwest-cannabis-conference-and-expo.html>.

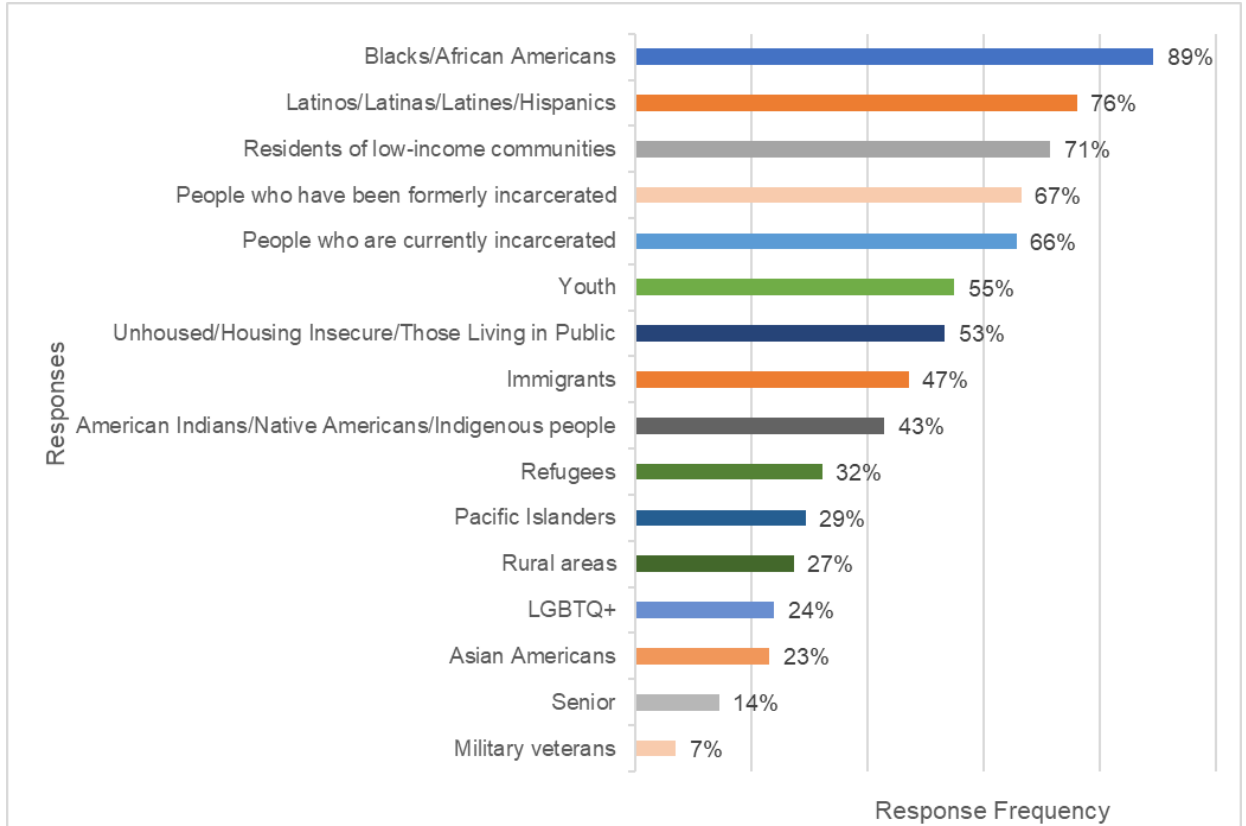


convict leasing to extend the dynamics of enslavement into the “Jim Crow” and “New Jim Crow” eras (Childs 2015, Alexander 2010). One San Diego resident described the cycle he experienced from a younger age, and came to see clearly as he matured and figured out how to navigate it with less direct harm to himself and his family. He reflected:

I've been here for 30 some years and most are still stuck in that rut. If they're not downtown sleeping on the streets today, at least 80% of all the black dudes I met here that were my age, they're still stuck down there. If they're not in prison, it's like they didn't have nowhere else to look. You're going to end up with just mere conversations with a police, just contact, and you going back to prison. Is like a vicious cycle.

Most of the time reentry programs were ineffective at changing job readiness, and with few opportunities, parole and probation, and abundant racial profiling, personal-use cannabis possession or vagrancy infractions would be enough for an officer's “reasonable suspicion”, a return to jail, and another turn of the cycle. One community member, like some, “could see something different” and, with the support of a more effective reentry program, better protected himself from heightened surveillance, profiling, and incarceration.

The War on Drugs, including cannabis criminalization, relies on racist and xenophobic stereotypes, and reifies those same stereotypes with distorted “stats” policing and evidence-averse increases in proportionate budgeting. Community survey respondents were asked to indicate which communities have been disproportionately impacted by the War on Drugs (Figure 4). Respondents identified some racial and ethnic minorities as disproportionately impacted by the War on Drugs. The largest proportion of respondents identified Black and Latiné being disproportionately impacted by the War on Drugs, i.e. 89% and 76% of respondents respectively.

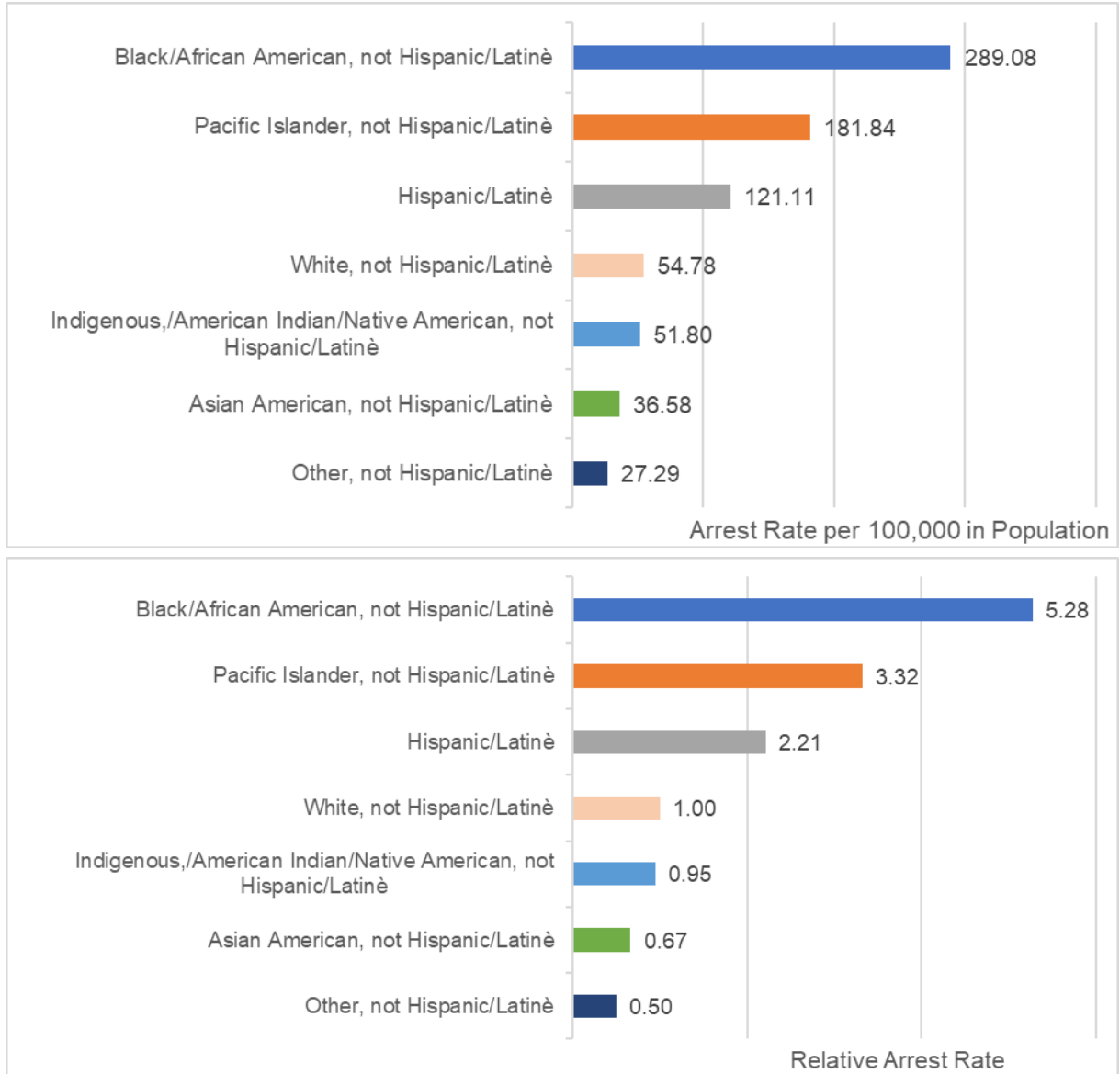


**Figure 4:** Web and phone survey responses to the question, “Who has been disproportionately and negatively impacted by the War on Drugs? Check all that apply.” Two hundred and twenty-eight community members responded to this question of the 262 web and phone survey respondents.

A slightly smaller proportion of respondents reported that Indigenous, Pacific islander and Asian San Diegans were disproportionately impacted i.e., 43%, 29%, and 23% of respondents respectively. According to analysis of 2013 cannabis-related arrest data<sup>62</sup>, Black, Pacific Islander, Latine and Indigenous people are all disproportionately impacted by cannabis prohibition in San Diego County to different extents (Figures 5a, 5b & 6). Black San Diegans are arrested at the highest rate of approximately 289 per 100,000 in population, i.e. a rate that is over 5 times the white arrest rate. Pacific Islander San Diegans are arrested at the second highest rate of 181 per 100,000 in population, i.e. a rate that is more than 3 times the white arrest rate. Latiné San Diegans are arrested at the third highest rate of nearly 121 per 100,000 in population, i.e. a rate that is over 2 times the white arrest rate. According to analysis of a more comprehensive data set from 2012-2017, all of the aforementioned racial and ethnic groups have been disproportionately arrested for cannabis related charges. Furthermore, indigenous San Diegans are also arrested at a rate 50 per 100,000 in population a rate that is nearly 30% higher than the arrest rate for white San Diegans (Figure 6).

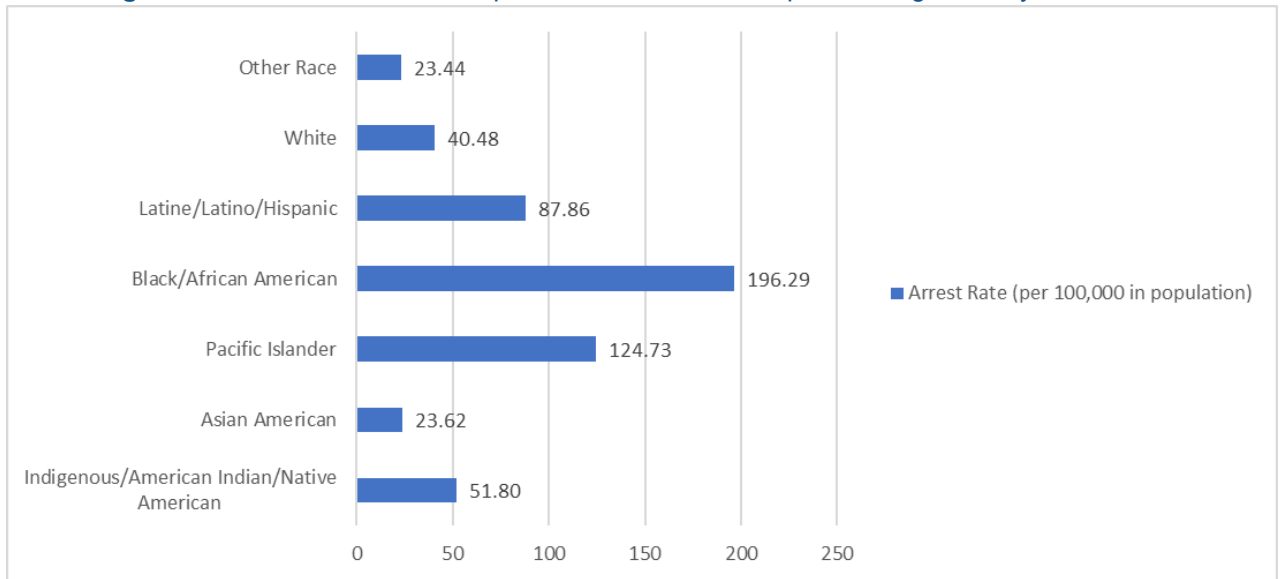
<sup>62</sup> This data was received from SANDAG’s Automated Regional Justice Information system.

**Figures 5a & 5b.** 2013 Arrest Rate (a) and Relative Arrest Rate (b) (i.e., relative to white San Diegans) per Racial & Ethnic Group, San Diego County<sup>63</sup>



<sup>63</sup>Analysis of data cannabis-related arrests that occurred in San Diego County from 2013. More historical data could not be accessed due to a change in data management software. This data was requested from SANDAG's Automated Regional Justice Information system in 2018. This data is collected from all municipal jurisdictions within San Diego county and the Sheriff's Department. While requested, data prior to 2012 was deemed unavailable by SANDAG and not provided. This limited data set may underestimate the impact of cannabis criminalization due to the cultural and policy shifts that began to influence policing during this period.

**Figure 6. 2012-2017 Arrest Rate per Racial & Ethnic Group, San Diego County**



**Table 1. 2012-2017 Relative Arrest Rate (i.e., relative to white San Diegans) per Racial & Ethnic Group, San Diego County**

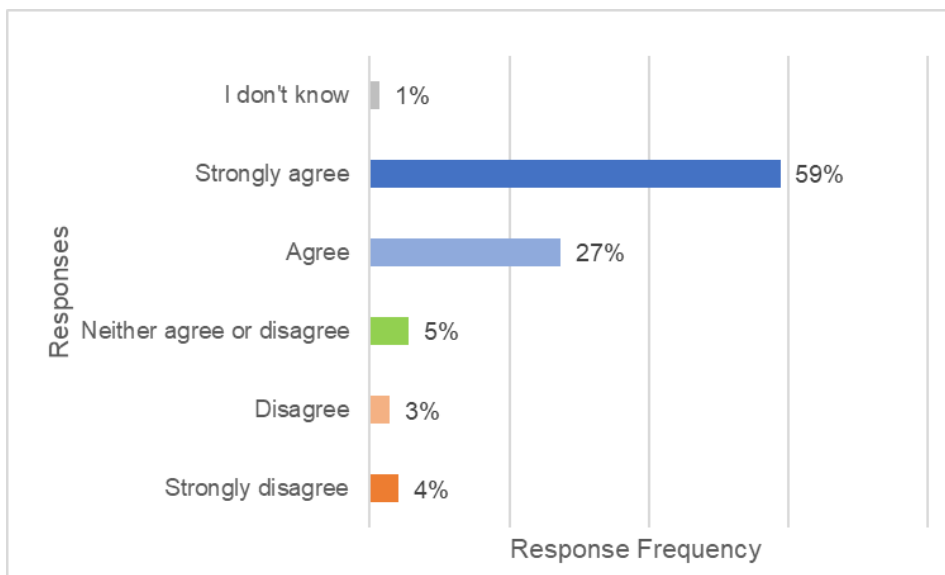
	Relative Arrest Rate (Compared to White Arrest Rate)
Indigenous/American Indian/Native American	1.28
Asian American	0.58
Pacific Islander	3.08
Black/African American	4.85
Latiné/Latino/Hispanic	2.17
Other Race	0.58

Racially disproportionate arrests for cannabis use cannot be explained by racial differences in cannabis use. Cannabis use rates show little difference across race, yet Blacks remain far more likely to face arrest<sup>64</sup> and this impacts future opportunities. One community stakeholder explained, “people who have been incarcerated and arrested for nonviolent offenses with cannabis are now being cheated out of the right to be in this business, even

<sup>64</sup> Dayna Bowen Matthew and Richard V. Reeves, “Trump Won White Voters, but Serious Inequities Remain for Black Americans,” *Brookings* (blog), January 13, 2017, <https://www.brookings.edu/blog/social-mobility-memos/2017/01/13/trump-won-white-voters-but-serious-inequities-remain-for-black-americans/>.

though they may have been helping patients get medicine. If you're Black, in San Diego, you're seven times more likely to get arrested for cannabis use than a white person.<sup>65</sup> Many stakeholders corroborated these disparities. One San Diego industry stakeholder experienced, as an east coast college cannabis dealer in the late 1970s, facing 40 hours of community service upon getting busted, notably because as a young, white, well-educated man he “looked responsible”. A community stakeholder of Black and Mexican descent grew up in Los Angeles and remembered “the police just hovered around our neighborhoods and we were little kids being arrested, always being put on the curb, handcuffed, searched, no more than 12, 14 years old. But on the other side of the freeway, from a close knit beach community, white kids would come down from the hills and get their stuff. They didn’t experience any of the things that we experienced. We would go to their parties and be picked out and followed home because we were going that way. It was really easy to see the difference.”

If the racially disparate enforcement of cannabis prohibition cannot be explained by differences in cannabis-use between racial and ethnic groups, then what drives these differences? The racist stereotypes that drove and are reified by the War on Drugs, according to community members, may drive these racially disparate impacts. Eighty-six percent of community survey respondents reported that they strongly agree or agree that the War on Drugs led to the unfair representation of Black and Latiné people in San Diego County as criminals and/or dangerous.

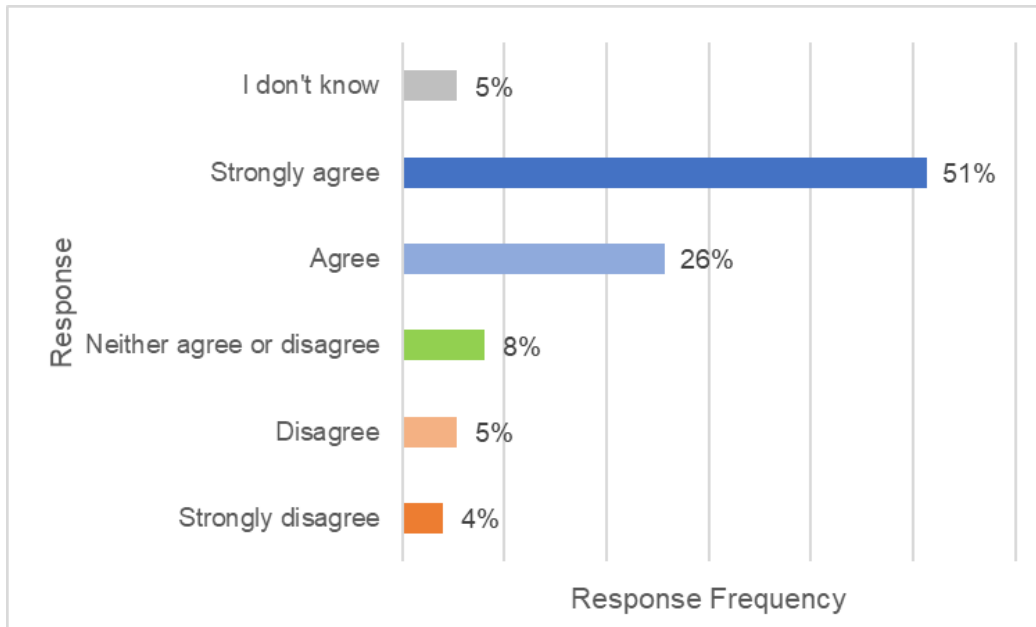


**Figure 7.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs led to the unfair representation of Black and Latino/Latiné/Hispanic people in San Diego County as criminals and/or dangerous.” Seventy-three community members responded to this question of the 83 web survey respondents.

These racial stereotypes are extended to Black, Indigenous and People of Color (BIPOC) immigrants. Seventy-seven percent of community respondents strongly agreed or agreed that locally the War on Drugs led to the unfair representation of immigrants of color as

<sup>65</sup> While this stakeholders statement does highlight racial disparities that our analysis corroborated, the exact relative arrest rate was not found by our analysis. It is possible this stakeholder is referencing analysis of data from a specific jurisdiction within the County like the city of San Diego.

criminals and or dangerous. For immigrants of color these racist and xenophobic stereotypes were accompanied by deportations for drug-related charges.



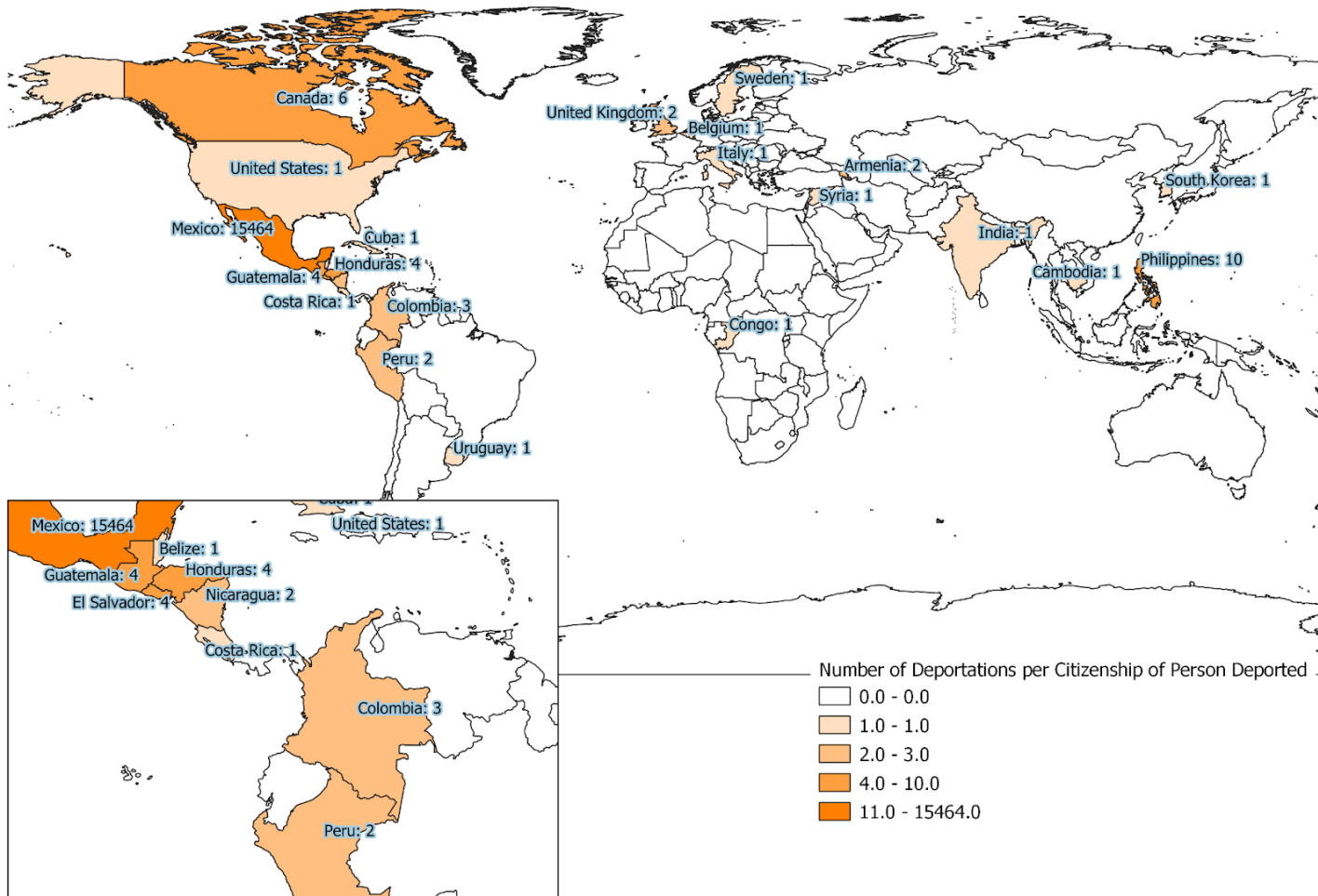
**Figure 8.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs led to the unfair representation of immigrants of color as criminals and/or dangerous in San Diego County.” Seventy-three community members responded to this question of the 83 web survey respondents.

According to our analysis of data from TRAC Immigration on drug-related immigration violations and deportations, drug related offenses resulted in deportation for immigrants from various nations, especially Latin American nations. Notably from 2003 to 2016 there were 15,464 people with Mexican citizenship and ten people with Filipino citizenship that were deported from San Diego county due to drug related immigrant violations. Honduras, El Salvador and Guatemala have the next highest number of citizens that were deported from San Diego county due to drug-related charges. This does not represent the cause of deportation for the majority of immigrants. According to our analysis of TRAC Immigration data, deportations with drug-related immigrant violations comprised 1.49% of all deportations from San Diego county. In fact, the majority of deportations were due to entering or reentering without complete and approved documentation (Table 2). Still immigrants, especially those from Latin America, have been deported as part of the War on Drugs. While drug-related deportations represent a small proportion of all deportations, they removed individuals that were part of the complex economic, social and political fabric of families and communities throughout San Diego county.

Immigrants of color have also been particularly impacted by racism in the War on Drugs and cannabis criminalization in San Diego, as it relates to the agricultural labor force and prevalent refugee resettlement apparatus. During a north county community listening session, one community stakeholder pointed out, “the cannabis industry is still closed for undocumented folks, because many folks continue to be criminalized for using or working in the cannabis industry. If they're undocumented, that is an offense<sup>66</sup>...even if it's legal. So in

<sup>66</sup>Any relationship to cannabis is an aggravated federal felony, which is immediately deportable and grounds for permanent denial of citizenship.

the state of California, we have foreign workers who have been deported for working in the field of cannabis, which is something to keep in mind as our County moves into the growing phase of the cannabis industry, because we know that...we have a large presence of farmworkers in our communities...keep in mind, that industry continues to be closed for a lot of us.” Dependence on the effort, both labor and consumer spending, of populations excluded from the possibility of ownership is a hallmark of the race system, and in San Diego the criminalization of undocumented populations is inextricably tied to cannabis criminalization, an important emphasis for social equity in the up-and-coming industry.



**Figure 9.** Drug Related Immigration Violations that Resulted in Deportation from San Diego County (i.e., from San Ysidro, San Diego Port of Entry, San Diego Airport, Otay Mesa and Tecate) by Country of Citizenship (2003-2018)<sup>67</sup>.

<sup>67</sup> TRAC Immigration. “Latest Data: Immigration and Customs Enforcement Removals,” 2021. <https://trac.syr.edu/phptools/immigration/remove/>.





**Table 2. Number of Deportations by Immigration Violation per City or Port Departed from In San Diego County<sup>68</sup>**

<b>Immigration Violation Deportation Based</b>	<b>Tecate, CA</b>	<b>San Diego, CA, POE</b>	<b>San Diego, CA (Airport), POE</b>	<b>Otay Mesa, CA, POE</b>	<b>San Ysidro, CA, POE</b>	<b>Total SD County</b>	<b>% of All Deportations</b>	<b>Drug-Related</b>
All	685	105	1,462	24,211	449,918	476,381	100.00%	No
Alien present in U.S. who was not admitted or paroled	563	56	581	13,621	254,677	269,498	56.57%	No
Previously removed/ordered removed, seeks re-entry within 10 or 20 yrs	4	5	48	1,231	42,106	43,394	9.11%	No
Ordered removed, re-enters without being admitted	4	4	29	965	40,069	41,071	8.62%	No
Convicted of an aggravated felony	3	4	147	2,139	30,232	32,525	6.83%	No
Not Listed	15	1	19	330	15,696	16,061	3.37%	No

<sup>68</sup> TRAC Immigration. "Latest Data: Immigration and Customs Enforcement Removals," 2021. <https://trac.syr.edu/phptools/immigration/remove/>.



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Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Immigrant not in possession of valid entry documents	19	19	66	737	13,042	13,883	2.91%	No
Previously removed, seeks re-entry within 5 or 20 yrs	1	2	26	970	11,854	12,853	2.70%	No
Convicted of 1 CIMT (Crime Involving Moral Turpitude)	2	2	18	1,166	7,240	8,428	1.77%	No
Convicted of 1 CIMT (Crime Involving Moral Turpitude)		3	20	404	5,419	5,846	1.23%	No
Willful misrepresentation of material fact	10		12		5,648	5,670	1.19%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Entry without inspection	37		268	215	3,450	3,970	0.83%	No
False claim to U.S. citizenship	4		5	333	3,379	3,721	0.78%	No
Controlled substance traffickers	2	1	11	260	3,352	3,626	0.76%	Yes
Convicted of controlled substance violation	2		21	180	2,776	2,979	0.63%	Yes
Present in the United States in violation of law	6	4	66	128	2,012	2,216	0.47%	No
Alien smuggling	4	1	14	296	1,606	1,921	0.40%	No
ICE unlawfully withheld for 2013 -- appeal pending			1	312	1,509	1,822	0.38%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Convicted of domestic violence, stalking, child neglect, etc.	1		9	74	970	1,054	0.22%	No
Convicted of more than 1 CIMT (Crime Involving Moral Turpitude)	1		9	49	877	936	0.20%	No
Likely to become a public charge			12	7	743	762	0.16%	No
Non-immigrant status violator	3		25	40	536	604	0.13%	No
Willful misrepresentation of material fact				534		534	0.11%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Convicted of 1 CIMT and 1 year sentence may be imposed			1	32	494	527	0.11%	No
Other	3		11	41	309	364	0.08%	No
Convicted of firearms offense			3	30	329	362	0.08%	No
<b>Controlled substance conviction</b>			<b>4</b>	<b>33</b>	<b>310</b>	<b>347</b>	<b>0.07%</b>	<b>Yes</b>
Unlawful presence >1 year and re-enters without being admitted			1	9	189	199	0.04%	No
Immigrant visa issued without compliance Section 203 INA				3	135	138	0.03%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Final order for violation of Section 274C INA			1	1	135	137	0.03%	No
Firearms offenses			3	4	114	121	0.03%	No
Immigrant without visa			4	9	108	121	0.03%	No
<b>Conviction - violation of narcotic law or regulation</b>				4	96	100	0.02%	Yes
Termination of conditional permanent residence status	1		3	6	84	94	0.02%	No
Non-immigrant without valid visa				2	86	88	0.02%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD County	% of All Deportations	Drug-Related
Has become a public charge within five years of entry		3	15	17	40	75	0.02%	No
Violation of protection order				8	67	75	0.02%	No
Convicted of CIMT committed within 5 years after entry				9	33	42	0.01%	No
Convicted of more than 1 CIMT, sentenced to 5+ years				3	22	25	0.01%	No
Convicted for possession of narcotic drugs					23	23	0.00%	Yes



Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Drug abuser or addict			1		18	19	0.00%	Yes
Unlawful presence >1 year seeks re-entry within 10 yrs (non-LPR)					19	19	0.00%	No
Non-immigrant - remained longer			3	1	14	18	0.00%	No
Absent removal proceedings, re-enters <5 yrs depart/removal				1	14	15	0.00%	No
Non-immigrant without valid passport				1	12	13	0.00%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Convicted fraud, misuse visas, entry documents (18 USC 1546)				1	10	11	0.00%	No
Previously excluded					11	11	0.00%	No
Fraud or misrepresentation			1	1	7	9	0.00%	No
Termination of conditional residence			1		7	8	0.00%	No
Unlawful presence 181-364 days seeks re-entry within 3 yrs (non-LPR)				1	7	8	0.00%	No
Immigrant entering the U.S. to practice polygamy					6	6	0.00%	No



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Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD Count y	% of All Deportations	Drug-Related
Failure to maintain non-immigrant status			2		3	5	0.00%	No
Lacks immunization against vaccine-preventable disease					5	5	0.00%	No
Violated conditions of entry			1		4	5	0.00%	No
Contagious disease					4	4	0.00%	No
Prostitution or commercialized vice				2	2	4	0.00%	No
Marriage fraud - terminated within 2 years after admission					3	3	0.00%	No

Immigration Violation Deportation Based	Tecate, CA	San Diego, CA, POE	San Diego, CA (Airport), POE	Otay Mesa, CA, POE	San Ysidro, CA, POE	Total SD County	% of All Deportations	Drug-Related
Physical or mental disorder with associated harmful behavior				1	1	2	0.00%	No
Uncertified foreign health-care workers					2	2	0.00%	No
Espionage, sabotage, export sensitive technology/information					1	1	0.00%	No
Falsification of documents					1	1	0.00%	No

A health advocate related an experience of a Black immigrant under Temporary Protected Status (TPS)<sup>69</sup> that further illustrates the wide institutionalization of cannabis criminalization. The advocate explained:

I always like to talk about the intersections of policing and Child Welfare Services. They work hand in hand. The mom was tested without her consent, which is illegal.

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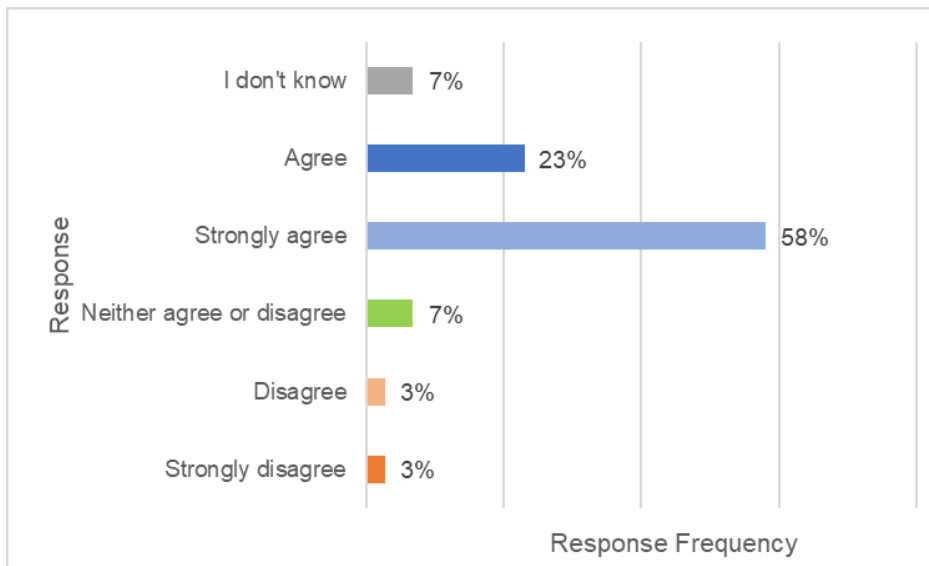
<sup>69</sup>TPS is a form of asylum approved for immigrants from specific countries where they are unsafe. TPS allows migrants to live and work for a limited period of time. See “Temporary Protected Status,” January 13, 2015, <https://www.justice.gov/eoir/temporary-protected-status>.

It's a Supreme Court decision. They're supposed to ask for consent. They came back in and a social worker came in, and they tried to say, oh, it's standard for social workers to come in, which it is not. They were threatening to remove her baby from her because of cannabis. Because marijuana was in her system. And it is pretty traumatic, being threatened to have your child taken away. So English is not her first language. But it's a problem, called a medical kidnapping, but it's pretty common in a lot of other states where you cannot leave the hospital and police will be called and your baby will be snatched away from you. She didn't know how it got in her system, but I think it's important when we talk about cannabis justice, that we also include what's happening to pregnant people.

Medical racism intersects with immigration policy, and as illustrated here, cannabis criminalization can be the central mechanism of prevailing attachments to racialized policing by officials adjacent to the law enforcement context.

### Increased policing

The War on Drugs and cannabis criminalization have increased police presence in the neighborhoods and schools of the most impacted communities. Eighty-one percent of survey respondents agreed with the statement: The War on Drugs increased police presence in targeted communities in San Diego County. In fact, San Diego is one of the state's most disproportionately impacted counties according to the Governor's Office of Business and Economic Development analysis of Department of Justice data. According to data from arrests from 1980 to 2016, San Diego County per capita drug related arrest rate higher than the state's per capita drug related arrest rate<sup>70</sup>

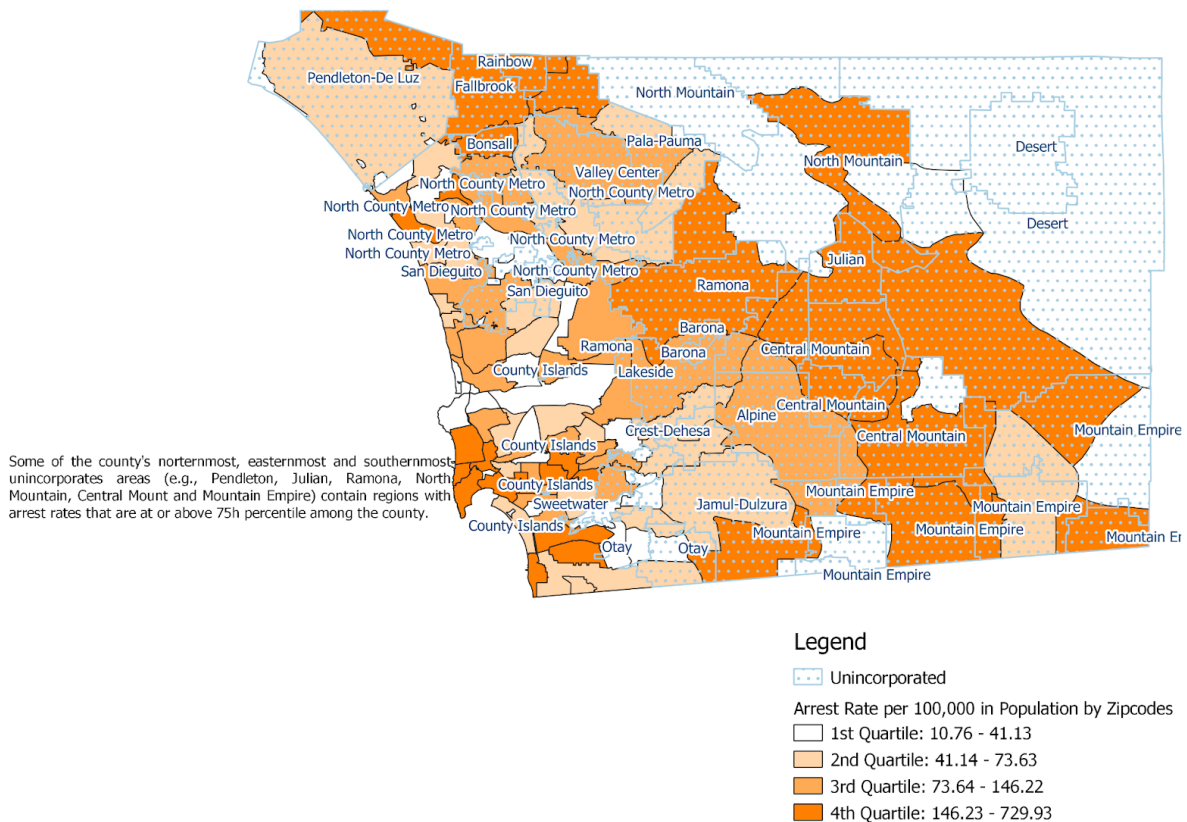


<sup>70</sup>Governor's Office of Business and Economic Development. "CalCRG-Program-Grant-Solicitation-FY-2021-22.Pdf," August 2021. <https://static.business.ca.gov/wp-content/uploads/2021/08/CalCRG-Program-Grant-Solicitation-FY-2021-22.pdf>.

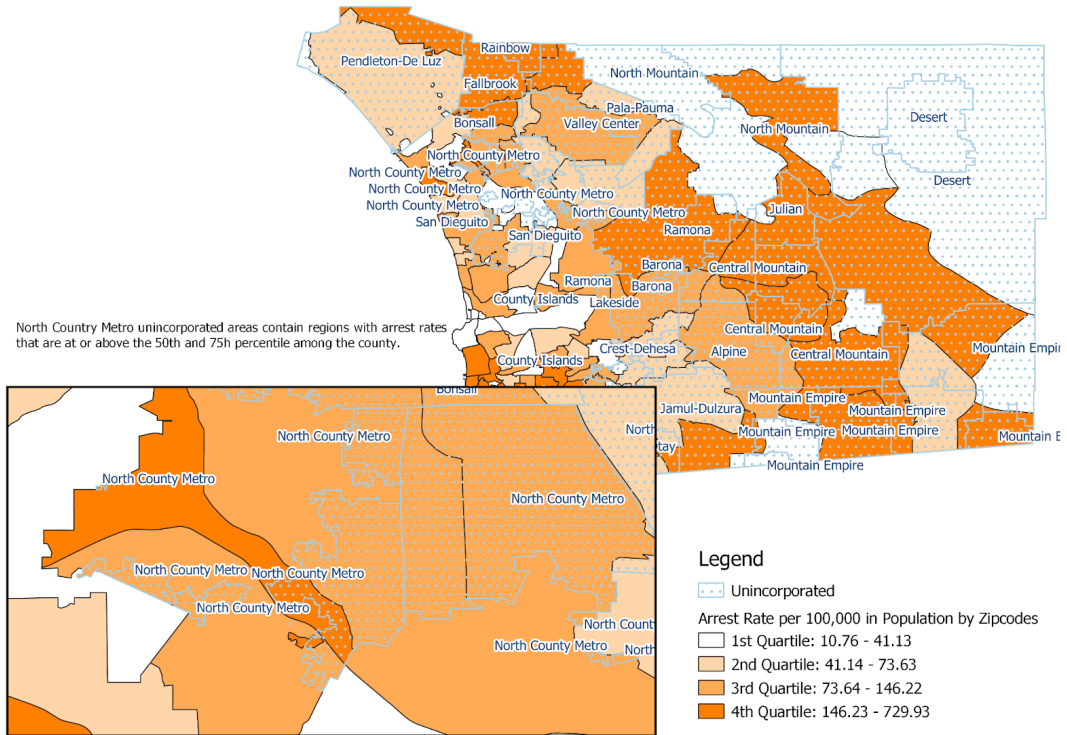
**Figure 10.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs increased police presence in targeted communities in San Diego County.” Seventy-four community members responded to this question of the 83 total web survey respondents.

Within San Diego county there are also geographic disparities in arrest rates. Within the county there are higher arrest rates in incorporated and more densely populated areas like San Diego city, National City. However, focusing our analysis of unincorporated areas shows high arrest rates among many unincorporated areas throughout the County (Figures 12a, 12b, 12c & 12d). Many areas in the northernmost and easternmost areas of San Diego county’s unincorporated areas are within the top 75th percentile of arrest rates among zip codes in the county (Figure 12a ). Additionally, unincorporated North County Metro and San Dieguito communities have been disproportionately impacted by cannabis-related arrests.

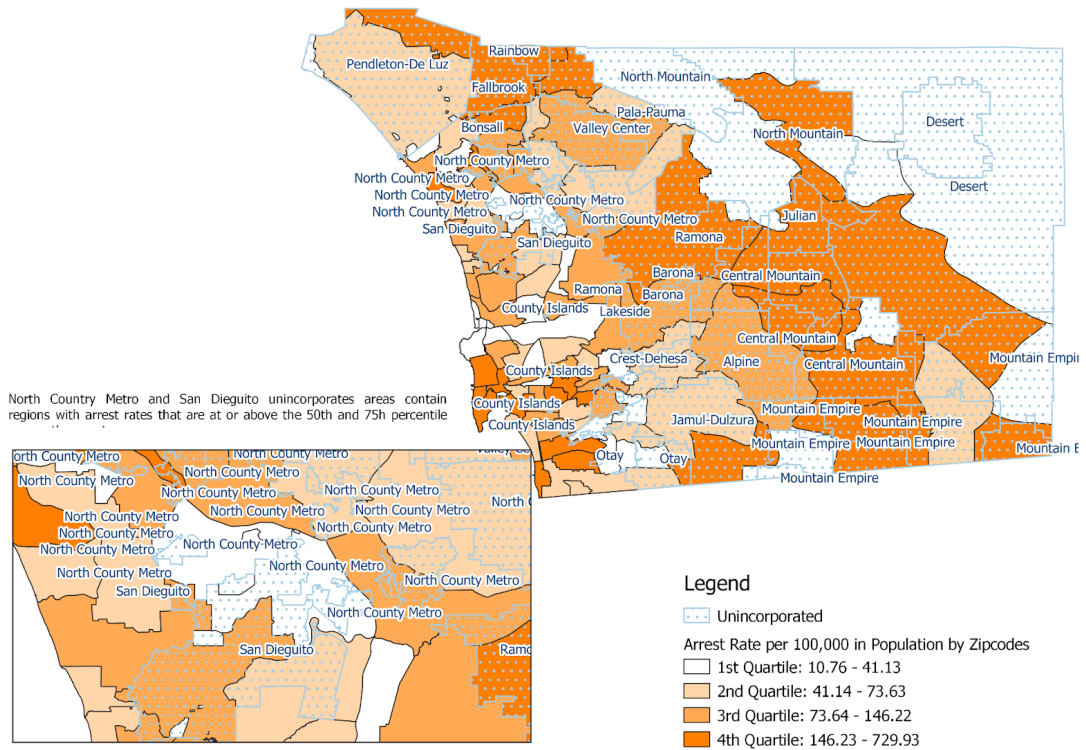
**Figures 11a, 11b, 11c & 11d.** 2013 Arrest Rates per 100,000 in Population by Zipcode in San Diego County with Unincorporated Communities Highlighted 12a.

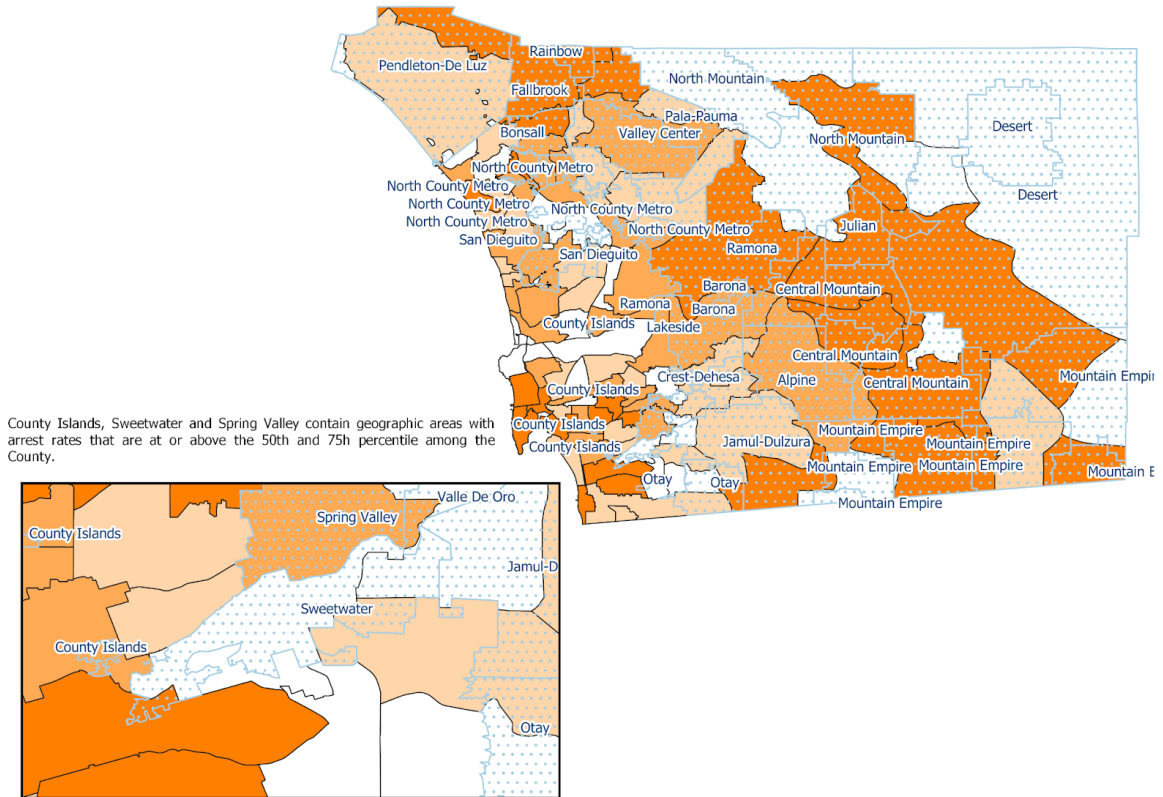


12b.



12c.





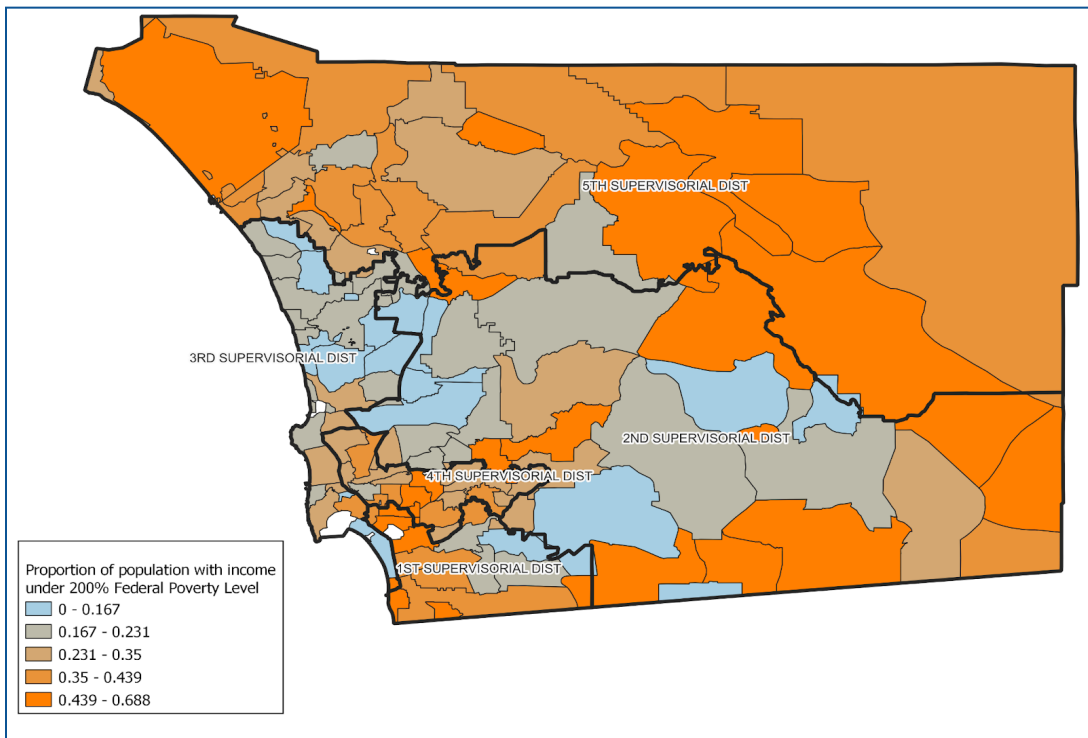
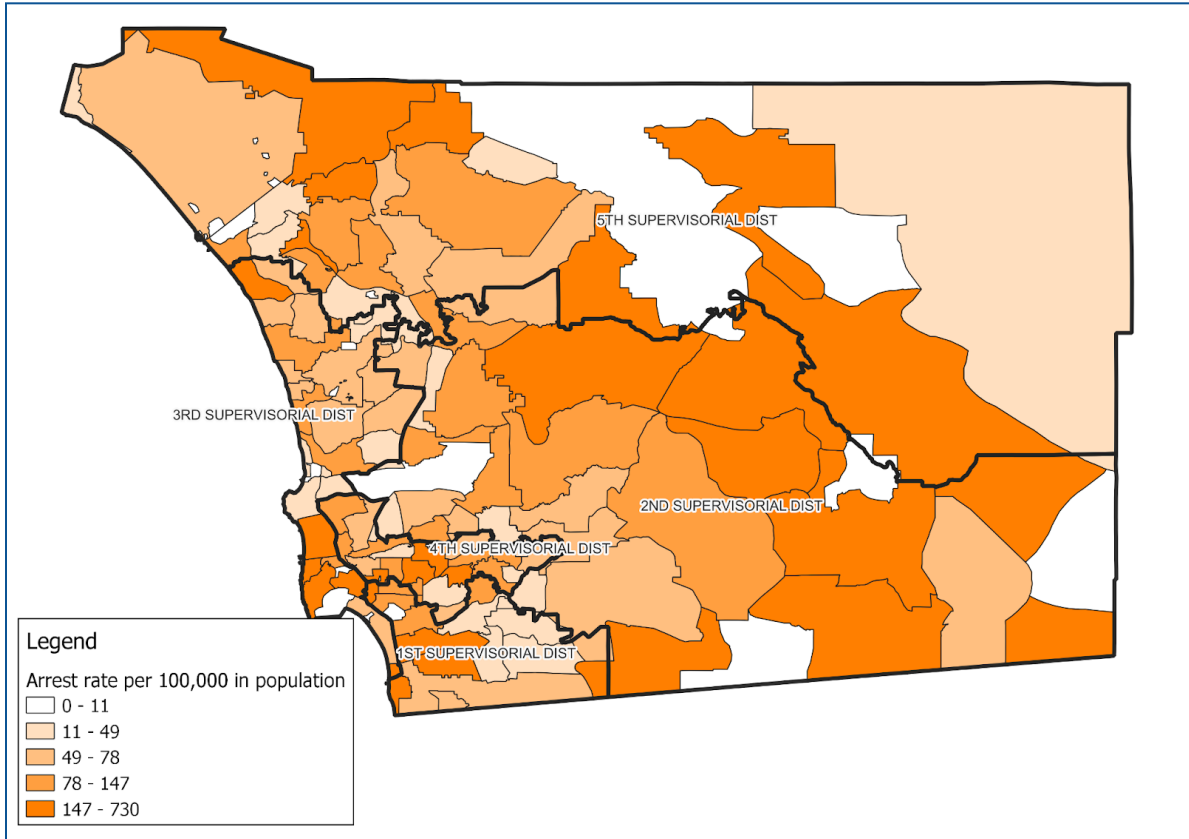
12d.

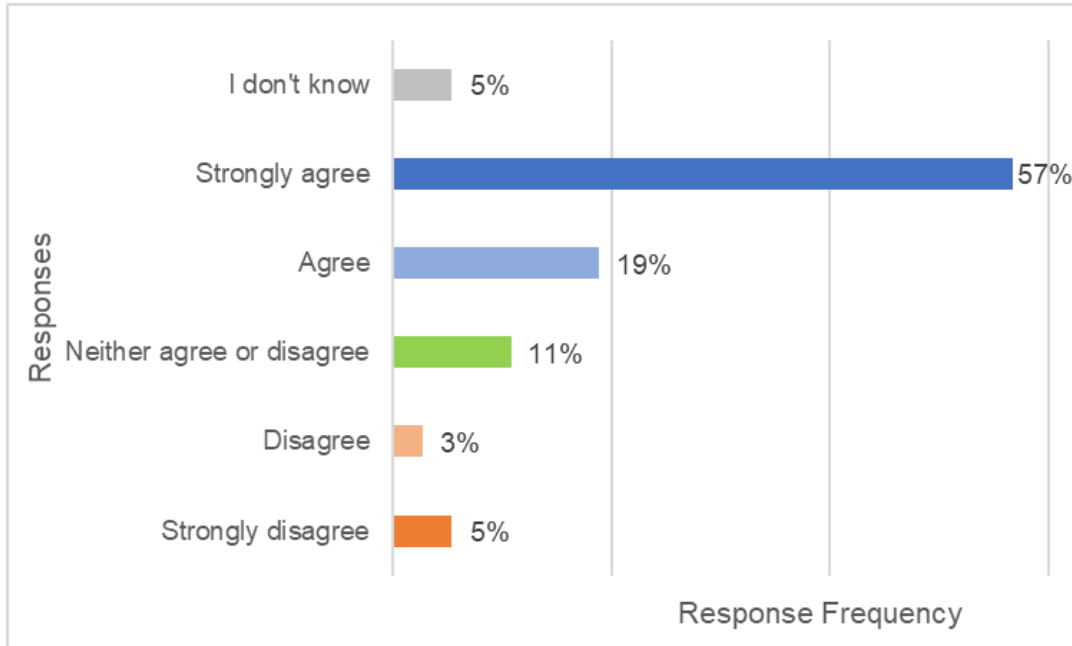
In addition to the disproportionate arrests faced by Black and Brown communities and throughout different areas in San Diego, evidence suggests that people from low-income communities have been disproportionately arrested for cannabis-related charges. Geographic analysis of arrest rates in San Diego county indicates higher arrest rates in zip codes with higher proportions of population that have income under 200% of federal poverty level (FPL) according to U.S. Census Bureau data (Figures 13a and 13b). Spearman's rank correlation was computed to assess the relationship between arrests and population under 200% FPL for 104 zip codes in San Diego County. There was a positive correlation between cannabis-related arrests and low-income,  $r(102) = 0.56$ ,  $p < .001$ . This moderately positive correlation suggests that more arrests occur of people that live in communities where more people are impoverished. Further, throughout listening sessions and surveys community stakeholders noted that low-income communities, along with communities of color, are disproportionately impacted by the War on Drugs (Figure 14). The association between low-income communities and over incarceration follows national trends<sup>71</sup>.

<sup>71</sup>AAF. "Incarceration and Poverty in the United States." Accessed June 28, 2022. <https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/>.

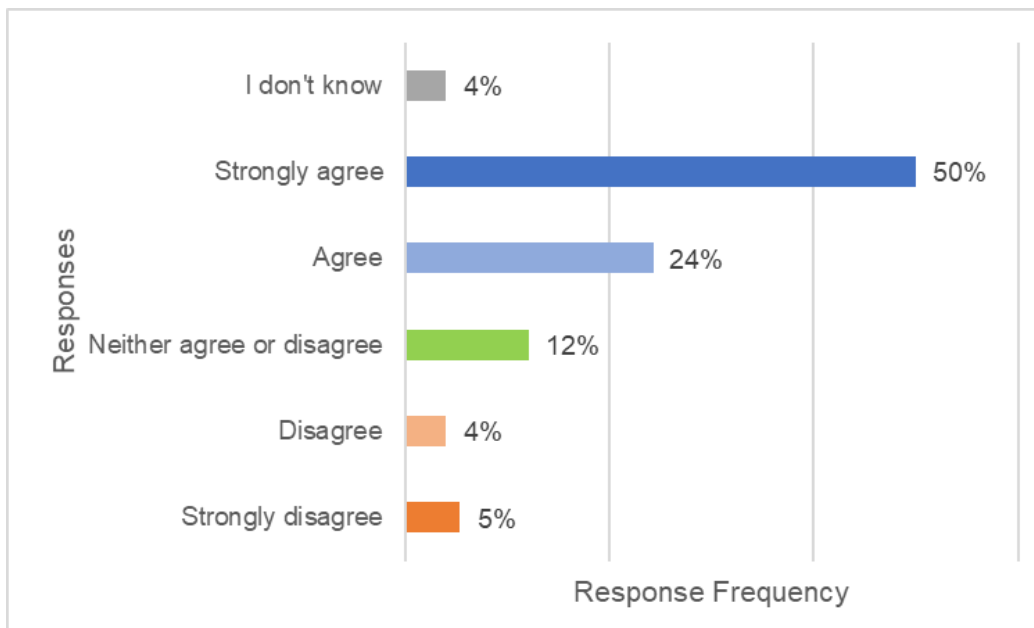


**Figures 12a & 12b.** 2013 Arrest Rates per 100,000 in population and Proportion of Population with Income-Poverty Ratio below 200% in Zip Codes within San Diego County

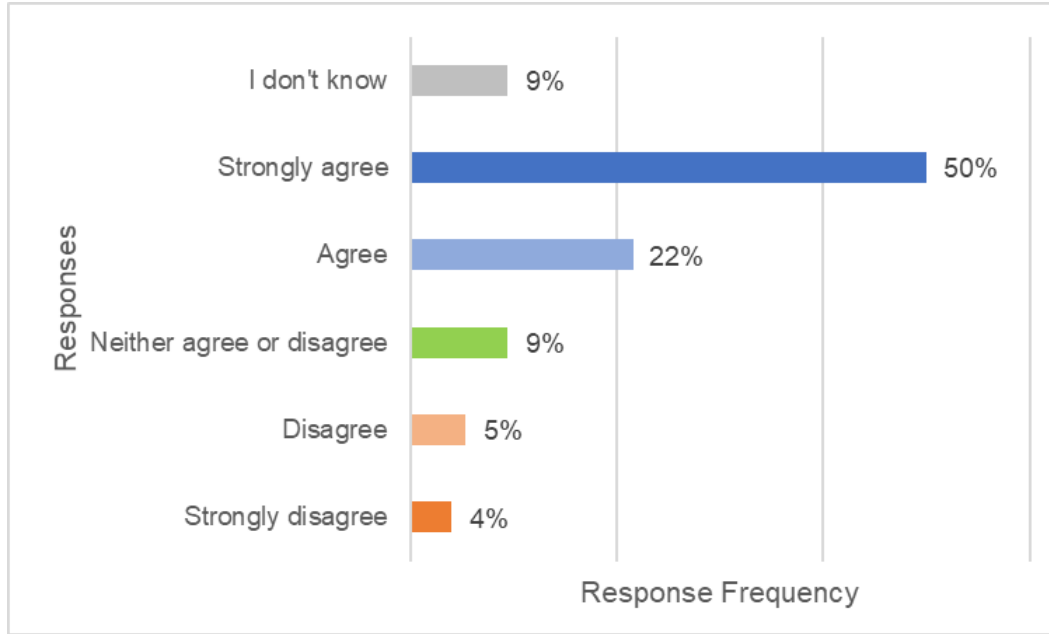




**Figure 13.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs led to disproportionate arrest of targeted communities in San Diego County.” Seventy-four community members responded to this question of the 83 total web survey respondents.



**Figure 14.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs has led to more violent police tactics in San Diego County.” Seventy-four community members responded to this question of the 83 total web survey respondents.



**Figure 15.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs increased militarized police surveillance of targeted communities in San Diego County.” Seventy-four community members responded to this question of the 83 total survey respondents.

Increased policing has led to increased incarceration. Longer and more severe sentencing for the racial/ethnic groups that have been disproportionately impacted by cannabis arrests in San Diego. Black, Latiné and low-income people have long suffered disproportionately severe sentencing and longer incarceration in the United States<sup>72, 73</sup>. There is evidence that these groups suffered similarly disparately more long and harsh sentencing in San Diego County. A chi-square test of independence revealed, among this sample of 14,063 arrests, that there was a statistically significant association between racial and ethnic identity and charge level (i.e., felony misdemeanor, infraction, other) ( $\chi^2_{(18)} = 190.44, p < 0.001$ ). Examining the observed and expected values revealed that Asian American, Black/African American and Pacific Islanders and White people were more likely to be arrested for felony-level cannabis-related offenses in San Diego County. This phenomenon of being arrested for crimes that carry a more severe charge combined with disproportionate arrest rates for Black and Pacific Islanders indicate an even more extreme disproportionate impact of the War on Drugs is faced by BIPOC communities in San Diego County.

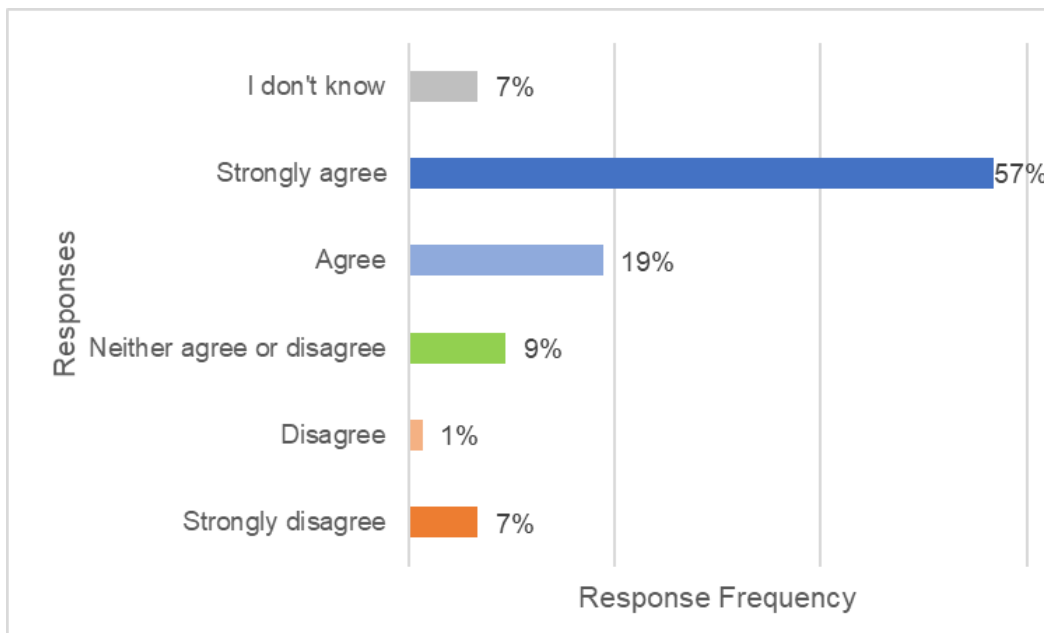
Similarly, arrestees from lower income areas were arrested for offenses that carry longer and more severe sentencing. Based on this sample of 13,473<sup>74</sup> cannabis-related arrests in San Diego County, a one-way ANOVA revealed statistically significant difference

<sup>72</sup> AAF. “Incarceration and Poverty in the United States.” Accessed June 28, 2022. <https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/>.

<sup>73</sup>Kansal, Tushar. “Racial Disparity in Sentencing.” Open Society. Accessed June 28, 2022. <https://www.opensocietyfoundations.org/publications/racial-disparity-sentencing>.

<sup>74</sup> Fewer arrest records were included in this analysis because only the records that included charge level data and arrestee zip code were analyzed.

between the proportion of those living in the arrestees' zip code of residence with an income below 200% of the federal poverty level for people arrested for charges of different levels ( $F(2, 13470) = 32.045, p < .001$ ). A Bonferroni post hoc test revealed that for those arrested for felony charges the proportion of residents with an income under 200% FPL in the arrestee's zip code was statistically significantly higher than those arrested for infractions ( $p < .001$ ). The proportion of people in the arrestee's zip code with an income less than 200% FPL was 19 percentage points lower for those receiving infractions compared to those arrested for felony level offenses. The same is true for the zip codes of those arrested for misdemeanors compared to those arrested for infractions ( $p < .001$ ). The proportion of people in the arrestee's zip code with an income less than 200% FPL was 17 percentage points lower for those receiving infractions compared to those arrested for felony level offenses. Again, the disproportionate criminalization low-income communities in the County faced, combined with arrest for more severe crimes, suggests that low-income communities were disproportionately impacted by the War on Drugs.



**Figure 16.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs led to increased sentencing for and incarceration of targeted communities in San Diego County.” Seventy-three community members responded to this question of the 83 total web survey respondents.

### Less investment in communities

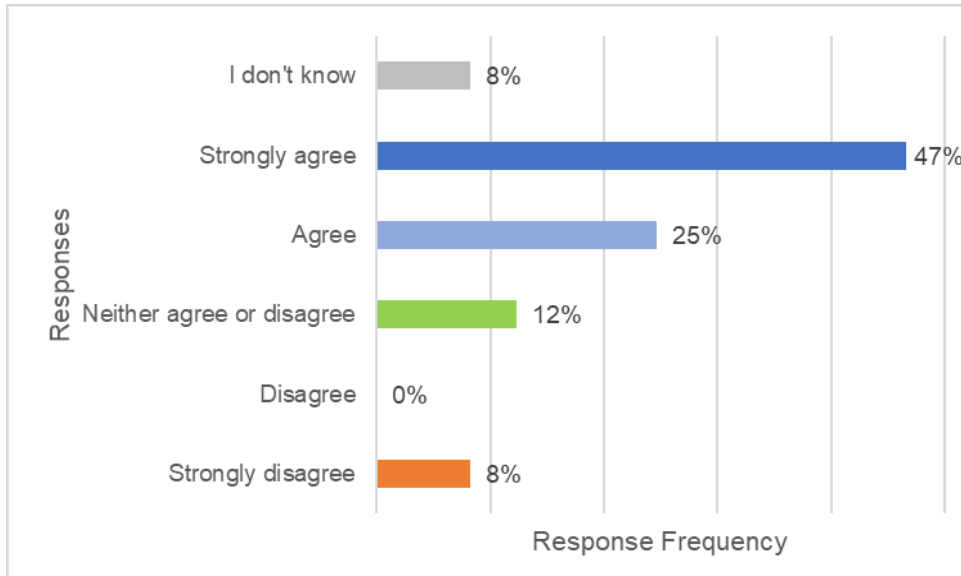
Cannabis criminalization is associated with low public investment, exacerbating the impacts of criminalization. Throughout the community listening sessions, multiple thematic elements became evident within community dialogue. Participants examined the history and implications of the War on Drugs through the lens of disproportionate impact on disadvantaged communities, exclusion from institutions and avenues of socio-economic mobility, as well as the collateral consequences of criminalization on community and family structures. When asked about the history and impact of the War and Drugs and cannabis criminalization, participants shared personal stories and anecdotes that emphasized the

detrimental impact of mass incarceration on community wellbeing, with an emphasis on obstacles placed on access to education, employment opportunity, economic security, social services, and the disruption of communal and family networks. Furthermore, participants highlighted the obstacles and barriers faced when navigating the criminal-legal system due to drug convictions, including sub-standard legal representation and economic turmoil for individuals and families. One participant summarized the ramifications of outdated drug policy by stating that “the focus [of the War on Drugs is] no longer on healing the community, but enforcement, or a purpose to enforce the community,” noting that legacy of the War on Drugs has shifted from a culture of healing and rehabilitation towards one of criminalization, policing, and enforcement.

The negative impacts of cannabis criminalization on economic opportunity, were exacerbated by the War on Drugs’ disproportionate impact on low-income communities. Seventy-one percent of survey respondents identified residents of low-income communities as disproportionately impacted (Figure 4). As previously mentioned, this is supported by our analysis of cannabis-related arrests in San Diego county. Additionally, the targeted arrest and criminalization may have led to decreased economic investment in disproportionately impacted communities. Seventy-two percent of community respondents agree or strongly agreed that the War on Drugs lowered economic investment in communities (Figure 18). When communities are over-policed and over-incarcerated, these inflated crime rates reduce property value and consequently tax revenue for those communities<sup>75</sup>. In this way, the disproportionate policing due to the War on Drugs substitutes for public investment which exacerbates the negative impacts over incarceration in disproportionately impacted communities. This is another example of a community wide impact of the War on Drugs.

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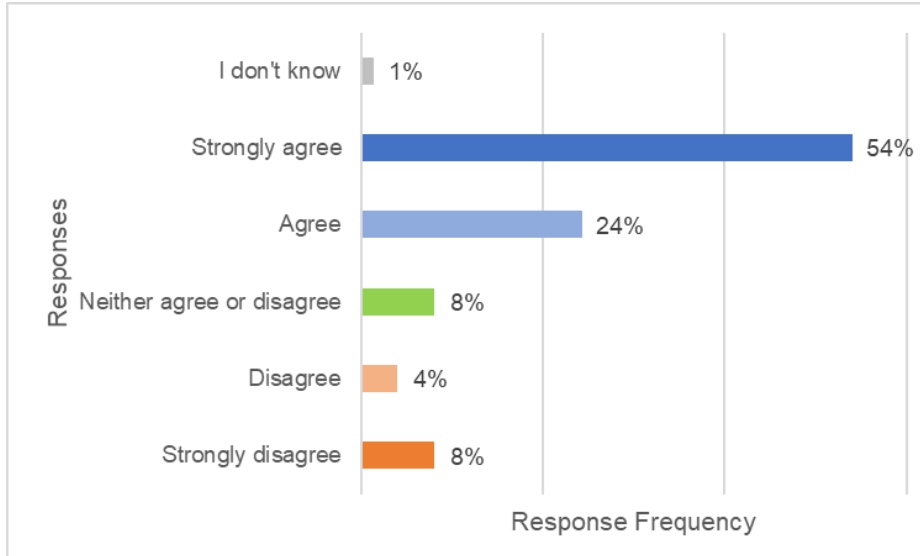
<sup>75</sup>Maximino, Martin, The Journalist’s Resource March 12, and 2014. “The Impact of Crime on Property Values: Research Roundup.” *The Journalist’s Resource* (blog), March 12, 2014. <https://journalistsresource.org/economics/the-impact-of-crime-on-property-values-research-roundup/>.



**Figure 17.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs led to lower economic investment in communities in San Diego County.” Seventy-three community members responded to this question of the 83 total web survey respondents.

### Impacted family and community cohesion

Mass incarceration due to cannabis criminalization due to the War on Drugs negatively impacted family and community cohesion. Community survey respondents identified people with a history of incarceration as being disproportionately impacted by the War on Drugs. People who have been formerly or who are currently incarcerated were identified as disproportionately impacted by 67% and 66% of respondents respectively (Figure 4). One way formerly and currently incarcerated community members have been negatively impacted by the War on Drugs is through disruption of their families (Figure 19).



**Figure 18.** Web survey responses to the question, “To what extent do you agree with the following statement: The War on Drugs disrupted the structure of families in San Diego County.” Seventy-four community members responded to this question of the 83 web survey respondents.

One interviewee poignantly examined the history of the War on Drugs and the impact on San Diego communities through larger systems and structures and the impact on the Black family: “I think about it in terms of capitalism... and in terms of the carceral state. I think about it in terms of the Black family. So when I think about it in terms of capitalism, the War on Drugs was really started by the government realizing that there was a big drug trade in the United States that they weren't getting a cut. The government said, well, hey, all these drug dealers are making a lot of money and getting rich, where's our cut federal government. From that process, the War on Drugs became a thing. What they did was they kind of contracted, the government contracted a lot of federal prison systems to make people's sentences longer, to make more money off people who were victims of the War on Drugs. So that brings in the Black family...It's about continuing to disrupt the Black family. And this is about being carceral state funded.” This commenter examined the history and implications of the War on Drugs through intersections between capitalism, cannabis/drug criminalization, mass incarceration and heightened drug sentencing, as well as the direct detrimental impact on the Black family and community.

When asked about specific experiences with cannabis criminalization in San Diego County, multiple participants shared personal accounts of loved ones who had been criminalized, as well as the reverberating impact felt throughout families and communities. One participant reflected upon their personal experience in San Marcos, stating that law enforcement was “really cracking down in the community [by] targeting a lot of the Latino youth in the area, and my husband was one of them...he ended up being part of an investigation...once he got arrested, he went in, we had to look at bail...where we were going to get money to pay that bail, whether we were going to need an attorney, so it just kind of triggered all these emergencies that we were not prepared to deal with.” Through their husband's experience, this community member was subjected to the long-term impacts of cannabis criminalization, highlighting the circumstances that lead to disproportionate outcomes for low-income communities of color in San Diego County.

Similar sentiments were echoed by another participant, who shared the following: “I think that one of the impacts of the War on Drugs, looking back 50 years...what I've seen, especially in North County, is that it drained Black and Brown communities, a lot of immigrant communities [from] economic and social capital, because so many of our young men were locked up. Many of them ended up being deported. So it just triggered a devastation for the entire community for families that entire generations now have grown up impacted by what's started...our communities were set up to be targeted, to be persecuted, criminalized, sentenced to life and kind of dealing with all that aftermath.” Through this analysis, the participant emphasized that the economic and social ramifications of cannabis criminalization have a 50-year legacy, leading to multi-generational harm that continues to negatively impact community members to date. In a later session, a participant shared how their father was incarcerated for cannabis charges, which resulted in disrupted family structures and the displacement of their family who no longer had the financial means to reside in San Diego. The speaker provided insight on the struggles faced following their father's release, as the economic harm transcended generations. This led to concentrated disadvantage within their community, and a hindrance to social and economic mobility due to the obstacles faced by individuals with drug convictions. A participant firmly stated, “a lot of these law enforcement tactics are instruments of torture, and we will no longer allow them.”

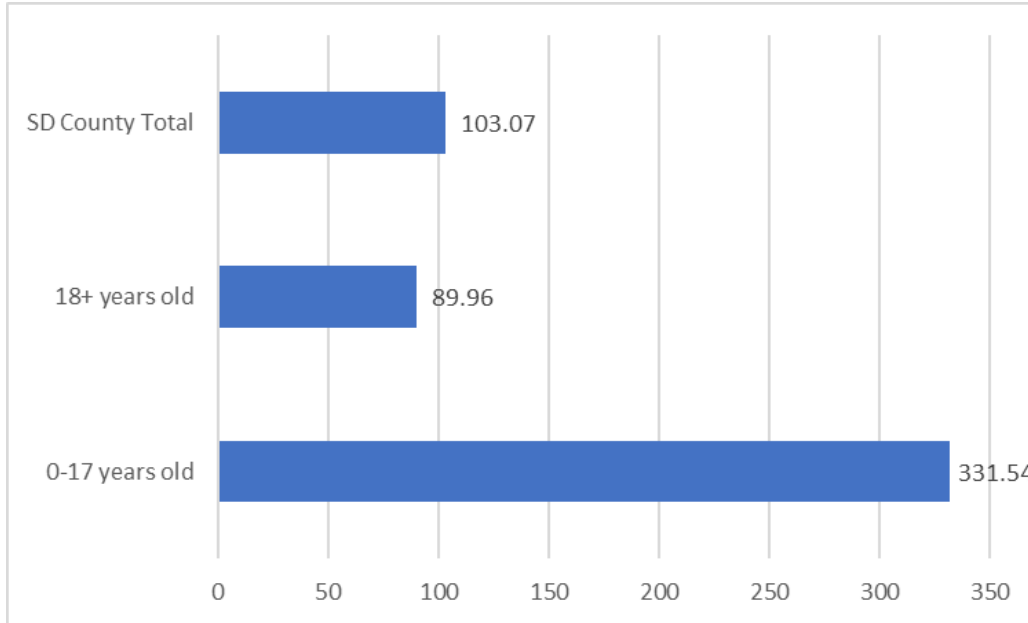
Due to the War on Drugs, this disruption of family and community cohesion starts early for many young San Diegans. Children and younger family members of those who have been incarcerated suffer from the absence of a parent or supportive adult. Additionally, young San Diegans have been disproportionately arrested due to cannabis prohibition. According to our analysis of 2013 arrest data from SANDAG ARJIS, the arrest rate per 100,000 in population due to cannabis prohibition for young people under 18 years old was 4 times the rate for adults (Figure 20). Young people with pre-existing mental health issues are more likely to be criminalized and incarcerated as opposed to diverted to the community.<sup>76</sup> Additionally, this incarceration is highly predictive of negative physical and mental health outcomes in adulthood.<sup>77</sup>

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<sup>76</sup>UCLA. “Early Childhood Incarceration Is Linked to High Rates of Severe Physical and Mental Health Issues in Adulthood.” Accessed June 28, 2022.  
<https://newsroom.ucla.edu/releases/early-childhood-incarceration-is-linked-to-high-rates-of-severe-physical-and-mental-health-issues-in-adulthood>.

<sup>77</sup> UCLA. “Early Childhood Incarceration Is Linked to High Rates of Severe Physical and Mental Health Issues in Adulthood.” Accessed June 28, 2022.  
<https://newsroom.ucla.edu/releases/early-childhood-incarceration-is-linked-to-high-rates-of-severe-physical-and-mental-health-issues-in-adulthood>.





**Figure 19.** Cannabis-related arrest rate per 100,000 in population by age group, San Diego County (2013).<sup>78</sup>

The impact that criminalization and incarceration due to cannabis prohibition is even more disparately felt on youth of color. In general, BIPOC youth are more likely to be incarcerated instead of diverted to the community.<sup>79</sup> Similar trends have been noted locally. Analysis of justice data for youth in San Diego county, noted that Black youth were referred to prosecution instead of diverted to an available program at a rate that was 11 times the rate for their white peers<sup>80</sup>. Additionally an analysis of cannabis-related arrests in San Diego city showed that among youth, youth of color were disparately arrested due to cannabis prohibition<sup>81</sup>.

The negative impacts that criminalization and incarceration have on health may in

<sup>78</sup>Analysis of data cannabis-related arrests that occurred in San Diego County from 2013. More historical data could not be accessed due to a change in data management software. This data was requested from SANDAG’s Automated Regional Justice Information system in 2018. While requested, data prior to 2012 was deemed unavailable by SANDAG and not provided. This limited data set may underestimate the impact of cannabis criminalization due to the cultural and policy shifts that began to influence policing during this period. At-risk population for arrest rates was calculated as 10-69 years old.

<sup>79</sup>UCLA. “Early Childhood Incarceration Is Linked to High Rates of Severe Physical and Mental Health Issues in Adulthood.” Accessed June 28, 2022. <https://newsroom.ucla.edu/releases/early-childhood-incarceration-is-linked-to-high-rates-of-severe-physical-and-mental-health-issues-in-adulthood>.

<sup>80</sup>Marshall, Imani. “Need Assessment: County-Wide Restorative Community Conference San Diego.” Mid-City Community Advocacy Network, December 7, 2020.

<sup>81</sup>Marshall, Imani. “Cannabis Equity Study.” Mid-City Community Advocacy Network, August 2019.

part explain the high rates of substance abuse found among young justice-impacted San Diegans. According to an analysis of interviews with 50 youth in juvenile hall, nearly all (96 %) had reported substance abuse<sup>82</sup>. Taken together with the growing body of evidence that incarceration-especially among young people-is associated with poor mental and physical health outcomes, this reality implicates the need for serious investments in alternatives to policing and incarceration and physical and mental health for disproportionately impacted communities, including youth.

The disproportionate impacts that BIPoC, low-income and young communities have faced due to criminalization indicates investments in alternatives to policing and incarceration, health and economic opportunity that prioritize these communities.

## The Cannabis Industry in San Diego

Social equity advocates in San Diego have been promoting the conversion of the legacy cannabis market into legalized big business. Today, an estimated two-thirds of cannabis business, however, remains in the illicit market.<sup>83</sup> From a legalization standpoint, regulated cannabis has, to date, been, as one local stakeholder characterized it, “strangled on the vine”: taxed at every point along the supply chain, narrowly constricted in terms of where retail business can open-places often contested at that, and delocalized by stock-market-facing multi-state operators. If over-regulation has been a strategy of *de facto* prohibition, or fighting to “keep the genie in the bottle” as one stakeholder suggested, “over-regulation” appears more to queue up the nascent industry for corporatization, due in part to the high start-up costs<sup>84</sup>. Corporatization would export capital and remove responsiveness and accountability from the community level. Without a serious commitment to social equity, legalization of cannabis is unlikely to produce meaningful political and economic changes. To the point, cannabis criminalization has continued since legalization at the state level, and there are plenty of other forms of racially biased policing that go unaddressed in conversations about cannabis conviction expungement.

Social equity program conversations have focused almost entirely on the legal policy, which might make sense on a first glance, but transitioning legacy entrepreneurs, supply chains, and customers over to a regulated market may present ongoing challenges through an extended transition period. A worthwhile endeavor, social equity programming will have to fend off the monopolizing and corporatizing inertia of big business while, a) preparing those who have been brutalized by the War on Drugs to trust official institutions and systems that have only violence them, b) facilitating a cultural shift from more than a century of European colonial stigmatizing and demonizing cannabis while trying to control it (for private profit or

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<sup>82</sup> “2020 Juvenile Arrestee Drug Use in the San Diego Region,” September 2021. [https://www.sandag.org/uploads/publicationid/publicationid\\_4800\\_29743.pdf](https://www.sandag.org/uploads/publicationid/publicationid_4800_29743.pdf).

<sup>83</sup> Although there is no way to calculate an exact ratio, Nieves 2021 estimates California illegal cannabis business at \$8 billion, “twice the volume of legal sales.” This establishes a 2/3 to 1/3 estimate. See [www.politico.com/news/2021/10/23/california-legal-illicit-weed-market-516868](http://www.politico.com/news/2021/10/23/california-legal-illicit-weed-market-516868) (accessed 6/24/2022).

<sup>84</sup> Time. “The Economics of Legal Weed Don’t Work.” Accessed June 26, 2022. <https://time.com/6184704/legal-marijuana-economics/>.



racial capital), c) convincing customers that more expensive, corporatized, and not necessarily higher quality products are worth buying, and d) building relationships between stakeholders across the divides of race and class that have so meticulously been curated in the US. Social equity in the San Diego cannabis industry is the right way to go in this important work because those most impacted by the War on Drugs have a great deal at stake in all of aspects of the industry, and also have the knowledge, experience, and expertise required from their vantage points that open up the possibility of closing disparity gaps.

## Industry context

**Table 3. Timeline County of San Diego’s Cannabis Policy**

DATE	EVENT
<b>November 3, 2005</b>	<p>As a response to SB 420 the County Board of Supervisors decided to pursue legal action rather than set up a state-ordered medical identification card and registry program.</p> <p>San Diego County Supervisors extended the temporary moratorium on dispensaries for an additional 10 months.</p>
<b>June 30, 2010</b>	<p>Supervisors approved rules for marijuana dispensaries in unincorporated areas putting them in industrial zones, at least 1,000 feet from homes, schools, churches and playgrounds.</p>
<b>March 15, 2017</b>	<p>Supervisors pass Ordinance No. 10461 repealing medical marijuana collective facility regulations and banning medical and non-medical marijuana facilities.</p>
<b>January 27, 2021</b>	<p>The Board of Supervisors directed staff to develop a Socially Equitable Cannabis Program (Program) and increase enforcement of unpermitted and unlicensed cannabis facilities.</p>
<b>June 9, 2021</b>	<p>The Board directed staff to develop ordinance amendments that will allow the five existing dispensaries within the unincorporated region to (1) sell cannabis for adult use, (2) operate past their sunset date of April 14, 2022, (3) sell edible and drinkable cannabis products, (4) sell branded merchandise, (5) expand by up to 10,000 square feet, and (6) transfer business licenses among existing permit holders.</p> <ol style="list-style-type: none"> <li>1. Allow for commercial adult use cannabis sales (i.e., anyone over 21 regardless of a medical prescription; applies to Zoning Ordinance and Regulatory Code),</li> <li>2. Continue operating past the April 2022 sunset date (applies to Zoning Ordinance),</li> </ol>

	<ol style="list-style-type: none"> <li>3. Allow for the sale of edible and drinkable cannabis products (applies to Regulatory Code),</li> <li>4. Allow for the sale of branded merchandise (applies to Regulatory Code),</li> <li>5. Allow for up to 10,000-square-foot building expansions (applies to Zoning Ordinance), and</li> <li>6. Transfer business licenses (which are also called Operating Certificates; applies to Zoning Ordinance and Regulatory Code).</li> </ol>
<b>October 20, 2021</b>	Supervisors vote 4-1 to removes the sunset date from the permits of the five operating dispensaries, allowing them to relocate and expand facility size

From a social equity perspective, cannabis legalization in the unincorporated areas of San Diego County has been relatively stymied due in the most part to the efforts of a small number of business leaders, vocal community planning group leaders, and elected officials. Between 2005 and 2009, the County of San Diego formally challenged the legalization of medical marijuana and was forced by the U.S. Supreme Court to accommodate.<sup>85</sup> The County of San Diego's main objection was to identification cards that identify medical marijuana users protecting them from arrests. The County's focus on this aspect of SB 420 highlights the County of San Diego's commitment to criminalization of cannabis use and the War on Drugs, despite the concerns of public health and safety that cannabis opponents rally behind. The reactionary politics of San Diego county to cannabis legalization stifled San Diego county's medical marijuana industry. As of 2021, there were still 8 cities that did not permit the commercial sale of cannabis (Table 3).<sup>86</sup> The slow permitting of recreational adult-use cannabis sales in some incorporated cities has limited opportunities for potential social equity entrepreneurs to enter the market. However, now these cities-along with bordering Riverside and Imperial counties-that have not permitted the sale of commercial cannabis provide a market for social equity entrepreneurs in nearby unincorporated areas to capture.

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<sup>85</sup> Egelko, Bob. "U.S. Supreme Court Rejects Prop. 215 Challenge." SFGATE, May 19, 2009. <https://www.sfgate.com/news/article/U-S-Supreme-Court-rejects-Prop-215-challenge-3298162.php>.

<sup>86</sup> Martinez, Johnny, Sofia Rodriguez, Amanda Bouderault, Samantha Hoover, Riley McLaughlin, Liz Yocom, Miguel de Jesus, Roger Herzler, and Judith Opdahl. "Economic Impact of Cannabis in San Diego County 2021." California State University San Marcos. Accessed June 16, 2022. <https://www.csusm.edu/coba/obrc/reports/cannabisindustry/reports/cannabisreport2021.pdf>.

**Table 4. San Diego County Cities by Type of Cannabis Permitted for Sale** <sup>87,88,89,90,</sup>

91,92,93

Cannabis Commercial Sale not yet Permitted	Only Medical-Use Cannabis Commercial Sale Permitted	Medical and Recreational-Use Cannabis Commercial Sale Permitted
<ul style="list-style-type: none"> <li>● Coronado</li> <li>● Del Mar</li> <li>● El Cajon</li> <li>● Escondido</li> <li>● Poway</li> <li>● San Marcos</li> <li>● Santee</li> <li>● Solana Beach</li> <li>● National City</li> </ul>	<ul style="list-style-type: none"> <li>● Lemon Grove</li> <li>● Oceanside</li> <li>● Vista</li> </ul>	<ul style="list-style-type: none"> <li>● Chula Vista</li> <li>● Imperial Beach</li> <li>● La Mesa</li> <li>● Encinitas</li> <li>● San Diego</li> </ul>

By 2021, only five dispensaries in the unincorporated areas of the county had successfully set up legal medical cannabis operations, and at that point were “grandfathered” by the Board of Supervisors into the recreational adult-use permits, facilities expansion, and full vertical integration business licenses. With an initial “sunset” date of 2022 for those expanded licenses, by October 2021 the supervisors lifted that expiration and granted the businesses further permission of mobility and expansion. Direction from the Supervisors to explore social equity in recreational cannabis policy had come earlier that year (January 27, 2021), but until this assessment equity had not guided the process. The impact that the early licensure of “grandfathered” businesses will have on social equity licensees’ ability to enter

<sup>87</sup> Johnny Martinez et al., “Economic Impact of Cannabis in San Diego County 2021” (California State University San Marcos), accessed June 16, 2022, <https://www.csusm.edu/coba/obrc/reports/cannabisindustry/reports/cannabisreport2021.pdf>.

<sup>88</sup> Joe Tash, “Escondido Stands Firm: No Cannabis,” San Diego Union-Tribune, May 24, 2021, <https://www.sandiegouniontribune.com/communities/north-county/escondido/story/2021-05-24/escondido-stands-firm-no-cannabis>

<sup>89</sup> Joe Tash, “Escondido Shelves Discussion about Legalizing Cannabis,” San Diego Union-Tribune, March 28, 2021, <https://www.sandiegouniontribune.com/communities/north-county/escondido/story/2021-03-28/escondido-shelves-discussion-about-legalizing-cannabis>

<sup>90</sup> Luan Troxel, “Recreational Pot Is Now Officially Legal in California - Even in Coronado (with Some Restrictions),” *Coronado Times* (blog), January 5, 2018, <https://coronadotimes.com/news/2018/01/05/recreational-pot-now-officially-legal-california-even-coronado-restrictions/>

<sup>91</sup> Phil Diehl, “Oceanside Approves Recreational Marijuana Businesses,” San Diego Union-Tribune, June 3, 2021, <https://www.sandiegouniontribune.com/communities/north-county/oceanside/story/2021-06-03/oceanside-approves-recreational-marijuana-businesses>

<sup>92</sup> State of California, “Where Cannabis Businesses Are Allowed,” Department of Cannabis Control, accessed August 15, 2022, <https://cannabis.ca.gov/cannabis-laws/where-cannabis-businesses-are-allowed/>

<sup>93</sup> “Cannabis (Marijuana) Regulations FAQs | San Marcos, CA,” accessed August 15, 2022, <https://www.san-marcos.net/how-do-i/learn-about/cannabis-faq>



and thrive in the market is unknown, but it was a concern expressed by many community members.

In June 2010, the Board of Supervisors established the Sheriff's Department as the "issuing and enforcement authority for legally established medical cannabis operation certificates and approved fees to recover the cost of processing applications and compliance monitoring for medical cannabis facility operating certificates," and Ordinance 10751 spells out a bevy of (expensive) security-oriented infrastructure requirements.<sup>94</sup> The Sheriff set the permit fee at \$49,460 per year<sup>95</sup>, which some stakeholders labeled "extortion" as there are no applications to process and compliance monitoring was problematic: interviewees reported that Sheriff's deputies did not have to respond to robberies (low security risk), lied about how much time they spend on inspections, and racially profiled customers by asking for ID only from non-whites. Again, enshrining law enforcement-the institution that continues to wage the War on Drugs, disparately on Black and Brown communities-with the power to enforce regulation inhibits social equity. With social equity as a priority, the current system for the unincorporated areas of the county is a non-starter.

The cannabis industry includes a wide variety of businesses and stakeholders from seed to consumption, a reality that must be more fully engaged if the legacy market is to be converted to the regulated market. Business types include agriculture (nursery and cultivation), laboratory (testing), commercial (manufacturing), retail (dispensary and consumption lounge), and business services (for example, distribution and delivery, along with adjacent businesses like maintenance, design, vending, and security, to name but a few). Vertical alignment, the aspiration for existing unincorporated businesses, brings all key supply chain functions in house, in part helping to circumvent the overzealous taxing of cannabis at each step of its life and business cycles. The established stakeholders range from industry, primarily retail, to government, banks and investors to community representatives, including vocal opponents of legalization. Social equity re-centers the deliberations and requires that stakeholderhood be recognized and honored in currently and formerly incarcerated and BIPOC communities (some individuals aspiring to cannabis entrepreneurship and many not), in tribal nations, in organized labor, among customers, and in legacy operators. The legalization process has been an uneven power struggle, with no consensus, and seemingly leaving every constituency unsatisfied.

## Industry operations and regulation

Cannabis is big business, because of consumer demand that includes recreational, personal wellness, and medicinal uses. One stakeholder explained, "If you're going to have a habit, smoking weed, it's costly. I don't know how true this is, but someone told me once that the average cannabis user in California spends \$400 to \$600 a month. That's a car payment."

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<sup>94</sup> See <http://www.amlegal.com/pdffiles/SanDiegoCo/ord10751.pdf> (accessed 6/10/2022)

<sup>95</sup>"License and Registration Division | San Diego County Sheriff," accessed June 10, 2022, <https://www.sdsheriff.gov/i-want-to/get-a-permit-or-license/regulatory-licenses-and-fees>.

Another recalled opening a beach community dispensary over ten years ago that, within three months, “cleared \$10,000 a day” in sales. A consultant for the County of San Diego recently projected that legal cannabis in unincorporated areas “could generate between \$2.9 million and \$5.6 million in annual cannabis tax revenue”<sup>96</sup>. Some industry participants view cannabis retail as easy to finance and easy to run because of high demand, while others argue award-winning groups are going out of business throughout the state and “about 90% likely that you’re not going to do well.”

Setting up a cannabis business often requires financing and a suitable site to be secured in advance of permitting, a regulation that gives landlords incredible leverage when restrictive zoning and retrofit guidelines come up in their favor. Rent for a retail space can suddenly increase by a factor of four, which some industry stakeholders viewed as profiteering and price gouging, while others justified the price increase relative to increased risk of search, seizure, and asset loss due to ongoing cannabis criminalization. High permit costs, taxes at the state level and, in some incorporated areas, city taxes, labor costs, returns on investment, and more raise the overhead of legal cannabis operations. Some stakeholders believed small businesses to be no longer realistic with difficult margins and with significant space, equipment, manufacturing and testing costs in particular; while others argued for a viable role for smaller social equity brands, in particular high end craft products. The possibility of an eight to nine-figure “build and sell”, however, provides the motivation that keeps the “pioneering” spirit of some who are willing to slog through the difficult early phases, an escalation that could challenge social equity operations and aspirations.<sup>97</sup>

While this assessment did not examine illicit cannabis operations, the reality that an estimated two-thirds of cannabis business is illegal heavily impacts the legal market, and based on projected estimates, illicit cannabis is worth \$8 billion annually at the state level<sup>98</sup>. From the legal operations standpoint, there is no pricing protection as legal dispensaries are constantly undercut by the illicit market. But, the illicit market undercuts the legal in part by offering a better product at cheaper prices, which makes recreational, personal, and medicinal uses more accessible to a broader range of economically disadvantaged consumers and medical patients. A 2022 Analysis by the Reason Foundation found that cannabis consumers are highly sensitive to increases in the price of cannabis, especially with the illicit market as an immediate substitute<sup>99</sup>. The analysis posits that taxes affect both consumers’ and producers’ decisions in the legal market primarily by introducing a price

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<sup>96</sup>HdL. “Fiscal Revenue Analysis of the Commercial Cannabis Industry Prepared for the County of San Diego,” April 27, 2022, 6.

<sup>97</sup> The “build and sell” model refers to setting up a legal cannabis business with the primary aim of quickly selling that same business. Many community members expressed concern that this could pose a threat to local ownership and small businesses.

<sup>98</sup>Mike Peterson, “High Fees, Red Tape, and More Fuel Black Market Weed Boom in California,” *LaJolla.Com* (blog), January 26, 2022, <https://lajolla.com/news/black-market-weed-boom-california/>.

<sup>99</sup> This report identified the level of price elasticity for demand of cannabis products in the regulated market. Price elasticity of demand is a measure of the change in the quantity purchased of a product in relation to a change in its price.



disparity between legal cannabis products and comparable cannabis products offered through the illicit market.<sup>100</sup>

While legal operations are exceedingly difficult to set up, in particular for social equity entrepreneurs, the illicit market has been more accessible to those who have been impacted the most by the War on Drugs. However, social equity plays a crucial role in racial justice outcomes of the regulated cannabis market as corporatization and big business inertia project to further whiten cannabis ownership, albeit in less explicitly carceral ways. It should be easier for illicit businesses to transition to legal, but one industry stakeholder related seeing legacy operators walk out of a meeting exploring partnership with a legal dispensary when numbers presented showed their profit “dropping from \$20,000 per month to \$3,000 per month”. Enforcement has not helped. Although officials declare victories in shutting down illegal dispensaries, higher-ranking actors in organized crime are effective at buffering themselves from low-level busts and dealers simply adjust, recently to illegal delivery, “which remains an ongoing issue that continues to be investigated.”<sup>101</sup>

The regulatory environment presents exceptional challenges for the unincorporated areas of the county, with overlapping and bordering policies with direct relevance. Federal illegality and increasingly militarized federal border enforcement, complete with unregulated data gathering (facial recognition and cell phone monitoring)<sup>102</sup>, drape the county with general fear of racially targeted policing that impacts the prospects for social equity entrepreneurs. The ongoing War on Drugs makes arrest, search, seizure, and incarceration prohibitive to many, including people incarcerated, on parole or probation, and/or with special considerations around their federal status, like federally recognized tribes, immigrants, asylees, and naturalized citizens. Some of these members of our unincorporated communities may actively work in the legacy market or aspire to benefit from the legal industry. One local entrepreneur experienced a federal raid while setting up research and development for a state grow license in which the arresting officer lied in the report to link their operation to an illegal extractions operation a few doors down. The entrepreneur had AR-15s pointed at them and left court with five years probation, a conviction that resembles “cooking meth”, a stressful premature birth in their first pregnancy, and PTSD around the culturally grounding and healing cannabis that had been central in their life. The entrepreneur elaborated:

They took everything. They took 90% of my life. I'm a plant person. I love plants of all kinds. They took our mothers, and that is the thing that hurts the most because these genetics were my first like picks that I was able say Oh, this is showing very great

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<sup>100</sup>Reason Foundation. “The Impact of California’s Cannabis Taxes on Participation within the Legal Market,” May 4, 2022. <https://reason.org/policy-study/the-impact-of-california-cannabis-taxes-on-participation-within-the-legal-market/>.

<sup>101</sup>Barbara Medina, “DA & Sheriff Highlight New Success Shutting Down Illegal Pot Dispensaries,” *DA NewsCenter* (blog), February 17, 2022, <https://danewscenter.com/news/da-sheriff-highlight-new-success-shutting-down-illegal-pot-dispensaries/>.

<sup>102</sup>“Opinion | Here’s How Sanctuary Cities Are Helping ICE,” NBC News, accessed June 10, 2022, <https://www.nbcnews.com/think/opinion/surveillance-sanctuary-cities-helping-ice-track-undocumented-immigrants-ncna1027981>.





characteristics. I was starting to do my own mating with the genetics. That takes so much time and the mother's are priceless and irreplaceable. And if I had to put a number on it, I would put like \$100,000 just on our genetics. Because we had some like really great genetics, and they even won awards for cleanliness of like medicine. There's nothing like that, that I've found since then.

In financial terms, banks, with their federally insured funds, have been reluctant to invest, subjecting entrepreneurs, social equity or otherwise, to high-risk venture capital investments and arrangements that minimize their ownership stake and share of profit. Rents, permit fees, and taxes have driven up the overhead before social equity cannabis businesses can even get off the ground. Much of the increase in required capital has been opportunistic moves backed by federal illegality.

California state legality is a factor, but individual counties (bordering Riverside and Imperial Counties), tribal nations, and cities that border unincorporated areas, all control their own respective policies around permitting cannabis sales, tax rates, and enforcement. The five districts of the County of San Diego administration similarly hold varying prevailing attitudes and varying commitments to facets of their constituencies. In this dynamic regulatory landscape, the Social Equity Entrepreneur's (SEE) program can test and implement innovative strategies: for instance, customers in prohibitive jurisdictions could benefit from nearby retail and delivery, sovereign tribal nations could be important potential contributors to social equity entrepreneur supply chains, and investments that lower barriers to capital for SEE could mitigate Multi-State Operator (MSO) monopolization.

Federally recognized tribal nations control their own cannabis policies, and levels of support and interest vary among the sovereign nations. Currently, the Iipay Nation of Santa Ysabel<sup>103</sup> runs the vertically integrated Mountain Source Dispensary and several other tribes have explored potential economic development in the cannabis industry.<sup>104</sup> In 2018, California cannabis regulators prohibited tribes from accessing markets outside of their reservation without a state permit and regulatory oversight. The California Native American Cannabis Association recognized this as a surrender of sovereignty,<sup>105</sup> and spokespersons have emphasized the irony of their greater regulatory rigor going unacknowledged with the imposition of costly regulations.<sup>106</sup>

## Industry opposition

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<sup>103</sup>See "Iipay Nation of Santa Ysabel – SCTCA," accessed August 15, 2022, <https://sctca.net/iipay-nation-of-santa-ysabel/>.

<sup>104</sup>See Twitter, Email, and Facebook, "Tribe Dips Toes into Pot Trade with Dispensary at Former Santa Ysabel Casino," San Diego Union-Tribune, February 19, 2019, <https://www.sandiegouniontribune.com/communities/north-county/sd-no-ysabel-marijuana-20190214-story.html>.

<sup>105</sup>See [https://bcc.ca.gov/about\\_us/meetings/materials/20190628\\_tribal\\_ind.pdf](https://bcc.ca.gov/about_us/meetings/materials/20190628_tribal_ind.pdf) (accessed 6/10/2022).

<sup>106</sup>See "Native American Tribes in California Cannabis" <https://www.youtube.com/watch?v=kjQf7tlzYZs> (accessed 6/10/2022).



Although we did not exhaustively study opposition to cannabis, some prevalent lines of vocal public opposition we encountered are relevant to social equity programming and outcomes. These primarily relate to public safety, health, agricultural industry, and the environment. One industry stakeholder reflected on opposition to cannabis in unincorporated areas saying, “no one wants a pot shop in their neighborhood, right? It's a NIMBY (not in my back yard) type of thing. But, most concerning was the element that you could consume in a smoking room, or kind of like a heroin a shooting den. So you could go in there and shoot up before you drive on those little country roads.” Certainly public opposition didn't always project a slippery slope to the worst of slums and social decay, but, as another stakeholder explained:

It depends what question you ask people. So if you ask, should cannabis not be illegal anymore? As we saw in Prop 64? The answer is, yeah, it shouldn't be illegal. We shouldn't put people in prison for long term. People should be able to do what they want to do. Drug cartels are bad. It should be regulated, but rare. But if you ask them, should we have a store *in your neighborhood*? It's a double digit change to the negative.

Much of the zoning debates centers on a tension between locating businesses where customers can easily access them, versus keeping cannabis out of sight and out of mind. Amongst these cannabis opponents, the step from dispensaries to consumption lounges is an impossible leap. Proponents of more restrictive zoning schemes are focused on discouraging vice, danger to the public, and protecting youth from exposure. One participant in the cannabis conversations succinctly stated, “I'm concerned that if we commercialize marijuana, it will lead to more use among our youth and young adults.” To this, another community member responded with the following statement in regards to fear of usage among young adults:

“We can learn from other cultures and even the prohibition on alcohol, that by making a substance like marijuana, totally illegal, and not have regulation with it, then you get the other side of it, where people just illegally do things, and it's not control, or like alcohol, you know, for cigarettes. There's a legal method to control it, and see, this can actually help society overall.”

An additional stakeholder discussed the importance of engaging stakeholders in conversations about common sense policies that can address their fears over youth safety:

“They've started to narrow this from a philosophical fight down to let's talk about youth and youth access, which to me and for years is a massive narrowing of where we were when we started. And so when people in the industry say just write them [off], I don't think you need to. If you actually sit down and move this from discussion over land use requirements into a discussion over: ‘you're worried about us, what is your core concern?’ I guarantee the first thing out of their mouth is not going to be distanced from schools.”

However, these opponents do not often consider the boon to public safety that regulated dispensaries that check ID could provide to the community, especially youth. According to a study published in Journal of American Medicine Association, marijuana legalization does not increase youth access. Analysis by the Director of National Institute on Drug Abuse (NIDA), echoes these findings.<sup>107</sup> Further, regulated cannabis dispensaries stand to lose substantial investment and revenue in the event their license is revoked, making preventing youth access a higher priority for them than it is for those in the illicit market. It is important that the community is informed that cannabis legalization has not impacted youth access and transitioning from the legacy market could provide new barriers to youth cannabis use.

Also pertaining to public safety, law and order, there is the argument that social equity, specifically, rewards criminal behavior. Several dimensions of NIMBYism should alert social equity program leaders, especially given the race and class stratification that already shapes who gets to have a neighborhood that they control. It is important to bring to the surface any degree to which fears, implicit or explicit, around non-white people with criminal records being visible and supported as industry leaders in a place notorious for white supremacist terror since the KKK pushout of Mexican workers one hundred years ago are guiding policy conversation.<sup>108,109</sup> Smoking dens, vice districts, and slums have always been projections onto BIPOC and low-income communities, rationalizing brutal and invasive policing against them while protecting privileged access to their labor, consumer, pleasure, and real estate “markets”.

Community listening events and County of San Diego public meetings included alerts around protecting those struggling with addiction and protecting youth from exposure. Agriculture lobbies questioned support for cannabis cultivation while other crops did not receive proposals for support. Environmental concerns included water usage and disposal of solvents and chemicals used in the distillation process. These are all legitimate concerns, but are all better addressed through legalization, leaving open the question as to whether they are being used to cover other forms of resistance. Addiction issues are better addressed with substantial health services, which in general should be highlighted in a social equity program’s community reinvestment. In the case of youth exposure, legal cannabis has strict age requirements that businesses must enforce. Official regulation of water use, solvents, and chemicals is better than leaving all environmental impacts hidden in unmonitored, illicit operations. There don’t appear to be any safety, healthy, or environmental benefits to maintaining prohibition or its booming illicit cannabis and mass incarceration industries.

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<sup>107</sup>Anderson, D. Mark, Daniel I. Rees, Joseph J. Sabia, and Samuel Safford. “Association of Marijuana Legalization With Marijuana Use Among US High School Students, 1993-2019.” *JAMA Network Open* 4, no. 9 (September 7, 2021): e2124638. <https://doi.org/10.1001/jamanetworkopen.2021.24638>.

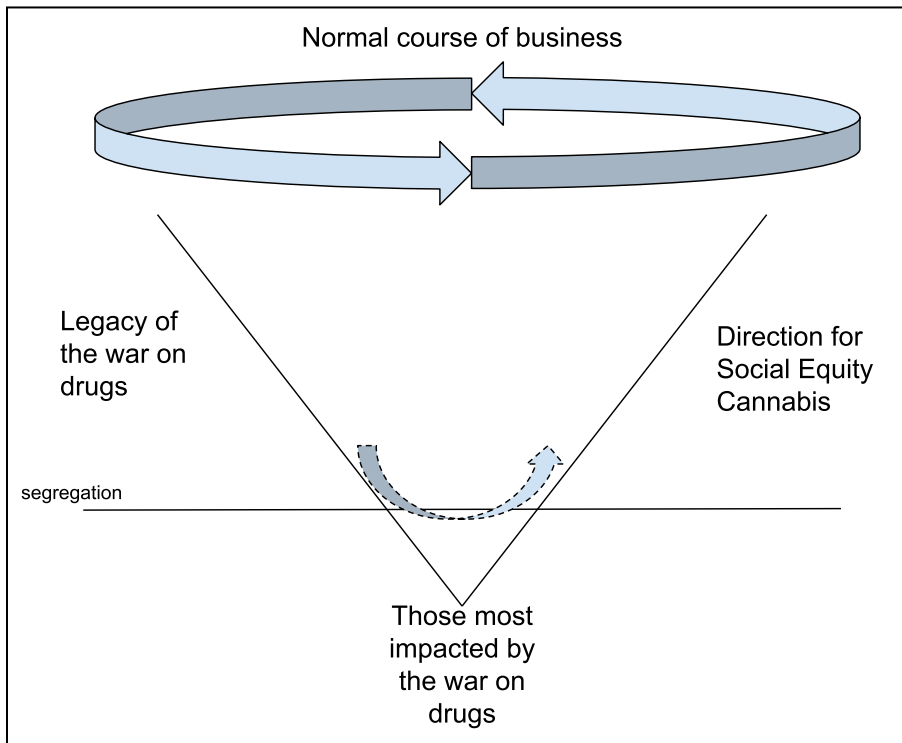
<sup>108</sup>See <https://www.washingtonpost.com/outlook/2019/04/29/white-supremacist-violence-has-long-history-san-diego/> (accessed 6/10/2022).

<sup>109</sup>Jaeger, Kyle. “Top Federal Drug Official Admits Legalizers Were ‘Right’ About Teen Marijuana Use And Touts Psychedelics’ Therapeutic Potential.” *Marijuana Moment* (blog), August 26, 2021. <https://www.marijuanamoment.net/top-federal-drug-official-admits-legalizers-were-right-about-teen-marijuana-use-and-touts-psychedelics-therapeutic-potential/>.

## Industry inequity

Unfortunately, in local cannabis, there has been little attention to social equity, and “ownership” and “stakeholdership” are generally assumed to be limited to established forms of “representative” leadership that don’t work. Community planning groups and stakeholder groups may not center currently and formerly incarcerated participants speaking on behalf of currently and formerly incarcerated people in an authentic way. Racial composition and citizenship status factors may not rise to the top of the priority list for such engagement structures. Tribal nations continue to voice frustration with their isolation and threats to sovereignty, but few seem to listen and even fewer take up the resolve to support their sovereignty and, where applicable, pathways out of poverty in meaningful ways. The most impacted communities are not viewed as investors or stakeholders, even though the foreseeable future for their residents and families bears heavily upon the War on Drugs, cannabis criminalization, and the opening of legal cannabis markets. It is currently a narrow privilege to be taken seriously in the conversation about legalization policy, and our status quo systems reinforce the “expert” “authority” of the narrow deliberations and decisions and drive our county’s inequities deeper.

Meaningfully addressing inequity is difficult, even without implicit and explicit resistance, even when intentions are aligned and in good faith. Figure 21 illustrates the challenge for social equity, the challenge of engaging and benefiting those most impacted by the War on Drugs and cannabis criminalization.



**Figure 20.** Social equity efforts face challenges in meeting the needs of those most impacted by the War on Drugs and cannabis criminalization.

In the normal course of business, no general attention need be paid to those who are



incarcerated, housing insecure, poor, racially-targeted, racially profiled, tried-as-adult, historically traumatized, gender and sexuality non-normative, and other “disposable” categorizations. In social equity cannabis, foregrounding the current impacts of fifty years of the War on Drugs breaks the norm and requires delving deep into the realities of social stratification and unprecedented measurable disparities.

But there are practical factors that make those who are most impacted hard to reach.<sup>110</sup> For instance, many are currently incarcerated and have limited contact outside of the institution. Many do not speak English well enough to understand the formal bureaucracy and express their knowledge. Many experience direct trauma from formal systems and inherit a legacy of institutional violence against their ancestors and communities, and have not yet healed and built trust. Many lack the time and money to attend community meetings, where they may not conform to social group norms and hierarchies. Many live in public or are housing insecure, including those for whom “home” is a place of harm and trauma.

This list of illustrations could go on and on. When doing social equity work, the desire to stop trying to reach the most impacted and head upward with opportunity for the few may form the “consensus” that delivers, at worst, a sham box-checking, perhaps a tokenizing of a small number of beneficiaries, but likely not a transformation of the inequitable systems that have led us here in the first place. The key is the humility of it, doing social equity with the view that everyone is equally due respect, equally capable of speaking for themselves, and equally deserving of a stakeholder stature and role in our shared decision making. Fighting over prohibition versus profit in the chambers of the County administration clearly ties together the frustrations of many, especially in “wither on the vine” regulations that don’t satisfy any players. What we can lose sight of, though, is that this struggle of the relatively empowered leaves the most impacted communities to dangle like strange fruit on the vine.

## Barriers to Entry

Social Equity Entrepreneurs will, if the program is designed properly, bring to the table direct experience of systemic injustice and inequity. As we have seen in this assessment, there are a number of general and industry-specific barriers to which attention should be paid. Here we will consider some barriers that present direct challenges to the forthcoming Social Equity Entrepreneur’s program for those who have been most impacted by the War on Drugs and cannabis criminalization. To this end we will use the framework offered by Martin Luther King, Jr. in 1967 when the federal government labeled him public enemy number one and shortly before his assassination. With the framework of militarism (the War on Drugs), economic exploitation (poverty), and racism we will also consider trauma, direct and systemic, and sector-specific barriers within the industry.

## The Ongoing War on Drugs

Militarism presents formidable barriers to entry, including its enthusiastic application to spheres from conflict resolution to law enforcement, child welfare to immigration, education to healthcare, and more. By militarism we mean reference to “war” in policy orientation, investment in and reliance on military tactics and technologies, including guns and

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<sup>110</sup>See Lee et. al. 2014 and Atkinson and Flint 2001.



surveillance, and decisive “justice” that circumvents rights. Federal illegality and its enforcement, as we have seen, has directly harmed community members, contributed to over-incarceration, and prevented key stakeholders like federally recognized tribes from participating in our local industry. Arrest, search and seizure are militarized operations, and violations of people’s rights (racial profiling, abuse at the hands of an officer, and corruption, for instance) are subject to far less scrutiny by the law and order state.

Federal scheduling: ongoing constraining factor that increases crime, danger to communities, and reduces economic opportunity. Crime increases in the literal sense of personal cannabis related arrests, but also in terms of the ways overly incarcerated communities navigate bleak re-entry conditions, and in the continued criminalization of regular daily life for targeted people. In acknowledgment of this reality the California Community Reinvestment Grants (Cal-CRG) program emphasizes supporting investments in reentry and job placement. Danger increases with the proliferation of organized crime, professionalization and big business on the illicit side, including in the cross-border context. Reduced economic opportunity occurs in the doors that close when one has a criminal record, and also in the decreased social spending in the more policing-oriented policy environment, the reduced competitiveness as education, resumes, and credentials all reflect the broader pathways of incarcerating POC.

The War on Drugs continues not only at the federal level. County Supervisors have responded both to social equity imperatives to repair damage from the War on Drugs, and calls to crack down more heavily on illicit cannabis. Harsher crackdowns have not proven to slow down cannabis use and cannabis business historically, but have necessitated the professionalization of the networks that deliver illegally. Law enforcement tends to lobby for more guns, money, and technology to meet tougher criminals, but social equity puts us at the turning point where we can see that toughening the punitive, violent, carceral state fails to keep our communities safe and drug free. The County of San Diego must find a way to move illicit cannabis business over to regulated markets without perpetuating the harms of the War on Drugs. This can be done with a hard turn from the War on Drugs, its tactics, strategies, and rationalizations. San Diego County does boast a legacy of militarized vigilantes and white supremacists that would likely escalate the “War on Drugs” if the government was, in their view, weak and overrun.<sup>111</sup>

“War” requires an enemy, an “us” to fight “them”, and justifies the suspension of normal morals, ethics, and social contracts, an especially frightening arrangement when “normal” is a legacy of indigenous genocide, enslavement, segregation, and racial state violence targeting a wide range of members of our communities. Vigilantes may be an

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<sup>111</sup>See Wilkens, John. 2019. “San Diego’s Long and Troubled History with Racist Hate.” *San Diego Union-Tribune* (May 6). Accessed August 10, 2022. [https://enewspaper.latimes.com/infinity/article\\_share.aspx?guid=0f89a304-f920-4309-9e56-e8242bfe6e57](https://enewspaper.latimes.com/infinity/article_share.aspx?guid=0f89a304-f920-4309-9e56-e8242bfe6e57), and Deaderick, Lisa. 2020. “Homeland Security Points to Violent White Supremacy as ‘Persistent and Lethal Threat’.” *San Diego Union-Tribune* (October 18). Accessed August 10, 2022. <https://www.sandiegouniontribune.com/columnists/story/2020-10-18/homeland-security-points-to-violent-white-supremacy-as-persistent-and-lethal-threat>.



obvious symbol of this expansion into civil society, but discriminatory lending, unforgiving school discipline, refusal to protect people from racial harassment (e.g. BBQ Becky, Permit Patty, Cornerstore Caroline, Central Park Karen, Pool Patrol Paula, and so on), suspicion of Spanish speakers, and more exemplify the extension of criminalization and policing into other, unrelated institutional and social contexts.<sup>112,113,114,115,116,117</sup> While releasing those with cannabis convictions and expunging cannabis convictions from criminal records are necessary interventions into the broader “war” tactics, it must be acknowledged in a Social Equity Entrepreneurs program that direct beneficiaries and their loved ones are likely to continue to experience militarized state and civil society violence, and this can erect predictable barriers to entry and success in cannabis business. Social equity entrepreneurs will be walking into banks, transporting or delivering products, meeting with potential investors and partners, walking down the street, dealing with parole and probation officials, meeting with County of San Diego officials across the range of county services, and so on. Will social equity entrepreneurs continue to face ongoing impacts of the War on Drugs? Will the War on Drugs interfere with their operating in the legal business sphere?

Community listening event participants considered enforcement primarily through concern regarding the role of the Sheriff’s department in the cannabis industry. One community member shared that “there have been several people who have had their profits confiscated by the Sheriff’s Department... Even though the people...are legitimate, licensed shop owners...there could be some sort of alignment or protection against this kind of activity. I understand it is super complicated when dealing with federal versus state law. But it is a huge concern. You know, basically law enforcement at the sheriff’s level, they’re not honoring the kind of the state or even county approvals, right, the legalization. So without that kind of concern with that inconsistency and uncertainty, people are still in danger of being affected, you know, because there still is essentially a war still happening.” This comment emphasized distrust in the jurisdictions handling of code and policy enforcement, and a desire for policy to contain a protection against further criminalization for legal cannabis related businesses.

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<sup>112</sup> Newsweek. “‘BBQ Becky,’ White Woman Who Called Cops on Black BBQ, 911 Tapes Released: ‘I’m Really Scared! Come Quick!’” September 4, 2018. <https://www.newsweek.com/bbq-becky-white-woman-who-called-cops-black-bbq-911-audio-released-i-m-really-1103057>.

<sup>113</sup> “‘Cornerstore Caroline’ Falsely Accuses Child of Assault | Time.” Accessed June 28, 2022. <https://time.com/5426067/cornerstore-caroline-backlash-sexual-assault-boy/>.

<sup>114</sup> “A White Woman Allegedly Hit a Black Teen, Used Racial Slurs and Told Him to Leave a Pool. Then She Bit a Cop | CNN.” Accessed June 28, 2022. <https://www.cnn.com/2018/06/29/us/pool-patrol-paula-south-carolina-trnd/index.html>.

<sup>115</sup> “Central Park Karen - Google Search.” Accessed June 28, 2022. [https://www.google.com/search?q=central+park+karen&rlz=1C1CHBF\\_enUS816US817&oq=Central+Park+Karen&aqs=chrome.0.0i512l10.771j0j7&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=central+park+karen&rlz=1C1CHBF_enUS816US817&oq=Central+Park+Karen&aqs=chrome.0.0i512l10.771j0j7&sourceid=chrome&ie=UTF-8).

<sup>116</sup> Time. “Woman Dubbed ‘Cornerstore Caroline’ Faces Backlash After Falsely Accusing a 9-Year-Old Boy of Sexual Assault.” Accessed June 28, 2022. <https://time.com/5426067/cornerstore-caroline-backlash-sexual-assault-boy/>.

<sup>117</sup> Hutcherson, Jessica Campisi, Emily Smith, Eric Levenson, Kimberly. “After Internet Mockery, ‘Permit Patty’ Resigns as CEO of Cannabis-Products Company.” CNN, June 25, 2018. <https://www.cnn.com/2018/06/25/us/permit-patty-san-francisco-trnd/index.html>.



Another participant expanded on this, asking the county to “[separate] organizations that are responsible for or connected to the ones, rather specifically the Sheriff’s department, police departments of San Diego... they should be separated from having any control in the licensing process or application process.” This speaker called for discretion in involving police in the process, as they have caused the harm and are not the institution that should facilitate the rectification of such damages. The speaker further states that the Sheriff’s department should not be involved in the licensing or application process at all.

## Economic exploitation and poverty

Economic exploitation has always been a core foundation of racism in the US, and the ability of the nation to reinvent the economics of white supremacy with more politically viable “democratic” “consensus”, has been a noteworthy accomplishment over time. Indigenous eradication evolved into ingestion, assimilation and dissolution of sovereign nations beginning in the 1930s and continuing today. Emancipation of the enslaved evolved into convict leasing and segregation, then civil rights challenges evolved into mass incarceration and mass prison labor. Displacement of Mexicans evolved into shadow labor forces, undocumented within, and outsourced abroad. Instead of Dr. King’s Poor People’s Campaign, which demanded “jobs, unemployment insurance, a fair minimum wage, and education for poor adults and children designed to improve their self-image and self-esteem”, we got a “war on poverty” that evolved from a safety net to a personal responsibility mandate that raised the stakes with crackdowns on welfare fraud and forced work at lower-than-liveable wages.<sup>118</sup> For example, one community survey respondent explained, they would need help with a loan due to an average credit score. Further, they attributed a general trend of low ownership of assets among Black and low-income communities to the impact of credit scores. Nationally, credit scores have been shown to maintain racial economic disparities.<sup>119, 120</sup> As a result, we have widening racial/wealth gaps in and around our communities, which are definitively global throughout the county.

This reality leaves many of the same communities that have been disproportionately impacted by the War on Drugs; financially struggling to meet their family’s basic needs. This could serve as a serious barrier for entry into the legal cannabis industry as an entrepreneur or employee. For example, in response to a question about what could serve as a barrier to employment in the legal cannabis industry, one community survey respondent explained, “How can we get anywhere when we can’t get loans behind doctor bills and school loans etc,etc looking bad on our credit scores, and that’s what they go off of to give you the loan?”

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<sup>118</sup> Stanford University, Stanford, and California 94305, “Poor People’s Campaign,” The Martin Luther King, Jr., Research and Education Institute, July 7, 2017, <https://kinginstitute.stanford.edu/encyclopedia/poor-peoples-campaign>.

<sup>119</sup> Urban Institute. “Credit Scores Perpetuate Racial Disparities, Even in America’s Most Prosperous Cities.” Accessed June 28, 2022. <https://www.urban.org/urban-wire/credit-scores-perpetuate-racial-disparities-even-americas-most-prosperous-cities>.

<sup>120</sup> National Consumer Law Center. “Past Imperfect: How Credit Scores and Other Analytics ‘Bake In’ and Perpetuate Past Discrimination,” May 2016. [https://www.nclc.org/images/pdf/credit\\_discrimination/Past\\_Imperfect050616.pdf](https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf).





Another survey respondents cited housing as a barrier to employment in the legal cannabis industry. The County's SEE program should address the financial barriers that many social equity entrepreneurs face in meeting basic needs.

In San Diego County cannabis, a Social Equity Entrepreneurs program faces multidimensional barriers in access to capital. If the social equity entrepreneur gets a break on a license fee, which currently is \$49,460 for a Medical Marijuana Operation Certificate<sup>121</sup>, that is not enough. Brick and mortar retail or facilities and equipment for growing, manufacturing, warehousing and distribution can cost tens or hundreds of thousands of dollars. Even with startup funds, social equity entrepreneurs may struggle. In the case that a social equity entrepreneur brings business ownership and management experience with them, if they are not directly experienced in the multi-layered regulatory gauntlet and the tight relationships of the legacy infrastructure, if they are not accustomed to building a business with small financial margins that get impacted by many forces outside of one's control, they may struggle. Capital is required to protect an up-and-coming entrepreneur and to develop the capacities for sustainable success. By definition, social equity entrepreneurs are likely to have barriers to accessing capital in poor credit scores, lack of assets, and the perception of investment risk, much of the formula that drove, for example, the racial disparities of predatory lending since 2008, and the redlining patterns since the New Deal.

Due to San Diego county's competitive real estate market, real estate is an important barrier that social equity entrepreneurs will face. Our comparative policy analysis highlights how existing cannabis equity programs have addressed common barriers (Appendix D). One potential solution that could be especially relevant in the local context is allowing applicants to receive licenses before identifying a physical location. In some jurisdictions across the US, they are given up to 180 days to secure a physical location for their dispensary (Appendix D). This policy also reduces costs by giving licensees a longer time period to shop for an affordable physical location. Access to real estate and land for social equity entrepreneurs will be a critical barrier to overcome.

The industry has to deal with monopolization of scarce legal opportunities and the fortunes and futures that those who have secured them protect. The lack of diversity among political and economic elites in this industry, however, is not simply a matter of work ethic, merit, and political and business savvy. Economic detours have consistently channeled BIPoC entrepreneurs out of mainstream markets, and set them in brutal competition with each other in a no-win situation. Segregation of African Americans kept many Black entrepreneurs out of industries throughout the first half of the 1900s, and left many without accrued assets to compete once legal race segregation ended in the 1960s. Immigrant entrepreneurs might have constrained access to markets, as in the formerly segregated markets in Black communities, with infamously conflict-filled examples like Jewish entrepreneurs in the early to mid 1900s and Korean entrepreneurs on the east and west coasts in the early 1990s.<sup>122</sup> All of these struggles over the profitability of racially constrained populations ignored the continued erasure of the economic realities of sovereign indigenous nations. These patterns have shaped "rational" market behavior in the US, and may present barriers to cannabis industry entry and success for social equity entrepreneurs.

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<sup>121</sup> "Regulatory Licenses and Fees | San Diego County Sheriff." Accessed October 4, 2022. <https://dev8.visioninternet.com/SDCSDCA6/i-want-to/licensing-permits/regulatory-licenses-and-fees>.

<sup>122</sup>See Kim 2003 and Waldinger 1995.

It may seem more reasonable for social equity entrepreneurs to work their way up to ownership, especially given the demands of knowing the plant, the range of cannabis products, and the complexity of regulatory compliance, in addition to business ownership and management knowledge, skill sets, and networks. But many barriers to employment are exacerbated for communities disproportionately impacted by the War on Drugs and cannabis criminalization. Pitfalls await “work ethic” oriented approaches that lack the leverage and power that calibrate social equity. If the program yields a minimum wage job in the cannabis industry, and permit holding ownership is not explicitly in the agreement, the social equity effort can look and feel exploitative of the social equity entrepreneur’s eligibility characteristics while maintaining the stratified economic structure. This would more resemble “social equity colonialism” or sharecropping, or some exploitative rather than reparative arrangement.<sup>123</sup> One stakeholder’s call for a “universal basic income” or perhaps subsidized livable wages with the operating permit transparently scaffolded into the plan can help with the likelihood that experience may be required for social equity entrepreneurs.

## Implicit and Systemic Racism

Racism is a system of unequal rewards and risks based on the idea that some humans are inherently superior, whites in this case, than all others. Implicit racism is disparate treatment of people based on race without one being consciously aware and intentional about it. Denial is a key feature of implicit racism, as perpetrators do not identify with the unfairness and harmfulness of their actions. Implicit racism is systemic, in that it drives actions in areas as wide as school discipline, healthcare provision, street policing, job hiring, housing access, bank lending, customer relations, support services, and many more. Social equity entrepreneur programs and the community reinvestment aspects of social equity directly expose official policies to the thorny realities of systemic racism and its perpetrators. The stigmas and mistreatments of systemic racism present direct barriers to entry into cannabis entrepreneurship. The lack of social equity frameworks and infrastructures in local governments and industries means the social equity entrepreneurs are not the only stakeholders facing these barriers without established direction and support

Black, Latiné and indigenous permittees with criminal records will be used to being treated in controlling and harmful ways by official institutions and the “free market”, while those around them will be used to viewing them as in need of surveillance, institutionalization, and unfreedom. These internalized and interpersonal aspects of racism can impact social equity entrepreneurs with the typical patterns of disparate enforcement of existing policies and lack of enforcement of protections against discrimination. Anti-immigrant racism is apparent in the different treatment of non-white immigrants, refugees, and asylees and white ethnic communities. Hostilities against working class Mexicans and Dreamers, against Haitians and Muslims, for instance, bear stark contrast to the sympathies of those unmarked and categorized as white.<sup>124</sup> “People over profits” is a well-known principle that counters the strength of protecting private property rights of elites in relation to weak protections for civil and human rights of ordinary people. Will social equity entrepreneurs be treated as legitimate business people who deserve the benefit of the doubt and measures of

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<sup>123</sup>See

<https://mgmagazine.com/business/cause/opinion-social-equity-colonialism/#:~:text=We're%20seeing%20%E2%80%9Csocial%2D,the%20disadvantaged%20for%20economic%20gain.> (accessed 6/16/2022).

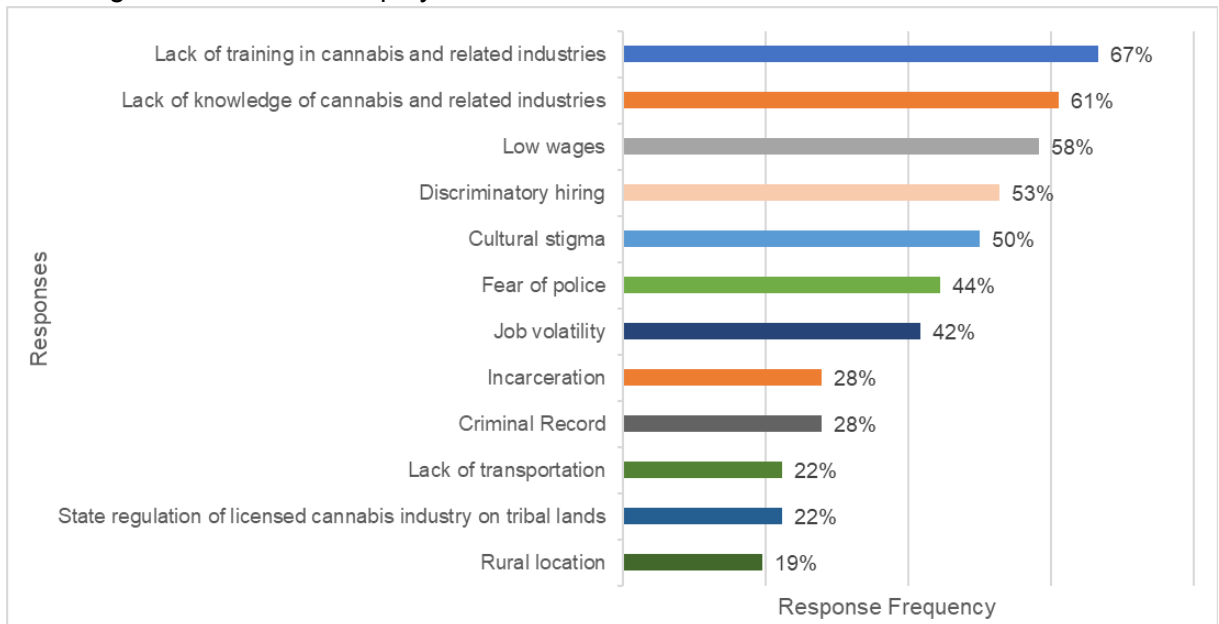
<sup>124</sup>See Barlow 2022.

grace along their daunting transformative path? Or will they be viewed suspiciously and be denied the same chances, second chances, and opportunities? Will the SEE program protect them when they do experience discrimination in the general course of business?

### Trauma as a Barrier

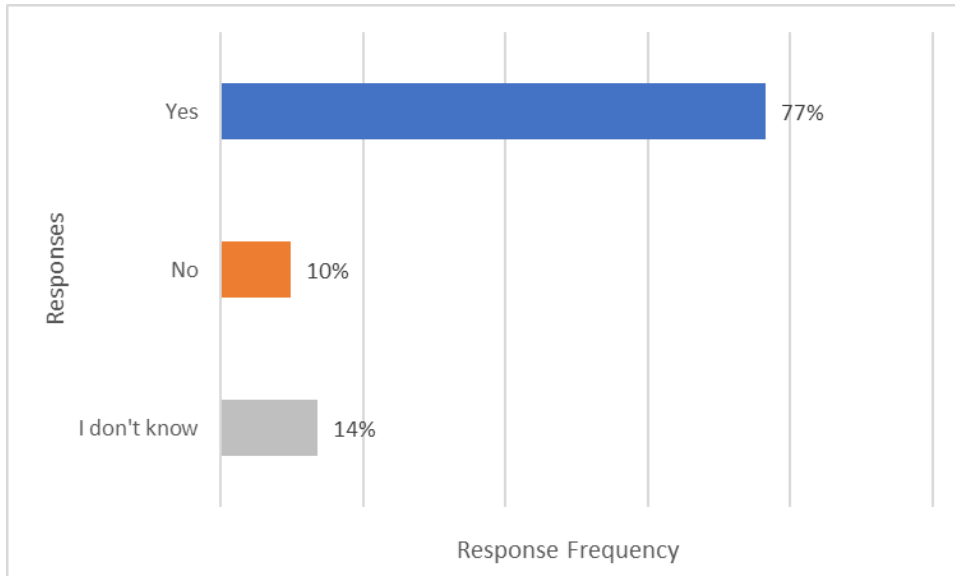
As discussed earlier in this assessment, the impacts of the War on Drugs and cannabis criminalization have included trauma to personal, familial, and community relationships and health and well-being. Trauma presents barriers to entry in background accomplishments (including accrued capacities and expertise levels), emotional and psychological wellness, family and relational cohesion, mentality shaped by survival, and many other possible dynamics that impact the ability of a social equity entrepreneur to navigate work-life balance in personal, family, and community contexts, as well as the pressure and attention coming from business leadership and the scrutiny anticipated on a government support program. The patient, diligent, and generous leveraging of effective programs and services, in particular community-owned and community empowering ones, will provide important infrastructure that can be customized and evolving as social equity entrepreneurs enter the cannabis industry and proceed through the Social Equity Entrepreneurs program.

Community survey respondents identified many potential barriers to employment in the regulated recreational adult-use cannabis industry. The most frequently identified barriers were lack of training in cannabis and related businesses (identified by 67% of respondents) and lack of knowledge of cannabis and related businesses (identified by 61% of respondents) (Figure 22). As discussed in the “The Cannabis Industry in San Diego” section, industry-specific business experience and knowledge is necessary for success in the cannabis industry. Community-survey respondents identified that lack of training and knowledge as a barrier to employment.



**Figure 21.** Web survey responses to the question, “What has or could serve as barriers to your employment in the legal cannabis industry?” Thirty-six community members responded to this question of the 83 web survey respondents.

Lack of industry-specific training and knowledge as a barrier to employment is a reflection of community-wide need for public education on cannabis. Seventy-seven percent of community survey respondents also believe that more public education on cannabis would improve community perception of cannabis (Figure 23), suggesting that knowledge gaps on cannabis exist more broadly. The knowledge gaps on the policies, practices and phenomena that dictate the different sectors of the cannabis industry (i.e., growing, retail and manufacturing) can serve as a significant barrier of entry into the cannabis industry.

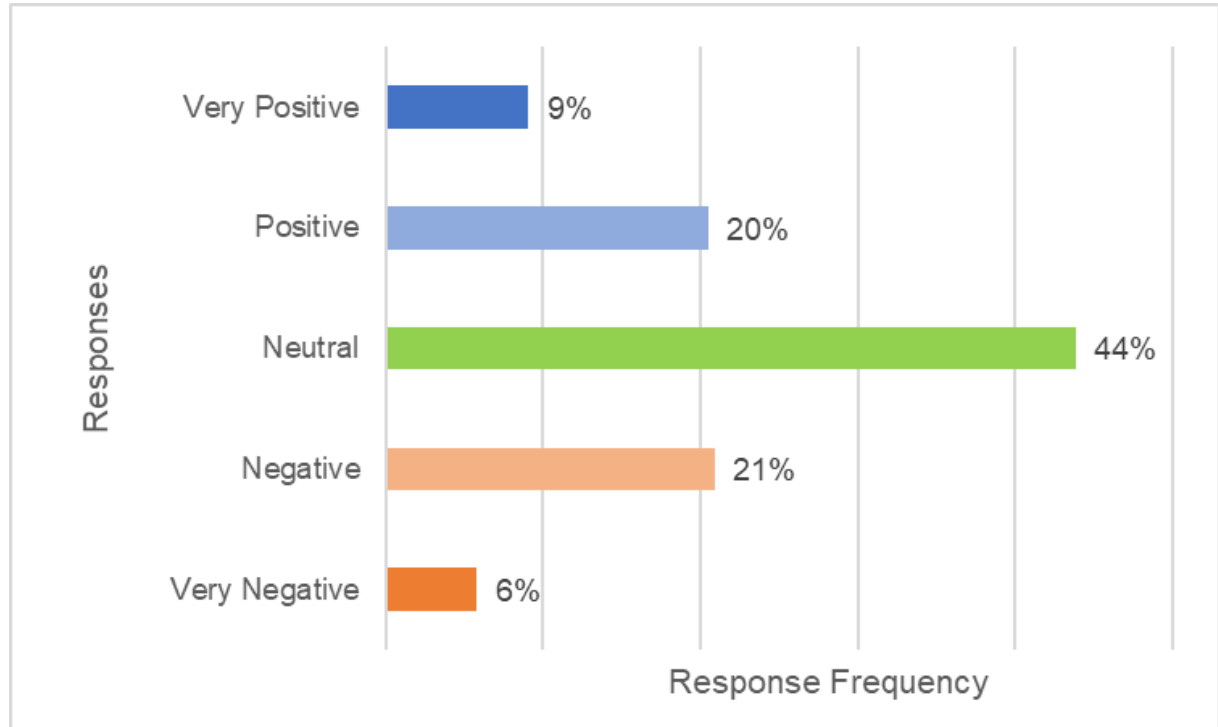


**Figure 22.** Phone and web survey responses to the question: “Do you feel more public education on cannabis would make your community’s perception of cannabis more positive?” Two hundred twenty-eight community members responded to this question of the 263 phone and web survey respondents .

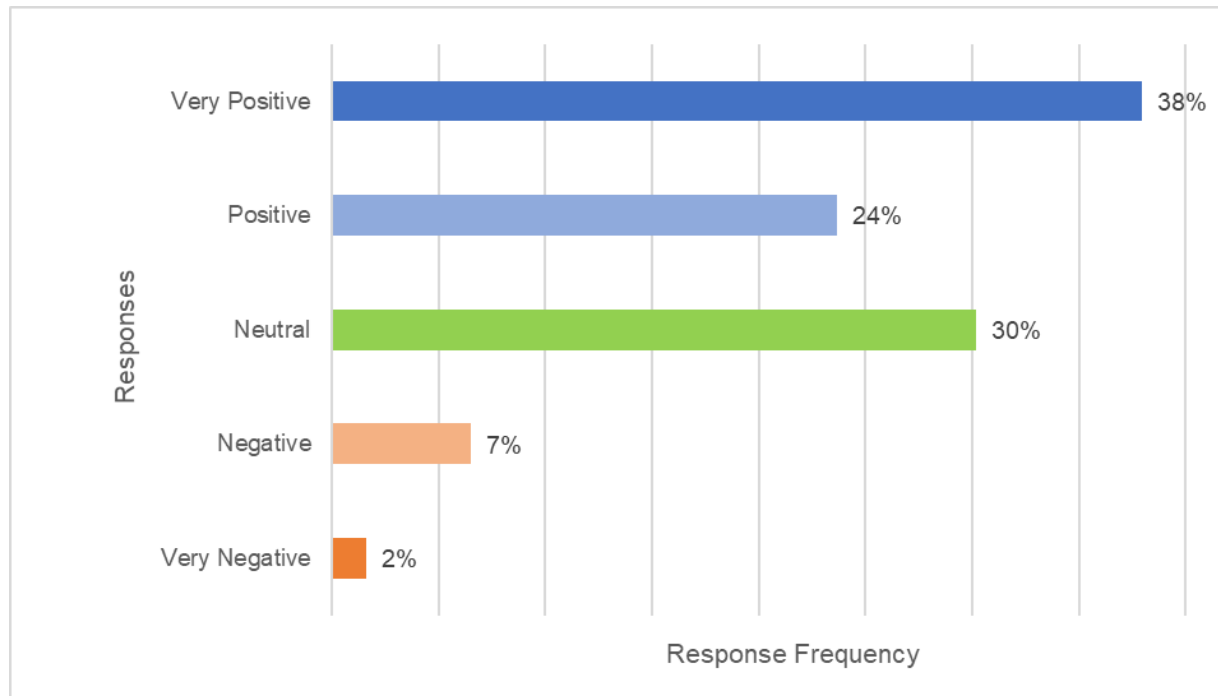
In addition to industry-specific training and knowledge, general perception of cannabis can create other barriers to employment. Nationally, negative stigma against cannabis is waning. According to a 2021 survey of U.S. adults, over 90% of adults support cannabis legalization with 60% supporting legalization of medicinal and recreational-use cannabis.<sup>125</sup> Similarly, a 2018 survey of San Diego county residents found that almost half said legalization has been good for society and 43% found cannabis to be generally good for a person’s health.<sup>126</sup> Similarly, most of the assessment’s survey respondents characterized the general perception of cannabis as positive (20%) or neutral (44%) (Figure 24). Sixty-two percent of survey respondents had a very positive or positive perception of cannabis (Figure 25).

<sup>125</sup> Green, Ted Van. “Americans Overwhelmingly Say Marijuana Should Be Legal for Recreational or Medical Use.” *Pew Research Center* (blog). Accessed June 16, 2022. <https://www.pewresearch.org/fact-tank/2021/04/16/americans-overwhelmingly-say-marijuana-should-be-legal-for-recreational-or-medical-use/>.

<sup>126</sup> Gary Robbins, Email, and Facebook, “Opinion Poll: San Diegans Think Marijuana Helps Society, the Economy, Human Health,” *San Diego Union-Tribune*, April 23, 2018, <https://www.sandiegouniontribune.com/news/marijuana/sd-me-utsurvey-marijuana-20180423-story.html>.



**Figure 23.** Phone and web survey responses to the question: “How do you feel the general public perceives cannabis?” Two hundred forty-four community members responded to this question of the 263 phone and web survey respondents.



**Figure 24.** Phone and web survey responses to the question: “How do you generally perceive cannabis?” Two hundred forty-five community members responded to this question of the 263 phone and web survey respondents.

Despite the lack of evidence of a commonly-held negative perception of cannabis,



there is still a fear that cultural stigma could be a barrier to employment in the cannabis industry. Half of community respondents identified cultural stigma as a potential barrier to employment in the cannabis industry (Figure 22). This may in part be explained by the small, but influential group of anti-cannabis advocates in the County of San Diego. These anti-cannabis advocates often attempt to stifle the cannabis industry through over-restrictive measures that allow the illicit market to thrive. (See the “Cannabis Industry in San Diego” section for further discussion.)

Many barriers to employment are exacerbated for communities disproportionately impacted by the War on Drugs and cannabis criminalization. For example, low wages, discriminatory hiring and job volatility were identified as potential barriers to employment in the legal cannabis industry by San Diego County residents. Fifty-eight percent of community survey respondents identified low wages as a potential barrier to employment in the legal cannabis industry. This barrier may be even more limiting to potential social equity applicants, who have less financial flexibility due to the individual and community level economic impacts of disparate criminalization and incarceration. According to an interview with a community stakeholder a “universal basic income” to establish “liveable wages” is essential to the local cannabis industry. Additionally, fifty-three percent of survey respondents reported discriminatory hiring as a potential barrier to employment in the legal cannabis industry. Since the BIPoC communities that have been disproportionately arrested for cannabis related charges in San Diego County are also vulnerable to discriminatory hiring, we can expect this barrier to employment to also be worse for potential social equity applicants.

## Policy as a Barrier

Policy can be a barrier to entry into the cannabis industry if it exacerbates or fails to address the economic barriers outlined above. As mentioned above access to real estate and land are critical barriers to entry. A number of survey respondents identified restrictive zoning schemes as a critical barrier to their entrepreneurial aspirations. For example, one hopeful survey respondent from Fallbrook-one of San Diego county’s unincorporated areas-explained that the village’s community planning groups restrictive parameters would make it impossible for them to open a cannabis business. Similarly, the Board Letter recently approved by the Board of Supervisors includes restrictive zoning that establishes a minimum radius between cannabis business and protected locations that nearly doubles the state minimum requirement.<sup>127</sup> Additionally, many community members-through survey responses and multiple community listening events-expressed interest in owning a microbusiness<sup>128</sup>. For example, one community member discusses why micro business appeal to her:

I want to own a microbusiness. The state designated this specific license category for someone like me, who is interested in owning a small local business [within] the

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<sup>127</sup> Anderson, Joel Supervisor. Cannabis Program Enhancement Measures: Increasing Safety, Providing Education, and Improving Equity within the Unincorporated Communities (Districts All) (2022).

<sup>128</sup> Microbusinesses are small businesses that employ very few people (usually less than ten) and a limited profit. See: Ofgem. “Defining Micro-Businesses.” Office of Gas and Electricity Markets, 2008. <https://www.ofgem.gov.uk/sites/default/files/docs/2008/04/ofgem---defining-micro-businesses-180308.pdf>.



community. There have been no microbusiness licenses granted in San Diego County to my knowledge.

The current zoning scheme approved by the Board of Supervisors for cannabis would prohibit the vertical integration of small-scale cultivation, processing and retail necessary for cannabis microbusinesses. (See comparative policy analysis in Appendix D for further discussion of the County's current cannabis policy.)

Tax and licensing policies can act as barriers by increasing start-up costs. Many community members noted that taxes and licensing fees can become insurmountable barriers for many social equity licensees. Additionally, taxes can be extremely prohibitive during the set-up of the businesses, leading some potential entrepreneurs to tax and fee waivers "for at least the first year." One community survey respondent explained how high taxes-especially on cultivation-combined with the high investment of time and money during business start-up can make survival for an emerging entrepreneur impossible:

Well first off you need a facility, you need to have your lighting and CO<sub>2</sub>, and [an] AC system perfect. [You] must have the right strains and [phenotypes] to get [an] abundant crop. [You] must have nutrients that are organic . [Your] waste water must be clean. [Your] cannabis must be clean. [It] takes at least a year of trial and error to get your system right and that's alllllllll [sic] investment. [After] a year you can start seeing profits but with the high licensing costs and high startup and high taxes it's so impossible for smaller entrepreneurs to start seeing profits. [You] not only put in 12-14 hours [days] sometimes with transition rooms, cleaning, and harvest. [You] must not work those hours with very little return because of the high tax rate. [So] we get taxed on not only the flower which [is] the only thing with value, but you get charged on the leaves and the shake also?! [Shake] can be of value if you choose to spend more time turning into something, but fam leaves has no value[sic]! [It's] just compost! [It] goes into the earth just like any other plant. [This] makes no sense. and then you get taxed at harvest and taxed again at sale then at the dispensary. [This] is unsustainable and has never been done for any other god given plant in existence. not even hops goes through this intensive process.

Policy, especially land use and zoning policy, should attend to the economic realities of emerging social equity applicants and the entrepreneurial aspirations of potential social equity applicants who aspire to run vertically integrated microbusiness or enter cultivation.

## Potential for Repair

The War on Drugs, cannabis criminalization, and barriers to the development of social equity in the cannabis industry and beyond present a daunting picture for champions of transformation in San Diego County from widening inequity to a more just and equitable flourishing. Residents of the County have deserved as much since the advent of European colonization two hundred and fifty years ago. This social equity assessment research uncovered a wealth of knowledge, perspective, and energy throughout many of our communities that delineates a gap between well-situated insiders and those most impacted by the War on Drugs. The most disproportionately impacted communities have had policing supplant public investments, a trend that must be reversed. The aims of social equity to repair the impacts of the War on Drugs and cannabis criminalization have tremendous



potential if a Social Equity Entrepreneurs program can meaningfully repair that divide. In this section we will look at what the data says about the potential to counter the War on Drugs policy framework, raise awareness of social equity, expand the focus of healing, and build community.

## Counter War on Drugs policy

Decriminalization and countering War on Drugs policy are, arguably, the lowest hanging fruit for the County of San Diego. Social equity in terms of repairing harmful disparities from the War on Drugs can be directly advanced if we stop digging the hole deeper. The County can release those incarcerated, on parole, or on probation for cannabis charges, can go beyond basic compliance with AB 1973 in clearing cannabis-related convictions from all records, and can invest in restorative justice and jail diversion.<sup>129</sup> <sup>130</sup> With record clearing, the County of San Diego District Attorney was lauded for reviewing more than 35,000 cases and recommending 26,000 of them for reduction or dismissal, a process that started in 2018 and was completed by early 2021. The San Diego County Superior Court spent \$28,000 of a \$2.196 million state clerical assistance grant, saving money through a court-created computer program and returning the remainder of the funds to the state.<sup>131</sup> Removing outdated cannabis convictions, per AB 1973, is important, but further expungement work remains critical. Some community members carry convictions from outside of San Diego County, and community-led advocacy could ensure they get support to clear all eligible records. Further, with 25,000 convictions reduced from felonies to misdemeanors, community-led advocacy efforts can study whether formerly incarcerated community members face disparate treatment relevant to social equity as misdemeanors continue to show up on their background checks.

Community survey respondents overwhelmingly supported expungement, with eighty-three percent of community members saying “yes” to County-level expungement, and ranking expungement as a high priority program component.

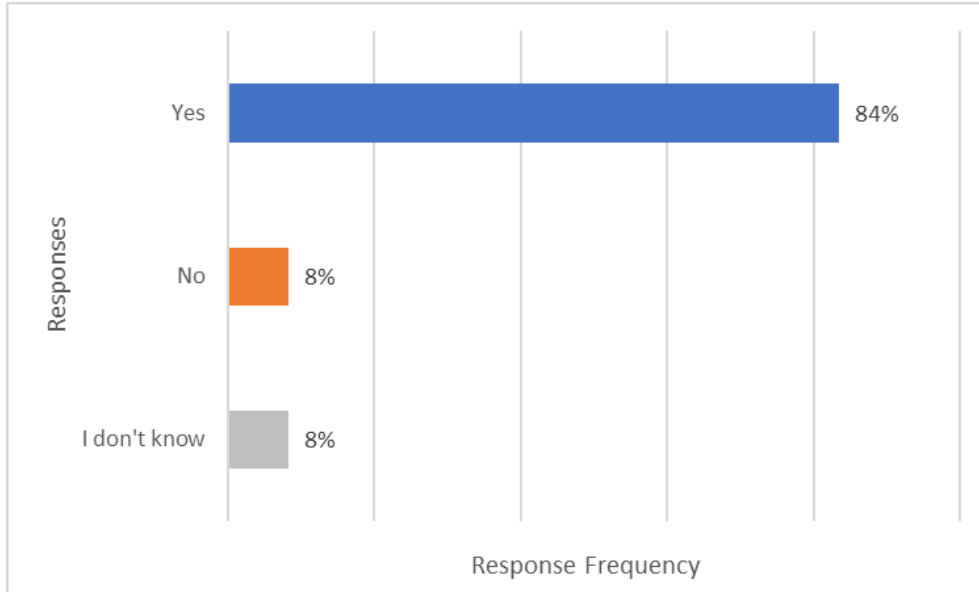
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<sup>129</sup> Greg Moran, “In 2019 San Diego City Attorney Said Some 5,000 Marijuana Convictions Would Be Expunged. Only 500 Were.,” San Diego Union-Tribune, March 14, 2021, <https://www.sandiegouniontribune.com/news/courts/story/2021-03-14/elliott-said-in-2019-some-5-000-marijuana-convictions-would-be-expunged-but-only-500-were>.

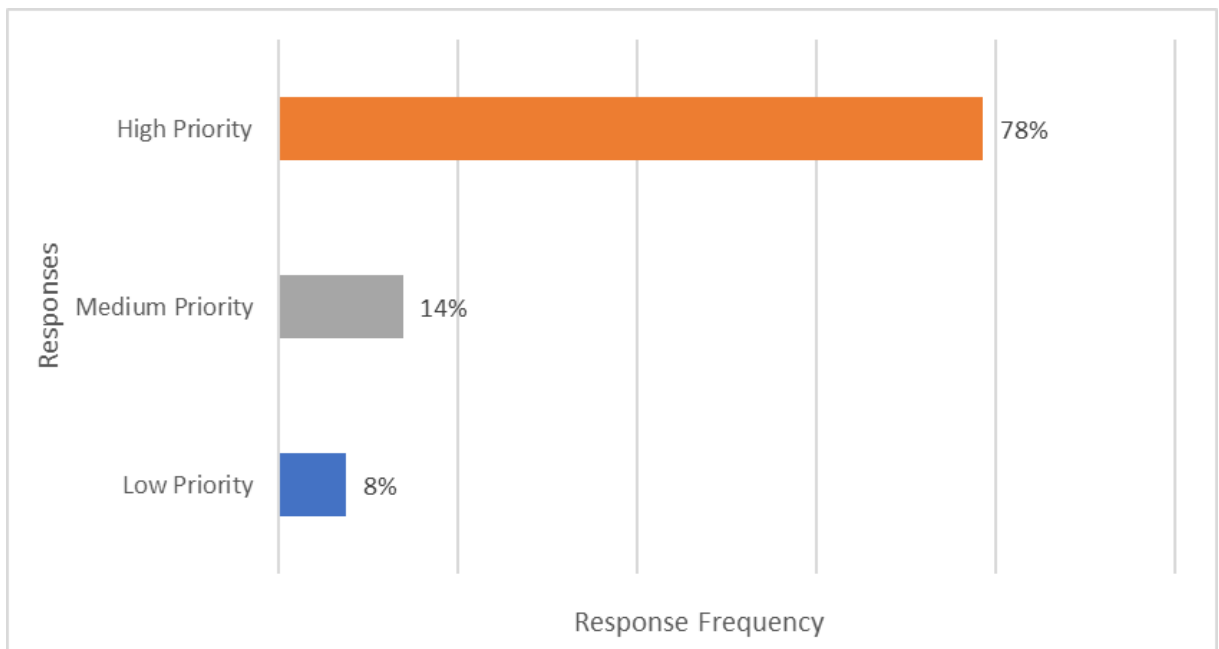
<sup>130</sup>In 2018, the County of San Diego District Attorney’s office submitted 1,000 misdemeanor cannabis charges for dismissal, and 25,000 felonies for reduction to misdemeanor. Due to the pandemic, the process was delayed, but completed by February 2021. See Greg Moran, “Thousands of California Marijuana Convictions Officially Reduced, Others Dismissed,” Los Angeles Times, March 7, 2021, <https://www.latimes.com/california/story/2021-03-07/marijuana-convictions-reduced-dismissed>.

<sup>131</sup> “California Was Supposed to Clear Cannabis Convictions. Tens of Thousands Are Still Languishing,” Los Angeles Times, January 13, 2022, <https://www.latimes.com/california/story/2022-01-13/california-was-supposed-to-clear-weed-conviction-s-tens-of-thousands-are-still-languishing>.





**Figure 25.** Web survey responses to the question, “Do you think San Diego County should expunge cannabis related convictions?” Seventy-three community members responded to this question of the 83 web survey respondents.



**Figure 26.** Phone survey respondents’ rating of expungement as a low, medium or high priority component of a social equity program. One hundred and fifty-eight community members responded to this question of the 179 phone survey respondents.

The quality of the expungement process requires attention. One community organizer related the story of a community member, a former security guard, was busted for running an illegal dispensary and served time in prison that “just destroyed him.” The organizer explained, “And it took years of his life. And it took where he had to give, he couldn't have a security business. He had to get his firearms back. It just destroyed him. And so we did an expungement clinic when the law changed. And because he was one of those people that all

it was was marijuana, everything and they like wiped off, like 15 charges, and this and that. And he's like, back to whole. I'm very happy about that.” During community listening sessions, a different experience was shared as participants noted the importance of a clear and streamlined record expungement process for individuals who have been impacted by drug criminalization. One participant shared their direct experience with the criminalization process, outlining the detrimental toll carried by their family due to drug related criminal records. The participant shared the following regarding their partner's conviction: “about a year ago, finally, with new legislation, he was able to get that record expunged... But I think just because of the period of time, the situation, the community where we live, it really took a toll on him, on our marriage, on our family economic situation...I've had the opportunity to experience firsthand what the War on Drugs means for ordinary kind of everyday people out in that community.” Through this narrative, the interviewee identified their direct experience with cannabis criminalization and policies, noting the impact at the social, economic, familial, and individual level.

Another participant shared that “it took years to go through the expungement process, to get the public defender's, you know, all the information to gather all the documentation. So it was a really cumbersome ordeal...we're now talking about almost 20 years since that original incident happened...about a year ago that the expungement finally was completed.” This comment illustrates the obstacles within record expungement that some community members are met with. The lack of a streamlined process increases difficulty of navigating the process, thus creating an inherent inequity for individuals who are still fighting against convictions from decades back as others are thriving under the modern day legal market structure. In order to alleviate these barriers, a participant recommended an “automatic expungement mandatory process of healing the community and allowing individuals who have been caught up on the block to be able to build a business of their choosing, but specifically, cannabis law in some jurisdictions prohibit those with previous convictions from gaining licensure. So making sure that automatic responses are part of the process.” To community members, record expungement is viewed as a form of healing from the impact of the War on Drugs and a means to lift barriers to entry for individuals with previous convictions to allow for licensure, permitting, and ultimately economic and social success within the cannabis industry and beyond. Further, expungement would help the County of San Diego go beyond basic compliance with the 2018 California State Assembly Bill 1973, or “Bonta Bill”, which mandates action by state and county district attorneys.<sup>132</sup>

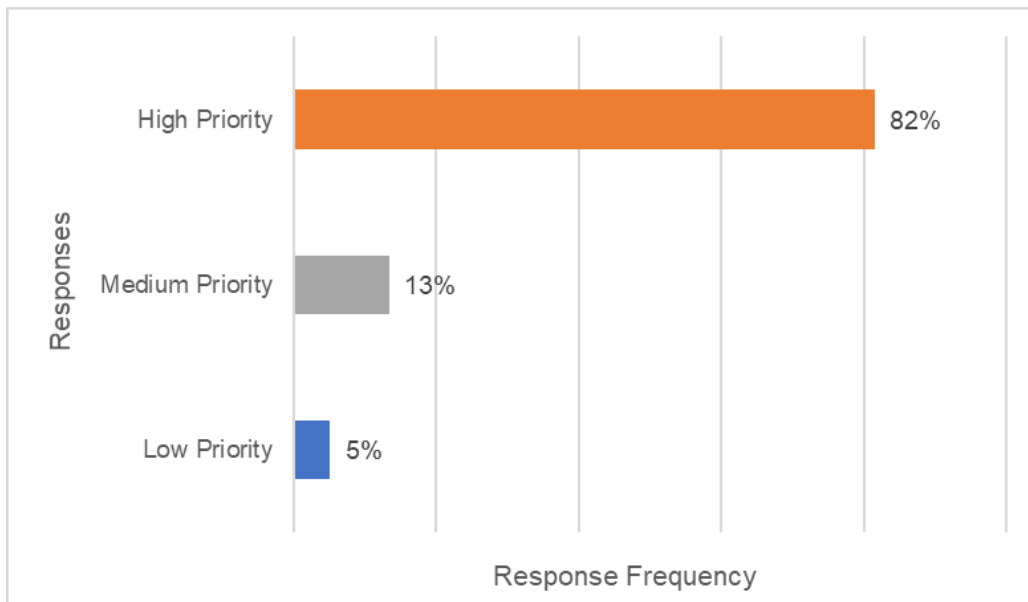
The second-class status of convicted felons intentionally constrained mobility, housing security, employment outlook, law enforcement handling, voter participation, and more aspects of daily life. Expungement programs are important to cannabis industry workforce development, access to capital, protection of civil and human rights, and mobility. Since cannabis decriminalization disproportionately impacted marginalized communities in San Diego county, expungement will be essential to ensuring communities disproportionately

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<sup>132</sup>See Ellen Komp, “AG Bonta Pledges DOJ Help to Clear Past Marijuana Convictions in California,” *CaNorml.Org* (blog), December 16, 2021, <https://www.canorml.org/ag-bonta-pledges-doj-help-to-clear-past-marijuana-convictions-in-california/>. and Marijuana Moment, “California Officials Have Failed To Seal Thousands Of Marijuana Conviction Records,” *Marijuana Moment* (blog), October 18, 2021, <https://www.marijuanamoment.net/california-officials-have-failed-to-seal-thousands-of-marijuana-conviction-records-by-the-legally-required-deadline/>.

impacted can be owners and employees of the legal adult cannabis industry. In addition to promoting diverse and equitable workforce inclusion, including community members who have worked in the legacy market will bring deep knowledge to our San Diego County's legal cannabis market that will benefit its growth.

Community members have also highlighted the need for restorative justice. Eighty-two percent of community respondents ranked restorative justice as a high priority program component (Figure 28).

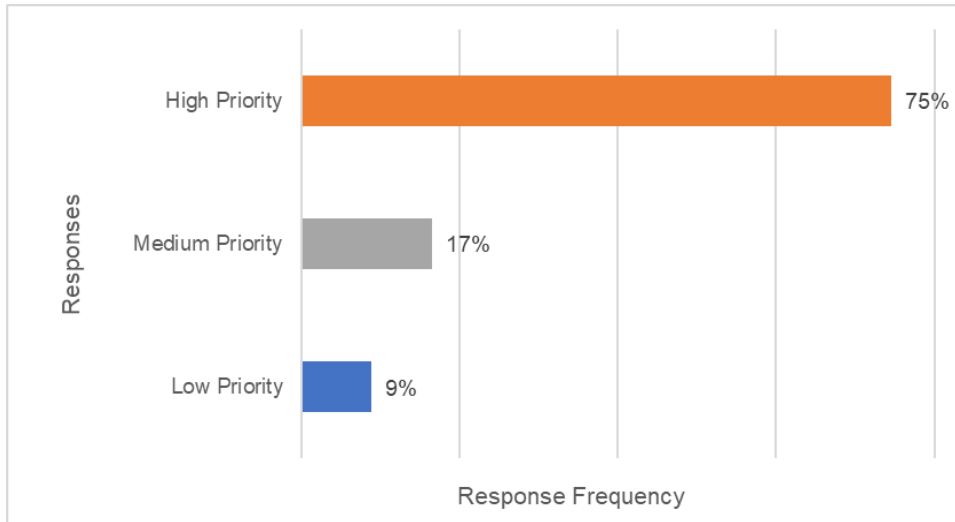


**Figure 27.** Phone survey respondents' rating of restorative justice as a low, medium or high priority component of a social equity program. One hundred and fifty-seven community members responded to this question of the 179 total phone survey respondents.

Restorative justice are practices and policies that prioritize healing, harm reduction and community-building over punishment in response to an act of wrongdoing. Some local examples of restorative justice include Mid-City Community Advocacy Network's Restorative Community Conferencing (RCC) program. This program has operated for over a decade in City Heights, more recently expanding to Barrio Logan, Lemon Grove and Southeastern San Diego. Youth participants that have committed harm can be referred to the program by the person harmed, police officers, public defenders and the District Attorney's office. With consent of all participants the youth, their parents, the person harmed and other community members-where additional support is indicated-discuss the harmful actions, its impact on all involved and create an action plan to address the harm and prevent further harm. Youth are also enrolled in mentorship, community building and skill building activities as a part of their action plan. The RCC model has inspired the County of San Diego District Attorney Juvenile Diversion Initiative (JDI) which in addition to the RCC model emphasizes connecting youth with behavioral health and substance abuse treatment services when necessary. The JDI also lacks RCC's community oversight structure. Restorative models like RCC are best fit for more serious crimes (i.e., high level-misdemeanors and above) with a clear person harmed. Restorative justice models like RCC have also been proven to reduce recidivism. These are the types of programs that community members identified as potential components of San Diego county's Social Equity Program as restorative justice models could keep more potential

innovators in the emerging adult use cannabis market out of prisons and jails and in communities where they can positively contribute to this emerging market and their community overall.

Jail diversion is a broader intervention category of which restorative justice is a specific example. Jail diversion can help ensure innovative and knowledgeable community members stay out of prison and in a community where they can contribute to the legal market and community overall. Seventy-five percent of respondents ranked jail diversion as a high priority (Figure 29).



**Figure 28.** Phone survey respondents’ rating of jail diversion program as a low, medium or high priority component of a social equity program. One hundred and fifty-seven community members responded to this question of the 179 total phone survey respondents.

## High integrity awareness campaign regarding Social Equity Entrepreneurs program

Community listening session participants uplifted a direct call to action for local government agencies, as one demanded “the county and city of San Diego to admit that there were specific populations that were targeted by cannabis prohibition, by the War on Drugs...to remove specific populations from San Diego. I want there to also be recognition that they've accomplished their goal. And the amount of deportations and the amount of Black Americans and Indigenous Americans displaced from San Diego, their homeland, because of either loss, criminalization, or economic means lack of affordability... I'd really like to see the County of San Diego in this instance, make a very clear admittance that past laws pertaining to the prohibition of cannabis, and other drugs were used specifically to target us, and that there is a specific commitment to right those wrongs.” This notion was corroborated by additional community members, as one stated that they “hope that San Diego county can address the trauma that's been inflicted on Black, brown and indigenous communities officially, as to change the stigma or to try to break away the stigma of cannabis use, cannabis industry, and cannabis impact...The way that we can work through that trauma is to have the ones who committed these disproportionate acts of harm to admit first that they've



committed those acts of harm and then commit to rectifying those.” Through this dialogue, participants shared a demand to call for accountability from local government agencies to admit the wrongdoings of past policy, the harms of the War on Drugs, and the direct disproportionate impact on BIPOC community members, who have been displaced, criminalized, and economically harmed by cannabis prohibition and criminalization.

This would serve as a foundation towards a firm commitment to right the wrongs of past policy and procedure, as the County must address the trauma caused by the War On Drugs by breaking stigmas on cannabis, through public education and discourse to counteract misconceptions that have been pathologized for decades. Other community members expanded beyond strictly cannabis and into further education and discourse regarding equity as a whole, stating that, “the real trick is to be having an inclusive conversation, that it doesn't center on cannabis, per se, but it centers around equity. It centers about really building on this concept, an idea of what equity actually is, so that it's not missed. Right? So we're talking about young people, we don't want them to just think about, you know, marijuana as being harmful, we want to think about how they've harmed our community. But we also want to think about what's the equitable approach to this, and start inviting them to talk about equity, as it relates to this conversation.” Inclusive dialogue is integral in the cannabis space to promote equity. It is vital to involve the youth in education initiatives to prevent harmful use or misuse, thus creating a space for community positivity and healing. Implicit bias research shows that negative attitudes about darker skinned people, women, trans-folks pervades our social relations and institutions.<sup>133</sup> <sup>134</sup> Such beliefs should be brought up to the conscious level so that individuals, groups, and organizations can reorient themselves toward the abundance of our communities rather than scarcity, conflict and panic.

Communicating about the Social Equity Entrepreneurs program and its purpose will support a more general awareness and education that can impact many different aspects of life throughout the county, in particular regarding race, racism, and the colorblindness limits imposed in Proposition 209.<sup>135</sup> The War on Drugs was and is specifically racial in its intent and impact, though. An example of racial social engineering, the War on Drugs has had a remarkable ability to institutionally stratify US society in spite of relative democratization over

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<sup>133</sup>See <https://www.scientificamerican.com/article/how-to-think-about-implicit-bias/> (accessed 6/24/2022).

<sup>134</sup>See <https://gspp.berkeley.edu/faculty-and-impact/publications/the-existence-of-implicit-bias-is-beyond-reasonable-doubt-a-refutation-of-it/> (accessed 6/24/2022).

<sup>135</sup>California Proposition 209 (1996) prevents the state from discriminating or granting preferential treatment based on “race, sex, color, ethnicity, or national origin in the operation of public employment, public education, and public contracting,” and was approved by 54.5% of voters. Voting patterns show greater support among men (61%) who are older (58% 45 and older), white (63%), wealthy (59% for \$79,000+ annual income), conservative (77%) and Republican (80%). ([https://ballotpedia.org/California\\_Proposition\\_209\\_Affirmative\\_Action\\_Initiative\\_\(1996\)](https://ballotpedia.org/California_Proposition_209_Affirmative_Action_Initiative_(1996))). Building on Governor Pete Wilson’s striking down of affirmative action in the UC system, proponents dubbed Proposition 209 the “California Civil Rights Initiative” and used a Black spokesperson and the language of colorblindness and nondiscrimination popularized by Dr. Martin Luther King, Jr. even though the purpose of the initiative was to end affirmative action and not replace it with a better means to address race disparities.

time, including emancipation of the enslaved, the ending of legal segregation, and shifting cultural attitudes about the inferior social status of BIPOC people. Pete Wilson and Ward Connerly promoted Prop 209 to prohibit focusing on race *in any way* in public contracting and education, framing efforts to understand and address negative impacts of previous discrimination as violations of civil rights. The “Civil Rights Initiative” was linked to a distorted and flipped version of MLK’s colorblindness, and the results have been more than two decades of widening race gaps across nearly all areas of society.<sup>136</sup>

Conversations surrounding stakeholder engagement held a central theme of public education and awareness regarding social equity and cannabis use for community members and stakeholders. When examining educational initiatives, interviewees advocated for resources directed towards individuals and communities impacted by mass incarceration. One participant mentioned that they “see firsthand what competence looks like, what the lack of understanding between the educational system and the youth who have been impacted by incarceration... one of the things that I am super sensitive to, is being able to provide these resources to the children and the families who have been impacted by incarceration, especially due to marijuana laws.” This comment reveals a breach between access to institutions and the institutionalization of primarily young folks who have been directly impacted by cannabis criminalization. When asked what public education around cannabis looks like, one community member stated the following: “As far as dealing with cannabis...we should focus on educating ourselves and how to properly use... If we can re educate ourselves and focus on educating our peers, and our young, even to a point when they’re ready to learn about this, then there will be more proper views on how to use cannabis, there wouldn’t be abuse...,” encapsulating the notion that education on proper and safe cannabis usage and a focus on education throughout the community and for the youth could serve as an effort to minimize substance use disorder and to promote community health and well-being. Repairing and healing communities through educational programming for youth and adults served as a central theme for community members, with an emphasis on financial education.

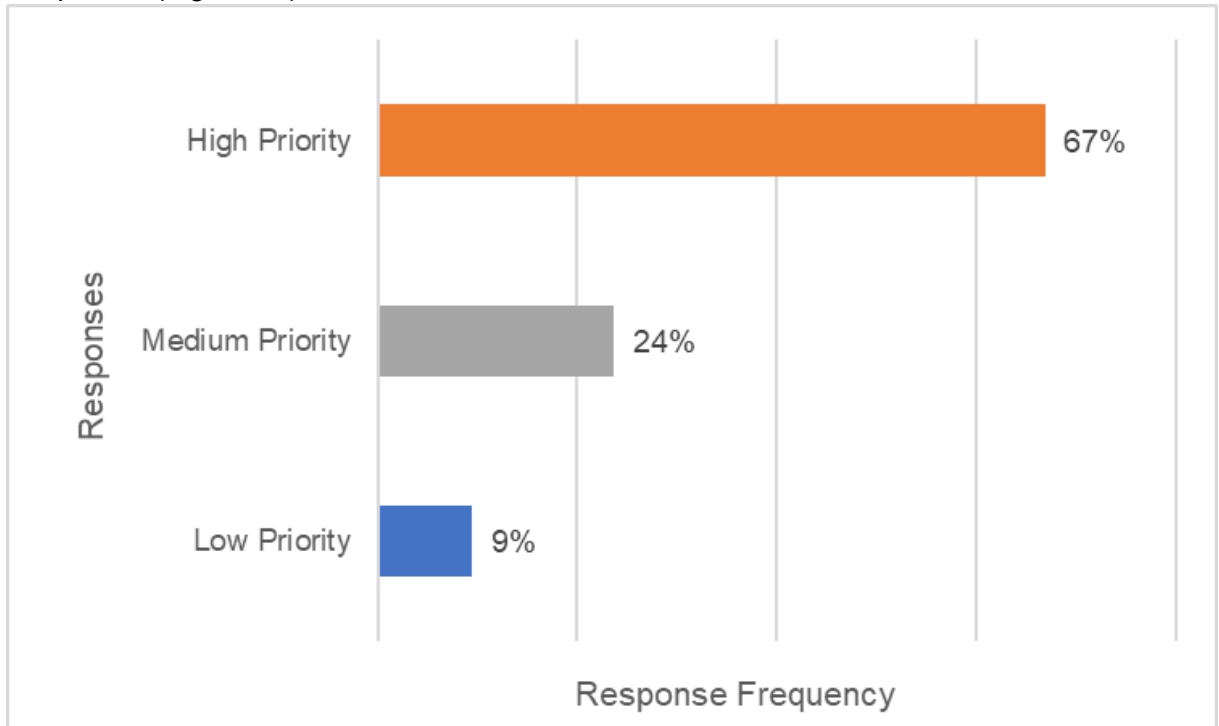
When asked how to remedy this point of concern, interviewees shared ideas such as the following to create “cannabis markets, to where local cannabis growers, our local cannabis distributors can come out, set up their booth, integrate with each other, get to know each other, that builds a community.” This was echoed by another participant, who stated that “there is a need for informing people about social equity and what it is and why it’s needed... Public education in community events can be a way to inform people of what is possible, and what can be done to strengthen and even heal our communities that have been most affected by the War on Drugs... It’s this kind of cultural experience that helps. It helps motivate and inspire people...looking for innovative ways to share messages of social equity.” Participants promoted the idea of public education through community events as an avenue to define social equity, strengthen community building efforts, and to create a healing space for those impacted by the War on Drugs. In an additional comment, a participant shared that “if the county board of supervisors or any of the county or city governments in this county wanted to really support something like that they could grant access to a permit at the fair. And there are people in the city who have event licenses from the state...that would be an awesome way to allow for education.” Community members envision stakeholder engagement through the development of environments for community networking, education, economic opportunity, and collective understanding among community members and businesses, which would in turn create collaborative platforms and simultaneously work to

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<sup>136</sup>See Appendix B for further discussion on Proposition 209.

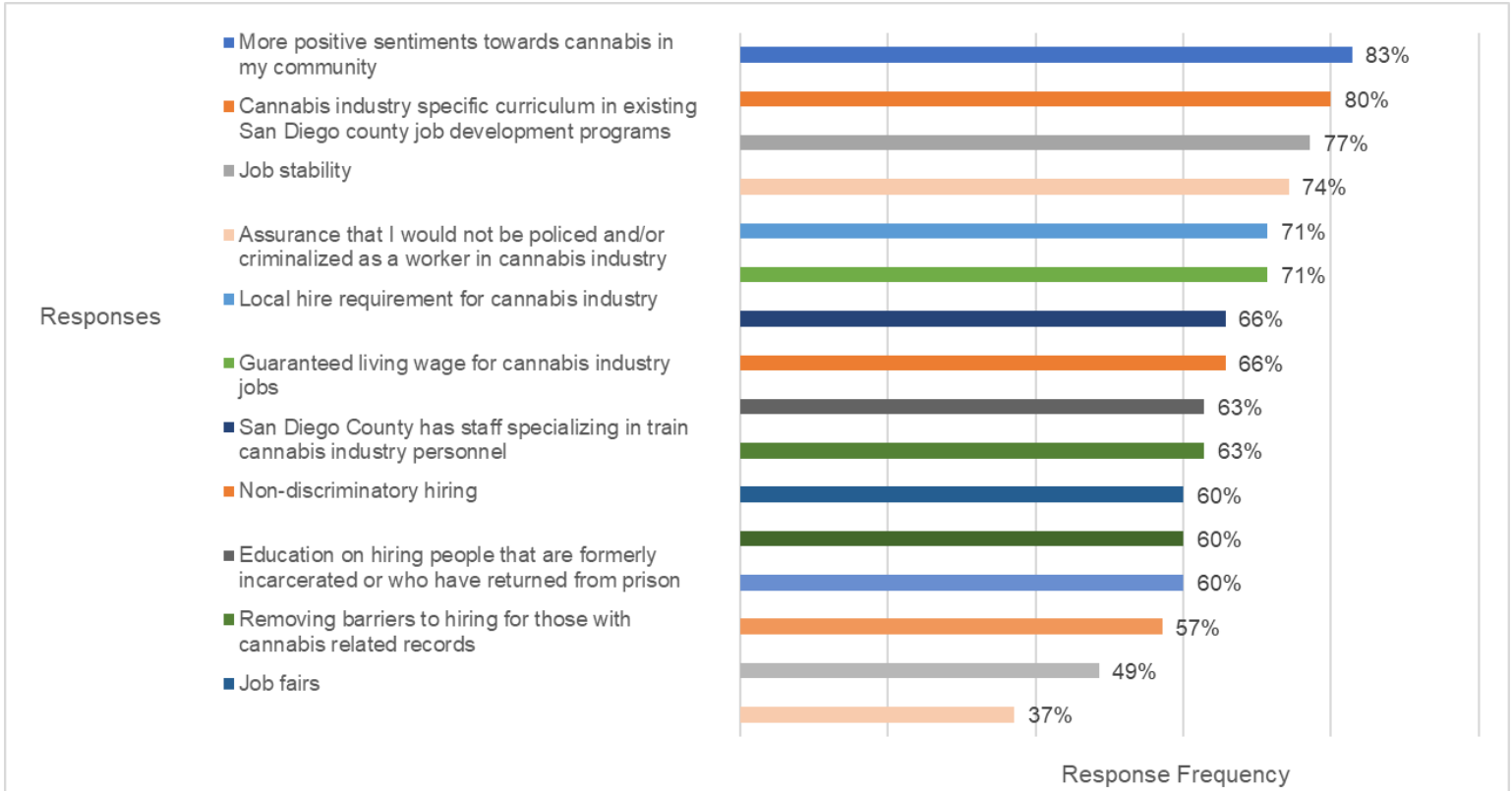
break the stigma surrounding cannabis and the industry as a whole. Recommendations on how to achieve this approach include community events that promote stakeholder engagement with the county, event permits that allow for an accessible platform for education, and community building within the cannabis space.

Sixty-seven percent of community survey respondents ranked increasing public awareness and education on cannabis and related business as a high priority program component (Figure 30).



**Figure 29.** Phone survey respondents' rating of increasing public awareness & education on cannabis and related industries (e.g. anti-stigma program, featuring social equity cannabis entrepreneurs) as a low, medium or high priority component of a social equity program. One hundred forty-eight community members responded to this item of the 179 total phone survey respondents.

Increasing public awareness could also look like anti-stigma programs that improve public perception of adult recreational cannabis use. Public education programs could also feature scientific based and culturally competent information on the relative risks and benefits of adult recreational cannabis use. This type of public education could improve public perception, increasing consumers for and reducing community resistance against the legal cannabis industry. Additionally, increasing general knowledge about the improved quality and safety of legal adult use cannabis and the benefits to community gained from a robust and equitable legal cannabis market could help move consumers away from legacy markets. Further, the number one response to a survey question about what could facilitate employment opportunities was “more positive sentiments toward cannabis in my community” at 83% (Figure 31).



**Figure 30.** Web survey responses to the question: “What have or could serve as facilitators to your employment? Check all that apply”. Thirty-five community members responded to this question of the 83 total web survey respondents.

## Build community

The policies and tactics of the War on Drugs metastasized to impact an expanding set of communities whose enfranchisement, inclusion and empowerment threatened the U.S. government.<sup>137</sup> Additionally, the negative effects of the War on Drugs ripple out from the individual, to their family and their community. Thus, establishing a socially equitable market for adult-use recreational cannabis should include reinvesting tax revenue into disparately impacted communities in a way that addresses the multitudes of harms caused by the War on Drugs and positively affects community members that want to own and operate a cannabis business. If we examine the County of San Diego org chart (Figure 32), County elected officials and staff serve the “Citizens of San Diego County”, but the War on Drugs and cannabis criminalization have impacted which communities’ voices are taken seriously and which communities’ interests are considered important enough to protect through government action. Social equity supports a community building process centering those most impacted, and not allowing those communities to be removed from the center.

<sup>137</sup>See further discussion in [“What the War on Drugs looks like in San Diego County”](#) and [“Barriers to Entry: The Ongoing War on Drugs”](#).



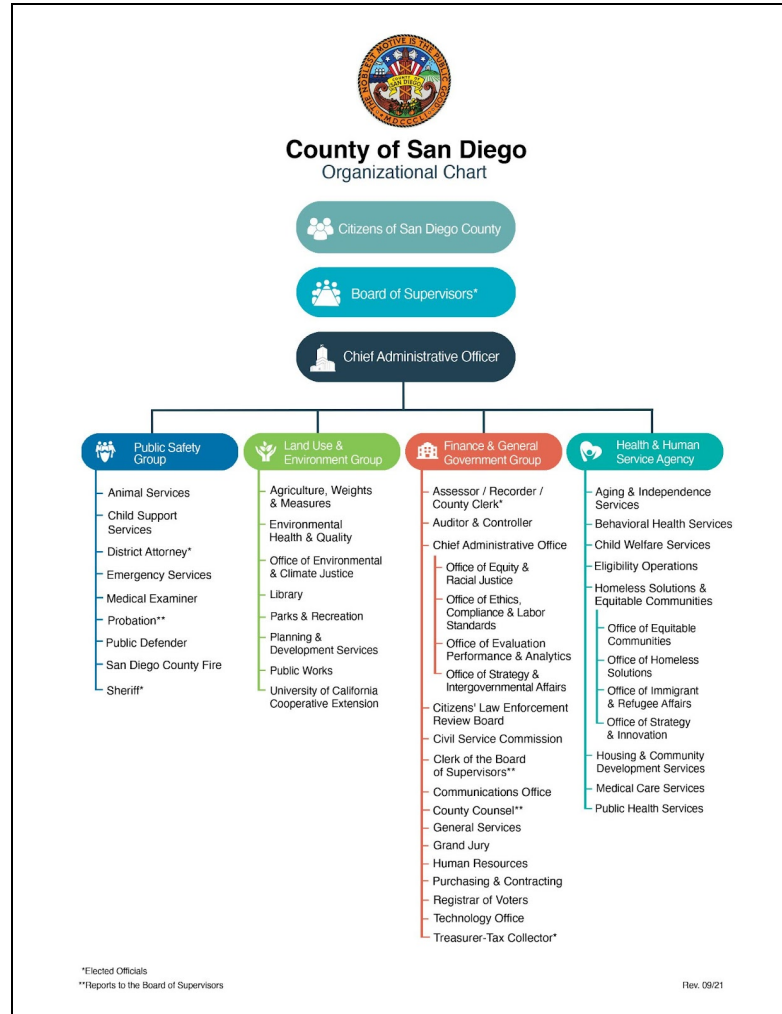


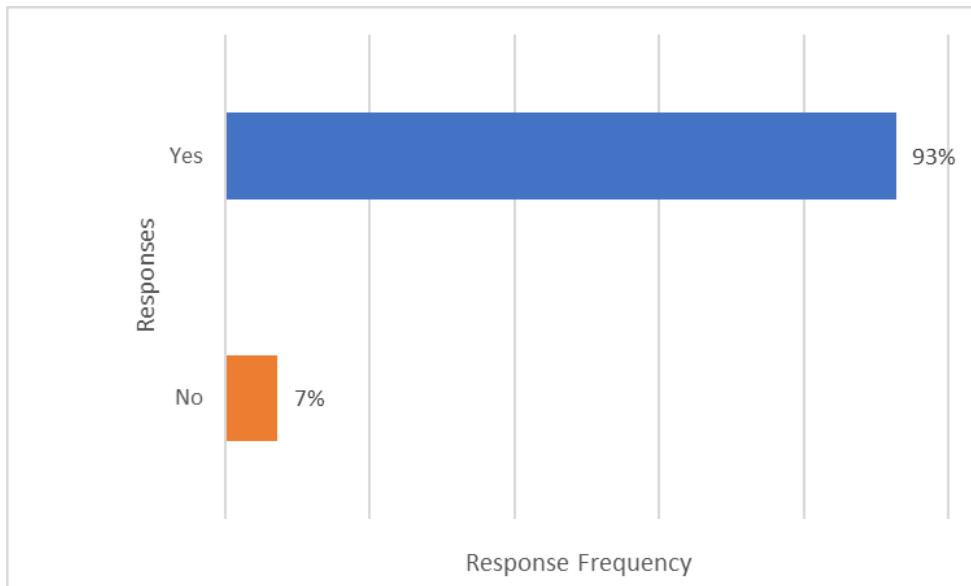
Figure 31. County of San Diego Organization Chart<sup>138</sup>.

Building community in an equitable way goes beyond participation in the cannabis industry. As we expand the breadth of community reinvestment in order to uphold the principles of social equity, community reinvestment should still be focused on disproportionately impacted communities. Community members highlighted the importance of ensuring community reinvestment addresses the needs of disproportionately impacted communities. For example, one community listening session attendee supported “community needs assessment for BIPOC families that are living in the most impacted areas, or that had the highest incarceration rates would be great. And really ensuring that if there are taxes that come out of it, that those taxes are really being put towards leveraging the equity issue. And maybe that can be a fund that supports...what we were talking about in terms of covering the costs...for everybody. But if we have a fund based on the purchasing and the taxes, just like the state does, where's that money going to, and who's who's [sic] going to be accountable, and it should be more of a citizens review.” The speaker seeks to ensure that tax revenue is being allocated towards equitable community reinvestment and creating avenues for access to capital, further stating that tax allocations should be determined through citizens review boards. Similarly, another community member explained the importance of ensuring tax revenue funds programming focused on disproportionately impacted communities. “When I

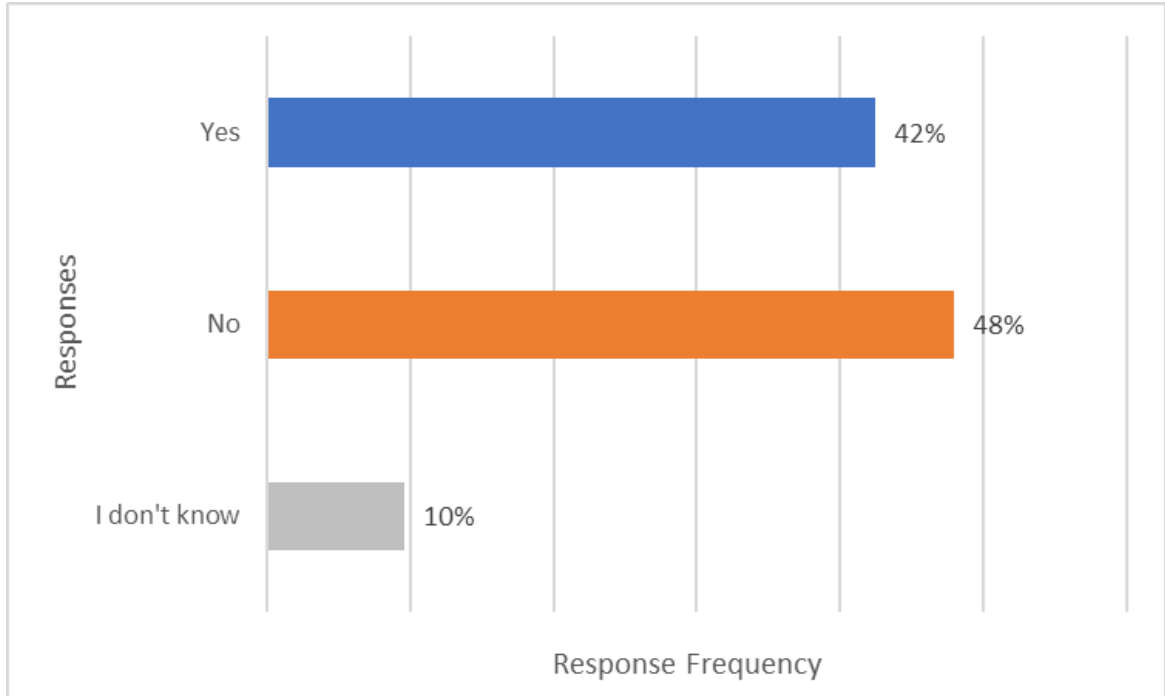
<sup>138</sup> <https://www.sandiegocounty.gov/content/sdc/cao/organization.html> (accessed 6/24/2022)

think about regulation, and what the tax revenue is going to be, we can start to maybe look at different models of other sort [sic] of excise taxes or whatever the tax taxes [sic] might be. But look at the lottery system, as their revenue goes directly to education. Right? So if there is a mechanism where there's a way to kind of build this in, so that even if there were large corporations that come into the marketplace, locally, here in San Diego, can the County designate some of that tax revenue to some of these social programs or, you know, the the [sic] community programs that we need for our youth and families and communities?" Community reinvestment should focus on addressing disproportionately impacted communities.

Beyond developing and supporting future social equity entrepreneurs, the development of an inclusive workforce for the adult-use recreational cannabis industry is also crucial to addressing social equity in the cannabis industry. San Diego county residents agreed that workforce development is worthy of investment. Ninety-three percent of community survey respondents believe the County of San Diego should increase employment opportunities in the legal cannabis industry (Figure 33). Forty-two of community survey respondents are interested in working in the legal cannabis industry (Figure 34).

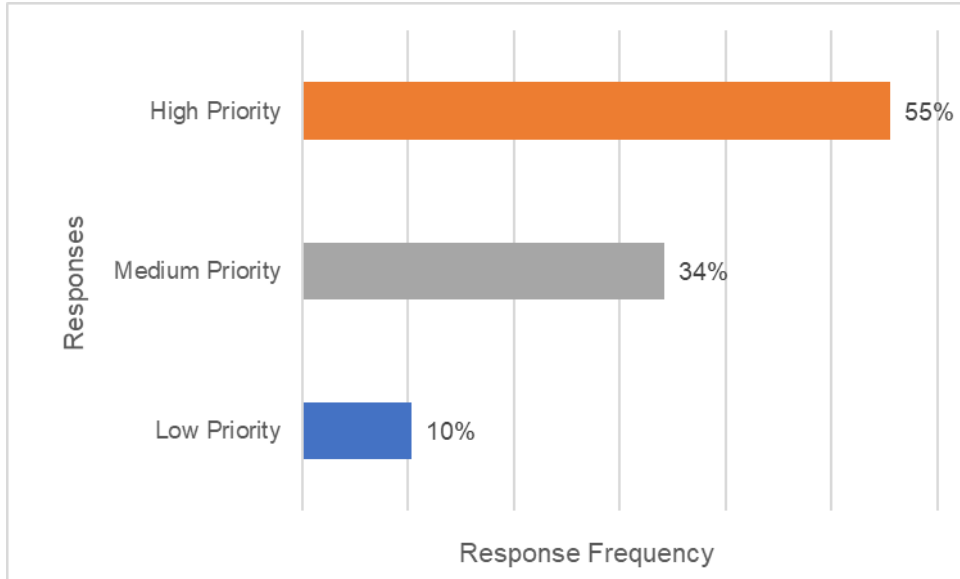


**Figure 32.** Web survey responses to the question: “Should the County of San Diego increase employment opportunities in the legal cannabis industry?” (Yes / No). Sixty-nine community members responded to this question of the 83 total web survey respondents.

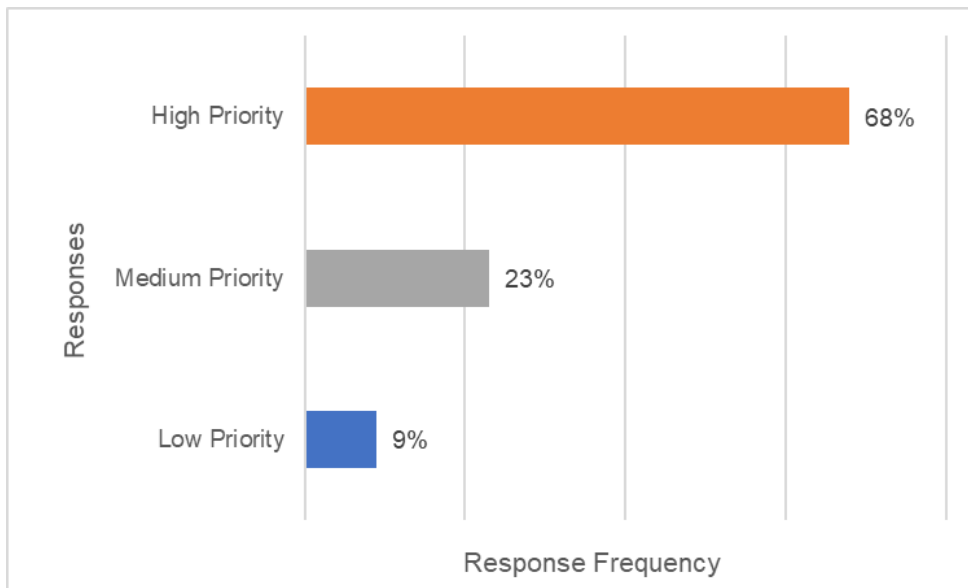


**Figure 33.** Web survey responses to the question: “Are you interested in working in the legal cannabis industry?” (Yes / No / I don’t know). Seventy-three community members responded to this question of the 83 web survey respondents.

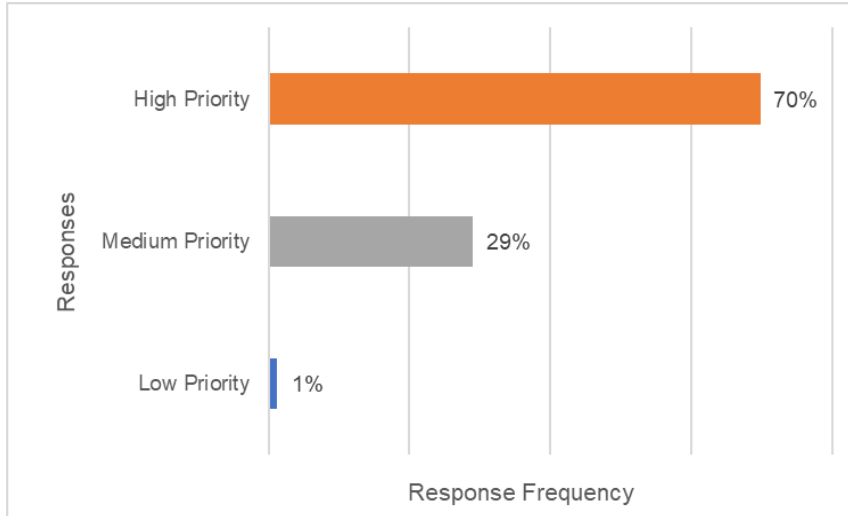
Community respondents noted the importance of investing in equitable workforce development through Social Equity program components like: subsidized wages, health insurance and housing for social equity licensees and investments in education and professional development for impacted communities. The majority of community respondents rated subsidizing wages (55%), housing (68%), and health insurance (70%) as high priority (Figures 35-37). These interventions could reduce the cost of living and cost of conducting business for social equity licensees. Additionally, by increasing affordable healthcare and housing these interventions could have broader social benefits.



**Figure 34.** Phone survey respondents' rating of subsidizing wages for cannabis social equity applicants as a low, medium or high priority component of a social equity program. One hundred fifty-five community members responded to this item of the 179 total phone survey respondents.

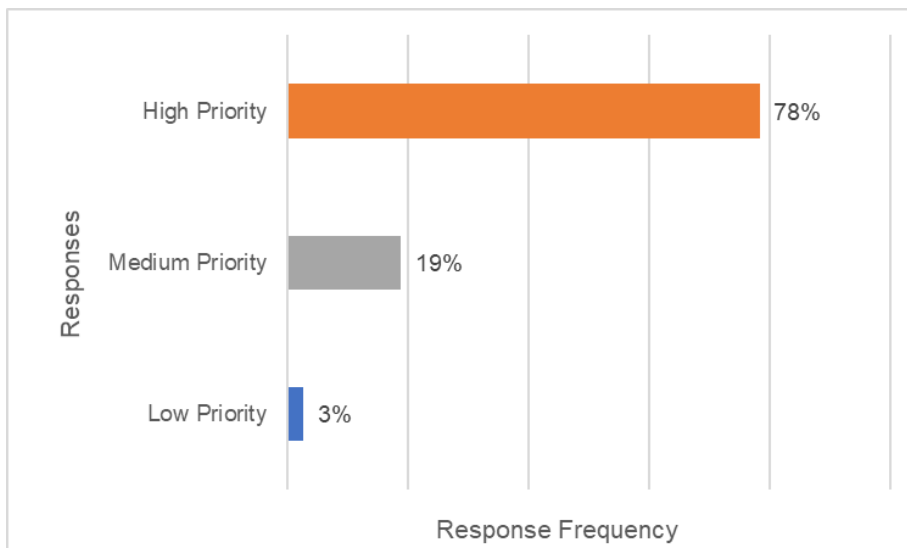


**Figure 35.** Phone survey respondents' rating of subsidizing housing for social equity licensees as a low, medium or high priority component of a social equity program. One hundred fifty-six community members responded to this item of the 179 total phone survey respondents.

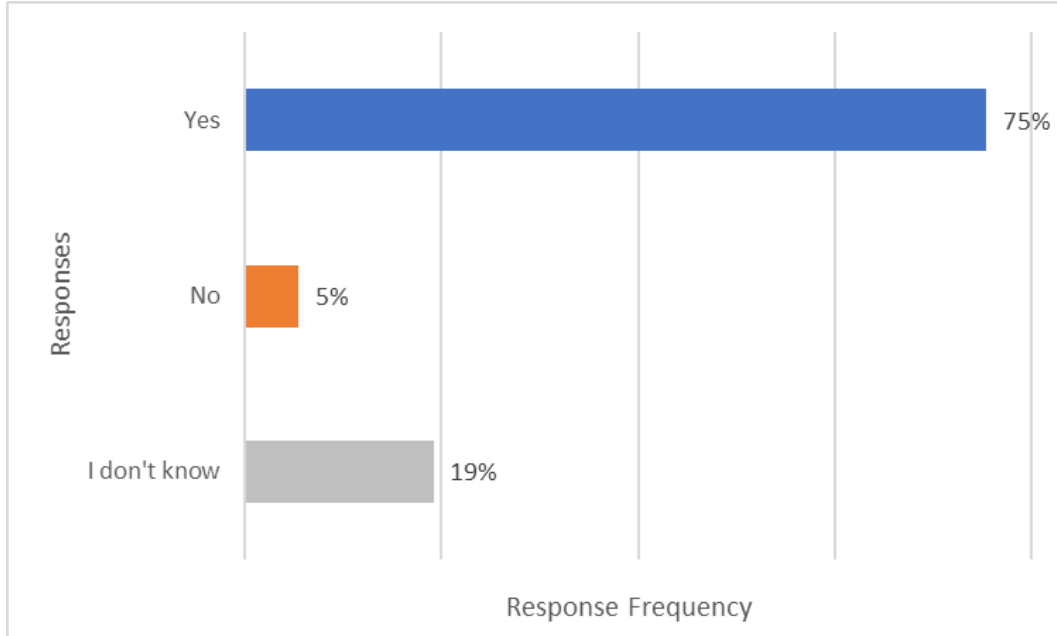


**Figure 36.** Phone survey respondents' rating of subsidizing health insurance for social equity licensees as a low, medium or high priority component of a social equity program. One hundred sixty-two community members responded to this item of the 179 phone survey respondents.

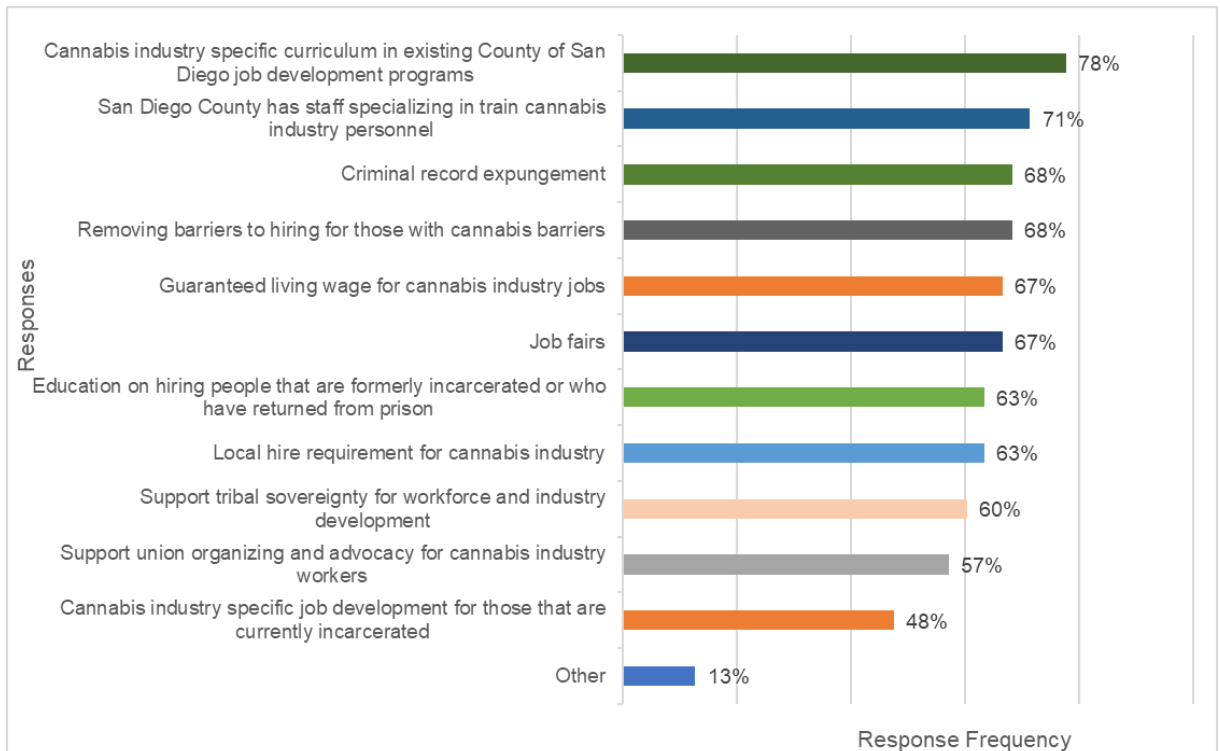
Additionally, among workforce development investments, 78% of community respondents ranked education and professional development for disproportionately impacted communities as high priority (Figure 38). Seventy-five percent of survey respondents reported that the County should invest in professional development efforts which could include many activities (Figure 39-40). These efforts could help social equity applicants obtain industry-specific knowledge to build their businesses. This knowledge could also help protect against predatory forces. One example of predatory actors that threaten social equity are MSOs that implement social equity licensee holders as organizational figureheads without fair control or compensation. Similarly, without access to information on proper business valuation, social equity licensees can be persuaded to sell their licenses to individuals and businesses without fair compensation. Education on proper business valuation and proper legal compensation could help safeguard social equity licensees against these threats.



**Figure 37.** Phone survey respondents' rating of investing in education & professional development (especially, healthcare and wellness providers, cannabis industry professionals, etc. from impacted communities) for social equity licensees as a low, medium or high priority component of a social equity program. One hundred forty-eight community members responded to this item of the 179 total phone survey respondents.



**Figure 38.** Web survey responses to the question: “Should the County of San Diego invest in professional development for the cannabis industry?” Seventy-three community members responded to this question of the 83 total web survey respondents.



**Figure 39.** Web survey responses to the question: “What should be included in the County of San Diego’s cannabis industry professional development?” (Check all that apply). Sixty-three community members responded to this item of the 79 total web survey respondents.

Inclusive and supportive development of the cannabis-industry workforce is important to addressing the economic impacts of the War on Drugs and barriers to entry for disproportionately impacted communities. Professional development can help address the barriers of lack of business experience and professional networks that have been created by the War on Drugs. Also, it can provide an opportunity for economic development in communities that have been economically exploited and cut off from opportunity due to the War on Drugs and racial capitalism. Moreover, as discussed previously in “What the War on Drugs looked like in San Diego”, War on Drugs tactics incentivize corruption and organized crime by limiting economic opportunity and political enfranchisement for entire communities. A concrete plan of community empowerment that focuses on these same disproportionately impacted communities will discourage corruption and organized crime. Investing in workforce development for the cannabis industry is important to addressing the impacts of the War on Drugs.

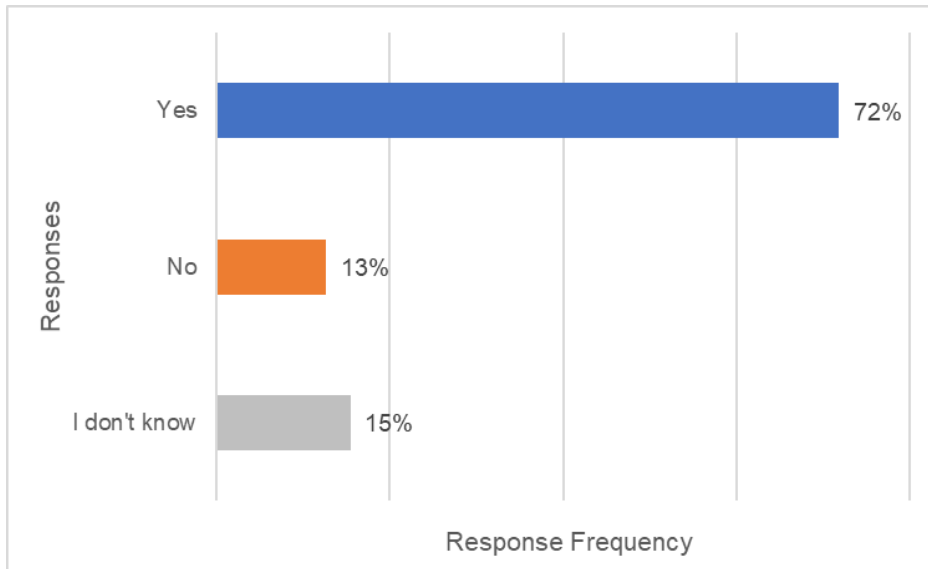
Still there is a need for community reinvestment outside of cannabis industry development. By upholding the principles of social equity—an orientation towards community-transformation that is reparative to the harms caused by War on Drugs in disproportionately impacted communities—investment of cannabis tax revenue can *begin* to address the impacts of the War on Drugs.<sup>139</sup> Community members that were not interested in joining the cannabis industry were still supportive of equitable community reinvestment. “If we really want to focus on addressing the impacts that the War on Drugs have had, that adverse childhood experiences have had, looking at what other ways we can uplift the community and invest in the community, what kind of community benefits can be received out of this... I’m really not just focusing on directing low income and communities of color into the cannabis industry, but to really fulfilling their full potential across the board.” Additionally, community members call for a broader scheme of community reinvestment to address the broad impacts of the War on Drugs. A participant discussed the generational effects caused by mass incarceration, stating that what they “would like to see out there is support for the families, support for the children [of] those who have been incarcerated due to marijuana laws...by using some of the taxation money to provide social equity programs, for... poor communities, and people who are most impacted by the War on Drugs.” Community members recognize the importance of reinvestment and benefits for children and community members, beyond exclusively the cannabis space.

Community members supported reinvestment financed by reallocation of funding that has historically been directed towards cannabis criminalization, arrests, and prosecution would better serve communities if reinvested into education, harm reduction, and community upliftment initiatives. One participant, a non-governmental organization program manager, cited “the lack of available resources, a lack of community investment and the lack of programs for not only youth but also older or the older generations” as ongoing damages associated with funding allocations and cannabis criminalization in San Diego County. Community members also support financing community reinvestment through adult use recreational cannabis tax revenue. When discussing initiatives such as platforms for cannabis public education, community members explored the importance of funding such

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<sup>139</sup>See the “[Definition of Social Equity](#)” and “[Appendix A: How to Think about Social Equity](#)” sections for further discussion of the principles of social equity.

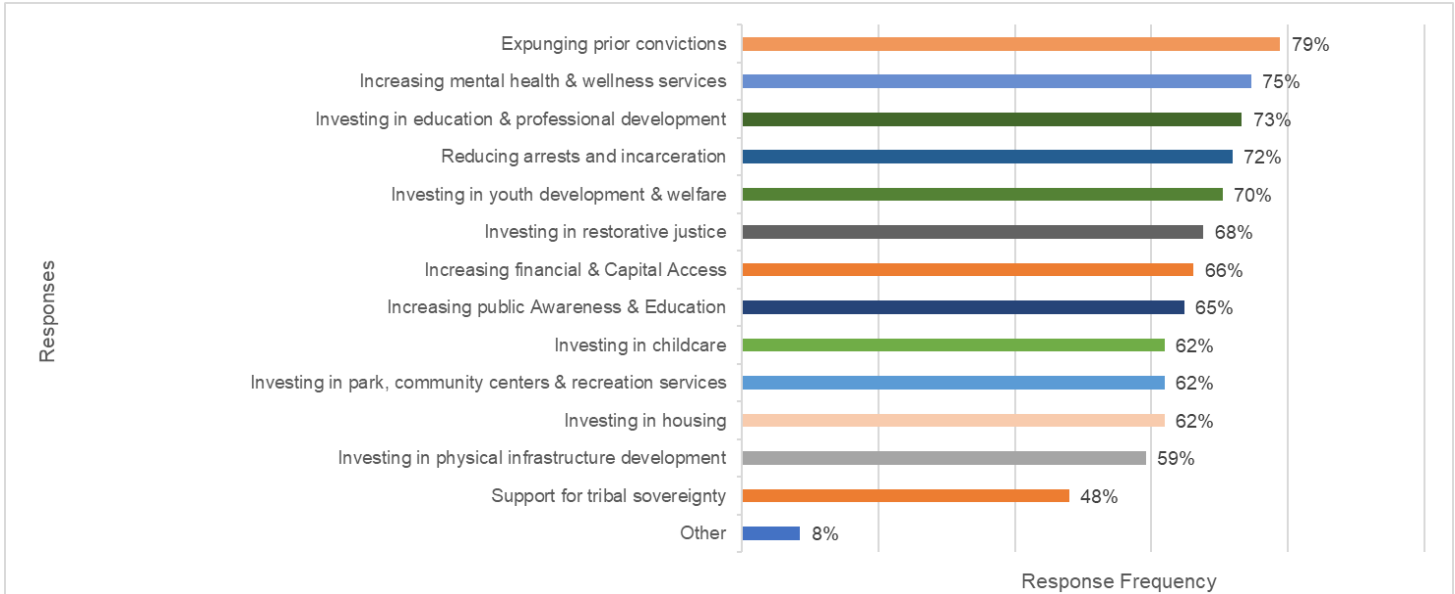
programming through tax revenue from cannabis sales in order to sustain social equity programming. The speakers highlighted the importance of a sustainable program that directs revenue from the cannabis industry into platforms that directly benefit the communities within which these businesses are operating. Through this strategy, programs can be facilitated to ensure that there's transparency around the way that these revenues are benefiting impacted communities directly, instead of revenues going to a general fund. Support for using a tax on adult-use recreational cannabis to support equitable community investment was shared more widely in the community. Seventy-two percent of community survey respondents support a tax on legal cannabis if it supports equitable community investment (Figure 41). Community reinvestment should be funded by resource reallocation and cannabis tax revenue to address the many and widespread impacts of the War on Drugs.



**Figure 40.** Web survey responses to the question: “Would you support a tax on legal cannabis if it supports equitable community investment?” Seventy-one community members responded to this item of the 79 total web survey respondents.

Community listening participants highlighted many different ways in which to direct community reinvestment including, family and social structures, education, support services, and economic development. For example, one community member asked, “can the County designate some of that tax revenue to some of these social programs or, you know, the community programs that we need for our youth and families and communities?” Community members offered a plethora of community reinvestment opportunities to rectify the generational harm of cannabis criminalization. Community survey respondents supported community-reinvestment in a wide range of areas including, expunging prior conviction, mental health and wellness, investing in education, reducing arrests and incarceration, youth development and welfare and support for tribal sovereignty (Figure 42).





**Figure 41.** Web survey responses to the prompt: “San Diego County should invest cannabis tax revenue in communities disproportionately impacted by the War on Drugs in the following ways: Check all that apply” Seventy-one community members responded to this item of the 79 total web survey respondents.

Comments about indigenous sovereignty highlighted the deep harms these communities face due to the War on Drugs and a path to supporting sovereignty through community reinvestment. Another speaker mentioned that “in this county, there are 19 federally recognized American Indian tribes, that’s more reservations than in any other county in the country. I am Native American, and I know many instances on reservations, where the sheriff’s department has seized and never prosecuted, and it’s very corrupt. The sheriff’s department is to blame for a lot of the racial punishment in this county. And so I feel like the board of supervisors need to really do something about that.” Through social equity assessment engagement indigenous stakeholders demanded that the Board of Supervisors limits sheriffs’ corruption in criminalization tactics as it relates to cannabis business on reservations in respect of indigenous sovereignty. One speaker stated the following: “While we are on this discussion of farming and cultivating cannabis, we should be thinking deeper about how we can make this equitable for Native Americans in this conversation about land. And they state that San Diego County has more federally recognized American Indian tribes than any other county in the entire United States. The county should give land for cultivation, and an incubator Co Op program visit for people who are working in the cannabis industry.” This community member placed emphasis on equity for indigenous people and land, encouraging the county to allot land for cultivation, incubators, and co-op programs for indigenous people and communities looking to enter the cannabis industry. There is community demand to address the harms local indigenous communities faced due to the War on Drugs and open opportunities for economic development-e.g., cultivation-in indigenous communities through land rematriation.

Community members supported community reinvestment in a range of areas to promote healing in communities. For example, a community member called for wrap-around services to address poverty, mental health and housing. Similarly, another community member also highlighted the importance of promoting healing from intimate violence as a public health issue, noting that cannabis helps some people deal with pain, stress, conflict.



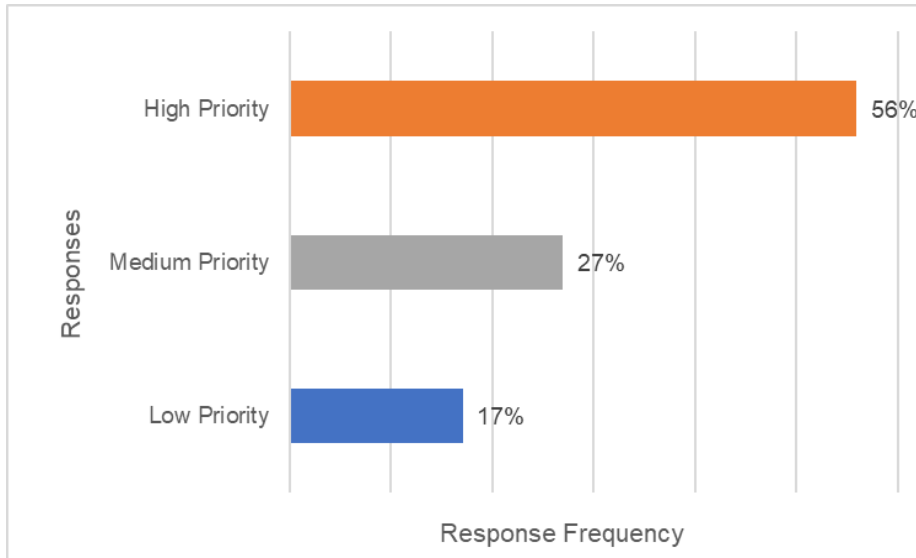
Additionally, community members examined the topic of youth prevention and intervention through the central theme of harm reduction, driven by public health initiatives and education rather than punitive abstinence-based approaches. A participant stated that the County “can learn from other cultures and even the prohibition on alcohol, that by making a substance like marijuana, totally illegal, and not have regulation with it, then you get the other side of it, where people just illegally do things, and it's not controlled... There's a legal method to control it, [and] this can actually help society overall.” Through this perspective, prohibition has dangerous impacts, as individuals (predominantly the youth) may still use substances but through illegal, unregulated channels, which may be more dangerous overall. A second participant echoed the idea to seek out harm reduction models from other regions to find a balance in regulation practices in order to ensure safe access and use while maintaining safety and not condoning substance misuse, as they posed the following: “How do you use something for pleasure without abusing it? I think we have something to learn from the way our policies in not only the United States are now regulated, but also other countries. We can learn something to help our society go away from abuse, but yet allow people that want to maybe take pleasure just smoking some cannabis after they come home from work without harming anybody in their house and having that perfectly legal effect.” Additionally, another participant asked the county to examine “what others and maybe some of the more progressive countries might really do when it relates to drug harm reduction policies. And really, how do they have those conversations? Because they're not the same that we have in this country. There are ways and models of us really looking outside of what we know, to really edify our own understanding of what policies, what programs can do from the ground up.” Through this conversation, it becomes apparent that community members seek to examine policies from other countries and regions to identify tactics and tools for successful harm reduction measures, to uplift models that are successful internationally, and to shift the focus from punitive measures to community healing and public health.

In regards to impacted youth, multiple participants recommended reinvestment through afterschool programming, funding for libraries and community centers, tutoring and mentorship opportunities, and extracurricular activities facilitated by trusted community-based organizations. The prioritization of education and youth-centered initiatives as a form of reinvestment was encapsulated in the following participant statement: “Without opportunities for youth, we continue to be in a very vicious cycle, when our kids don't have the opportunity to play sports to do extracurricular activities...[we need] more community centers, safe places to go after school, and sort of the whole reinvestment on that infrastructure, with education in the arts and sports... those are very concrete ways that we are impacting the future and just generations to come.” Community members called for reinvestment of cannabis tax revenue and funds that have been historically allocated to criminalization into a multitude of areas including workforce development, supporting indigenous sovereignty, community healing (through investments in housing and public health) and youth development.

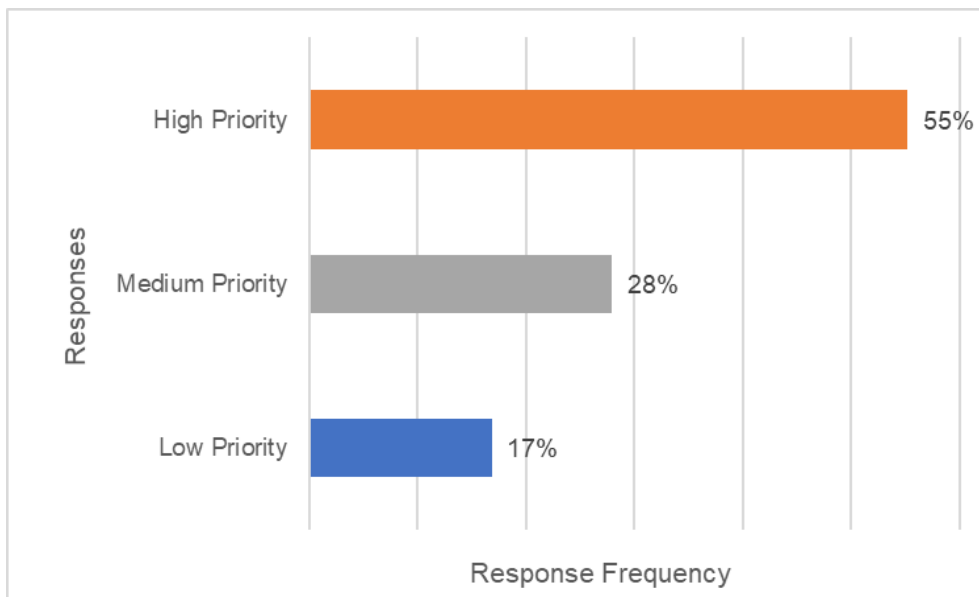
## Financially Supporting SEE and Sustaining funding for SEE program

Racism is costly, to targeted individuals who have to pay more for less with fewer options, and to the economy in general with, for example, one estimate that twenty years of

anti-Black racism has cost the US economy \$16 trillion.<sup>140</sup> Social Equity Entrepreneurs may have disruptions to their work histories and asset accumulation that require direct support. 56% of survey respondents rated support for new local cannabis entrepreneurs as a high priority, and 57% specified increasing SEEs' access to finance and capital as high priority (Figure 43-44).



**Figure 42.** Phone survey respondents' rating of supporting new local cannabis owners and operators) as a low, medium or high priority component of a social equity program. One hundred fifty-two community members responded to this item of the 179 total phone survey respondents.



<sup>140</sup>See Adedayo Akala, "Cost Of Racism: U.S. Economy Lost \$16 Trillion Because Of Discrimination, Bank Says," *NPR*, September 23, 2020, sec. National, <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/09/23/916022472/cost-of-racism-u-s-economy-lost-16-trillion-because-of-discrimination-bank-says..>



**Figure 43.** Phone survey respondents' rating of increasing financial & capital access for new local cannabis business owners and operators as a low, medium or high priority component of a social equity program. One hundred fifty-four community members responded to this item of the 179 total phone survey respondents.

Access to financial capital served as the most prevalent theme of the community listening sessions. Participants identified this as the fundamental barrier faced by their families and communities, tracing the collateral consequences of cannabis criminalization to the prevalent barriers to entry within the cannabis industry. Participants such as the following stated great interest in pursuing opportunities in social equity, however expressed hesitation due to financial constraints, as they stated “we come from families that don't already have capital ready to mobilize, you know, from generational wealth. And so it's really a great sacrifice, right to set aside savings. But in this industry, we're talking about the cost of licenses that are just, you know, inaccessible, to even be able to compete.” Another participant outlined the history of legislation that has impacted cannabis legalization in the state and county, highlighting the barriers to enter the legal industry, specifically a lack of capital for minority business owners and legacy business owners who could not enter through legal channels, as they stated that “it takes a lot of capital to get into the legal cannabis industry. Before Prop 64 when it was Prop 215, it wasn't such a barrier to get into this industry, it wasn't an industry then it was a Compassionate Use Act that helped people get medicine. And as soon as it became an industry, the legislators and government officials added many, many barriers to entry. And they all include money. So lack of capital, I would say is probably the number one issue for minority business owners and legacy business owners who lost out because of that.” Others identified the need for alternate lending channels for capital, as traditional banks will not lend to cannabis related businesses. One participant stated, “there's also the problem with not being able to access funds from a bank or from our, you know, regular lending avenues,” expressing the need to find avenues for Social Equity Entrepreneurs Program applicants to obtain startup capital. Given the predatory terms of more “risky” loans that cannabis entrepreneurs may eventually access, one interviewee argued that social equity applicants should be given the license first, before having to secure site and funding, in order to maintain some leverage relative to profiteering.

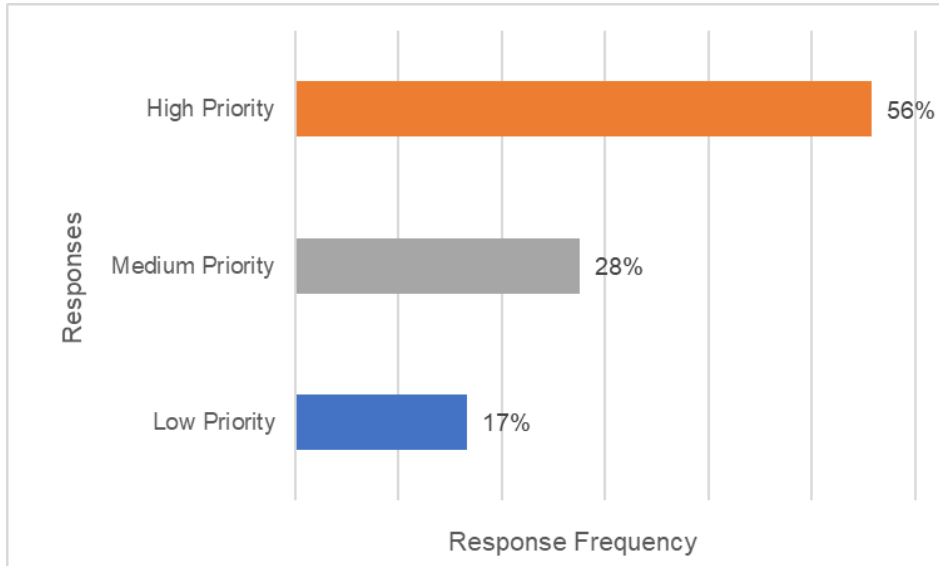
Many survey respondents also highlighted real estate and land as an important type of capital asset that the County could help them access. One survey respondent suggested that the County should provide access to public land for cannabis entrepreneurs.

There is enough land where the country should allow land to each person to grow. Even though the country say you can grow, where can it happen? Apartments and homeowners associations will not allow this to happen. So the country should give land to make it possible.

This community member was not alone; many community members cited providing assistance to rent or own land or property as an important way the County could support the entrepreneurial aspirations in cannabis. Another survey respondent noted that the County should prioritize indigenous communities in its efforts to increase land access adding, “This is native land. ALL OF IT.” Supporting access to land will be an essential way that the County can address the harms of the War on Drugs on low-income communities and support emerging social equity entrepreneurs.

Community members explored the topic of taxation from a variety of angles, as conversations included various recommendations on tax policies and allocation of tax

revenue. A speaker shared, “the first thing, obviously, that the county can do is tax cuts. I mean, you can do cap tax cuts for the smaller guy, like, you know, they normally do for the bigger guy. On top of that, securing land, especially for smaller growers...put a barrier or two where we can stop the corporations from buying mass via mass buying land to produce.” This potential repair centers the concern of the prevalence of big business in the cannabis space, and offers an alternative model to prioritize tax breaks for small business owners rather than large corporations, while limiting land use for major corporations by incentivizing programs that secure land for smaller growers. Fifty-six percent of phone survey respondents rated lower taxes for social equity entrepreneurs as a high priority (Figure 45).



**Figure 44.** Phone survey respondents’ rating of lowering taxes for cannabis social equity applicants as a low, medium or high priority component of a social equity program. One hundred fifty-six community members responded to this item of the 179 total phone survey respondents.

Participants conceptualized access to capital as a means for reparations to rectify the damages of the War on Drugs. One individual firmly stated, “reparations are long overdue. And they need to be paid now. If you start paying reparations for the harm of enslaving people, for the harm of internment camps, which you already have paid to some degree for the harm of removing people from their sovereign land, and for the harm caused by the War on Drugs, then you will be putting capital in the hands of individuals who then can... pull their resources, create financial institutions of their own.” In this light, financial capital as reparations serve as a form of redistributing wealth and capital, creating pathways for communities to have self-sustaining financial institutions and access to resources without relying on banks and lenders. This was echoed by a secondary community member who shared a desire for “reparations specifically for the benefit of equity ownership within the cannabis space. So making sure as part of a social equity program, that monies are set aside specifically to pay for all of these things that are necessary during the application process. If we can’t hire as a state, if we can’t hire the lawyers, and the architects and everything else, then we provide enough money to the applicants to make that happen.” Through this statement, the participant envisions a specific program to promote equity in the cannabis space, funding directly allocated towards breaking financial barriers within the application process, and financial allocations for technical assistance related resources including lawyers and architects. Furthermore, participants highlighted access to capital as a trajectory towards resource allocations to counteract the financial barriers to entry including insurance,

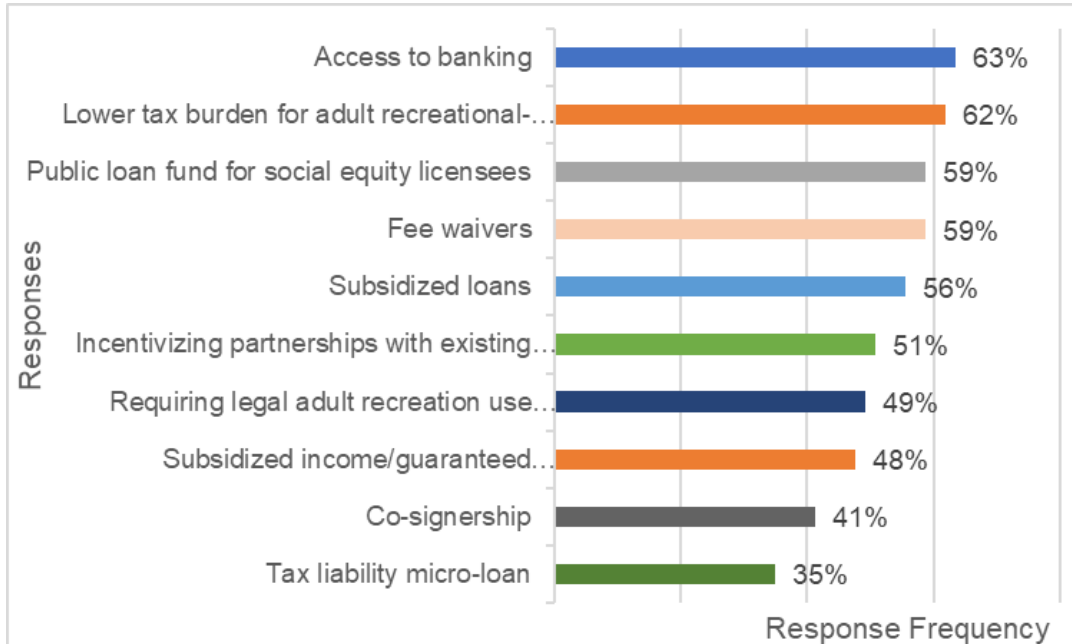


land, and utilities, while others expressed concern around predatory practices and lack of access to capital serve as major barriers to enter cannabis industry. Many of these sentiments were encapsulated in the following: “the primary thing that social equity entrepreneurs are going to need is access to capital because of our background and the effect of the War on Drugs on us and our families. Many of us don't have the access to capital that the people who are currently controlling the industry have...therefore, we're going to need support with access to grants to get started in pursuing the license and application process. And then we're going to need access to low interest loans once we get our licenses ready to operate.” Access to capital is essential to success within the cannabis industry, as the financial impact of the War on Drugs has limited generational wealth for individuals and communities. Support through grants and funding for the license and application process, access to low interest loans and startup capital is a fundamental need for a successful social equity program.

One community listening session participant eloquently explained that “the experience and business acumen [of impacted individuals] is not the same as other people who understand how to navigate big business deals, what an operational agreement is, or what ownership structures look like...the amount of compliance that goes with this new industry is immense. And the barrier to resources and learning and the space that people need to be able to learn, to embody that knowledge to be successful, needs to be protected.. access to higher learning and the money that it takes for higher learning, especially for folks that have had felonies is limited... We really need to ensure that any equity programs that are coming up and popping up around our state, really prioritize the education of money management and asset managers, pipeline management... It could really help to support the entrepreneurs stepping into the space to make them more successful when given other resources, considering what the gaps have been for us.” This statement identified the need for workforce development and technical assistance to address the nuances of business ownership, including education related to financial management, operational agreements and ownership structures. Further, one community organizer “liked Oakland because Oakland was like, You know what, we're just going to act like we don't think you know how to do any of this. And we're going to make a program that walks you through every step of the ownership process, helps you with every step. Permit. Anything that you need, and we're going to ensure that you're successful. They really took that job seriously.” Figures 46 and 47 show a range of assistance and financial supports that web survey respondents would find beneficial.



**Figure 45.** Web survey responses to the question: “For you to enter the cannabis industry which types of support would benefit you? Check all that apply.” Sixty-two community members responded to this question of the 83 total web survey respondents.



**Figure 46.** Web survey responses to the question: “For you to enter the cannabis industry which types of support would benefit you? Check all that apply”. Sixty-three community members responded to this item of the 83 total web survey respondents.

To help meet the range of needs anticipated in social equity entrepreneurship, participants suggested collaborative, community-engaged network and relationship building,



and viewed existing cannabis businesses as important models and contributors to cannabis social equity. A community member asked to “give us land to start vertically integrated teaching incubator programs...for cultivation, manufacturing, distribution, consumption, and sales,” which was echoed through another participant stating, “...all this stuff needs to be incubated. I would love to see a community collaborative, really be able to share our results and then allow us as community members to help develop a plan that we feel is equitable.” Through incubator programs, community members seek a space for community collaboration with industry professionals, thus creating a platform for education and workforce development in a mutually beneficial setting. Interviewees asked to broaden the scope of workforce development beyond exclusively cannabis related business, stating that “we don't necessarily have to hone in on cannabis, especially related to high schoolers, but bringing that flame, that that one spark, that ignites the minds of these young individuals and getting them to think about what it would look like to go into business for themselves and how profitable that could be, and how they could gain equity for their families...” Through workforce development programming, participants seek to promote educational initiatives for the youth with a focus beyond solely cannabis, to ignite entrepreneurial opportunities and provide resources for business development.

Multiple participants provided perspectives that center workforce development through educational opportunities. One participant stated that they “would love to have opportunities to create mentorship opportunities, even with the existing businesses,” expressing the desire for collaboration with existing businesses, and training to succeed within the cannabis industry. An interviewee who is an industry stakeholder also advanced this idea, adding that incentives can be provided to businesses to allow them to contribute to the social equity entrepreneur’s growth. Participants suggested mentorship opportunities with industry professionals to acquire knowledge regarding financial literacy. For one participant, key factors of this proposed curriculum included brand development, asset management, and collaboration within financial study groups.

Community Listening Session participants identified a direct link between workforce development and technical assistance within the social equity space. Community members defined workforce development and technical assistance as methods to overcome barriers to entry within the cannabis industry, specifically for social equity applicants. Participants called for funding allocations towards providing resources for economic stability and program sustainability through financial resources, education, training, and technical assistance. One participant shared their vision of a successful county program that encapsulates the needs of social equity applicants: “financial literacy is something that we need, desperately what I would like to see is a true vertically integrated structure or framework for vertical integration on a very small level. So what you would consider a micro business outside of the cannabis definition, have a separate licensing subgroup, I guess, that has either most of the associated fees eliminated, the application costs eliminated. But also within that vertical integration, have a state sponsored program where you have attorneys that can help you with the process, architects that are paid by the state to help equity entrepreneurs, get their blueprints ready. A security expert that again, is paid for by the state, they can help advise on the security components of licensure. Financial literacy is great. But if we don't have the money to pay for any of this process, it doesn't matter how much we know about the process...to cut down that overhead with the technical assistance acquired by the state...so that is no longer a financial burden on those who are trying to get into this space, then the entrepreneur can focus on the thing that matters, which is, learning the business.” This quote brilliantly articulates a vision for a program that would waive permitting and licensing fees through the application process, as well as stating a need for government funded programs with access to technical





assistance through industry professionals including attorneys, architects, and security experts in order to aid social equity licensees in the development of their business.

In similar regards, another participant called for technical assistance through collaboration between social equity licensees and business experts, providing examples of the forms of support needed, “somebody who knows land use law, knows what zones work with zones that don't. How close is it to a school? How close is it to a daycare? We need all that education, financial... What is the overall cost of starting each one of these types of businesses, and making sure that there's an educational component to prepare all of us who want to enter into this space to be successful in jumping through all those hoops.” Through technical assistance for new entrepreneurs, participants seek to establish educational platforms for experts to share experiences and knowledge regarding land use, zoning, financing, and alternate necessary acumen to ensure that social equity applicants and licensees are successful in the industry.

Another interviewee echoed similar ideals, as they shared that “There are so many entrepreneurs out there, so many great folks who if they had the support could really develop businesses that were impactful for the community. And so as part of this, I would hope that the proceeds from cannabis through taxation, etc, would also allow there to be minority and low income grants for new businesses.” This speaker viewed workforce development as a form of community reinvestment that could be funded through cannabis tax revenue, and posed the idea that proceeds from cannabis taxation could be used to sustain the Social Equity Entrepreneurs program itself by providing grants for new businesses owned by minority and low-income entrepreneurs.

Additionally, through partnership with local tribal nations, there is an opportunity for the County to lower SEE start-up costs and address the disproportionate harms from the War on Drugs faced by the indigenous communities. If supported by leaders of the indigenous nations, the County could purchase cannabis products from the indigenous nations to supply social equity entrepreneurs. This could position indigenous nations to be the region's primary cannabis producers and lower operating costs for emerging social equity entrepreneurs.

Participants spoke on entrepreneurial opportunity and workforce development as a means of community reinvestment. Community members highlighted the need for resource allocation to currently and previously incarcerated individuals, as well as their families and communities as a whole. Interviewees identified the disproportionate access to resources to thrive within the cannabis space, as those who have been most impacted by cannabis criminalization do not have the resources that are necessary to achieve success within this exclusionary space. Participants view social equity as an opportunity for community reinvestment to rectify the harms of the War on Drugs, through financial pathways to lead to social and economic mobility for disproportionately impacted people and communities to create self-sustenance through economic development.

## **The Role of the County of San Diego**

The County of San Diego has a large role to play in promoting social equity by repairing harm caused by the War on Drugs, especially cannabis criminalization. A comprehensive, deep and institution-wide understanding of social equity is foundational to this work. As discussed in the preceding discussion of social equity, social equity should not



be simply diversifying actors in systems and institutions that produce inequity. Instead, it should be a reorientation and reorganization of systems and structures to repair institutional and systemic harms in a proportional way. The County's RFP for this Social Equity Assessment acknowledged some of these characteristics of social equity. The call explicitly expands the socially equitable cannabis program beyond diversifying actors in the existing cannabis industry: "The Socially Equitable Cannabis Program shall not be limited to providing equitable business ownership, operation, or employment opportunities within the cannabis industry." The County of San Diego expands the Socially Equitable Cannabis Program to reparations: "Rather, it shall also address and repair the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and its impacts at the individual, familial/generational, and community level, over time." This vision for the County of San Diego's Socially Equitable Cannabis Program encompasses the orientation towards systemic change and reparations that is critical to promoting social equity, however it will take deep institutional-wide work to realize this vision.

When asked to define social equity and identify key components of a successful social equity program, multiple community listening participants offered perspectives grounded in an explicit effort to rectify the damages of the War on Drugs and cannabis criminalization. Participants examined the direct role of County participation in a successful social equity program, as one community member stated that the county is responsible for the following: "it's important to develop the the [sic] industry... to actually have the systems in place...where people are able to participate and be a part of it... government has an important role to play in facilitating, and setting up those systems... and regulating to the extent that it should, like any other industry, and I think this is where it's still there's still kind of that disconnect with our federal policy, or state policy or county... and the conversations at the local city levels... I do want to see our county government take leadership in that area, I think it's their place." Through this comment, the participant supports the County government playing a direct role in social equity policy and creating a sustainable system to rectify the damage of previous policies.

By acknowledging its power and privilege the County of San Diego can take advantage of opportunities to better address barriers to social equity in the cannabis industry. In a focus group with community organizers who have been surveying County residents and engaging with local business owners, parents and voters about cannabis and the Social Equity Entrepreneurs Program, the need for the County's leadership in legitimizing cannabis was highlighted. One organizer explained that residents expressed a desire for the County to use its reach to express support of regulated cannabis activities. According to organizers, the County's silence on cannabis makes it seem illegitimate, uncontrolled and unsafe to residents. This is especially important to disproportionately criminalized communities where fear of arrest, police violence and mass incarceration is heightened and the uneven illegality-legality jurisdictions generate confusing and contradictory realities. Additionally, since anti-cannabis stigma and perceived illegitimacy and criminality are barriers to inclusion for potential SE licensees from disproportionately impacted communities, as discussed earlier, this work will help the County realize its vision for a socially equitable cannabis industry. Moreover, the County's reparative vision for social equity requires acknowledgement of the harm that has been done. In addressing stigma and acknowledging regulated businesses as legitimate the County should also acknowledge the inequity and injustice of its participation in the War on Drugs. By speaking out more decisively, the County could help legitimize regulated cannabis business, provide clarity on which activities are legal, address anti-cannabis stigma and recognize the harms.



Additionally, Womxn's Work LLC (Womxn's Work) faced barriers due to anti-cannabis stigma that SE licensees will face. County-operated venues did not want to host community listening events that mentioned cannabis even though this was a County funded project. Despite a thorough explanation of the purpose of the County-funded community listening events, the disapproval of cannabis and association of cannabis with law breaking made county operated venues throughout the County hesitant to host community listening sessions for this Social Equity Assessment. These fears were exacerbated by anti-blackness which associates black people-like Womxn's Work leadership-with criminality. It was only until County administrators reached out to county-operated venues that County staff believed Womxn's Work was being contracted by the County to conduct legitimate business. This highlights the opportunity the County has to promote social equity by using its status to overcome bias that drives gatekeeping against disproportionately impacted communities like the Black community. Although this is only anecdotal evidence, it is an important learning opportunity. Womxn's Work shares many characteristics with potential SE licensees and other community beneficiaries: It is an emerging business that is locally-based and led by individuals from disproportionately criminalized communities. Womxn's Work's experience with the County of San Diego illustrates the opportunities the County has to grow into an institution that better embodies the deep reparative social equity that is at the heart of the County's vision for a Socially Equitable Cannabis Program.

To promote social equity and racial justice the County of San Diego administration should begin by recognizing how its structures and typical patterns of engagement with disproportionately impacted communities misses opportunities to promote social equity. As a local Black women-owned consulting firm, Womxn's Work was met with systematically inequitable barriers in the completion of this Social Equity Assessment. While the County enthusiastically hired a locally-owned small business with experience in community organizing and community-based research, the County missed some opportunities to support Womxn's Work in navigating barriers that will also inhibit social equity licensees. Womxn's Work was met with many barriers to accessing financial capital. For example, after receiving the contract Womxn's Work was initially told to expect payment six to seven months after the start. This payment schedule is easier for large, non-local consulting firms that hire employees and subcontractors with enough income to wait for payment, but such barriers would complicate the social equity program. Eventually, the County realized that as a small business Womxn's Work was eligible for a more immediate pay schedule and shifted to smaller milestone payments along the way. As a small, local and emerging consulting firm that is committed to paying living wages, the payment schedules placed an unnecessary hurdle on Womxn's Work path to success. This could have been avoided if the County had evaluated the ways in which their systems prohibit success of local small businesses and educated themselves on ways to upend or workaround those barriers. The County will have to do similar work in preemptively educating itself on how support that is available to Social Equity Entrepreneurs.

Realizing the vision for reparative social equity will require a broader support system to drive community improvement. Our framework for social equity requires prioritizing community resilience and improvement over individualism. Promoting community resilience and improvement for communities disproportionately harmed by the War on Drugs requires a support system. As one community stakeholder explained in an interview, "The support system has to be in place, there has to be lots of backing for Social Equity Entrepreneurs so that you get successful outcomes, knowing that even if everything is perfect, you're gonna have failures." An extensive support system is required because there are extensive systems



of barriers in the legal system (e.g., complex cannabis regulation). The criminal injustice system has stripped communities of opportunities to grow wealth, receive training and education that could support their entrance into the cannabis industry and other financial opportunities.

The County of San Diego can further promote social equity through inclusive decision making. As mentioned in our discussion of social equity, promoting social equity requires community ownership of social-equity affirming programs and policies. Inclusive decision making will be an important tool for the County to use in promotion of community ownership. Community organizers for this assessment heard from community members that they enjoyed being engaged about policy in the community listening sessions, yet in general they feel left out of decision making by the County. By increasing inclusive decision making, especially for disproportionately criminalized and disenfranchised communities, the County of San Diego can build the foundation to realize its vision of reparative social equity.

Securing state funding can help sustain the Social Equity Entrepreneurs Program, and is in the sole purview of the County of San Diego. State funding is a significant source that aligns with statewide trends in funding social equity cannabis programs.<sup>141</sup> To provide a comparative illustration, Humboldt County's Local Equity Program has received four awards of State CEG funds totaling more than \$8 million since 2019. The first award, from the Bureau of Cannabis Control (BCC), was in the amount of \$1,338,683.13. The second award, from the Governor's Office Business and Economic Development (GO-Biz), was \$2,459,581.02. The third award, from GO-Biz, was in the amount of \$1,055,870.22. The most recent award was \$3,429,315.04. These totaled \$8,283,449.41.<sup>142</sup>

The County of San Diego has an amazing opportunity to change the future of social equity locally by addressing harms from the War on Drugs. As one industry representative detailed in an interview, there is a short window to get this right. While the need for change is urgent, this will not be a quick process. Another industry representative explained:

I think probably the biggest mistake I have seen jurisdictions make over the years is thinking we're done. We don't ever need to talk about this again. But too often, I think jurisdictions fail to recognize the cannabis policy and regulation is going to be this ever evolving, constantly changing process. If anything, it's going to require more of your attention. The hotel industry, for example, or other agriculture in the county, I mean, all of these are things and problems and issues. They require regular attention, regular adjustment, state laws change, what you can do changes, how regularly things change. Cannabis is a relatively newly regulated industry. And then if you are also going to bring this social equity program, jurisdictions need to accept that this is going to require perhaps a disproportionate, relatively speaking amount of their attention, at least for a few years. They're going to have to keep revisiting it. They're going to have to keep changing it and improving it. And I think there's too much emphasis on the idea of, well, we'll get this done, and then we'll never have to deal with it again.

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<sup>141</sup>See recommendations section "[Sustainably Funding the Social Equity Entrepreneurs Program](#)" for further discussion of state funding opportunities.

<sup>142</sup>For further detail about Humboldt County's cannabis equity funding, see [Appendix D: "Analysis of Comparable Jurisdictions" by GC Integrity](#).



As many community members and our full analysis of the impacts of the War on Drugs and potential pathways towards repair details, cannabis policy in general, but especially social equity related policy requires considerable effort over time. Thus, there is an urgent need for the County of San Diego to make a long-term commitment to prioritizing community-wide and reparative-focused shifts in policy and systems that are impacted by the War on Drugs and that will define the adult-use recreational cannabis industry.

**Table 5. Summary Table: The Role of the County of San Diego**

<b>Summary of the Role of the County of San Diego</b>
<ul style="list-style-type: none"><li>• The County of San Diego has an important role in providing leadership, a sound regulatory environment, and stewardship of our social equity entrepreneurs and most impacted communities.</li><li>• Clearly communicating about and modeling what social equity is should be a top priority.</li><li>• Supporting Social Equity Entrepreneurs and other program beneficiaries may require adjustments to established procedures and patterns of operating. The County of San Diego should proactively develop these capacities for more effective leadership in and stewardship of social equity.</li><li>• State funding should be aggressively pursued by the County of San Diego as it has proven to be a major source of support for cannabis equity programs across California for several years.</li></ul>

## **PART II : RECOMMENDATIONS**

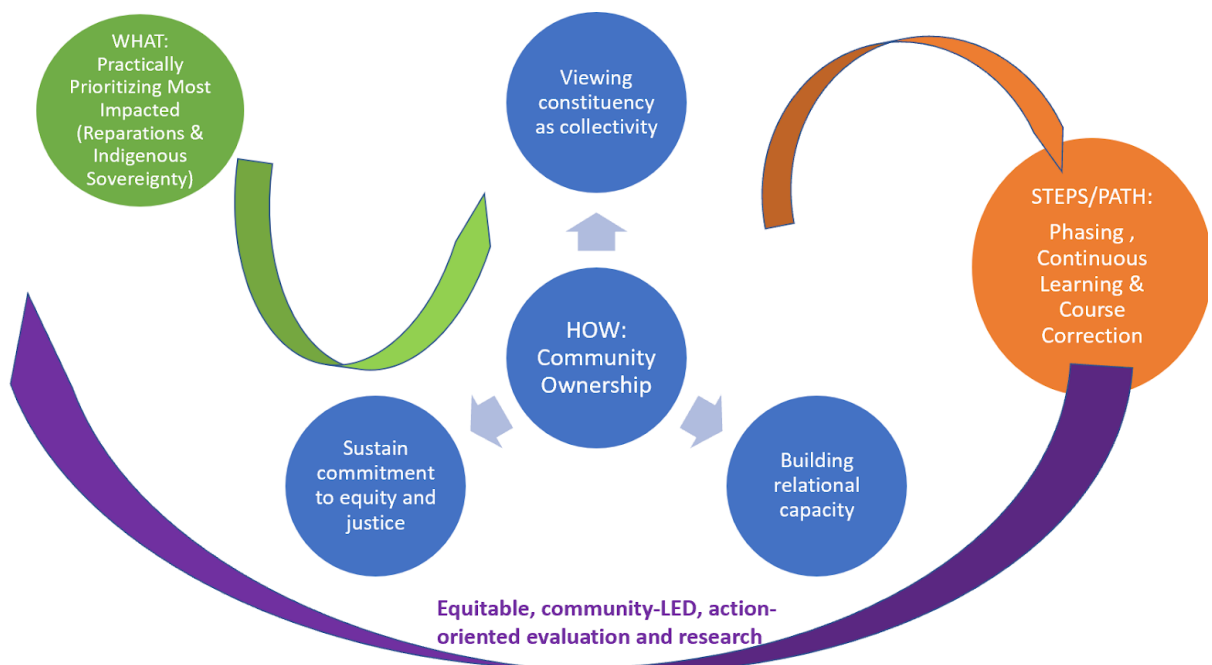


**WOMEN'S  
WORK**

# Recommendations for Social Equity in San Diego County's Adult-use Recreational Cannabis Market

San Diego County could be one of the first counties in California to adopt a Social Equity Program and install a permitting system that overcomes current barriers established by other municipalities which has enabled the illicit market to retain a larger comparative advantage over the legal market. San Diego County still needs to provide regulations that do not stifle the cannabis industry, support equity entrepreneurs who have been impacted by previous cannabis prohibition policies, establishes a tax and zoning structure that is compatible with the tax structure of cities within its jurisdiction and accounts for cannabis businesses that have been grandfathered in via Proposition 215. The following recommendations provide a pathway for the County to realize these goals, address existing barriers and set up an equitable cannabis market that provides opportunity for cannabis entrepreneurship and community reinvestment and to communities in San Diego county that have been disproportionately impacted by the War on Drugs and cannabis criminalization.

## Share Power with Stakeholders





**Figure 47.** Centering community ownership through the arc of social equity program work.

The County of San Diego Social Equity Entrepreneurs program (SEE) must consistently prioritize the most impacted groups and communities, support community ownership of the program design, implementation, evaluation, and communication, and build in the space and mechanisms for continuous learning and course correction. Figure 48 illustrates the program concept of centering the most impacted communities (the green circle), supporting their ownership of the process (the blue circle in the center), and evaluating the process and outcomes in a way that re-centers those who have been most impacted (the orange circle to the right and purple arrow returning to the start). The recommendations that follow are presented in this format in order to consistently keep social equity at the heart of the program.

The first grouping of recommendations includes stakeholder engagement, data collection, and public awareness and education. This group creates a loop that starts with real relationships, brings knowledge and information in, and communicates knowledge and information back out to support program equity, impact and improvement.

### *Engage Stakeholders Equitably*

#### Prioritizing Most Impacted

When we think of “stakeholders” in San Diego’s cannabis industry, the typical “players” are elected officials, large business owners, lobbyists, and some vocal community members. For social equity, stakeholderhood is centered on people who have been most impacted by cannabis criminalization, not political and economic elites. The County of San Diego must prioritize integrating communities that are/have been most disproportionately impacted by the War on Drugs and cannabis criminalization, as defined by the Social Equity Assessment (SEA), in the design, implementation, evaluation and ownership of Social Equity Entrepreneur (SEE) and community reinvestment programming through stakeholder engagement activities.

Stakeholder engagement should be culturally humble, sensitive, and accessible to communities that are most disproportionately impacted by cannabis criminalization. Community-based organizations - that are trusted by disproportionately impacted communities and have experience with community organizing and consensus building - should be proactively recruited and financially compensated to support this work. Meetings should be held in places, at times, in formats, and in languages that are most accessible to and proactively inclusive of the most disproportionately impacted members of the community based on race, culture, income, geography, and language, especially those that are/have been incarcerated. To engage the most critical community members - currently and formerly incarcerated and unpermitted business operators - will require resources, time and autonomy for trusted community organizers.

In addition to those that have been disproportionately impacted by cannabis criminalization, there are other critical stakeholder groups whose involvement should be prioritized:



- Legacy operators and workers should be viewed as critical stakeholder groups instead of the target of enforcement (See discussion of amnesty program on p. 124).
- Local federally recognized tribes within San Diego County (See discussion of indigenous sovereignty and land use on p. 119)
- The environment, as represented by indigenous leaders and viewed through indigenous perspectives
- Environmental justice activists and organizers that address environmental racism are an important stakeholder group that can ensure discussions of the industry's environmental impact are equitable.
- Youth (See discussion of youth empowerment and land use on p. 156)

When at all possible, legacy operators, indigenous environmental leaders, and other environmental justice activists that are also part of disproportionately impacted communities should be sought out for engagement and guidance. To support engagement of legacy operators, after participation in expungement and/or amnesty programming, legacy operators should be invited to participate in stakeholder engagement led by the aforementioned trusted CBOs. This engagement should help inform strategies to reduce the legacy market in an equitable and non-carceral manner.

### Community Ownership

Community ownership is an essential component of stakeholder engagement. Dominant societal norms prioritize individualism. In order to truly address the social inequity and injustice of cannabis criminalization, we must prioritize community transformation. This requires community ownership of the entire Cannabis Equity Program, including stakeholder engagement. This means moving away from tokenization. This is hard, but essential work. While listening to leaders that show up to speak as part of their community is an important first step in community engagement, it should not be the end goal. The end goal should be community ownership of the Cannabis Equity program. To this end, the County should support the integrated collaboration of community members by providing resources to aforementioned trusted CBOs to hold meetings where community members set guidance for program components and program evaluation. This is how privileged communities themselves organize behind the scenes. While many of these privileged individuals espouse bootstrapism, they are very well organized and use exclusive collusion to build their power.<sup>143</sup> For example, one interview with a government representative revealed that a small group of wealthy agricultural land owners have largely unchecked influence on their supervisorial districts policies. Community listening event participants emphasized a similar concern on the power and role of established corporations within stakeholder spaces, stating that “the cannabis industry in San Diego County is a private club...all the mom and pop shops that were opened all across San Diego County, they closed them down to build the corporate...It's supposed to be a community

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<sup>143</sup>“Pulling yourself up by your bootstraps” is a popular phrase implying that one’s own effort and merit lifts them to success.



product, but it's become a corporate game, how do we get the corporate out of it?" This perspective reflected on how non-social equity licensees have essentially monopolized the industry and made small businesses essentially obsolete, removing ownership, for the most part, from the community.

In order to create an equitable space for stakeholders, the County must work to create pathways for small businesses and prospective social equity operations to thrive alongside already established stakeholders in the cannabis industry. This notion was corroborated by another interviewee who expressed the following: "there are a lot of people who are afraid of what the cannabis industry would bring to the areas in San Diego. That may be the heart of the problem in the cannabis industry is still trying to overcome the negative image held by some of the by some who don't want this in, you know, in the area anyway. However, you have a voice to bring the same equalities to the communities the same way that others have, who haven't been impacted by the War on Drugs...there are corporations and companies who haven't been impacted by the War on Drugs however, they're the ones who are making the most profit off of the cannabis industry." Themes of distrust in corporations and major institutions were prevalent throughout community listening sessions, as participants highlighted that individuals and businesses that have access to current ownership are not from the communities in which their businesses operate and have not been directly impacted by the War on Drugs. Supporting equitable community ownership builds community power in disproportionately impacted communities and will increase the responsiveness, efficacy, and sustainability of SEE and community reinvestment programming.

The County of San Diego can take concrete steps to support community ownership of stakeholder engagement. Creating informal relationships through listening sessions and direct consultation with community representatives and organizers, and formal relationships through task forces and community collaboratives populated disproportionately with impacted community members should guide the design and implementation of the socially equitable cannabis program and community reinvestment priorities. CBO-led community member cooperatives should guide the design and implementation of the SEE and community reinvestment programs and policies, moving from tokenization to community ownership.<sup>144</sup>

Relationships and engagement with disproportionately impacted communities should proactively expand community voice on political and economic matters related to equity in the legal adult-use recreational cannabis industry. The Sheriff's department should not take leadership in stakeholder engagement as their presence will dissuade engagement and ownership by the most disproportionately impacted community members who have experienced direct harm at the hands of the Sheriff's department.

#### Phasing, Continuous Learning and Course Correction

Achieving the community engagement necessary for a successful cannabis equity assessment program and related community reinvestment will require the County of San Diego

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<sup>144</sup>Rosa Gonzalez, Facilitating Power. <https://www.facilitatingpower.com/> (accessed 6/22/2022).



to commit to continuous community-led and community-informed learning. The *Justice in the 420 Industry* social equity assessment should be a living document that is continuously updated and refined. Community members are still deeply hurt and some shared that the County has a long history of excluding communities through community engagement processes and harming communities that speak out.

Until five years after SEE program implementation or five years after initial SEA publication (whichever comes later), there should be CBO-led community listening events at least every two months. Community listening events should focus on different Board of Supervisorial districts and disproportionately impacted communities. The activity and community-led evaluation of community cooperatives and task forces should be a continuous component of the County’s regulation of the legal adult-use recreational cannabis market. These learning and evaluation activities should include measuring to what extent stakeholder engagement is reaching disproportionately impacted communities and to what extent disproportionately impacted communities feel their perspectives are being incorporated into programming and policy (See “Honor Data Sovereignty and Evaluate Efforts under Community Guidance” on p. 111 for recommendations on community-based research and evaluation)

**Table 6. Summary Table: Engage Stakeholders Equitably Recommendations**

Recommendation	Description
Implement stakeholder engagement activities that are culturally-humble, culturally-sensitive and accessible for disproportionately impacted communities	<ul style="list-style-type: none"> <li>● Hire community-trusted CBOs-with community organizing and consensus-building experience in disproportionately impacted communities- to design and implement stakeholder engagement activities</li> <li>● Meeting place, time, format and language should be format to maximize inclusion and accessibility for disproportionately impacted communities</li> <li>● Task the Office of Equity and Racial Justice (OERJ) or a new Office of Cannabis Management with supporting this stakeholder engagement</li> </ul>
Prioritize communities disproportionately impacted by cannabis criminalization in stakeholder engagement	<ul style="list-style-type: none"> <li>● Disproportionately impacted communities defined by SEA findings and aligned with SEE program eligibility</li> <li>● Prioritized communities-especially where they intersect with SEE eligibility communities-should also include:               <ol style="list-style-type: none"> <li>1. Legacy operators</li> <li>2. The environment-represented by indigenous leaders</li> <li>3. Environmental justice activists with a commitment to anti-environmental racism work</li> </ol> </li> </ul>
Host a series of listening sessions to inform program and policy design, implementation and evaluation	<ul style="list-style-type: none"> <li>● Led by community trusted CBOs</li> <li>● Build informal relationships in disproportionately impacted communities</li> </ul>

	<ul style="list-style-type: none"> <li>● Held at least bi-monthly for the first five years of SEE program implementation or five years after SEA publication (whichever is longer)</li> </ul>
<p>Host community collaboratives and task forces to guide the program and policy design implementation and evaluation</p>	<ul style="list-style-type: none"> <li>● Ensure at least 50% of participants are social equity eligible             <ul style="list-style-type: none"> <li>○ Social equity eligible participants should be fairly stipend for their participation</li> </ul> </li> <li>● Build formal relationships in disproportionately impacted communities</li> <li>● Held continuously for the duration of the County's regulation of the legal adult recreational-use cannabis market</li> <li>● Community member collaborative participants should have decision making power on the design, implementation and evaluation of SEE and community reinvestment programs and policies</li> </ul>
<p>Community-led and informed evaluation of SEE and community reinvestment programming and related stakeholder engagement</p>	<ul style="list-style-type: none"> <li>● Measure to what extent:             <ol style="list-style-type: none"> <li>1. Programs and policies efficacy and equitably positive community impact</li> <li>2. Stakeholder engagement is reaching disproportionately impacted communities</li> <li>3. Disproportionately impacted communities feel their perspectives are being incorporated into programming and policy</li> </ol> </li> <li>● Follow recommendations on community-based research and evaluation in "Honor Data Sovereignty and Evaluate Efforts under Community Guidance" (p. 111 )</li> </ul>

## *Honor Data Sovereignty and Evaluate Efforts under Community Guidance*

### Prioritizing Most Impacted

Data sovereignty respects the jurisdictional laws in the place where data is collected and processed, and communities and cultures where social equity data collection occurs are, from a social equity perspective, the rightful determiners of its uses. This is true of the federally recognized, sovereign indigenous nations in San Diego County, as well as the diverse and immigrant communities. Those who are most impacted by cannabis criminalization may not habitually be considered or treated as owners of data about them, but socially equitable data collection centers this fact and builds from it.



Prioritizing the most impacted people requires changing the kinds of research questions and projects that are getting funded. Existing research predominantly addresses “effective”, “community”, and “culturally relevant” policing and medical interventions, which tends to advance inclusion rather than social equity. Investments in the capacity of trusted grassroots community organizations and community leaders to direct, design, and implement research design supports prioritizing the experiences, interests, and needs of those most impacted, and includes models of community-based and action-oriented research. Supporting the most impacted communities as experts increases the likelihood of engaging the most difficult to reach communities and stakeholders, an important aim of social equity data collection that is rarely prioritized in government and academic contexts. Active and responsive feedback loops are important to minimize the tokenization of trusted leaders or further deteriorate relationships between government, well-situated stakeholders, and those most impacted.

Measures for social equity are important to identify and clarify, and all measures should align with the working definition of social equity. Success might look different for different social equity (SE) applicants, owning their business versus selling their license, for instance, and this should be reflected in program measures.

#### Community Ownership

From a social equity perspective, community ownership of data is a high priority. Ownership in this context means not only the product, as in a report or presentation, but in the conceptualization, design, implementation, interpretation, and dissemination of data-rich research. Research partnerships should always include, at minimum, meaningful contributions from most impacted communities, with the aim of developing local capacities for government, academic, industry and other stakeholders to support, rather than dominate, knowledge production about our most impacted communities. Developing the capacity of community leaders and organizers to lead and/or conduct the research is important. Community members are experts on the realities they navigate and on the relative effectiveness of proscribed interventions. The social equity approach to data collection honors their expertise, their knowledge about the right questions to ask, who to ask, how to interpret the answers, and how to educate others with that knowledge. Community data workers must be compensated for their expertise and efforts. Regular, transparent, and accessible reporting with most impacted communities as main audience can support the fuller, more collective community that is necessary for social equity, and minimize the bottlenecks of tokenism and non-representative input.

#### Phasing, Continuous Learning and Course Correction

Because respecting the most impacted communities’ direction, data sovereignty, and role in data-driven public awareness and education represents a significant change from the current status quo, there is, for the foreseeable future, a danger that social equity data accountability will be inadequate or abandoned for a return to the easier top-down and deeply inequitable processes. A first step is connecting data collection and program evaluation to a community collaborative with at least half of participants who meet the eligibility criteria for social equity. An allocation of funding to allow this body to provide grant funds to trusted

community messengers and leaders would center knowledge production for social equity in the most impacted communities. Data collection should be led by trusted community leaders (trusted first and foremost by the communities themselves), and the results of data collection, analysis, and dissemination should be vetted through community accountability and approval structures.

**Table 7. Summary Table: Honor Data Sovereignty and Evaluate Efforts Collection Recommendations**

Recommendation	Description
Respect data sovereignty	<ul style="list-style-type: none"> <li>• In all aspects of program research, respect the data sovereignty of both federally recognized Indigenous nations and those communities most impacted by the War on Drugs and cannabis criminalization</li> </ul>
Establish a social equity research community collaborative that represents the most impacted communities	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible</li> <li>• Leverage existing relationships and resources to include membership from government, industry, advocacy organizations, academia, and other research-oriented entities</li> <li>• This collaborative steers (and funds) research on social equity program effectiveness and community outcomes</li> </ul>
Fund representative trusted community members to support data collection and public education	<ul style="list-style-type: none"> <li>• County staff, academics, and other non-social equity eligible professional researchers should volunteer their time or receive a nominal stipend for participation</li> <li>• Social equity eligible participants and community representatives not in professional research positions should receive stipend support for their time and effort in helping steer social equity research</li> </ul>
Establish social equity success metrics	<ul style="list-style-type: none"> <li>• Root success in the betterment of communities most impacted, and not only in the launch and profitability of particular cannabis businesses</li> <li>• Metrics could include program outreach, applications (quantity and quality), efficacy of permitting and program benefit onboarding,</li> </ul>

	satisfaction of participants, shifting in the ratio of illicit to permitted cannabis business, support levels to most impacted community members including subsidies and grants
Establish a social equity research fund that supports community-led data collection, analysis, and dissemination	<ul style="list-style-type: none"> <li>Using tax revenue from cannabis business, general funding, and/or raised funds the community collaborative should have available direct funds to award or contract out for research functions</li> </ul>
Support community engaged and participatory action research	<ul style="list-style-type: none"> <li>Social equity research frameworks are not primarily top-down quantitative data exercises, or strictly policy analysis. Community centered research expertise from a variety of methodological groundings should be centered in this data collection, analysis, and research dissemination</li> <li>Community empowerment research frameworks should rise to top priority</li> </ul>
Host regularly scheduled, community-led, accessible listening sessions	<ul style="list-style-type: none"> <li>Listening sessions are supportive structures for both collecting relevant data and educating out about important updates and findings for broader public awareness and education</li> </ul>
Provide data access	<ul style="list-style-type: none"> <li>Data tracking the equity program, including expenditures, outcomes, measures, and entrepreneur updates should be made accessible to all stakeholders, participants, and impacted communities</li> </ul>

### *Promote Community Healing through Awareness and Education*

#### Prioritizing Most Impacted

In support of most disproportionately-impacted communities' access to SE licenses, SEE program, and community-reinvestment benefits, the County should conduct targeted program education and outreach. Program outreach should educate the public on program components, eligibility, expected community impacts and protocols for application and feedback. In alignment with stakeholder engagement, program outreach should be culturally humble and sensitive and accessible to communities that are most disproportionately impacted



by cannabis criminalization. Community-based organizations—that are trusted by disproportionately impacted communities and have experience conducting outreach and education on issues related to social justice—should be recruited and financially compensated to conduct outreach. Outreach should be conducted in media, places, formats, and languages that are most accessible to and inclusive of the most disproportionately impacted communities, especially those that are currently and recently incarcerated. In accordance with best practices established in jurisdictions like San Francisco, the County’s outreach should spread program awareness throughout the county, but start with and prioritize communities with high concentrations of eligible individuals.

In addition to explaining and increasing access to resources afforded by SEE and community reinvestment programming, program outreach can have a variety of positive community benefits that are essential to disproportionately impacted communities. The program outreach should also clarify what is legal at the local, state, and federal levels. Since community survey respondents said a fear of law enforcement would prohibit them from entering the legal adult recreational-use cannabis market, outlining which activities are legal in a given jurisdiction will help address these concerns. Additionally, program outreach should also help explain how regulation of the adult recreational-use cannabis market will provide new protections against youth substance abuse. Concerns about youth substance use and public health education were a concern expressed by community members during listening sessions. Explaining that legalization has not increased youth cannabis use, according to NIDA Director Dr. Nora Volkow, funding local community-led research to improve local data, and explaining how adult recreational-use cannabis market regulation will provide additional obstacles for youth cannabis-usage could help address these concerns.<sup>145 146</sup>

The County should also fund the design, implementation and evaluation of an anti-stigma campaign. During interviews, community listening sessions and survey responses, community members identified the need for a general anti-stigma and education campaign. For example, during an interview, one community member asked for an anti-stigma campaign to counter “100+ years of a smear campaign against cannabis.” In alignment with best practices from jurisdictions like San Francisco, the County should avoid using stigmatizing Drug War language and terminology like “crackdown” and “Black market.” Additionally, an anti-stigma campaign should center science-based, indigenous-knowledge centric education on the risks and benefits of cannabis. This should include an assessment of cannabis’s comparatively lower health risks when compared to legally regulated substances like alcohol and tobacco.

To reduce cannabis stigma, the public must understand why stigmatizing campaigns are heavily invested in and why expansion of an equitable regulated cannabis market could

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<sup>145</sup>See

<https://www.marijuanamoment.net/top-federal-drug-official-says-marijuana-use-stable-among-youth-at-prohibitionist-hosted-panel-sponsored-by-d-a-r-e/> (accessed 6/24/2022).

<sup>146</sup>For Dr. Volkow’s call for further research needed, see

<https://www.marijuanamoment.net/top-federal-drug-official-discusses-rise-in-psychedelics-use-and-the-need-to-study-marijuana-from-dispensaries/> (accessed 6/24/2022).





benefit the community. To explain why anti-cannabis stigma was created and remains a profitable reactionary industry requires education on the inequitable harms of the War on Drugs and mass incarceration. To explain potential community benefits of an equitable regulated cannabis market, the public must be educated on the dangers of pioneer-based racial capitalism and the harms of the War on Drugs and mass incarceration. Achieving these education objectives requires a shared understanding of social equity. Throughout SEA community outreach and data collection activities community members have exhibited different familiarity with social equity, with many community members being very confused by the term. We also saw this in a public comment where a community member's misunderstanding of social equity and related terms led to a misinformed and fearful characterization of a BoS meeting presenter discussing health equity as a cult member.

In disproportionately impacted communities, this education should foster community healing as community members acknowledge the injustice of the system that stripped them of their rights and resources. This is especially true for currently and formerly incarcerated community members. They should be a priority group for the equitable healing focused anti-stigma education. They should be invited to participate in public education, after receiving record expungement, applying for amnesty and/or through partnership with community-reentry focused programming. As previously mentioned with program outreach, healing focused-anti-stigma education should be culturally-sensitive and humble; accessible to disproportionately impacted communities; led by community trusted-CBOs and leaders with experience fostering supportive communities for disproportionately impacted communities, especially justice involved. The County should fund CBO led anti-stigma education campaigns that center discussions of social equity, explain historical systemic injustices, and nurture community healing.

The anti-stigma program could have positive impacts on the equity of the cannabis market. Reducing stigma could help more SEE-program eligible operators enter the market as business owners, operators and/or employees. Additionally, reducing stigma could help address other barriers to the cannabis market including over-restrictive zoning and permitting policies and hesitancy of potential financial investors, landlords, and technical assistance providers (e.g., accountants, lawyers, realtors, etc.). Additionally, according to interviews with local industry experts, educating potential consumers on relative benefits to them from market regulation-like cannabis products with more safe and consistent quality and increased community benefits via economic stimulation and community reinvestment program benefits-could help increase demand for cannabis products from the regulated market.

### Community Ownership

The design, implementation and evaluation of public awareness and education should rely on trusted community leaders and CBOs. In interviews, community members cited the importance of trusted messengers for further engagement around cannabis SEE and community reinvestment policies and programs. Community trust will be an especially vital facilitator in public education where so many different interconnected and sensitive community



dialogues need to be fostered to improve community knowledge, address public stigma, and acknowledge and heal from the harms of the War on Drugs and related systemic injustices. Community trust is a critical foundation for all of these dialogues. Public outreach and education activities should be evaluated by the facilitating CBOs and a community collaborative that is representative of the most disproportionately impacted communities and holds decision-making power over the design, implementation and evaluation of public outreach efforts. Additionally, since there will be many CBOs responsible for public education and outreach in various communities throughout the county, the County should facilitate collaborative spaces for the network of CBOs implementing public education to coordinate their efforts. In addition to evaluating the equity, efficacy and impact of public education and outreach efforts, the public outreach and education collaborative and integrated network of CBOs should also be viewed as a knowledge source for the County to adjust the design and/or implementation of program components. In this way, public education should be multi-directional. The County should be actively listening to, learning about, and addressing different community concerns that arise through public education and outreach efforts.

#### Phasing, Continuous Learning and Course Correction

Outreach to SEE program-eligible communities should begin as soon as an SEE program is established and before applications are accepted. This immediate outreach ensures the most disproportionately-impacted communities are not crowded out. If the SEE programs are open to different segments of the community in phases, then the SEE program outreach can prioritize each of those communities in turn. Constant learning, evaluation, and improvement will be facilitated by community collaboratives and the network of public outreach implementing CBOs as soon as the SEE and community reinvestment programs are established until at least five years after the program begins receiving applications.

**Table 8. Summary Table: Promote Community Healing through Awareness and Education Recommendations**

Recommendation	Description
Program outreach, prioritizing most disproportionately impacted communities	<ul style="list-style-type: none"> <li>● Culturally sensitive and humble and outreach</li> <li>● Outreach design and implementation led by CBOs trusted by communities with experience conducting social justice related outreach</li> <li>● Outreach format, mode and language accessible to most disproportionately impacted communities</li> <li>● Program outreach efforts should start with and prioritize communities with large communities of SEE and community reinvestment eligible community members</li> <li>● Should inform community on:</li> </ul>

	<ul style="list-style-type: none"> <li>○ SEE and community reinvestment program components, application and feedback</li> <li>○ Which activities are legal, providing tools for communities that fear law enforcement</li> <li>○ How market regulation will reduce youth access</li> </ul>
<p>Anti-stigma campaigns, prioritizing the most disproportionately impacted communities</p>	<ul style="list-style-type: none"> <li>● Culturally sensitive and humble and outreach</li> <li>● Outreach design and implementation led by CBOs trusted by communities with experience conducting social justice related outreach</li> <li>● Outreach format, mode and language accessible to most disproportionately impacted communities</li> <li>● Program outreach efforts should start with and prioritize communities with large communities of SEE and community reinvestment eligible community members</li> <li>● Should inform community on:             <ul style="list-style-type: none"> <li>○ Relative benefits and risks of cannabis based on science and established indigenous knowledge</li> <li>○ Social equity; the harms of the War on Drugs, mass-incarceration and racial capitalism as it relates to cannabis; community benefits of an equitable legal adult recreational-use cannabis market</li> </ul> </li> </ul>
<p>Program education and outreach should target each disproportionately impacted community as they become eligible for SEE program</p>	
<p>Host public outreach and education community collaborative</p>	<ul style="list-style-type: none"> <li>● Ensure at least 50% of participants are social equity eligible</li> <li>● Oversee the design, implementation and evaluation of public outreach and education programming</li> <li>● Holds decision-making power over the design, implementation and evaluation of public outreach and education programming</li> <li>● Communicates with CBOs implementing the public outreach and education programming</li> </ul>

	<ul style="list-style-type: none"> <li>• Communicates directly with BOS and presents at BOS meetings</li> </ul>
Host network of various community-trusted CBOs	<ul style="list-style-type: none"> <li>• CBOs implementing public education and awareness for various communities coordinate efforts and share lessons learned</li> <li>• Guide the design, implementation and evaluation of public education and outreach efforts</li> </ul>

## Support Indigenous Sovereignty

### Prioritizing Most Impacted

*Position Statement: As a Black women-led research team, we are not indigenous to this land and are not experts in matters of indigenous sovereignty in San Diego County. This Social Equity Assessment (SEA) includes our best effort to engage, elevate, and support the sovereignty of San Diego’s Indigenous nations in their ancestral homelands.*

People indigenous to the US have been severely impacted by the settler state and its criminalization of non-white bodies and cannabis—cannabis is part of the natural world, its sacred power, and crucial life-giving gifts from the creator. While many indigenous people in San Diego County have migrated or been displaced from other places in the US or world, the federally recognized tribes in the County have formal sovereignty on 18 distinct reservations and ongoing relationship to their unceded homelands more broadly.<sup>147</sup>

Sovereignty means self-governance, which, for Native people, has historically been denied or undermined by settlers in the US nation-building project. A social equity program seeks to minimize disparate outcomes that are incontrovertibly unethical and unfair, and to increase opportunities for those most negatively affected, but all such efforts in San Diego County, unincorporated or incorporated, occur in unceded homelands in which Kumeyaay/Diegueño, Payoomkawichum (Quechnajuichom/Luiseño and Acjachemen/Juaneño), Kuupiaxchem/Cupeño, and Cahuilla sovereignty remains constrained, pushed to remote locations, characterized by disproportionate isolation and poverty, and left to

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<sup>147</sup>The 2020 U.S. Census reports San Diego County’s American Indian or Native Alaskan population of 24,373 people. A 2013 report listed 6,306 enrolled members of the 18 federally recognized tribes (not all of whom live on the reservation), and reservation populations (tribal members and non-members) totaling 6,701. See [https://www.sdirwmp.org/pdf/SDIRWM\\_04\\_Tribal\\_Nations\\_Sep2013.pdf](https://www.sdirwmp.org/pdf/SDIRWM_04_Tribal_Nations_Sep2013.pdf) (accessed 6/24/2022).

tribes to advocate on their own.<sup>148</sup> In all County of San Diego social equity efforts, the local tribes should be viewed as key stakeholders and partners as their historical and ongoing stewardship of the land offers a critical resource for the benefit of all that has no equal. Enrolled members of federally recognized local tribes should be eligible for social equity program benefits, including permits in the event that off-reservation entrepreneurship provides desired economic opportunity. Local tribal members should be preferred, compensated participants for community collaboratives convened under the social equity program.<sup>149</sup>

### Community Ownership

Community ownership with a social equity lens in the case of indigenous sovereignty is unambiguous and requires the “return” or repatriation of unceded tribal homelands.<sup>150</sup> Giving the land back invests our future in values of abundance, reciprocity, and balance, as opposed to extraction, accumulation, and scarcity.<sup>151</sup> The County of San Diego should immediately establish projects to return homelands that support, as desired by the people, economic success in the legal adult-use recreational cannabis industry and other ventures they deem appropriate. The 18 federally recognized tribes in San Diego County share historical, cultural, and territorial legacies, but today are separated geographically in more remote locations, and pass through national, County, and city boundaries to connect and reconnect with each other. Interconnection at the levels of shared culture and economy are critical aspects of indigenous sovereignty and wellbeing and should be encouraged and supported by the County of San Diego. While respecting the data sovereignty of the tribes, the County of San Diego should proactively facilitate access to deidentified public data that can support advocacy on state and federal levels (e.g., cannabis arrest data for AI/AN and tribal lands). An ongoing relationship, based on respect for indigenous sovereignty, can provide future direction in the County's provision of supportive data, resources, and programs valued by the San Diego's indigenous tribes.

### Phasing, Continuous Learning and Course Correction

Supporting indigenous sovereignty, including the facilitating the participation and leadership of tribal members, and the repatriation of land can begin with concrete, mutually-agreeable steps, and should be reviewed regularly as core components of the social equity program.

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<sup>148</sup>The 18 federally recognized tribes are independently sovereign and control their own naming. This grouping comes from the following source: <https://www.kumeyaay.com/the-indians-of-san-diego-county.html#:~:text=The%20tribal%20groupings%20make%20up.%2FCupe%C3%B1o%2C%20and%20the%20Cahuilla> (accessed 6/24/2022).

<sup>149</sup>See “Data Collection” recommendation on compensating community participants.

<sup>150</sup>Repatriation means a return to mother earth and, as articulated by indigenous women leaders, means restoring balance and reciprocity in our relationships to the land ([rematriation.com](https://rematriation.com)). As a movement, repatriation includes return of artifacts, human remains, sacred sites, and homelands.

<sup>151</sup>Guidance for giving land back can be found here: <https://resourcegeneration.org/land-reparations-indigenous-solidarity-action-guide/>

**Table 9. Summary Table: Support Indigenous Sovereignty Recommendations**

Recommendation	Description
Give land back	<ul style="list-style-type: none"> <li>● Partnering with tribal leadership, explore existing and previous land return efforts and learn from best practices</li> <li>● Access to land may, at their discretion, increase opportunities for tribes to participate in the legal adult-use recreational cannabis industry</li> </ul>
Support tribal participation in social equity program efforts	<ul style="list-style-type: none"> <li>● Offer stipends to enrolled members of federally recognized tribes in SD County for participating in community collaboratives organized in the social equity entrepreneurs program</li> </ul>
Support tribe-to-tribe cannabis commerce <sup>152</sup>	<ul style="list-style-type: none"> <li>● Collaboration can help tribes address wealth disparities and poverty throughout the county</li> <li>● Smaller, non-gaming tribes benefit most from tribe-to-tribe collaboration</li> <li>● The County of San Diego can protect tribe-to-tribe cannabis commerce in the context of federal criminalization</li> </ul>
Proactively offer access to deidentified public data that can support advocacy on state and federal levels (e.g., cannabis arrest data for NA/AM and tribal lands)	<ul style="list-style-type: none"> <li>● Tribes may not have ready access to County data pertaining to their enrolled members who live on or off the reservation, and who interact with County and municipal jurisdictions</li> <li>● Barriers to data access for federally recognized tribes on the shoulders of the County should be identified and minimized</li> </ul>

## Decriminalize and Open Opportunity for Directly Impacted: Expungement, Diversion, and Restorative Justice

The War on Drugs fueled racial profiling in U.S. enforcement and justice systems, and racially disparate mass incarceration. Cannabis criminalization has been a gateway to these

<sup>152</sup>See

<https://hempindustrydaily.com/tribal-nations-looking-to-collaboration-to-realize-cannabis-business-opportunities/>



systemic outcomes. Aggressively decriminalizing cannabis, which builds on demonstrated public support, and then providing targeted interventions to support those who have been most directly impacted by the War on Drugs and cannabis criminalization is a necessary corrective and an indispensable feature of social equity.

## *Expunge Records*

### Prioritizing Most Impacted

The County of San Diego District Attorney's office submitted 26,000 cannabis convictions for expungement (1,000 misdemeanors) or reduction (25,000 felonies reduced to misdemeanors), and the process was completed by February 2021. Those who have been most impacted, however, must lead decriminalization and expungement processes. The approximately 8,000 convictions that were recommended by the State Department of Justice, but not found by the County of San Diego DA to meet AB 1793 criteria, should be examined by the community collaborative tasked with expungement and enforcement. Advocacy is necessary for San Diego community members who have convictions outside of the County, as, for instance, our research turned up one community stakeholder whose cannabis charges in Los Angeles led to imprisonment and heightened charges at home in San Diego. In the cases of reduced charges, the 25,000 felony cannabis convictions that were reduced to misdemeanors, misdemeanors may still appear on background checks, so the community collaborative should monitor whether there is continued discrimination against formerly incarcerated people. The SEE program should address barriers and limitations of existing efforts as defined by pre-existing department evaluation and feedback from the community. There should be proactive outreach to most impacted communities, including federally-recognized tribes, to inform them of which records and people are eligible and how to ensure their record has been cleared. Expungement-related communications should be culturally humble, sensitive, and accessible to people in multiple languages. Community-based organizations that are trusted by disproportionately impacted communities should be proactively recruited and financially compensated to design, implement and evaluate expungement related activities.

The County should resource CBOs that are trusted by disproportionately impacted communities and have experience organizing with and providing support to justice-impacted communities to host expungement events in disproportionately impacted neighborhoods and communities. The SEE program application should serve as an entry point to expungement and vice-versa. Additionally, the expungement program should serve as an entry point to relevant community re-entry and support services as defined by the expungement community collaborative and CBOs implementing expungement.

Moreover, expungement should be paired with immediate release of and sentence reduction for currently incarcerated individuals who are being incarcerated for nonviolent drug convictions. These measures should be taken in acknowledgement of the inequitable enforcement of cannabis laws and current legalization of cannabis use. Those currently and formerly incarcerated for cannabis-related charges should be invited to participate in the amnesty and/or SEE program as relevant.

### Community Ownership

An expungement community collaborative that is representative of those disproportionately impacted by cannabis criminalization, especially people who are or have been incarcerated should guide the design, implementation and evaluation of expungement. The County's Office of Equity and Racial



Justice should provide written and oral reports from Public Safety on expungement progress. Representatives from the Public Safety group should make reports to this group if and when requested. This collaborative should report to the Board of Supervisors (BoS) on expungement progress and activities six times a year for the first year and annually onwards. This presentation should include a rating of expungement efforts. The expungement community collaborative should also meet with CBOs that are implementing expungement to inform and support their efforts.

As mentioned in the public education and awareness section, expungement activities should also be integrated with community healing and anti-stigma education efforts. Through acknowledging the inequitable and systemic harm of the War on Drugs and addressing anti-cannabis stigma, community members that benefit from expungement will be more apt to participate in SEE and community-reinvestment programming. Additionally, community members whose records have been expunged should learn about their rights and receive culturally sensitive and humble education on the injustice of the system that stripped them of their rights for so long. This education should be dialogue-based, connecting those who received expungement to an empowering community of people who have experiences similar to their own.

### Phasing, Continuous Learning and Course Correction

Expungement activities including related outreach should target communities in the order they will become eligible for SEE programming in phases. Additionally, since expungement can mitigate some financial barriers to entry into the adult-use cannabis market, expungement should precede SEE program adoption if at all possible, but at the very least should precede the opening of applications for the SEE program. As previously mentioned, community-collaborative evaluation should inform the adjustment of expungement activities and outreach as SEE program eligibility, and consequently expungement eligibility, expands.

**Table 10. Summary Table: Expunge Records Recommendations**

Recommendation	Description
Automatic record-clearing for eligible cannabis related charges	<ul style="list-style-type: none"> <li>● Address barriers to existing expungement activities</li> <li>● Expungement applicants should be linked to SEE program application and relevant supportive services, as identified by CBOs and community collaboratives</li> </ul>
Expungement events and related outreach, prioritizing disproportionately impacted communities	<ul style="list-style-type: none"> <li>● Culturally sensitive and humble and outreach</li> <li>● Outreach and expungement events design and implementation led by CBOs trusted by communities with experience organizing with and supporting justice-impacted communities</li> <li>● Outreach format, mode and language accessible to most disproportionately impacted communities</li> <li>● Expungement outreach efforts should</li> </ul>



	<p>start with and prioritize communities with large communities of SEE and community reinvestment eligible community members</p> <ul style="list-style-type: none"> <li>● Linked to community healing anti-stigma education activities that <ul style="list-style-type: none"> <li>○ Are dialogic</li> <li>○ Build a supportive community around expungement recipients</li> <li>○ Are led by community trusted CBOs</li> <li>○ Educate expungement recipients on their rights</li> <li>○ Address the systemic inequitable harms of the War on Drugs and mass incarceration</li> <li>○ Link participants to additional supportive services</li> </ul> </li> </ul>
<p>Host expungement community collaborative</p>	<ul style="list-style-type: none"> <li>● Ensure at least 50% of participants are social equity eligible</li> <li>● Representative of those disproportionately impacted by cannabis criminalization, especially people who are or have been incarcerated</li> <li>● Guides the design, implementation and evaluation of expungement and related events and outreach</li> </ul>
<p>Expand expungement support</p>	<ul style="list-style-type: none"> <li>● The County of San Diego complied with AB 1973 expungement procedures (starting 2018 and completed 2021)</li> <li>● Review records that were recommended by the State DOJ, but found to not meet criteria for dismissal or reduction (26,000 of 35,000 cases were dismissed or reduced). If the initial decision is upheld, report aggregate de-identified data explaining why they were not reduced or dismissed.</li> <li>● Support community members with expungement of eligible cannabis convictions from outside of San Diego</li> <li>● Monitor outcomes for those with reduced convictions, in particular for further impacts from misdemeanors that remain on background checks</li> </ul>



## *Enforce Regulations in a Non-Carceral Manner*

### Prioritizing Most Impacted

Enforcement has three critical aspects for a successful social equity program, in each of which it is imperative to prioritize those most impacted by cannabis criminalization. The first aspect is enforcement related to the Social Equity Entrepreneurs (SEE) program itself. The resources and benefits of the program will have accountability measures for social equity permittees and for communities reinvested in, which will need to be enforced. Stakeholders will participate in design, implementation, decision making, data collection, evaluation, promoting, and advancing the social equity program. It will be important that the accountability measures and mechanisms prioritize those individuals and communities most impacted by cannabis criminalization and the War on Drugs, and be grounded in restorative and transformative frameworks that address harm, rather than policing or carceral frameworks.

The second aspect of enforcement is related to existing law enforcement structures of cannabis criminalization and the War on Drugs. The County of San Diego has given the Sheriff's Department the regulatory and code enforcement powers for medical cannabis with little oversight, checks, and balances. This has protections against corruption to the already untenable impacts from the War on Drugs. In March 2021 a Sheriff's captain was convicted for gun trafficking, in a case that included "aiding and abetting" illegal cannabis distribution.<sup>153</sup> Additionally, one stakeholder reported that mandated Sheriff site visits and code compliance checks do not happen, contrary to the department claiming otherwise, and illicit businesses, including delivery services, operate without interruption. Police apologists claim that lack of resources and anti-police attitudes are responsible for such realities, but Sheriff and police budgets have increased sharply over the past ten years while public services spending has declined.<sup>154</sup> Increasing the funding and regulatory role of the office most responsible for the harmful impacts of the War on Drugs and cannabis criminalization is the opposite of social equity.

The third aspect of enforcement involves illicit cannabis business. Street level busts have fueled disparate impacts by targeting low-level, primarily people of color workers rather than the "white collar" organized structures above them. Moreover, throughout California, cannabis operators in the regulated industry do not support over-militarized tactics to shut

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<sup>153</sup>"San Diego: Former Sheriff's Captain Indicted for Aiding Marijuana Distribution, Illegal Firearms Trafficking & Lying to Federal Agents | Cannabis Law Report." Accessed June 28, 2022. <https://cannabislaw.report/san-diego-former-sheriffs-captain-indicted-for-aiding-marijuana-distribution-illegal-firearms-trafficking-lying-to-federal-agents/>.

<sup>154</sup><https://www.sandiegouniontribune.com/news/watchdog/story/2020-06-14/rising-police-sheriffs-budgets-eating-into-other-public-services>

down illegal growers<sup>155</sup>. Further, several interviews for this research emphasized that illicit cannabis is less an enforcement issue than a regulatory issue. An estimated two thirds of cannabis business is illicit, and heavy regulations and high taxes drive the price of legal cannabis up to the point of non-competitiveness.<sup>156</sup> Lower socio-economic communities of color get blamed and criminalized, and the abusive cycle continues. Adjusting regulations and taxation, as well as providing amnesty, may be important features to transition illicit business over to the regulated market, but those who are most impacted must continually be centered in enforcement considerations.

### Community Ownership

The most impacted communities have been denied a stake in enforcement due to the War on Drugs. The Sheriff's Department should not be involved in administration or regulation of the legal industry, including licensing and permitting, acknowledging the historic traumas that targeted communities have endured as a result of its policies and practices. The social equity program must support cooperative efforts that center indigenous leaders and disproportionately impacted community members with diverse perspectives leading enforcement and accountability activities.

### Phasing, Continuous Learning and Course Correction

SEE program enforcement infrastructure should complement the phasing of program entrepreneur and community benefits.

**Table 11. Summary Table: Enforce Regulations in a Non-Carceral Manner Recommendations**

Recommendation	Description
Community ownership of program enforcement	<ul style="list-style-type: none"> <li>• The County of San Diego, key stakeholders, social equity permittees, and program beneficiaries all hold commitments to give and receive in the social equity program</li> <li>• Compliance, accountability, and enforcement of agreement terms should include direct participation by a community collaborative with at least 50% social equity eligible membership</li> </ul>
Base enforcement in restorative, transformative, and healing frameworks	<ul style="list-style-type: none"> <li>• Leverage existing programs and resources for involvement and guidance</li> </ul>

<sup>155</sup> "Marijuana Raids and High Level Criminality Focus Q&A with Nicole Elliott." Accessed June 28, 2022.  
<https://mjbizdaily.com/marijuana-raids-and-high-level-criminality-focus-q-and-a-with-nicole-elliott/>.

<sup>156</sup> See  
<https://www.statista.com/statistics/1075946/legal-vs-illicit-cannabis-sales-california-us/#:~:text=In%202019%2C%20sales%20in%20the,billion%20U.S.%20dollars%20that%20year> (accessed 6/21/2022).

	<p>on SEE program enforcement with restorative justice, transformative justice, and healing frames</p> <ul style="list-style-type: none"> <li>● Invite experts in restorative, transformative, and healing frameworks to participate in the enforcement community collaborative</li> </ul>
<p>Enforcement of community reinvestment</p>	<ul style="list-style-type: none"> <li>● Community reinvestment program aims should be formulated clearly and precisely enough to measure (see “Data Collection” section), and approved reinvestment aspects of the social equity program should be considered agreements and held to a standard of accountability to the most impacted communities             <ul style="list-style-type: none"> <li>○ Impacted communities should be co-owners of such accountability processes</li> </ul> </li> </ul>
<p>Sheriff/law enforcement should not administer or enforce licensing, permitting, and program components</p>	<ul style="list-style-type: none"> <li>● The current model of the Sheriff’s Department administering, permitting, and enforcing the legal cannabis ordinance for the County of San Diego has proven to be harmful</li> <li>● The scope of enforcing criminal law pertaining to cannabis has also proven to be too much for the Sheriff Department, according to legal operators commenting on the impossibility of halting unpermitted business.</li> <li>● The direct trauma to the most impacted communities of uniformed officers and law enforcement officials, at the outset, precludes the possibility of positive contributions to the social equity program.             <ul style="list-style-type: none"> <li>○ Any course correction from this would be within the scope of the community-owned participation processes built into the program</li> </ul> </li> </ul>
<p>Provide amnesty for a transitional period as resources, benefits, and positive reinforcement of legal business are established</p>	<ul style="list-style-type: none"> <li>● Illicit cannabis business is incentivized through non-competitive pricing and excessive regulation</li> <li>● Amnesty to owners, operators, workers, and customers in the illicit market can support the transition from illicit to legal, regulated business</li> </ul>



## Creating an Accessible and Responsive Social Equity Entrepreneurs Program

### *Define Program Eligibility as Disproportionately Impacted Communities*

#### Prioritizing Most Impacted

In accordance with the County of San Diego's RFP for Social Equity Assessment (SEA), Social Equity Entrepreneurs (SEE) program eligibility is defined as those most impacted by the War on Drugs. Participants in community listening sessions expanded upon their definitions of social equity through an examination of program eligibility. When asked who should be considered for social equity permits and licensing, community members emphasized the need to prioritize individuals who have been directly harmed by cannabis criminalization. One participant said, "I think one of the priorities that should be considered is individuals that have been impacted by policies that have taken away opportunities for them... in some ways, it speaks to the conversation of what reparations would look like to communities that have been harmed by these inequitable policies. I think consideration of individuals that have been impacted should be a higher priority. I think race and ethnicity and location in terms of where they live, should be considered as priority." Other speakers echoed similar sentiments, while also expanding eligibility for those who were previously incarcerated, currently incarcerated, as well as their family members.

Communities that have been disproportionately impacted by the War on Drugs in San Diego county include Black, membership in federally recognized Native American tribes, and Latiné people, low-income community members, former and/or currently incarcerated (i.e., justice-impacted communities), youth, unhoused and housing insecure community members, immigrants, and long-term residents (at least 5 years) in areas of disparate impact (1971-2016). Including race conscious criteria may not violate Prop 209, in particular with business licenses falling outside of the public education, public employment, or public contracting.<sup>157</sup> The County of San Diego can prioritize those most impacted by establishing a fund for legal expenses associated with defending race-conscious eligibility criteria. This is necessary due to the extremely disproportionate impact cannabis criminalization had on Black people, Latiné people and other racial and ethnic groups in San Diego County.

Other characteristics that were used in other jurisdictions (Mendocino) that should be considered as eligibility criteria but could not be substantiated via public data are those assaulted or trafficked while involved in the illegal cannabis market, and those who suffered asset forfeiture or homelessness due to cannabis enforcement. The more eligibility criteria that are met the higher priority applicants gain in the application process. This criteria will determine

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<sup>157</sup>For further analysis of race-conscious eligibility criteria and Proposition 209, see Appendix E.



which individuals receive SE licenses, receive SEE and community reinvestment programming benefits, and who will be prioritized for inclusion in community collaboratives.

#### Community Ownership

For those assaulted or trafficked while involved in the illegal cannabis market; those who suffered asset forfeiture or homelessness due to cannabis enforcement; and those who were incarcerated due to cannabis, those who suffered these harms within San Diego County should be prioritized. In addition to the aforementioned criteria, to be SEE eligible, residency in the county and/or on one of the local federally recognized tribes currently or from 1971 to 2016 is required. If an individual was a resident in the County and/or on one of the local federally recognized tribes from 1971 to 2016, their relative priority in any given eligibility area increases.

#### Phasing, Continuous Learning and Course Correction

We propose that eligibility criteria are tiered based on priority and phased in periodically, perhaps every 6-12 months. We propose the following phasing schedule:

##### Tier A

1. Those who are part of a racial group that has been disproportionately incarcerated/arrested for cannabis-related charges in San Diego County **and** who are or have been incarcerated for a drug or cannabis related charge in San Diego County.
2. Those who are part of a racial group that has been disproportionately deported for cannabis-related charges in San Diego County **and** who have previously been deported for a drug or cannabis related charge/immigration violation in San Diego County.

##### Tier B

1. Those who are or have been incarcerated for a drug or cannabis related charge in San Diego County.
2. Those who have previously been deported for a drug or cannabis related charge/immigration violation in San Diego County.
3. Those assaulted or trafficked while involved in the illegal cannabis market and those who suffered asset forfeiture or homelessness due to cannabis enforcement.

##### Tier C

1. Those with a tertiary familial relation to someone who has been deported for a drug or cannabis related charge/immigration violation in San Diego County.
2. Those with a tertiary familial relation to those who are or have been incarcerated for a drug or cannabis related charge in San Diego County.
3. Those who are part of a racial group that has disproportionately incarcerated/arrested for cannabis-related charges in San Diego County(i.e., Black , Latiné , Indigenous/Native American/American Indian and Pacific Islanders)<sup>158</sup>
4. Membership in federally recognized Native American tribes whose land falls within the borders in San Diego county

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<sup>158</sup>See Figures 5a &5b on p. 33.

- 5. Low-income<sup>159</sup>
- 6. Former/currently incarcerated
- 7. Unhoused/housing insecure<sup>160</sup>

Priority Considerations (*Not criteria in themselves, but increase priority within any Tier*)

- Long-term resident (at least 5 years) in an area of disparate impact between the years of 1971 and 2016
- Transition Age Youth (21-25)<sup>161</sup>

During an application phase up to 300 SE licenses are awarded. These eligibility criteria are listed in order of priority. In addition to these aforementioned eligibility criteria, being ages 21-25 and/or being a long-term resident (at least 5 years) in an area of disparate impact between the years of 1971 and 2016 would increase one's priority among applicants. There is no cap on the total number of SE licenses given as this application cycle will be continued indefinitely once all eligible communities are phased in. To clarify, groups are not phased out, i.e. once an eligibility group is phased in that group remains eligible. Phasing in eligibility based on priority allows for all relevant community collaboratives to gain optimal clarity on what does and does not work to achieve socially equitable outcomes and adjust programming accordingly.

**Table 12. Summary Table: Define Program Eligibility as Disproportionately Impacted Communities Recommendations**

Recommendation	Description
<p>Define eligibility as those most disproportionately impacted by the War on Drugs</p> <ul style="list-style-type: none"> <li>● <b>Tier A</b> = Incarcerated for cannabis conviction <b>and</b> part of a racial group disproportionately impacted by cannabis criminalization</li> <li>● <b>Tier B</b> = Incarcerated or deported for cannabis related charge or conviction in San Diego County, or assaulted, trafficked, assets seized, or made homeless due to cannabis enforcement</li> </ul>	<ul style="list-style-type: none"> <li>● Tier A               <ol style="list-style-type: none"> <li>1. Those who are part of a racial group that has been disproportionately incarcerated/arrested for cannabis-related charges in San Diego County <b>and</b> who are or have been incarcerated for a drug or cannabis related charge in San Diego county.</li> <li>2. Those who are part of a racial group that has been disproportionately deported for cannabis-related charges in San Diego County <b>and</b> who have previously been deported for a drug or cannabis related</li> </ol> </li> </ul>

<sup>159</sup>Low-income can be defined as less than 200% of the federal poverty level. See for example [https://www.sandiegocounty.gov/hhsa/programs/ssp/food\\_stamps/eligibility\\_requirements.html](https://www.sandiegocounty.gov/hhsa/programs/ssp/food_stamps/eligibility_requirements.html) (accessed 6/27/2022).

<sup>160</sup>See Figure 4 on p.31.

<sup>161</sup> See Figure 20 on p. 51 for arrest rate per 100,000 in population by age group, San Diego County.

<ul style="list-style-type: none"> <li>● <b>Tier C</b> = Related to incarcerated or deported for drug or cannabis conviction in San Diego County, member of disproportionately impacted racial or ethnic group, enrolled in federally recognized Native American tribe, low income, formerly incarcerated, housing insecure</li> </ul>	<p>charge/immigration violation in San Diego County.</p> <p>Tier B</p> <ol style="list-style-type: none"> <li>4. Those who are or have been incarcerated for a drug or cannabis related conviction in San Diego county.</li> <li>5. Those who have previously been deported for a drug or cannabis related charge/immigration violation in San Diego County.</li> <li>6. Those assaulted or trafficked while involved in the illegal cannabis market and those who suffered asset forfeiture or homelessness due to cannabis enforcement.</li> </ol> <p>Tier C</p> <ol style="list-style-type: none"> <li>8. Those with a tertiary familial relation to someone who has been deported for a drug or cannabis related charge/immigration violation in San Diego County.</li> <li>9. Those with a tertiary familial relation to those who are or have been incarcerated for a drug or cannabis related charge in San Diego county.</li> <li>10. Those who are part of a racial group that has disproportionately incarcerated/arrested for cannabis-related charges in San Diego County (i.e., Black , Latiné , Indigenous/Native American/American Indian and Pacific Islanders)<sup>162</sup></li> <li>11. Membership in federally recognized Native American tribes whose land falls within the borders in San Diego county</li> <li>12. Low-income<sup>163</sup></li> <li>13. Former/currently incarcerated</li> <li>14. Unhoused/housing insecure<sup>164</sup></li> </ol>
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<sup>162</sup>See Figures 5a & 5b on p.33.

<sup>163</sup>Low-income can be defined as less than 200% of the federal poverty level. See for example [https://www.sandiegocounty.gov/hhsa/programs/ssp/food\\_stamps/eligibility\\_requirements.html](https://www.sandiegocounty.gov/hhsa/programs/ssp/food_stamps/eligibility_requirements.html) (accessed 6/27/2022).

<sup>164</sup>See Figure 4 on p.31.



	<p>Priority Considerations (<i>Not criteria in themselves, but increase priority within any Tier</i>)</p> <ul style="list-style-type: none"> <li>● Long-term resident (at least 5 years) in an area of disparate impact between the years of 1971 and 2016</li> <li>● Transition Age Youth (21-25)</li> </ul>
<p>Prioritize local residents and local impact</p>	<ul style="list-style-type: none"> <li>● In addition to the aforementioned criteria, to be SEE eligible residency in the county and/or on one of the local federally recognized tribes currently or from 1971 to 2016 is required.</li> <li>● Prioritize local impact for: <ul style="list-style-type: none"> <li>○ those who are/were incarcerated due to cannabis</li> <li>○ those assaulted or trafficked while involved in the illegal cannabis market</li> <li>○ those who suffered asset forfeiture or homelessness due to cannabis enforcement</li> </ul> </li> <li>● If an individual was a resident in the County and/or on one of the local federally recognized tribes from 1971 to 2016, their relative priority in any given eligibility tier increases.</li> </ul>
<p>Prioritize Transition Age Youth (TAY)</p>	<ul style="list-style-type: none"> <li>● Disproportionate policing of youth remains a problem</li> <li>● Transition Age Youth (TAY) (21-25) should be centered in youth empowerment for cannabis equity</li> <li>● Emphasize priority for TAY within each eligibility tier</li> </ul>
<p>Phase in eligible groups every 6 months</p>	<ul style="list-style-type: none"> <li>● Use the following order: <ol style="list-style-type: none"> <li>1. Black</li> <li>2. Latine</li> <li>3. Low-income</li> <li>4. Former/currently incarcerated</li> <li>5. Ages 21-25</li> <li>6. Unhoused/housing insecure</li> <li>7. Immigrants</li> <li>8. Indigenous</li> <li>9. Long-term residence (at least 5 years) in areas of disparate impact (1971-2016 )</li> <li>10. Other priority groups (i.e., those assaulted or trafficked while involved in the illegal cannabis market and those who suffered asset forfeiture or</li> </ol> </li> </ul>

	<p>homelessness due to cannabis enforcement)</p> <ul style="list-style-type: none"> <li>• If phasing is not implemented, we recommend weight the tiers A, B and C in order.</li> <li>• Facilitate constant learning &amp; evaluation led by community collaboratives with participation from relevant County staff</li> <li>• Prioritization of applications should happen every three months</li> </ul>
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### *Permit Cannabis Businesses with Transparent and Equity-Focused Process*

#### Prioritizing Most Impacted

Social Equity Entrepreneurs (SEE) eligible applicants, permittees, and program participants are not merely passive recipients of services and resources, but are key stakeholders who should be involved at every phase of the permitting process. While the defining of eligibility criteria importantly acknowledges specific harms of cannabis criminalization and the War on Drugs, it can be too easy to unintentionally disempower the most impacted members of our communities by not prioritizing them in the permitting process itself.

Social equity permittees will, through the permitting process, ostensibly go from being disadvantaged targets of state criminalization to being the hopeful owners of a demanding enterprise. Individual business ownership will present unique contextual challenges. SEE will have to navigate an inordinate amount of regulation that stacks federal, state, county, and widely varying nearby municipal jurisdictional contexts. Unless the regulatory barriers are addressed, illicit cannabis business may continue to attract both customers and entrepreneurs, and hostility may still come from law enforcement and community members. Public knowledge will still be underdeveloped due to a century of distortion and racializing of cannabis and failing to approach cannabis with scientific curiosity and cultural respect. The individual owner will likely have a learning, healing, and growing curve that is very personal and is a habit of thinking and operating that possibly has received little validation and nurturing up to that point. The system of criminalization has caused harm, possibly a great deal of harm directly to the SEE, and has impacted their family and community life and continuity in likely unacknowledged ways. The business owner's social equity employees will bring their own personal experiences and impacts from this same system with them daily to the job place, as well. The permitting process must acknowledge the gravity and depth of this intended transformation and ensure that step-by-step support is lined up and at the ready. Not only will this have to be cost-free to the permittee, but it will require the consolidation of resources, programs, support, and grants



helping to meet daily life needs as they go through the steps. This is the minimum design for a permitting process that prioritizes the most impacted.

When discussing the licensing and permitting process for social equity applicants within the cannabis industry, participants honed in on thematic elements of entrepreneurial opportunity for members of impacted communities, uplifting small businesses, and limiting the power of major corporations within the cannabis space. Participants asserted the need for the permitting process to be inclusive on economic grounds, in order to ensure that individuals without substantial startup capital have a pathway to enter the cannabis industry, so that permitting is not only accessible to major corporations. An interviewee stated that “[the County] needs to be very careful when they start giving up these permits, that they don't allow multi billion-dollar multi conglomerates to come into San Diego, and just screw up all the permits. Instead, they really need to focus on the small partners that are going to employ a lot of these Hispanic workers...and African Americans...we really want to keep it where it's the small entrepreneurs, a small farmer that's doing this helping the craft industry.” The speaker continued by analyzing the cannabis industry in relation to the craft beer and wine industry in order to highlight the importance of permitting and ownership for small businesses and entrepreneurs rather than multi-million dollar conglomerates and corporations. In similar spirits, another participant emphasized the fear of big business within the cannabis industry, as they stated that “we do want to limit the big corporate companies and corporations and multi state operators. Because what they do is they undercut the market.” This notion was further corroborated by a participant who shared the following: “I know a man who owns a cannabis farm in Oklahoma, and I talked to him regularly. And the whole industry.. independent and small business farms are being hurt. They're not able to keep up with the corporation's undercutting the market.” Through this portion of dialogue, community listeners emphasized the need to prioritize independent small businesses and entrepreneurs, while limiting access to permitting for large corporations and multi state operators.

Moreover, a participant with extensive knowledge of the permitting process elaborated on the notion of examining ministerial permits versus conditional use permits, with the intention to remove financial obstacles associated with the licensing process that may exclude social equity applicants. They said, “requiring a ministerial permitting process over the conditional use process specifically for that purpose, to then offer sequential licensing where there is non-equity business, whether it be from out of state or from in state that is able to start their business and have their business running before an individual from the disproportionately impacted area does.” This participant continued by offering a recommendation to place “a capital limit not on licenses altogether to remove all caps, but to actually put a limit on how many licenses any one entity or its subsidiaries or subsidiaries can own,” therefore placing a legitimate restriction on the number of licenses that any conglomerate or multi state operator can acquire.

Community stakeholders offered perspectives on how to use the permitting process as a way to promote equity and to prioritize permitting and licensing for individuals who have been most impacted by the War on Drugs, while maintaining an emphasis on licensing for small



businesses and entrepreneurs, rather than corporations. Additionally, a community listening participant framed the conversation around access to capital throughout the permitting process, and recommended the following as a means to promote community reinvestment through financial support: “I think that the form of reparations can be the County of San Diego possibly paying for all of those permits... what can the County do to alleviate some of that financial burden from Black, brown, indigenous social equity applicants who are looking to learn everything that they can learning, to put in the work that they need to to be successful in this cannabis space, but need that financial help that we know can cost anywhere from \$2,500 per individual application fee to \$150,000 for the actual license, depending on what type of operation you have in California. So I would definitely like to see a lot of financial health being given to all equity applicants.”

### Community Ownership

The County of San Diego should engage the most impacted communities directly in the eligibility evaluation, selection, and permitting processes, rather than keeping these processes hidden. A community collaborative representative of disproportionately impacted communities should be convened to work with County program administrators so that the evaluating, selecting, and assessing work centers similar communities as people that are eligible for social equity licensees.

The permitting process includes design and circulation of a call for applications, review of applications and selection for awards, and the establishment of a plan, perhaps a memorandum of understanding, that includes program components offered by the County and efforts agreed to by the permittee. The permitting community collaborative plays an important guidance and accountability role in this, and thus the collaborative should be representative of social equity eligible participants. This supports community ownership. The permitting process should be studied and evaluated carefully by another representative community collaborative (see “Data Collection” section of this report), and there should be ample opportunity for course correction each permit cycle for the first years of the program.

### Phasing, Continuous Learning and Course Correction

Eligibility criteria should be tiered or prioritized to facilitate clarity around intended depth of repair to the impacts of cannabis criminalization and the War on Drugs. Tiered or prioritized criteria can also more easily be deployed in a phased manner so that program stakeholders can use data to drive decisions about the appropriateness and effectiveness of eligibility criteria and processes that have been set up to turn those criteria into successful cannabis businesses and community benefits. The application and permitting processes should be transparent, relationship-building at the core as the program represents a potentially wide range of investments in the betterment of a cohort of permittees and the active involvement of their broader communities. A first application step that has a low threshold and simply confirms eligibility, of key importance if a tiered or phased approach is being used, should precede a complete application. This can save many applicants time and energy in the event that they

would not be considered. The process could involve getting to know more about the applicants, including narrative submissions (including video and audio for accessibility) that tell the story of how cannabis criminalization and the War on Drugs has impacted the applicant, and in what ways they are motivated to take on a cannabis business in order to repair such impacts to self, family, and community.

**Table 13. Summary Table: Permit Cannabis Businesses with Transparent and Equity-Focused Process Recommendations**

Recommendation	Description
<p>Convene a permits and program benefits community collaborative representative of the most impacted communities</p>	<ul style="list-style-type: none"> <li>● Ensure at least 50% participation by social equity eligible participants</li> <li>● This collaborative is responsible for selecting permit awards and program benefits awards</li> </ul>
<p>Organize participation in permit and program benefits selection from <i>industry</i> stakeholders</p>	<ul style="list-style-type: none"> <li>● Existing legal cannabis businesses provide crucial knowledge and perspective on what business success can look like in the context of social equity</li> <li>● Industry participation increases the relevance of technical assistance programmatic aspects of the social equity program</li> <li>● Industry offers potential direct opportunities for social equity permittees to learn the industry on their pathway to ownership</li> </ul>
<p>Organize participation in permit and program benefits selection from <i>investor</i> stakeholders</p>	<ul style="list-style-type: none"> <li>● Social equity outcomes require investors who embrace more than the “rational” bottom line of returns and risk. <ul style="list-style-type: none"> <li>○ Direct involvement by investors will help identify those who support the broader aims of the social equity program</li> </ul> </li> <li>● Direct involvement supports the access to capital aspects of the social equity program through networks and direct investments</li> </ul>
<p>Implement a multi-step application process with a low eligibility-check starting point</p>	<ul style="list-style-type: none"> <li>● Phasing in eligibility criteria may not be intuitive for prospective applicants</li> <li>● Lowering the initial eligibility screen saves prospective applicants time and energy in the event that they are not under consideration</li> <li>● The more elaborate and comprehensive phase of the application can include a variety of ways applicants can tell their story and their aims</li> </ul>

<p>Provide for course correction</p>	<ul style="list-style-type: none"> <li>• Phasing in eligibility criteria, possibly in tiers or other prioritization, allows for clearer observation and evaluation as to what is and is not optimal about SEE program features             <ul style="list-style-type: none"> <li>○ If a full, broad-spectrum program is initiated and does not “succeed” it may be difficult to identify what went wrong and what needs to be changed</li> </ul> </li> </ul>
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## Financially Support Social Equity Entrepreneurs

### *Increase Access to Capital*

#### Prioritizing Most Impacted

By design, those who are most impacted by cannabis criminalization do not have equitable access to capital. Decades of targeting indigenous, Black, and brown communities with racial profiling, conviction, incarceration, and more racial profiling, have intentionally disrupted continuity of family, relationships, education, work, wealth, homeownership, business ownership, and more. Convicted felons may experience structural discrimination preventing everything from voting to rights protections across a wide range of vital sectors. Those who are most impacted may need support in order to access capital in ways that are reconstructive, restorative, healing, and protective. Further, formal structures of capital accumulation have been steeped in harm, exploitation, segregation, denigration, and the like, that many would hesitate to trust even the sincerest partial efforts to increase access. Social equity efforts to increase access to capital must first acknowledge that partial efforts, which is what is currently on the table, would at best salve parts of wounds that have multiple layers for the individual, their relations, and communities more broadly. Recent scholarship highlights housing discrimination and a legacy of redlining emphasize the depths of this reality, and the shocking ease with which the fluidity of capital reinvents and re-entrenches race-class hierarchies.<sup>165</sup>

The vision of socially equitable access to capital is a more robust locally owned cannabis industry. To prioritize the most impacted, including formerly incarcerated Black and brown, indigenous community members, the Social Equity Entrepreneurs (SEE) program should be prepared to provide a wide range of support tailored to the needs of individual permittees. Individual and systemic factors impact access to capital, and the present impacts of past discrimination cost communities of color dearly as well as the broader economy.<sup>166</sup>

<sup>165</sup>Rothstein 2017; Taylor 2019.

<sup>166</sup>A 2020 estimate by Citigroup puts the economic cost of racism to the US since the year 2000 at \$16 trillion lost (Akala 2020).

Although many general patterns of injury relative to impediments to accessing capital should be anticipated for social equity permittees, the specific needs must be identified and tracked as they evolve over time. There may be rehabilitative supports that begin with job readiness, for instance, before advancing into management training and eventual guidance on functioning as an owner/investor. Community listening sessions and interviews for this Social Equity Assessment (SEA) emphasized that racial bias, implicit and explicit, is a reality that should not be brushed away through “personal responsibility” gaslighting. Several well-meaning community members who claimed to support social equity advocated for equal access to opportunities and resources available to all, but SEE permittees and participants who experience racial bias should be supported and validated and have a right to not have their direct experiences be overlooked, closed out, denied, brushed off. Racial and criminalizing stigmas impact access to capital in many ways, including potentially subjecting SEE-eligible permittees to predatory “investors”, and this should be observed, documented, and addressed in ways that consistently re-center social equity eligible permittees in their own stories and in the story of the County’s SEE program.

### Community Ownership

More than other areas of this social equity assessment and recommendation set for the entrepreneur’s program, access to capital taps most deeply into the roots of inequality, oppression, and ongoing social division. Achieving community ownership of sustained opportunities to access capital and improve life outcomes will likely take much time and effort. In the short term, a community collaborative convened to administer program resources and support to entrepreneurs consisting of at least 50% social equity eligible participants would go a long way to starting such efforts out on a genuine footing.

### Phasing, Continuous Learning and Course Correction

Data collection is critical to identify proper support for individual social equity permittees, to track and evaluate the effectiveness of such investments, and to course correct over the life of individual businesses and the program as a whole. The data collection (link or footnote to the data collection section of this report) aspects of the social equity entrepreneurs’ program must be strongly tied in here in an ongoing way.

**Table 14. Summary Table: Increase Access to Capital Recommendations**

Recommendation	Description
Convene a social equity community collaborative, representative of the most impacted communities, to administer program funds (grants and loans) and resources	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible</li> <li>• Invite participation from industry, investors, government, and other relevant sectors</li> <li>• Ensure social equity aims and framework are centered in all aspects</li> </ul>

	of funding
Establish a social equity fund that can provide micro-grants and loans	<ul style="list-style-type: none"> <li>● Provide small business loans and/or grants</li> <li>● Housing subsidies</li> <li>● Childcare subsidies</li> <li>● Transportation subsidies</li> </ul>
Organize potential investors	<ul style="list-style-type: none"> <li>● The active involvement of social equity aligned investors develops the capacity of funders to achieve social equity outcomes, and provides more direct funding               <ul style="list-style-type: none"> <li>○ Investors can help assist the development of social equity entrepreneurs to work effectively with funders, and perhaps to become investors themselves</li> <li>○ The County could complete this task or CBOs with experience in this work could be contracted to do this work</li> </ul> </li> </ul>
Provide County owned land and/or buildings for low to no cost for social equity cannabis businesses	<ul style="list-style-type: none"> <li>● With land and facilities being significant cost barriers to new social equity businesses, the County of San Diego should work in collaboration with social equity permittees and other social equity program bodies (like the funding group recommended above) to identify available lands, buildings, and facilities to lower capital barriers               <ul style="list-style-type: none"> <li>○ Well situated and more utilized County facilities should be considered as well</li> </ul> </li> <li>● Land used for cannabis activities may be subject to federal seizure<sup>167</sup></li> </ul>
Invest in professional development	<ul style="list-style-type: none"> <li>● Increasing the capacities and effectiveness of social equity entrepreneurs and their teams can help reduce the need for assistance with capital</li> <li>● Greater ability to lead more aspects of a complex cannabis business leads to greater savings and more efficient spending on assistance.</li> </ul>

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<sup>167</sup>See Appendix C for discussion of federal seizure of cannabis-use land, including that of municipalities.





## *Provide Technical Assistance*

### Prioritizing Most Impacted

Provide technical assistance that prioritizes and lowers barriers of entry for the most disproportionately impacted communities. Technical assistance training, consultation and outreach should be culturally humble, culturally sensitive and accessible to the most disproportionately impacted communities in the languages they speak. Community-based organizations, local cannabis industry stakeholders, union representatives, educators and academic institutions that are trusted by disproportionately impacted communities and that have experience providing technical assistance to businesses run by members of disproportionately impacted communities and/or cannabis businesses should be proactively recruited and financially compensated to guide the design, implementation of technical assistance. Additionally, to promote accessibility, SEE program participants should be compensated for completing training at a rate of at least \$30 per hour.

To lower barriers for SE-licensees the County should use education and relationship building to improve the regulatory environment for SE-licensees throughout the county. The County should educate local incorporated and unincorporated governments on the benefits of equitable and viable zoning regulations. The County should build relationships between SE licensees and relevant regulatory bodies through hosting convening and educational workshops.

Technical assistance should educate SE-licensees and SEE program participants on how to protect the rights of themselves and their employees through identifying injustices, joining or communicating with local unions and working with other worker protection organizations. Technical assistance training should include education on SE licensee's rights as employers and employees in relation to working with potential employers, potential employees, government representatives, financial institutions, law enforcement, and the public. This will help them identify and address discrimination.

The County should leverage existing relationships and build new relationships with local landlords to educate them on the regulatory structure and opportunities to lease space to SE-licensee cannabis businesses, creating more real estate opportunities for SE-licensees. Additionally, the County can increase real estate opportunities by matching SE-licensees and landlords. Similarly, the County could match SE applicants with investors and other businesses, creating potential incubator partnership opportunities, and where/when allowed, co-op partnership opportunities.

### Community Ownership

SE applicants should receive the information and resources to independently thrive in businesses through SEE training. Fifty-seven percent of community survey respondents rated supporting new local cannabis business owners and operators as a high priority SEE program



component. Technical assistance should include training and support in SE application, licensing, and permitting processes, especially communicating entrepreneur story, niche, and skills. Technical assistance should include education on financial investment and working with investors to prevent permit holders and owners from being exploited by predatory investors. Technical assistance should also include training or connection with expert consultants in the areas of real estate, applying for loans and grants, business management (including HR, employee management and supply chain management), tax considerations, accounting & financial management, legal considerations (e.g., contracts, employment law, real estate law, liability, incorporation, etc.) and regulatory considerations. Technical assistance should also include social responsibility training for SE applicants and non-SE applicants. For example, cannabis businesses should receive training and support on running mentorship, paid internships, and inclusive employment programs.

As previously mentioned, community-based organizations, educators, and academic institutions—that are trusted by disproportionately impacted communities and have experience providing technical assistance to cannabis businesses should be proactively recruited and financially compensated to support the training and education portion of this work. The County should provide a combination of grants to SEE participants and contracts to service providers—that are trusted by disproportionately impacted communities and have experience providing technical assistance to cannabis businesses—to ensure SEE applicants have access to consulting services in the aforementioned areas. Additionally, County employees with relevant experience—especially regulatory—should be made available for consultations with SE-applicants. Additionally, the County should provide scholarships and training to community members from disproportionately impacted communities to gain the skills necessary to fulfill these supportive consulting roles (e.g., lawyer, lobbyist, real estate agent, regulatory expert).

A technical assistance community collaborative that is representative of those disproportionately impacted by cannabis criminalization working with local cannabis business and tax experts should guide the design, implementation, and evaluation of technical assistance. They should meet quarterly, present to the BoS annually, and host community listening sessions every two months for the first year and bi-annually onwards. Meetings should be open to the public, accessible virtually, held at times, in locations, in formats and in languages that are accessible to the most disproportionately impacted communities.

#### Phasing, Continuous Learning and Course Correction

SEE program metrics should be developed to ensure that SEE technical assistance is moving SE applicants towards success. This set of metrics should be measurable and precise, but comprehensive enough to reflect the many paths that SE applicants may take towards financial success (e.g., owning and operating a business long-term; owning, building and quickly selling a business; working in an existing cannabis business and moving into management). As previously mentioned, community-collaborative evaluation should inform the adjustment of technical assistance activities as SEE program eligibility expands.

**Table 15. Summary Table: Technical Assistance Recommendations**

Recommendation	Description
<p>Provide technical assistance that prioritizes and lowers barriers of entry for the most disproportionately impacted communities</p>	<ul style="list-style-type: none"> <li>● Culturally humble, culturally sensitive and accessible training to the most disproportionately impacted communities in the languages they speak</li> <li>● Community-based organizations, educators and academic institutions with community trust and relevant experience in disproportionately impacted communities and/or cannabis businesses- should be proactively recruited and compensated to design, implement and evaluate technical assistance related activities</li> </ul>
<p>Lower barriers for SE-licensees through education and relationship building with local regulatory bodies</p>	<ul style="list-style-type: none"> <li>● To improve the regulatory environment for SE-licensees throughout the county: <ul style="list-style-type: none"> <li>○ Educate local incorporated and unincorporated governments on the benefits of equitable and viable zoning regulations</li> <li>○ Build relationships between SE licensees and relevant bodies through hosting convening and educational workshops</li> </ul> </li> </ul>
<p>Build relationships between SE-licensees and landlords</p>	<ul style="list-style-type: none"> <li>● Educate landlords on the regulatory structure and opportunities to lease space to SE-licensee cannabis businesses</li> <li>● Match SE-licensees and interested landlords</li> </ul>
<p>Provide training to SEE applicants and program participants and ensure SEE applicants have consultants for services in the following technical assistance areas:</p>	<ul style="list-style-type: none"> <li>● Train SE-applicants and SEE program participants in the following areas: <ul style="list-style-type: none"> <li>○ SE application, licensing and permitting process</li> <li>○ Financial investment and investors, including avoiding predatory investors</li> <li>○ Real estate</li> <li>○ Loans and grant applications</li> <li>○ Business management</li> <li>○ Taxes</li> <li>○ Accounting &amp; financial management</li> <li>○ Law (e.g., contracts, employment law, real estate law, liability, incorporation, etc.)</li> <li>○ Regulations</li> <li>○ Identifying and addressing discrimination or injustices SE applicants or their employees may face in interactions with regulatory bodies, law enforcement and financial institutions</li> </ul> </li> <li>● Technical assistance should also include social responsibility training for SE applicants and non-SE applicants</li> <li>● Provide funding and networks so SEE applicants have consultants for services in the following technical</li> </ul>

	<p>assistance areas:</p> <ul style="list-style-type: none"> <li>○ Provide grants to SEE participants</li> <li>○ Provide contracts to service providers--that are trusted by disproportionately impacted communities and have experience providing technical assistance to cannabis businesses</li> <li>○ Provide scholarships and training to community members from disproportionately impacted communities to gain the skills necessary to fulfill these supportive consulting roles (e.g., lawyer, lobbyist, real estate agent, regulatory expert).</li> </ul>
<p>Establish technical assistance community collaborative</p>	<ul style="list-style-type: none"> <li>● Ensure at least 50% of participants are social equity eligible, and representative of those disproportionately impacted by cannabis criminalization, especially people who are or have been incarcerated</li> <li>● Guides the design, implementation and evaluation of technical assistance and related events and outreach</li> <li>● Compensate social equity eligible participants</li> </ul>

## *Tax Cannabis Industry Equitably*

### Prioritizing Most Impacted

The County should set a lower tax rate for SE licensee owned businesses. Fifty-nine percent of community survey respondents rated lowering taxes for social equity applicants as a high priority program component. High taxes hurt SE-licensee owned businesses. SE-licensee owned businesses will be smaller and competing with larger more established businesses that have been grandfathered in from medical cannabis licenses. Taxing SE-licensee owned businesses at the same rate is inequitable, since as discussed previously in the “Barriers to Entry” section, communities disproportionately impacted by cannabis criminalization tend to have lower access to financial capital, but face the same extremely high cannabis business start-up costs. Additionally, as pointed out by an industry stakeholder, a higher tax rate encourages participation in the illicit market and makes the regulated market less economically viable for all cannabis operators and reducing the overall potential tax revenue for the County.

### Community Ownership

To fund community reinvestment and SEE programming, the County should primarily tax the value added parts of the supply chain, e.g. retail. The one exception to this would be delivery retail and vertically integrated microbusiness license holders as these will be a great opportunity for SE-eligible applicants. There should be no or low taxes on cultivation, nurseries, manufacturing, distribution.



Additionally, to promote a diverse and locally owned adult recreational-use industry, the County should tax the sale of the business at 5%. This concept was posited by local cannabis business owners we interviewed. This tax rate would be lower for SE applicants at 2.5%. This tax rate should be higher when selling the business to an MSO (definition), 7% and 10% for SE-licensee owned businesses and non-SE licensee owned businesses respectively.

A taxation community collaborative that is representative of those disproportionately impacted by cannabis criminalization and includes local cannabis business and tax experts should guide the design, implementation, and evaluation of taxation. They should meet quarterly, present to the BoS annually and host community listening sessions every two months. Meetings should be open to the public, accessible virtually, held at times, in locations, in formats and in languages that are accessible to the most disproportionately impacted communities.

#### Phasing, Continuous Learning and Course Correction

As previously mentioned, community-collaborative evaluation should inform the adjustment of expungement activities and outreach as SEE program eligibility, and consequently expungement eligibility, expands.

**Table 16. Summary Table: Tax Cannabis Industry Equitably Recommendations**

Recommendation	Description
Lower taxes for SEE owned business compared to non-social equity businesses	
Tax sale of businesses	SE Tax Rate: 2.5% Non-SE Tax Rate: 5%  Higher tax rate when selling to MSOs SE Tax Rate: 7% Non-SE Tax Rate: 10%
Tax value-added businesses, e.g. retail sales tax	<ul style="list-style-type: none"> <li>• Lower tax rates for SE value added businesses compared to Non-SE value added businesses.</li> <li>• Lower tax rates for delivery retail overall with SE delivery retail businesses having a lower tax rated compared to Non-SE delivery retail businesses.</li> </ul>
Establish taxation community collaborative	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible, and is representative of those disproportionately impacted by cannabis criminalization, especially people who are or have been incarcerated</li> </ul>

	<ul style="list-style-type: none"> <li>• Guides the design, implementation and evaluation of taxation and related events and outreach</li> </ul>
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## *Zone Land to Facilitate Opportunity for Social Equity Entrepreneurs*

### Prioritizing Most Impacted

Considering the relationships to the land that those most impacted by cannabis criminalization have, prioritizing them is a high priority. These are communities impacted by broader processes of removal, including stymied homeownership, Indigenous removal, land annexation, ghettoization, gentrification, and many more. Weakening the relationships between these communities and the land has been a foundational aspect of US real estate from the times of colonial expansion to today.<sup>168</sup> A County of San Diego social equity program must acknowledge this legacy, and explicitly center those most impacted by cannabis criminalization. In particular, federally recognized Native American nations within San Diego County should be centered in any and all deliberations about use of land.

Decisions about land use and zoning heavily impact the landscape of social equity entrepreneurs as well. While this study did not find evidence encouraging the expansion of California state-level distance restrictions of 600 feet from youth and faith institutions, it was clear that locating cannabis retail stores has a widely varying range of levels of support. The history of aggressive policing in storefront and street-level busts has linked trauma to the public presence of cannabis sales. Some community members struggle with substance abuse and addiction, and link cannabis to their unwellness and recovery. Many people from different backgrounds embrace the stigma that preceded the War on Drugs, and has since been amplified. Others, however, tap into the deeper traditions of cannabis' therapeutic, healing, and productive uses that long precede European settlement. In this deeply significant, often very personal, and charged environment, it is important for the Social Equity Entrepreneurs program to facilitate community learning, sharing, and healing, centering those who have been most impacted, in the process of developing policy around the location of various legal cannabis industry activities.

### Community Ownership

Homeownership generated generational wealth for many US citizens in the past century and business ownership helps stabilize overhead when ownership is affordable and makes sense, but property ownership has been heavily racialized over time, and this impacts what we mean by "community" in working through a social equity lens on community ownership.<sup>169</sup>

<sup>168</sup>See Tuck and Yang 2012; Hämäläinen and Johnson 2012; and Rothstein 2017.

<sup>169</sup>Lipsitz 2018.



Prioritizing those most impacted by cannabis criminalization remains at the heart of such collective deliberations. The County of San Diego must work actively with communities to address specific concerns around the cannabis industry. While this relates strongly to the “Public Awareness and Education” section of this report, transparent and thorough community-wide processing on the cannabis industry should both precede and accompany the siting of cannabis retail storefronts and fostering of cannabis business.

Community ownership does refer to the actual ownership of land, but also refers to having a meaningful stake in decision-making about use and access. A community collaborative comprised of at least 50% social equity eligible participants that works with the County of San Diego Land Use and Environmental Group to open up site eligibility would be an important support for the longer-term community ownership socially equitable aims, including providing better on-the-ground perspective on the specific locations, concentration, and community impacts of legal cannabis businesses. Working directly with the tribes to give land back would support indigenous sovereignty (see “Supporting Indigenous Sovereignty” section of this report) and would help mitigate negative impacts of cannabis criminalization, while potentially opening pathways for the tribes to more actively participate in the legal cannabis industry without compromising their sovereignty.

Zoning is a multifaceted aspect of cannabis social equity, as it represents one of the few controls that intersects general public, industry, and other stakeholders. One insightful interviewee pointed out that anti-cannabis groups fight to expand spatial restrictions because they have little access to other means to counter the proliferation of retail storefronts or to counter negative impacts of cannabis-use on youth. Another anecdote entailed a business competitor fraudulently setting up a “church” nearby to block a location designated in a permit application, an effort which ultimately failed but did not result in any legal consequences for manipulating the spatial restrictions in such a way. Yet another angle on zoning is that mixed-use designation may be required for more vertically integrated operations, which received significant commentary and support during the research process. According to one empathetic industry stakeholder, some youth advocates try to protect youth from exposure to cannabis by fighting for expanded restrictions in zoning. Data does not support this approach to zoning, though. NIDA director Dr. Nora Volkow clarified to prohibitionists earlier this year that legalization has not increased youth cannabis use.<sup>170</sup> In general terms, zoning decisions for legal cannabis should benefit Social Equity Entrepreneurs, perhaps refusing to allow the largest operations that invite MSOs, delocalization, and preclude competitive social equity business.

County land is a tremendous resource for the Social Equity Entrepreneurs program. The County of San Diego should identify land to make available to social equity entrepreneurs at low-to-no cost for permitted businesses. In addition, zoning should be lined up to facilitate the vertical integration of social equity permitted businesses, both with different businesses

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<sup>170</sup>See

<https://www.marijuanamoment.net/top-federal-drug-official-pressed-on-marijuana-kratom-and-drug-decriminalization-at-congressional-hearing/> (accessed 6/24/2022).



across license types and with multiple license types in house for a single social equity business. One suggestion that emerged from the research was a vertically integrated “campus” of sorts, using County land and buildings/facilities for a seed to sale operation that supports workforce development, technical assistance, and pathways to ownership simultaneously.

### Phasing, Continuous Learning and Course Correction

Making land use and zoning decisions with a community collaborative should be an immediate and sustained step. At least 50 percent of the community collaborative participants should be social equity-eligible. The identification of land for locating social equity cannabis businesses and for rematriation to federally recognized tribes could begin at whatever scale allows for strong stakeholder engagement, thorough community-owned deliberation, data collection, and evaluation. It is anticipated that the scale would increase over time as capacities for these social equity program functions grow.

**Table 17. Summary Table: Zone Land and Facilitate Opportunity for Social Equity Entrepreneurs Recommendations**

Recommendation	Description
Give land back <sup>171</sup>	<ul style="list-style-type: none"> <li>● Partnering with tribal leadership, explore existing and previous land return efforts and learn from best practices</li> <li>● Access to land may, at their discretion, increase opportunities for tribes to participate in the legal adult-use recreational cannabis industry</li> </ul>
Set up a fund or land trust that supports paths to ownership for social equity entrepreneurs	<ul style="list-style-type: none"> <li>● Support home ownership</li> <li>● Support land ownership for business where appropriate</li> </ul>
Zone to support Social Equity Entrepreneur program	<ul style="list-style-type: none"> <li>● Zoning to support delivery</li> <li>● Zoning to support microbusiness</li> <li>● Zone to exclude large indoor-grow operations that are attractive to MSOs</li> </ul>
Allow for multi-use zoning	<ul style="list-style-type: none"> <li>● Vertically integrated businesses are more possible.               <ul style="list-style-type: none"> <li>○ Industrial-only zoning for retail has limited the good options for locating storefronts</li> <li>○ Agricultural, commercial, industrial (materials required for</li> </ul> </li> </ul>

<sup>171</sup>For a fuller discussion of giving land back to Native American tribes, see “Supporting Indigenous Sovereignty” section of this report.



	distillation, manufacturing, and testing), and retail
Make County land available to social equity entrepreneurs	<ul style="list-style-type: none"> <li>• Provision of sites for social equity cannabis business significantly reduces capital barriers to entry (including real estate costs, researching and clearing zoning restrictions and requirements, and more)</li> <li>• Low-to-no cost for SEE startup, or at least for market price, rather than the typical private-sector industry markups</li> <li>• Cannabis-use land may be subject to federal seizure</li> </ul>
County considers creating a cannabis campus that is completely vertically integrated and is run of, by, and for the Social Equity Entrepreneurs Program	<ul style="list-style-type: none"> <li>• An in-house program supports many aspects of a social equity program. See the following sections of this report: <ul style="list-style-type: none"> <li>○ Workforce Development</li> <li>○ Technical Assistance</li> <li>○ Access to Capital</li> </ul> </li> <li>• In the event that suitable facilities cannot be readily identified and/or developed, aspiring social equity permittees suggested using large storage containers to set up the seed to sale learning facility</li> <li>• Land used for cannabis activities may be subject to federal seizure</li> </ul>

## Reinvest in Community Development, Economic Justice and Health

### *Reinvest in Disproportionately Impacted Communities*

#### Prioritizing Most Impacted

The County should address community-level harms caused by the War on Drugs through community reinvestment starting with initiatives that promote access to housing, restorative justice, mental and maternal health, and direct reparations. In developing a robust SEE represents an investment in disproportionately impacted communities. The County's RFP for a Socially Equitable Cannabis Program provided the mandate to "address and repair the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and its impacts at the individual, familial/generational, and community level, over time." Our SEA revealed a plethora of deep harms in San Diego caused by the War on Drugs, especially the criminalization of cannabis, and many community-supported initiatives to address them. However, community initiatives to improve



housing access, restorative justice, mental and maternal health, and to investigate direct reparations for disproportionately impacted communities rose to the top.

The County should provide housing vouchers and down payment assistance for disproportionately impacted communities. SE-eligible individuals should be eligible for housing vouchers of at least \$2,800 per month.<sup>172</sup> Additionally, SE-eligible individuals should be eligible for down payment assistance and credit repair programming to promote home ownership. Improving access to affordable housing could improve economic and health outcomes for disproportionately impacted communities and address the harms the War on Drugs caused to economic wellbeing and public health.

The County should also establish a community collaborative to investigate providing direct reparations for disproportionately impacted communities. Direct reparations could include providing direct unrestricted payments to disproportionately impacted communities. The state task force on reparations established by CA AB 3121 could serve as a model for the County level task force although the jurisdiction, the systemic harm and impacted communities are different.

The County should make more investments in restorative justice, jail diversion and decarceration in disproportionately impacted communities. Restorative justice and jail diversion was a high priority community investment area according to the community survey. Investing in restorative justice will reduce future individual, familial, and community-level harms from incarceration.

The County should resource CBOs that are trusted by disproportionately impacted communities and have experience organizing with and providing support to disproportionately impacted communities to implement community reinvestment initiatives.

### Community Ownership

A community reinvestment community collaborative that is representative of those disproportionately impacted by cannabis criminalization should guide the design, implementation and evaluation of community reinvestment initiatives. The County's Office of Equity and Racial Justice should staff this body. This collaborative should report to the Board of Supervisors (BoS) on community reinvestment progress and activities six times a year for the first year and annually onwards. The reinvestment community collaborative should also meet with CBOs that are implementing reinvestments to inform and support their efforts. The community collaborative will evaluate the equity and impact of reinvestments, recommend adjustments, including changing the focus of community reinvestments over time. This community collaborative is critical as it helps members of the most impacted communities

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<sup>172</sup>Based on the fact that the 2021 median rental cost was \$2,775 and up, according to NBC San Diego. See <https://www.nbcsandiego.com/news/local/san-diegans-struggle-with-rising-rent-prices/2946865/> (accessed 6/24/2022).



establish ownership of reinvestment as the market is burgeoning. Additionally, it acknowledges disproportionately impacted community members' expertise on how revenue from the cannabis industry should be reinvested.

The County should establish a community reinvestment fund that gives mini-grants and loans to SE-eligible residents for a range of personal circumstances or projects. These needs do not have to be connected to starting a cannabis related business. This addresses the needs of residents who have been directly harmed by cannabis criminalization, but do not want to open a cannabis related business. This fund should be overseen by the community reinvestment community collaborative and a community trusted CBO that they appoint.

#### Phasing, Continuous Learning and Course Correction

Community reinvestments to address different areas of community need should be phased in over time, starting with the aforementioned areas. Since the areas of community need to be addressed are so broad and the possible cannabis tax revenue is relatively small now, efforts should be focused initially. However, as the cannabis market and tax revenue expand, new areas of community reinvestment should be added to or replace the aforementioned priority areas based on community need. These areas may include: education, youth health and wellness, and generational wealth building.

Community reinvestment eligibility should phase in over time, mirroring SEE eligibility discussed in the eligibility recommendations section.

**Table 18. Summary Table: Reinvest in Disproportionately Impacted Communities Recommendations**

Recommendation	Description
Establish community reinvestment initiatives that promote access to housing, restorative justice, mental and maternal health and direct reparations for disproportionately impacted communities.	<ul style="list-style-type: none"> <li>• Hire community-trusted CBOs with experience working in disproportionately impacted communities</li> <li>• Community reinvestments to address other areas of community need should be phased in over time, as directed by the community reinvestment collaborative</li> </ul>
Establish initiatives to improve access to housing for disproportionately impacted communities	<ul style="list-style-type: none"> <li>• Provide housing vouchers of at least \$2,800 per month.</li> <li>• Establish down payment assistance and credit repair programming to promote home ownership</li> </ul>
Establish a community collaborative to investigate providing direct reparations for disproportionately impacted communities	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible</li> </ul>

	<ul style="list-style-type: none"> <li>• Use state task force on reparations established by CA AB 3121 could serve as a model</li> <li>• Investigate and pursue additional funding opportunities</li> </ul>
Invest in restorative justice, jail diversion and decarceration in disproportionately impacted communities	
Establish community reinvestment community collaborative that is representative of those disproportionately impacted by cannabis criminalization	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible</li> <li>• To guide the design, implementation and evaluation of community reinvestment</li> <li>• The County's Office of Equity and Racial Justice should staff this body.</li> <li>• Investigate and pursue additional funding opportunities</li> </ul>
Establish a community reinvestment fund that gives mini-grants and loans to SE-eligible residents	<ul style="list-style-type: none"> <li>• Administered by community reinvestment community collaborative</li> <li>• Grants awarded for a range of personal circumstances or projects</li> <li>• Ensure 100% of participants are social equity eligible</li> </ul>

## *Develop Social Equity Cannabis Workforce*

### Prioritizing Most Impacted

Those most impacted by cannabis criminalization and the War on Drugs have had their workforce participation shaped in a number of concerning ways. Scholars trace the lines of incarceration and prison labor in the wake of the system of enslavement, of forced labor and attempted extermination of Indigenous people to their forced assimilation, and of increasing reliance on a “flexible” undocumented Central American immigrant workforce in multiple major sectors of the California and national economies.<sup>173 174</sup> Cannabis criminalization has been used for decades as a primary driver of the community to incarceration pipelines. The core tropes of meritocracy and fairness largely ring false in these most impacted communities, having been used consistently as cover to secure “consent” within the settler society while evolving harmful

<sup>173</sup>Reséndez 2016.

<sup>174</sup>Alexander 2010; Childs 2015.

caste-like variations on second-class status themes.<sup>175</sup> Without transparent and legitimate pathways to ownership, the earlier phases of rehabilitation, healing, and working one's way up from the base levels of cannabis business will be difficult to distinguish from the many examples of exploitative, dead-end "legal" paths to permanent servitude so definitive of racial capitalism.

With SE eligibility criteria of previous incarceration (of self or immediate relation), targeted racial and ethnic group membership, low-income status, those communities most impacted by cannabis criminalization can be centered in the selection process and have their needs to support workforce preparation and ascendance at the heart of the social equity program. A currently, recently, or formerly incarcerated person may need access to effective job training, with re-entry programs in general receiving heavy criticism during this research process. In one interview with a formerly incarcerated community member, however, Second Chance was lifted up as a challenging, but effective preparedness program model. While social equity eligible permittees are healing, learning, and growing through the appropriate program supports, direct subsidies should be provided, including wages (to ensure a living wage), housing vouchers, health insurance, child care, transportation, legal support (for record clearing, restorative justice, jail diversion participation), and more. Without ensuring that the personal and family life, at minimum, of a SE permittee and program participant is stable and not a detractor, it is not reasonable to expect, yet again, that such heavily impacted community members go back to the bootstraps. Hard work ethic is a given for success in cannabis business, and racialized communities have proven consistently that they embrace the value and practice of hard work, even while being lied about in the mainstream with negative stereotypes.

Workforce preparedness prioritizing the most impacted may include investment in restorative justice and jail diversion programs, personal support programs related to parenting, marriage/relationship, mental wellness, substance use and abuse, addiction, and more, as well as advocacy by community, organizational, and legal institutions to help the social equity program participant navigate the range of discrimination they will continue to experience as they proceed.

Particular to the cannabis industry, workforce effectiveness requires more knowledge than many other industries. Budtenders, for instance, should be trained to be knowledgeable not only about finer details of store products, but also need to be effective in commonplace situations where customers have arrived with interest but not necessarily clear information on treating health conditions with cannabis. Doctors may passively steer patients to cannabis, but would not prescribe because of federal illegality. Customers may not know the dosage appropriate to their body and condition, and could have difficult experiences without sound guidance. In the current market configuration, the budtender may be the only person that customer would interact with in the legal market. Also, in line with the social equity goals of the program, budtenders and other workers should go through anti-racism training, which can help with their contributions to most impacted communities.

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<sup>175</sup>Lipsitz 2018.

### Community Ownership

Accountability to the most impacted communities, including the design, implementation, evaluation, and course correction or continuity of the social equity workforce development program would most effectively place program ownership. A representative body with at least 50% social equity eligible participants, perhaps dedicated to workforce development exclusively, should be convened to lead in this aspect of the social equity program.

### Phasing, Continuous Learning and Course Correction

Existing workforce development programs are important resources for the SEE program in the cases where social equity prioritization and organization of support is established. While releasing prisoners and expunging convictions are proposed by this assessment to be components of the County of San Diego's SEE program, if these critical steps are not immediate, then removing barriers to workforce participation related to cannabis conviction should be implemented immediately. Amnesty would help preemptively facilitate transition of workers from the illicit market to legal cannabis businesses. Labor Peace Agreements should be required for all cannabis businesses, social equity or not, and good faith should be held at heart for all stakeholders as workers negotiate with unions for what their rights and protections could look like.

**Table 19. Summary Table: Develop Social Equity Cannabis Workforce Recommendations**

Recommendation	Description
Subsidized wages for social equity permittees along their pathway to successful ownership	<ul style="list-style-type: none"> <li>• Coordinate wage subsidies with additional subsidies (see "Access to Capital" recommendations in this report)</li> </ul>
Proactively establish alternatives to incarceration, channel them into social equity workforce development supports	<ul style="list-style-type: none"> <li>• Support and connect to restorative justice programs</li> <li>• Support and connect to jail diversion programs</li> <li>• Support and implement amnesty</li> <li>• Support and implement community re-entry programs</li> </ul>
Remove cannabis conviction workforce barriers	<ul style="list-style-type: none"> <li>• Include amnesty and direct eligibility to work for formerly and recently incarcerated               <ul style="list-style-type: none"> <li>○ Ensure that restorative justice, diversion, and expungement efforts are simultaneously tied to facilitated and secure pathways to employment for social equity eligible workers</li> </ul> </li> </ul>

Support union organizing	<ul style="list-style-type: none"> <li>● Include Labor Peace Agreements in all cannabis permitted businesses regardless of proximity to social equity criteria</li> <li>● Include unions as valued stakeholders in the social equity program</li> </ul>
Leverage existing programs	<ul style="list-style-type: none"> <li>● Connect social equity eligible applicants and community members to existing County job training and education programs</li> <li>● Invite and maintain relationships with job training programs throughout the county, connect social equity eligible community members to them</li> <li>● Encourage and support local community-trusted CBOs in applying for Cal-CRG funds to support this work</li> </ul>
Promote networking and employment opportunities	<ul style="list-style-type: none"> <li>● Incentivize cannabis businesses to participate in job fairs</li> <li>● Showcase social equity program framework and components</li> </ul>
Encourage and incentivize cannabis businesses to hire local, social equity eligible workers first	<ul style="list-style-type: none"> <li>● Phase in the local hire requirement, perhaps increasing priority over time while new businesses get up and running</li> <li>● Track hiring data carefully to optimize local benefits</li> </ul>
Train budtenders in anti-racism and health related areas	<ul style="list-style-type: none"> <li>● As first, and sometimes only points of contact, budtenders should be prepared to support customers in best-available knowledge about the health benefits of cannabis             <ul style="list-style-type: none"> <li>○ Knowledge on product features and dosing is important</li> </ul> </li> <li>● Implicit and explicit racism abound in the cannabis industry and knowledge about the purpose and aims of social equity to counter racism are important at the retail front</li> </ul>

## *Reinvest in Community Health and Wellness*

### Prioritizing Most Impacted

The County should offer anti-racism training to cannabis business staff to ensure equal access to the health promoting benefits of cannabis. Recreational use of cannabis impacts community members' access to health. Community members reported using recreational cannabis to address menstrual pain and social anxiety, which supports existing research



(Mischley and Sexton 2016). Knowledgeable cannabis retail operators often direct them to products to try for their conditions. Since medical literature has established that providers often underestimate Black patients' pain, anti-racist training for cannabis business owners and staff could help ensure equal access for all cannabis consumers (Hoffman et al 2016).

Anti-racist training specific to prescribing medical cannabis should be offered to healthcare practitioners to expand equitable access to medical marijuana. If community members feel their healthcare providers are less discriminatory, they will be more likely to use medical use cannabis to treat their ailments. This lowers risk of consuming unsafe products from the unregulated market.

Anti-racist trainings would benefit communities beyond cannabis, as well. One community leader who works in prenatal healthcare explained, "I want grant funding to be able to educate and do anti racism training to medical professionals, because there's a lot of harm happening in our hospitals in San Diego County and no one wants to listen. I want grant funding to be able or funding to be able to also educate outside of hospital births, because most of the midwifery care in San Diego is white, and they're still harming my clients. So where do my clients go to have birth? Like, what do we do?"

The County should invest in health and wellness, specifically mental health and maternal health to address the harms of cannabis criminalization on health and wellness in disproportionately impacted communities. Cannabis criminalization has had negative impacts on the health and wellbeing of community members. According to community members, medical practitioners over-police Black and brown birthing people for suspected cannabis use. This can increase stress due to fear of incarceration and decreased healthcare access for birthing people and their families. This is particularly concerning due to the negative impact stress can have on pregnant people and the Black maternal crisis our country is currently addressing. Additionally, community members reported that entire communities have been over exposed to police presence and police violence due to cannabis criminalization. Community survey respondents requested health and wellness services be invested in as part of community reinvestment.

Anti-racist training can and should be culturally humble, sensitive, and accessible to a diverse set of healthcare providers and cannabis retail owner, operators, and employees, especially those from communities that are most disproportionately impacted by cannabis criminalization. Community-based organizations that are trusted by disproportionately impacted communities and that have experience conducting anti-racist training with businesses and healthcare providers should be recruited and funded to conduct these trainings. Training should be conducted at times, in places, in formats, and in languages that are most accessible to a diverse set of healthcare providers and cannabis retail owners, operators and employees, especially those from communities that are most disproportionately impacted by cannabis criminalization. Additionally, training should develop anti-racist skills and communication techniques that improve access for consumers and patients from communities disproportionately impacted by cannabis criminalization.



Similarly, mental and maternal health and wellness community initiatives should be culturally humble, sensitive, and accessible to communities that are most disproportionately impacted by cannabis criminalization. Community-based organizations and healthcare or birth support practitioners that are trusted by disproportionately impacted communities and have experience conducting community health initiatives should be recruited and funded to conduct these initiatives. Initiatives should be conducted at times, in places, in formats, and in languages that are most accessible to those from communities that are most disproportionately impacted by cannabis criminalization.

### Community Ownership

Health and Wellness community collaborative that is representative of those disproportionately impacted by cannabis criminalization, especially people who are or have been incarcerated should guide the design, implementation and evaluation of health wellness activities including anti-racist training and relevant community reinvestment programming. Representatives from the Health and Human Services Agency (HHS) and the County's Office of Equity and Racial Justice (OERJ) should staff and support this group. This collaborative should report to the Board of Supervisors (BoS) on health and wellness activities twice a year for the first year and annually onwards. This presentation should include an evaluation of existing health and wellness activities. The health and wellness community collaborative should also meet with CBOs that are implementing expungement training and other mental and maternal health and wellness initiatives.

### Phasing, Continuous Learning and Course Correction

Constant learning, evaluation, and improvement will be facilitated by community collaboratives and the network of CBOs and practitioners implementing health and wellness initiatives should begin as soon as the SEE and community reinvestment programs are established.

**Table 20. Summary Table: Reinvest in Community Health and Wellness Recommendations**

Recommendation	Description
Provide anti-racism training for cannabis business and healthcare practitioners	<ul style="list-style-type: none"> <li>● Community trusted CBOs to design, implement and evaluate trainings</li> <li>● Prioritize disproportionately impacted communities, especially Black pregnant/birthing people</li> <li>● Trainings are culturally component, sensitive and accessible to the most disproportionately impacted communities</li> </ul>

<p>Invest in mental and maternal health community health initiatives</p>	<ul style="list-style-type: none"> <li>• Community trusted CBOs to design, implement and evaluate initiatives</li> <li>• Prioritize disproportionately impacted communities, especially Black pregnant/birthing people</li> <li>• Initiatives are culturally component, sensitive and accessible to the most disproportionately impacted communities</li> </ul>
<p>Host a health and wellness community collaborative</p>	<ul style="list-style-type: none"> <li>• Ensure at least 50% of participants are social equity eligible</li> <li>• Staffed by OERJ and HHSa</li> <li>• Guide the design, implementation and evaluation of health wellness activities including anti-racist training and relevant community reinvestment programming</li> <li>• Prioritize disproportionately impacted communities</li> <li>• Monitor medical research on cannabis</li> </ul>

## Empower Youth

### Prioritizing Most Impacted

Cannabis criminalization and the War on Drugs has heavily impacted young people in devastating ways, including earning them adult status in the eyes of the carceral system, considering them to be gang members, eroding the prospective upward benefits of hard work while depleting education, recreation, community safety, and more.<sup>176</sup> Heavily impacted youth, however, are vital stakeholders who deserve a more honest engagement beyond the stigmatizing and simplistic frameworks of personal responsibility programs.<sup>177</sup> Jail diversion, which was supported by 77% of survey respondents, and restorative justice, ranked by 86% of respondents as a high priority, must be foundational to the SEE and community reinvestment programming as it helps re-shape policing and administration across the disparately treated communities in the county.<sup>178</sup>

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<sup>176</sup>In the City of San Diego, law enforcement officials infamously included infant children on the gang registry, ostensibly because of their proximity to documented gang members. (<https://voiceofsandiego.org/2016/08/11/scathing-audit-bolsters-critics-fears-secretive-state-gang-database/>)

<sup>177</sup>Several community members reflected on the D.A.R.E. program they experienced as youth, which had a “just say no” and scared straight approach to youth drug prevention that did not work (<https://americanaddictioncenters.org/blog/why-the-dare-program-failed>).

<sup>178</sup>JDI and RCC are youth-serving Restorative Justice programs.



The impacts of criminalization must also be disaggregated by age. Transition Age Youth (TAY), considered ages 16-25 in mental health fields, includes legal consumers of cannabis (ages 21-25), adults who are not legally able to consume cannabis (18-20), and minors (younger than 18). The legal status and ethical considerations relative to each of these age groupings are significantly different. Motivated youth who are 21 or older should be supported as cannabis entrepreneurs, with eligibility criteria and program assistance set up and ready for them. Those younger than 21 would not be directly involved in cannabis, but should be involved in more general program benefits and community reinvestments. In cases of social equity eligible, yet under age 21, youth should be heavily recruited to participate in representative bodies that administer and research the social equity program.

A prominent argument for youth prevention is that legalization increases youth risk. Youth in communities that are most impacted by criminalization, however, face increased risk of racial profiling, disparate discipline in school, poverty, mental health disparities, and more. As discussed in our discussion of the “Industry Opposition”, recent literature does not support this commonly held concern. The War on Drugs has increased these risks and has not mitigated drug use or availability. Further, legalization would not increase youth exposure and risk in any literal sense, as legal dispensaries follow strict guidelines preventing youth from even entering the premises. The prevalence of two-thirds of cannabis business being un-regulated, un-tested, and available through untraced cash purchases maintains youth health, crime, and substance use risk at much higher levels.

#### Community Ownership

Youth who are eligible should be encouraged to participate, and representative bodies steering the SEE and community reinvestment program(s) should not convene or proceed without their participation. This can help ensure that youth perspectives are not dropped from the agenda, and are not reduced to simplistic paternalism.

#### Phasing, Continuous Learning and Course Correction

Goals for eligible youth participation and permit awards should be set above zero for the initial implementation of the social equity program. Youth empowerment should be elaborated as a core value of social equity, and should be transparently tracked, measured, and evaluated throughout the life of the County’s SEE and community reinvestment programs.

**Table 21. Summary Table: Empower Youth Recommendations**

Recommendation	Description
Elevate alternatives to incarceration	<ul style="list-style-type: none"> <li>• Support and connect to youth restorative justice programs</li> <li>• Support and connect to youth diversion programs</li> <li>• Support and implement youth amnesty</li> </ul>

	<ul style="list-style-type: none"> <li>• Support and implement youth community re-entry programs</li> </ul>
Include Transition Age Youth (16-25) on all decision making bodies for the social equity program	<ul style="list-style-type: none"> <li>• Research, funding, and youth empowerment would be ideal representative groups for participants who are under the age of 18</li> </ul>
Establish a social equity youth empowerment fund, administered by a community collaborative with at minimum 50% social equity eligible Transition Age Youth (16-25)	<ul style="list-style-type: none"> <li>• Provide a pot of funding for micro-grants designed, awarded, and administered by social equity eligible youth themselves</li> <li>• Evaluate the effectiveness of this fund and its implementation, led by youth participants</li> </ul>
Supporting Transition Age Youth (21-25) as cannabis social equity entrepreneurs	<ul style="list-style-type: none"> <li>• Consider phasing in direct criteria that prioritize TAY social equity eligible applicants</li> <li>• Prepare workforce development, technical assistance, and access to capital aspects of the program to support TAY social equity entrepreneurs</li> </ul>

## Sustainably Fund the Social Equity Entrepreneurs Program

### Prioritizing Most Impacted

To provide benefits to SEE program participants the County should leverage existing County programs and state resources. Identify benefits to SE permittees (e.g. health care and housing subsidies) that can be provided through existing County programs. For some of these programs many SE-eligible residents may already be eligible. If they are not, consider expanding to include SE-eligible applicants. Additionally, consider the general fund and new County grants that may or may not be cannabis or Social Equity-related for funding.

The County of San Diego should actively pursue established state funding sources for SEE and community reinvestment programming, as most jurisdictions throughout California rely primarily on state grants to fund their social equity programs. GO-Biz Cannabis Equity grants in 2020 totaled \$30 million, with grants for social equity entrepreneur direct support, training, and incentives to 7 cities and/or counties ranging from \$2.5 million to \$6.5 million.<sup>179</sup> Cal-CRG grants for 2020-21 totaled \$38.4 million, including nearly 60 project grants ranging

<sup>179</sup>See

<https://static.business.ca.gov/wp-content/uploads/2021/07/Cannabis-Equity-Grants-Program-for-Local-Jurisdictions-Annual-Report-to-the-Legislature-7-1-2021v2.pdf> (accessed 6/24/2022).



from \$150,000 to \$900,000 each.<sup>180</sup> Cal CRG grants are the major funding source for community reinvestment. Encouraging the County agencies and local partner community-trusted CBOs to apply for Cal-CRG grants could help fund relevant SEE and community reinvestment initiatives.

### Community Ownership

To fund community reinvestment, the County should use local cannabis tax revenue. To increase potential tax revenue coming from the cannabis industry, the County should develop SEE program participants' ability to raise funds and invest in SEE program components that provide technical assistance and access to financial capital access. Existing County programs can be used to support this professional development.

### Phasing, Continuous Learning and Course Correction

The County should adjust funding as the program is phased in and community-led evaluation is complete. A SEE and community reinvestment program evaluation led by community collaboratives with the support of relevant County staff can help ensure programming does not over-extend its means.

**Table 22. Summary Table: Sustainably Fund the Social Equity Entrepreneurs Program Recommendations**

Recommendation	Description
Leverage existing County programs and fundings sources to provide SEE and community reinvestment benefits	<ul style="list-style-type: none"> <li>• Health and Human Services Agency</li> <li>• Finance &amp; General Government Group</li> <li>• Land Use &amp; Environment Group</li> <li>• Public Safety Group</li> </ul>
Use established state funding to fund SEE and community reinvestment programming	<ul style="list-style-type: none"> <li>• GO-Biz Cannabis Equity grants ranged from \$2.5 to \$6.5 million for social equity support in 2020</li> <li>• GO-Biz Cal-CRG grants ranged from \$150,000 to \$900,000 in 2020 for a wide range of projects, including community reinvestment</li> </ul>
Use local cannabis tax revenue to fund community reinvestment	<ul style="list-style-type: none"> <li>• Legal cannabis may generate between \$3-5 mill in tax revenue to the County (HdL 2022).</li> </ul>
Develop SE-licensees capacity to raise funds	<ul style="list-style-type: none"> <li>• Actively partner with Social Equity Entrepreneurs and community stakeholders who are eligible for SEE to pursue local, state, and national funding opportunities</li> </ul>

<sup>180</sup>See

<https://static.business.ca.gov/wp-content/uploads/2021/06/CalCRG-Program-Grantee-List-6-2021.pdf> (accessed 6/24/2022).

<p>As SEE is phased in, adjust funding for different program components as indicated by community-led evaluation</p>	<ul style="list-style-type: none"> <li>• Community collaborative with a data-driven process can ensure that community reinvestment funding is effectively utilized and that all projected costs don't hit the program right up front all at once</li> </ul>
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## Non-SE Cannabis Industry Licensees Should Support an Equitable Cannabis Market

Our discussion of recommendations focused on SE-applicants in order to prioritize those most directly impacted by cannabis criminalization and the War on Drugs. However, non-Social Equity licensees have an important role to play in establishing an equitable adult-use recreational cannabis market in San Diego county. Many of these opportunities for support are outlined in the preceding recommendations. However, this section briefly highlights them. If the County implements the aforementioned recommendations, the non-SE licensees will be limited to those that have been grandfathered in from Prop. 215. By complying with policy structures and/or amplifying the efforts outlined above Non-SE licensees can support cannabis social equity.

All enforcement & accountability structures should also apply to non-SE licensees. Additionally, as outlined above, all non-SE licensees should pay higher taxes than their SE counterparts throughout different segments of the market. All Non-SE licensees should be required to take social responsibility training—alongside SE applicants—that includes instruction on running inclusive mentorship, paid internships, and employment programs. Non-SE licensees should also be encouraged to donate to the County's community reinvestment fund for mini-grants and loans to SE-eligible residents for a range of personal circumstances or projects. Financial contributions for non-SE licensees should be made mandatory if the County decides against our recommendations and additional non-SE licenses and permits are awarded.

Additionally, non-SE licensees should engage in education on what social equity is. Our community engagement proved that many cannabis business stakeholders also have some incorrect or incomplete notions on what social equity is. Engaging in these opportunities to learn more about social equity could improve relations between employees and consumers from disproportionately impacted communities. For example, non-SE licensees should be required to participate in anti-racism training for cannabis business to develop anti-racist skills and communication techniques that improve access for consumers and patients from communities disproportionately impacted by cannabis criminalization. Non-SE licensees should also participate in and amplify the County's anti-stigma campaign. Educating the community on a more balanced and evidence-based assessment of the relative risks and



benefits of cannabis, its use, and its sale could help address barriers to the cannabis market (e.g., over-restrictive zoning and permitting policies and hesitancy of potential financial investors, landlords, and technical assistance providers). Additionally, these efforts could increase demand for cannabis products from the regulated market. Finally, for non-SE licensees these efforts could provide an opportunity for them to learn more about social equity, the inequitable impacts of the War on Drugs, including the anti-cannabis stigma. Non-SE licensees and the local regulated adult-use recreational cannabis market would benefit from amplifying the County's community education efforts.

Non-SE licensees can have an important role in developing an equitable workplace and expanding access to capital. Non-SE operators should hire SE-permittees to take advantage of subsidized wages for social equity permittees along their pathway to successful ownership. To realize this goal non-SE licensees should remove barriers to employment for SE-eligible people with cannabis convictions and ensure that restorative justice, diversion, and expungement efforts are simultaneously tied to facilitated and secure pathways to employment for social equity eligible workers. Moreover, non-SE, along with SE-licensees, should be required to support union organizing and participate in County facilitated job fairs and networking events with SE-eligible potential employees and business owners. Many non-SE licensees talked about preparing to sell their business. With the profit from the sale they could serve as investors for SE-licensees, working to diversify and strengthen the local cannabis market.

Finally, non-SE licensees can take place in community collaboratives as long as the requirement for 50% SE eligible is met, their expertise is relevant to the focus of the collaborative and they are committed to realizing the collaborative's mandates, including as it relates to social equity and prioritizing disproportionately impacted. While respecting the voices of disproportionately impacted communities, non-SE licensees can take part in the SE-licensee permit and program selection process, providing critical insight on what it takes to be a successful entrepreneur in the local context.

## Conclusion

The County of San Diego has a long way to go to develop its cannabis business regulatory environment. However, it is taking notable steps and, by following the preceding recommendations, could develop a comprehensive and equitable industry. Throughout the design and implementation of all policy and program recommendations, the County should prioritize those disproportionately impacted individuals and communities (as identified in Part I of the assessment), support community ownership, and facilitate continuous learning. To this end the County should share power with stakeholders by engaging stakeholders equitably, honoring data sovereignty, and building community awareness and education. The County must also end cannabis criminalization and open opportunities for those directly impacted by expanding expungement efforts and investing in diversion, restorative justice, and non-carceral regulation enforcement. Additionally, the County should actively seek and engage opportunities to support indigenous sovereignty through land repatriation and increasing tribal



access to the regulated cannabis industry. By following the programmatic recommendations outlined in Part II, the County can create an accessible and responsive Social Equity Entrepreneurs Program that defines program eligibility based on disproportionately impacted communities and permits cannabis businesses through a transparent and equity-focused process. To address the barriers to entry into the cannabis market for SEE outlined in Part I of this assessment, the County must develop the SE cannabis workforce, including adult transitional age youth, and financially support Social Equity Entrepreneurs by increasing access to capital and providing equitable technical assistance, tax structure and zoning policy . Moreover, to address the community-wide impacts of the War on Drugs and cannabis criminalization the County must reinvest in community development, economic justice and health using cannabis tax revenue and leveraging existing County programs and fundings sources, state funding.

## Next Steps

This assessment provides a clear sketch of which communities were most disproportionately impacted by the War on Drugs in San Diego County, how cannabis criminalization ravaged individuals, families and communities, and how the County and other stakeholders can begin to repair harm by centering equity, justice, community ownership and learning. In honoring the stories, ideas and insights by community members whose perspectives and data drove this research and implementing the resulting policy and program recommendations, different stakeholders will have different work to do. Particular attention should be given to two important stakeholders: the County of San Diego government and local social equity advocates.

## The County of San Diego:

The County of San Diego should prepare for an urgent and long-term commitment to improving equity in the regulated cannabis industry. With existing medical cannabis operators being grandfathered in and board letters being approved that defined the equity program without reference to any comprehensive analysis, the Board of Supervisors should approve the recommendations of the equity assessment to ensure local equity entrepreneurs have a real opportunity to benefit from the market. These recommendations should supersede existing policy decisions made without analysis of relevant data. Additionally, the County of San Diego should begin the grant and contracting process that will resource the community-based organizations necessary to implement this program.

## Local Social Equity Advocates:

Local Social Equity advocates should support the County Board of Supervisors in adopting these recommendations. Share key findings with community members and continue





conversations about equity<sup>181</sup>. Encourage community members to engage in the Board of Supervisors' meetings to react to the assessment findings and program recommendations.

Take ownership of and sustain engagement in promoting equity in the regulated cannabis industry. Engage in community collaboratives and encourage members of disproportionately impacted and program eligible communities to participate in the community collaborative. Encourage local community based organizations with history engaging disproportionately impacted and program eligible communities to apply to implement recommendations. Community ownership and centering disproportionately impacted communities are key to the success of this program.

With collaboration between the County of San Diego, local social equity advocates, SEE program eligible communities, existing non-SE license holders and San Diego county residents overall we can begin the hard work of addressing the broad and deep harms of the War on Drugs in San Diego county and begin building a local regulated adult-use recreational cannabis market that is thriving, locally-owned, equitable and safe.

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<sup>181</sup> See "Appendix H: Policy Brief" for a summary of the report that is formatted to spur community dialogue amongst organizers, advocates and other stakeholders.

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## Appendix A: How to think about social equity

This exposition of social equity was prepared by Womxn’s Work Consulting, LLC. Although the concept of social equity is critical to addressing the harms of the War on Drugs and creating an adult-use recreational cannabis market that promotes community wellbeing, many critical stakeholders in the business sector, County government and local community do not fully understand social equity. The following discussion will provide clear guidance on defining social equity. Moreover, this appendix substantiates this social equity assessment’s focus on realizing social equity for commercial cannabis through both the *process* of centering those who have been most impacted by cannabis criminalization, and the *outcomes* of the policy shift from causing harm to repairing harm.

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“Social equity” is a prominent concept in social movements, especially for racial justice, in and around legal cannabis industry and policy because it labels an intervention into the status quo of fifty years of the War on Drugs and more than three hundred years of racially stratified economic opportunity. There is no one standard definition of “social equity”, and when we define social equity we navigate enduring tensions and complexities of race, opportunity, and life outcomes in the US. There are political, economic, social, and cultural aspects of this navigation. The main challenge of navigating “social equity” is engaging tensions and complexities along the way, without losing centeredness on those who have been most impacted by criminalization and economic exploitation. Here in this section we will 1) consider some existing definitions of social equity, 2) discuss breadth and depth parameters, and 3) identify general viability opportunities and limitations. Parts 1 and 2 of this report will expand on all three of these components in more concrete, local detail.

## Defining social equity

Social equity programs are “designed to remove many of the barriers caused by the War on Drugs, while creating a strategic path to business ownership for the unregulated legacy entrepreneurs of the cannabis industry,” and local jurisdictions throughout California have struggled since 2018 to implement these (CCIA 2021, p4). Building on the common program concept, the California Cannabis Industry Association (CCIA) tasked its Diversity, Inclusion and Social Equity (DISE) committee “to focus on cultivating a diverse, inclusive and equitable space within the California cannabis industry where one can truly belong and flourish while addressing, understanding and reforming the historical injustices and economic disparity faced by disenfranchised, Black, and Brown communities brought on by the failed War on Drugs (CCIA 2021, p1).” Social equity programs define their aims thus in two general directions:

- successful, more diverse entrepreneurship in cannabis businesses
- meaningful community-wide improvements that counter deeper inequities

Although these are quite different in scope and strategy, they are inseparable when defining social equity in the legal cannabis industry and are operationalized at the state level through SB 1294<sup>182</sup> and Cal-CRG.<sup>183</sup>

The Minority Cannabis Business Association (MCBA) identifies four “pillars” of social equity, a) equitable industry, b) equitable communities, c) equitable justice, and d) equitable access (MCBA 2022, p2). Industry and access pillars ensure that, as entrepreneurs and customers, targeted or vulnerable communities can operate in the cannabis space with gainful opportunities and without fear of loss of benefits and status. Communities and justice pillars outline broad reinvestments for betterment and specify the restoration of basic rights for those

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<sup>182</sup>See [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB1294](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1294) (accessed 6/22/2022).

<sup>183</sup>See <https://business.ca.gov/california-community-reinvestment-grants-program/> (accessed 6/22/2022).

with non-violent cannabis offenses. The MCBA highlights the importance of a deeper conception clarifying that, “While the term “social equity” in the cannabis industry most often refers to the efforts to create an equitable industry outlined in this report, social equity programs should encompass all pillars of equity to ensure the efforts to redress the harms of cannabis prohibition are as broad as the harms” (p2).

Dr. Rachel Knox, the pioneering endocannabinologist cited by prominent social equity advocates in this assessment research, and the Association for Cannabis Health Equity and Medicine (ACHEM) promote the CHEM Pillars of Health Equity or “total equity”, which includes a) economic equity, b) environmental equity, c) human equity, and d) social equity.<sup>184</sup> Beyond structural reinvestment in impacted communities, Dr. Knox and ACHEM center the interdependence between social and natural ecosystems in human flourishing. Their precise concept of social equity pertains to “fairness in policy, regulation, and in the distribution of social resources and services” to manifest a holistically enriching social system that promotes “belonging, cooperation, cohesion, trust, participation, protection, and productivity of all people”.

So far, these concepts and definitions have expanded into the larger system of which the War on Drugs is a part, and serious efforts to define, design, and implement social equity in the cannabis industry will continue to evolve in the particular places where communities are turning the tide. Some conceptions of social equity, however, potentially miss the deeper levels of this conversation if they miss, as one interviewee said, focusing on “rectify(ing) the harm that was done.” Social equity, after all, can be thought of more in terms of *equality* than *equity* if “fairness” gives everyone the same opportunities to advance without consideration of their actual starting situation and actual outcomes. Further, in the context of economics, equity may relate to unequal, but “fair” distribution of resources based on merit with “each individual (receiving) resources in proportion to their relative contributions” (Wright and Boese 2015). Wright and Boese elaborate that, “equity is widely accepted as the preferred distributive justice principle in economic and competitive contexts. Thus, in capitalistic cultures such as North America (and perhaps other ‘Western’ nations), which focus heavily on competitive and economic relationships, the principle of equity (merit) is applied across a wide range of domains including educational, economic, political, organizational, and interpersonal.” A meritocratic concept of social equity is noteworthy for this assessment as at least one industry representative operated from this framework. A major issue with “merit” is the standards used to determine “contributions” and “value.” In a settler society<sup>185</sup> based on racial capitalism, economic success presumes the displacement and removal of indigenous people, anti-Blackness, resource and labor extraction, and accumulation of private property and capital. If the definition of social equity doesn’t directly and explicitly take on the deeper inequities

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<sup>184</sup>CHEM Manifesto. <https://www.achemed.org/chemmanifesto> (accessed 6/8/2022).

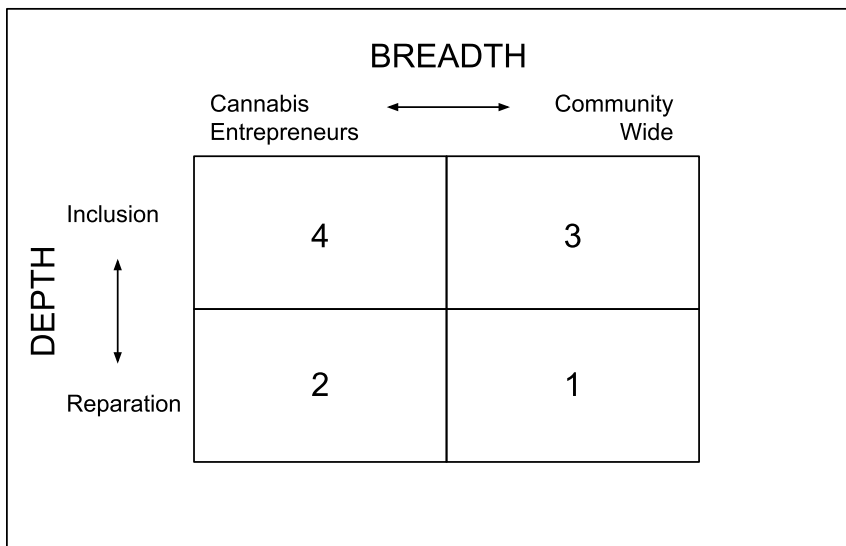
<sup>185</sup>Referring to the US as a settler, or “settler colonial” state recognizes the history of European settlement, expansion, and cultural and political dominance through the history of the nation. Although the national narrative is a “melting pot” of different cultures and ethnicities, from the perspective of indigenous people and Africans who were trafficked for labor, the history from English colony to US nation has been a consistent history of state violence.

we've inherited, then the best outcomes will be co-optation through the tokenizing of any small number of entrepreneurs and program beneficiaries who can survive the otherwise unchanged status quo.

## Depth and breadth parameters

Considering a cannabis social equity program, one stakeholder observed, "I think there is a huge over fixation on retail cannabis sales. That is like the part of the iceberg you can see above the water, but the whole industry is down below. And people just don't know what they don't know." This is true of the extraordinarily complex cannabis industry and financial workings underneath it, and is even more true of the broader social equity aims of community benefit. Considering the depth and breadth of the proposed aims will help policy makers and community stakeholders establish benchmarks for social equity program implementation.

Including cannabis businesses and community benefits represents a *breadth* from the more narrow and precise industry to the fuller context that includes communities and the wellbeing of communities in social and environmental context. We have also seen how *depth* plays a role ranging from efforts to diversify or include those most impacted, versus repairing decades of harm from the War on Drugs and the inequitable legacies of which it is a part. Figure 49 illustrates these varying ways of thinking about social equity, and while the ultimate aim of social equity is the deepest healing and improvement across the widest sense of community, differentiation is important for clear communication and sustaining stakeholder engagement.



**Figure 48.** Inclusion versus repair in the cannabis industry and broader community.

Transformative healing across the most impacted communities, represented in Figure 49 as the square marked "1", can appear daunting, but is the appropriate trajectory for social equity. Community stakeholders participating in a public forum for this study suggested that one trillion dollars of reparations should be paid, matching the amount of money the US has



spent on the War on Drugs.<sup>186</sup> Community reinvestment, though, in the ACHEM formulation, requires a more foundational “health equity” to be sustained, expanding quickly into the kinds of costs and investments that would address racial profiling in policing, the fragmentation, isolation, and poverty of federally recognized Native American tribes, an expensive, destructive, and ineffective border wall, employment and housing discrimination, and much more.

Repair through cannabis business inclusion encounters a momentum of insiders, who are overwhelmingly wealthy white men, lobbying for policies benefiting their business and investment interests, careening toward big business takeover and the huge payouts marketed in the “green rush”. In San Diego County, this momentum has been interrupted by social equity advocates and a responsive Board of Supervisors, yet repair in the industry, indicated in Figure 49 as “2”, would require concerted effort to disallow the kind of racially stratified political and economic dynamics that have prevented those most impacted by cannabis criminalization and the War on Drugs from directly influencing policies and directly benefiting from profits and opportunities for ownership and gainful careers. It would also require significant broader community impacts because the health disparities, disparate school discipline, poverty rates, incarceration rates beyond cannabis, and pervasive implicit and explicit discrimination that many social equity entrepreneurs have experienced, would otherwise continue to impact their business success as their spouse, relatives, children, and neighbors would continue to experience direct, costly harm.

Boxes “3” and “4” in Figure 49 transition to talking about diversity and inclusion at the levels of cannabis industry and community benefits. To meaningfully include the most impacted members of our communities in direct benefits to advance their job readiness and their job prospects, to feed themselves and their families, to receive trustworthy, pre-emptive, high quality healthcare, to experience aggressive legal protection from discrimination, harassment, exploitation, and harm, and to meaningfully participate as valued and respected co-owners of county-wide governance, would be worthwhile outcomes of a county-wide social equity program. For a significant number of social equity entrepreneurs to go from devastated targets of criminalization and incarceration, to being business leaders with stable cannabis businesses, would be a worthwhile outcome of a county-wide social equity cannabis program. But diversity and inclusion conversations can easily slip out of the social equity focus, as they are heavily used banners for more cosmetic minor adjustments to otherwise unchanging institutions and systems. To be clear, inclusion in industry should be differentiated from inclusion in social equity, as “inclusion” can be used as a tinting of existing social inequity.

The research for this report included narratives that illustrate viewing social equity in inclusive terms that depart from the aims of repair. For instance, one stakeholder said of those who should be eligible for social equity program benefits, that “minorities” and “I think people

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<sup>186</sup>Lee, Nathaniel. 2021. “America has spent over a trillion dollars fighting the War on Drugs. 50 years later, drug use in the U.S. is climbing again.” *CNBC*. June 17. <https://www.cnbc.com/2021/06/17/the-us-has-spent-over-a-trillion-dollars-fighting-war-on-drugs.html> (accessed 6/9/2022).



that have been in financial straits, people that have had pressure or not another path, or another opportunity, like kind of this is what they knew. This is what they could do. This is what they had access to. I think those are probably the people that have been most affected by the War on Drugs.” The inclusion of people who have had financial hardship or the pressures of not really knowing about better opportunities opens the door of inclusion wide enough to cause doubt whether the most impacted communities would be able to get through the door, so to speak.

Another stakeholder thought of social equity from the starting point that people aren't equal, and some have the character and traits to succeed in the business, while most others do not. This operator found it unfair that because of skin color or gender that some who may have the character and fortitude to succeed have been prevented from doing so, but also expressed anger that “social equity” conversations forced them to move from their colorblind position. Here is a vision of a social equity program that would provide tax relief or other benefits to multi-million dollar businesses for their willingness to look among the eligible for those with “the right” disposition, while out of every 100 workers brought in through the program, approximately 10 would eventually advance to management, and maybe 3 would ascend to the upper status of owners and investors. When coupled with broadly permissive eligibility criteria, this view could result in the opposite of social equity. Well established businesses would not share any power they have now or are able to build as they continue to dominate the local markets, a small number of the most impacted people would get jobs that may or may not turn into career advancement based on factors beyond their control, and historical patterns predict that racial biases would be reflected in the outcomes of who gets promoted and at what pace as “color” would be strongly resisted for consideration. Further, at what point in this view would conditions in the communities more broadly be positively impacted?

Staying on track with social equity requires a different way of thinking, one in which what is “rational” is not the narrow pursuit of profit or monopolization of market share, but centers the quality of life and life outcomes of all people. This is not to suggest easy solutions to complex social and environmental problems, but rather basing our building of our social world on the idea that if another is unwell, we cannot be well; if another is suffering, then we are also suffering. Those who have been most impacted by the War on Drugs have been viewed as un-American, unworthy, at fault for their own brutalization and confinement, and have been scapegoats for failures ranging from educational outcomes to public safety, from poverty to gun violence, from social discord to a loss of cultural values. Social equity instead views residents of the county as important stakeholders with human value who are interdependent on decisions that, historically, they have had little influence over. A social equity cannabis program requires clear and courageous leadership in the definition of aims and sustaining integrity of implementation and tracking. After more than fifty years of a highly touted War on Drugs, our most impacted communities deserve nothing less.



## Viability opportunities and limitations

A deeper and more expansive concept of social equity must guide a social equity program. As discussed in the Background section, GO-Biz calls for addressing barriers of entry into the legal regulated market for those disproportionately impacted by the War on Drugs to improve economic justice and wellbeing of disproportionately impacted communities. As outlined in the discussion of depth and breadth parameters of social equity, achieving these goals requires community-wide reparations. However, the greater challenges of broad and deep social equity must also be acknowledged and communicated about clearly along the way. When thinking of the levels of social equity in Figure 49, at stake is the building of a base of support, effort required, proposed extent of change, and ability to measure success.

The more social equity resembles cosmetic inclusion to the existing system, the easier it becomes to gain the support of current political and economic elites and to build a numerically larger base of political support. This would require little to no effort beyond ordinary daily life, only small attitudinal shifts that are less prejudicial, and more easily be measured through simpler data. But it may be difficult to keep legitimate social equity on the table, and those currently disempowered would not have clear avenues to change their social location.

The more social equity resembles active engagement and ownership of political and economic processes by those most directly impacted by the War on Drugs and cannabis criminalization across a range of programs and systems, the more resistance to power sharing and cultural shift would be expected. It would require diligent effort to build relationships and trust in systems that have abandoned that for so many communities for so long. Decision making processes, communicating, and even the typical organization of the work day and work week would likely all look very different. It would take time and practice in this more democratic way of operating to be able to collectively establish measures for success and track success transparently and with direct community stakeholder ownership.

We recommend the County of San Diego embrace deeper and more transformative aims for both the cannabis industry and communities more broadly, while foregrounding doable, measurable steps to build on successes year-to-year. Part I explores the need for social equity in San Diego, and Part II elaborates recommended action steps to set the stage for the longer-term interventions required.



The *Justice in the 420 Industry* report assesses social equity in San Diego’s cannabis industry and analyzes “the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and the collective policies of the War on Drugs and their impact at the individual, familial/generational, and community level, over time.”<sup>187</sup> The Womxn’s Work LLC team used mixed methods to reach communities that have been impacted by the War on Drugs and cannabis criminalization, and center their knowledge in relation to those who are typically considered “players” or “stakeholders”.

The equity assessment weaves together local law enforcement data, community forums, focus groups, and interviews, school and youth data, and best practices comparisons for a data driven portrait of what the War on Drugs has looked and felt like from the direct perspectives of those who have been most impacted. The second part of the report presents legally viable recommendations to inform the Social Equity Entrepreneurs program in thematic groupings that clarify the breadth of scope, particularity of detail, and specificity of industry components that elevated to the foreground in our intensive research. The appendices include extensive analyses and legal opinions that have been incorporated into the report, yet offer significant resources on their own.

We have presented an integrated report that defines, re-defines, elaborates, and exemplifies “what is social equity” along the way. What brought us to this point? Where can we go from here for large scale course correction, and what starting points allow us to make adjustments forward? This report can be read in summary and for selective access to key data tables and recommendations in the table of contents or tables throughout, so that a range of stakeholders can reference it while pursuing a socially equitable industry. The report can be read cover to cover for a deepening exploration of the local and national history, industry, and political dynamics, for the measurable outcomes that can help everyone in the County build a reparative correction together to the long War on Drugs.

It is our hope that all stakeholders who meaningfully take up the challenge of making social equity work in San Diego can benefit from the wealth of hundreds of research participants and narrators whose stories and public testimonies illuminate *Justice in the 420 Industry*. Social equity entrepreneur hopefuls, residents of impacted communities, industry leaders and lobbyists, investors and elected officials alike can find throughout this report patient and consistent reminders of how to center social equity and what we have to lose if we fail to do so as the County of San Diego leads us toward a social equitable legal cannabis industry for all.

The County of San Diego has a long way to go to develop its cannabis business regulatory environment. However, it is taking notable steps and has the opportunity to develop a comprehensive and equitable industry. San Diego County will be one of the first counties in California to adopt a Social Equity Program and install a permitting system that overcomes current barriers established by other municipalities which has enabled the illicit market to retain

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<sup>187</sup>Quoted from the County of San Diego Request for Proposals for “Social Equity Assessment for Commercial Cannabis,” February 2022.



a larger comparative advantage over the legal market. San Diego County still needs to provide pathways for operators who entered the market during the Prop 215 regime with viable and cost-efficient methods to establish their positioning while also balancing methods to support equity entrepreneurs who have been impacted by previous cannabis prohibition policies. Overall, the County also needs to develop a tax structure that is compatible with the tax structure of cities within its jurisdiction. The County needs to not add an additional tax burden on an industry that already has a heavy tax burden.





## **Appendix B: Project Objectives and Description**

This description of Justice in 420 project objectives and approach was prepared by Womxn's Work LLC was prepared to provide more information on the goals of this assessment and Womxn's Work LLC approach to realizing these aims.

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The *Justice in the 420 Industry* report assesses social equity in San Diego’s cannabis industry and analyzes “the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and the collective policies of the War on Drugs and their impact at the individual, familial/generational, and community level, over time.”<sup>188</sup> The Womxn’s Work LLC team used mixed methods to reach communities that have been impacted by the War on Drugs and cannabis criminalization, and center their knowledge in relation to those who are typically considered “players” or “stakeholders”.

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We have presented an integrated report that defines, re-defines, elaborates, and exemplifies “what is social equity” along the way. What brought us to this point? Where can we go from here for large scale course correction, and what starting points allow us to make adjustments forward? This report can be read in summary and for selective access to key data tables and recommendations in the table of contents or tables throughout, so that a range of stakeholders can reference it while pursuing a socially equitable industry. The report can be read cover to cover for a deepening exploration of the local and national history, industry, and political dynamics, for the measurable outcomes that can help everyone in the County build a reparative correction together to the long War on Drugs.

It is our hope that all stakeholders who meaningfully take up the challenge of making social equity work in San Diego can benefit from the wealth of hundreds of research participants and narrators whose stories and public testimonies illuminate *Justice in the 420 Industry*. Social equity entrepreneur hopefuls, residents of impacted communities, industry leaders and lobbyists, investors and elected officials alike can find throughout this report patient and consistent reminders of how to center social equity and what we have to lose if we fail to do so as the County of San Diego leads us toward a social equitable legal cannabis industry for all.

The County of San Diego has a long way to go to develop its cannabis business regulatory environment. However, it is taking notable steps and has the opportunity to develop

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<sup>188</sup>Quoted from the County of San Diego Request for Proposals for “Social Equity Assessment for Commercial Cannabis,” February 2022.



a comprehensive and equitable industry. San Diego County will be one of the first counties in California to adopt a Social Equity Program and install a permitting system that overcomes current barriers established by other municipalities which has enabled the illicit market to retain a larger comparative advantage over the legal market. San Diego County still needs to provide pathways for operators who entered the market during the Prop 215 regime with viable and cost-efficient methods to establish their positioning while also balancing methods to support equity entrepreneurs who have been impacted by previous cannabis prohibition policies. Overall, the County also needs to develop a tax structure that is compatible with the tax structure of cities within its jurisdiction. The County needs to not add an additional tax burden on an industry that already has a heavy tax burden.



## **Appendix C: Detailed Explanation of Methodology**

This description of methodology was prepared by Womxn's Work Consulting, LLC to explain the multimodal community-based research process that informed the social equity assessment and policy recommendations for the County of San Diego's SEE program.

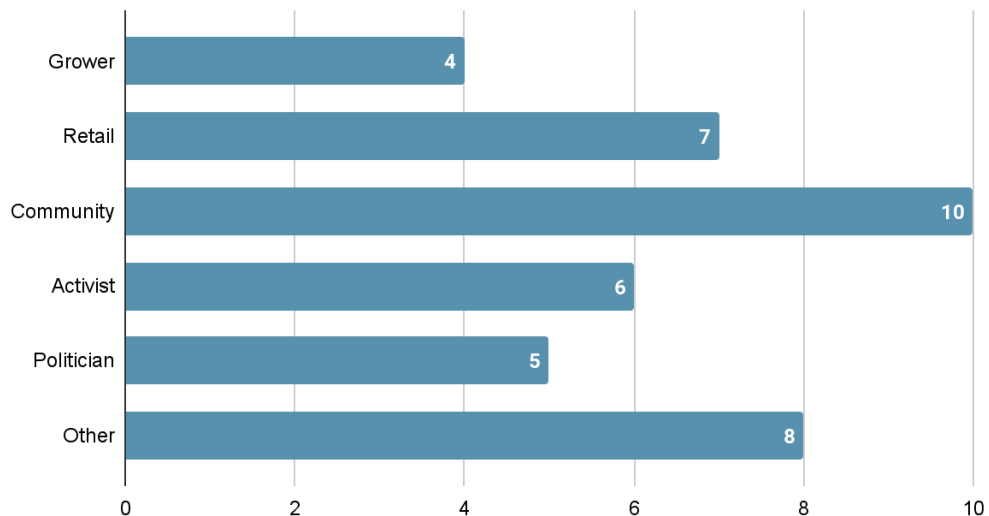
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Through community organizing, community-based research, and social equity oriented analysis this assessment will characterize the local impacts of the War on Drugs and inform recommendations for policies and program characteristics that will ensure an equitable cannabis market and community reinvestment in San Diego county.<sup>189</sup>

## Interviews

To this end twenty-eight semi-structured interviews were conducted. Interviews were conducted with a diverse sample of critical stakeholders (Figure 50). Community members, activists, politicians and cannabis growers and cannabis retail owners are all represented amongst interviewees.

Number of Interviewees per Stakeholder Group



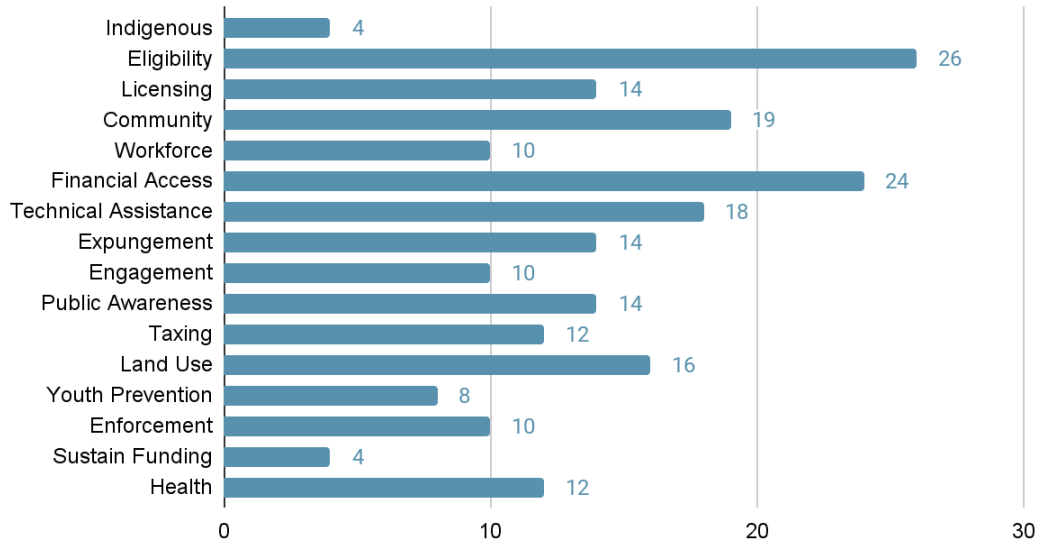
**Figure 49.** Number of interviewees per stakeholder group.

The interview protocol includes questions to characterize the interviewee in terms of their personal identity, interests in the regulated cannabis industry and general perspectives on cannabis. Additionally, there were interview questions to glean the interviewees understanding of and perspectives of social equity. Additionally, during the interviews, interviewees were asked questions about their perspectives on the local impacts of the War on Drugs and components of cannabis social equity programs. The interviews covered a plethora of important themes from indigenous sovereignty, health to specific cannabis equity program components like, access to capital, community reinvestment, licensing, engagement,

<sup>189</sup> Please note that people may have participated in multiple feedback methods. We cannot completely deduplicate responses in this way because we prioritized participants' comfort over collecting data necessary to track any given individual's participation. For example, collecting names and addresses in public community listening sessions or during phone or web surveys may have dissuaded the participation of community members.

expungement and public awareness (Figure 51). These do not represent an exhaustive list of codes from qualitative analysis, but a general accounting of themes mentioned.

### Mentions of Themes in Interviews

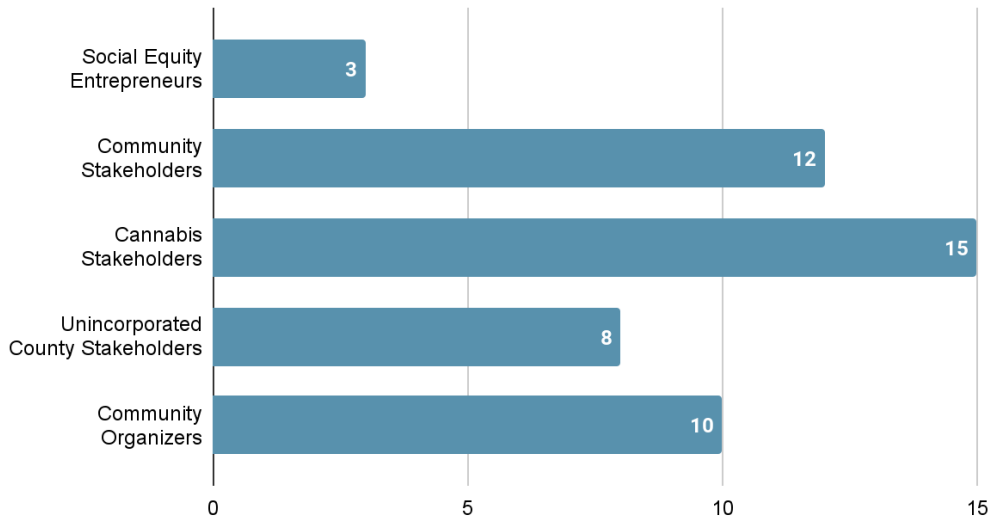


**Figure 50.** Number of Interviewees that Mentioned Themes

### Focus Groups

In addition to the aforementioned interviews, five semi-structured focus groups were completed. Focus group questions covered the impacts of the War on Drugs, barriers and facilitators to success in the regulated cannabis industry and barriers and facilitators to successful community engagement and collaboration to promote equity in the regulated cannabis industry. Community members from a diverse group of stakeholder groups participated in focus groups (Figure 52).

### Number of Focus Group Participants per Stakeholder Group



**Figure 51.** Number of Focus Group Participants per Stakeholder Group

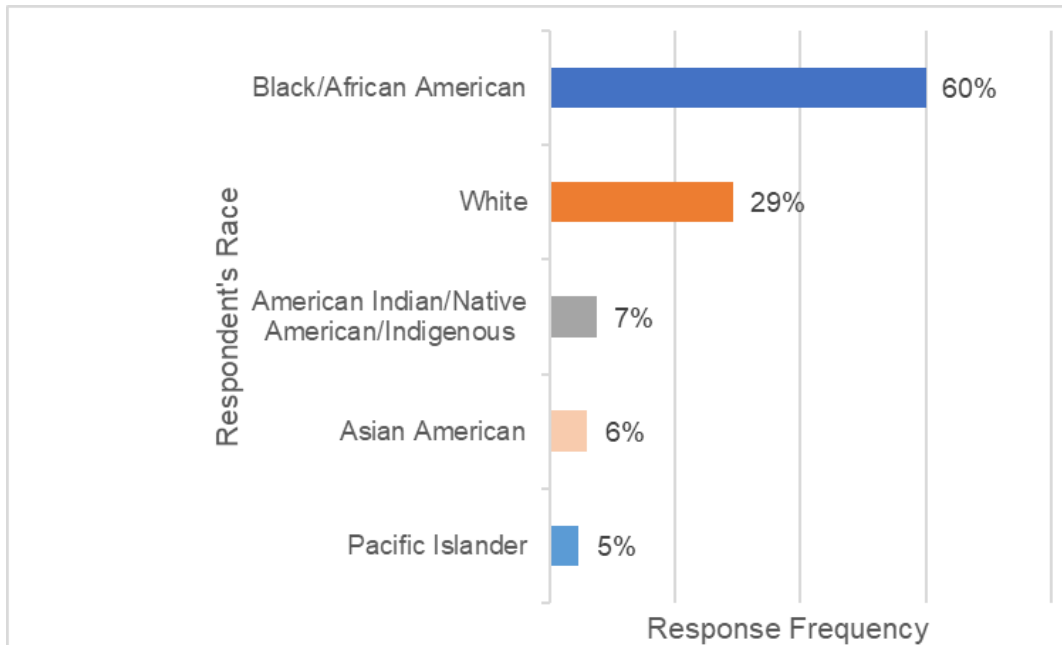
To add to the qualitative data that informed this assessment, 5 multilingual<sup>190</sup> community listening sessions were held throughout the County of San Diego with the intention to gain insight from community members and key stakeholders on the trajectory of the County of San Diego’s social equity program. In recognition of the pandemic and in support of expanding opportunity for engagement, these meetings were hosted as hybrid-virtual and in-person meetings. There was one community listening session hosted in each supervisorial district, but participation was not limited to residents of each district. In the weeks before each event, door-to-door canvassing, phone banking and flyering was completed to raise awareness about the event. Community members, organizers, activists, and business owners from throughout the county attended the listening sessions. Throughout the five events, participants were given a platform to discuss the historical legacies and impact of the War On Drugs, reflect on their lived experiences, and to conceptualize models and practices for a successful social equity program in the County of San Diego. The facilitators of the guided discussions posed questions regarding the barriers that communities most impacted by the War on Drugs face when entering the cannabis industry, and asked audience members for input regarding what steps the County of San Diego can take in order to remove barriers and to create equity within the legal cannabis industry.

## Community Survey

Further, to provide another medium for community insight, a community survey was disseminated to members of the community survey via phone and web between March 2022 and June 2022. Phone survey respondents were selected from the Registrar of Voters, based

<sup>190</sup> There were four sessions in English with Spanish and ASL interpretation. There was one listening session in Spanish with English and ASL interpretation.

on residing near community listening sessions and unincorporated areas. Web survey respondents were recruited from Justice in 420 social media and community listening sessions. Two-hundred and seventy-one surveys were collected via phone call and a Formstack web survey. After excluding those who did not reside in the County and were not over 18 years old, 179 phone responses and 83 web surveys were analyzed. Both the web and phone surveys were made available in English and Spanish. The phone survey included a more abbreviated set of questions. Survey respondents were diverse, with high response rates from hard to reach populations that are also disproportionately impacted by the War on Drugs like Black and Indigenous people in San Diego County (Figure 53).



**Figure 52.** Self-reported race of respondents. Two-hundred fifteen community survey respondents reported their race.

Survey questions covered the following topics: respondent demographic information, perspectives on cannabis from respondents and their communities, the impacts of the War on Drugs, perspectives on proposed eligibility criteria and program components and barriers and facilitators to entry into the regulated cannabis industry. Survey respondents were diverse, with significant representation from the County of San Diego’s historically underserved communities (Figure 53). Web survey respondents that were not over 18 and who did not live in the County of San Diego were excluded from our analysis.

## Public Data

Additionally, to further analyze the impacts of the War on Drugs, barriers and facilitators to entry into the regulated market, need for community reinvestment and viability of program components data was analyzed from a variety of public data sources including the U.S. Census Bureau, SANDAG’s Automated Regional Justice Information System and TRAC Immigration. This community-based mixed methods research provided a comprehensive evaluation of the impacts of the War on Drugs, the barriers to and facilitators of entry into the regulated cannabis





industry, needs for social equity entrepreneur support and community reinvestment. Findings from this assessment have informed policy and program recommendations.



## **Appendix D: “Womxn’s Work Consulting Cannabis Regulation Research: Comparative Analysis” by GC Integrity**

Khalil Ferguson of GC Integrity Consulting was subcontracted to conduct best practices and policy research on cannabis tax structures and cannabis license, permitting & tax enforcement, focusing on comparable jurisdictions and highlighting program components to implement and avoid in San Diego county. Preliminary recommendations were carefully considered by the team. Recommendations of this analysis were incorporated where they aligned with San Diego county specific needs as defined by community-specific data from interviews, focus groups, community listening sessions, community survey and Womxn’s Work’s analysis of public data.

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## **Womxn's Work Consulting** **Cannabis Regulation Research** Comparative Analysis

### **Abstract**

California residents approved The Adult Use of Marijuana Act (AUMA) of 2016 otherwise known as Proposition 64 in 2016 with 57 percent of the vote. The measure was approved by voters in 388 out of 540 cities (71.9percent). Prop 64 legalized the commercial sale of cannabis and the personal consumption and cultivation of cannabis for adults 21 years of age or older; it also authorized courts throughout the State of California to expunge, resentence, dismiss, or seal eligible cannabis-related convictions. Prop 64 established a tax and licensing framework to regulate the sale cultivation of cannabis. The measure went into effect January 1<sup>st</sup>, 2018. The measure imposed a state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves. As of June 2020, only 168 of California's 540 cities allowed any type of legal cannabis operation. The November 2020 election added 31 additional localities bringing the total to 199 (18.5 percent increase).

According to the California Department of Fee and Tax Administration the State of California received \$816,537,099.76 in total amount of taxes due from the state's cannabis industry – exceeding their forecast estimations.

Prop 64 established obligatory specific allocations for the following funding areas:

- California Reinvestment Grant (CalCRG) issued through the Governor's Office of Business and Economic Development (GoBiz) o \$10 million to \$50 million annually

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§ increasing by \$10 million annually until 2022-23, and \$50 million each year thereafter

- Public University or Universities in California ○ Evaluate the effects of the Measure

§ \$10 million annually from Fiscal Year 2018-19 to 2028-29

- California Highway Patrol ○ Create and adopt methods to determine whether someone is driving while impaired, including by cannabis.

§ \$3 million annually from Fiscal year 2018-19 to 2022-23

- University of California San Diego Center for Medical Cannabis Research ○ Study the risks and benefits of medical cannabis.

§ \$ 2 million annually

60 Percent—Youth Education, Prevention, Early Intervention and Treatment Account

- Funds would be allocated to the Department of Health Care Services to support youth programs including substance use disorder education, prevention, and treatment program.

20 Percent—Environmental Restoration and Protection Account

- Funds would be allocated to the Department of Fish and Wildlife and the Department of Parks and Recreation to clean up and prevent environmental damage resulting from the illegal growing of cannabis.

20 Percent—State and Local Government Law Enforcement Account

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- Funds would be allocated to the California Highway Patrol to support programs designed to reduce driving while impaired, including by cannabis.
- Funds would also be allocated to the Board of State and Community Corrections to support programs designed to reduce any potential negative impacts on public health or safety resulting from the measure.

Prop 64 contained no provisions or guidelines for Social Equity in the market and did not have a line item associated with until the passage of SB 1294 by Senator Bradford in 2018 demarcated as the California Cannabis Equity Act authorized the Bureau of Cannabis Control to provide grant funds and technical assistance to specified local equity programs. The act defines “local equity program” as a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California’s cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. The act requires the bureau to administer a grant program for local jurisdictions that have adopted or operate a local equity program, as specified.

In Fiscal Year 2018-19 the funding for this program was not included in the California Cannabis Tax Fund (CCTF). Instead, a general fund appropriation of \$10 million from GoBiz was made to fund the first round of grants. It would be included in the CCTF in following years at a budgeted amount of \$15 million. In the following year GoBiz made another general fund appropriation in the amount of \$15 million to bring the total amount awarded to local governments approx. \$30 million. In Fiscal Year 2020-21 efforts by Senator Bradford would result in SB 1294 being funded in perpetuity from the CCTF in the amount of \$15.5 million. Senator Bradford also drafted a Budget Request to Senate Budget Committee for a general fund appropriation for an additional \$20 million – bringing the total funding to SB 1294 to approx. \$35 million in Fiscal Year 2020-21.

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This analysis will review the history of cannabis regulation as well as the regulatory and tax structures of San Diego County, the City of San Diego, the City of Sacramento, the City of Oakland, Humboldt County, the State of Illinois, and the State of New York. The excerpt will analyze the multiple barriers which have been expressed by cannabis equity advocates and entrepreneurs as being “barriers to entry” into the cannabis market such as: 1) Zoning and Land Use processes; 2) Complex permitting processes and high costs of business permits; 3) High taxes levied against the industry; and 4) Lack of access to capital in a capital-intensive market. Additionally, this analysis will include steps taken by each jurisdiction to implement a cannabis social equity program; including the benefits extended to applicants and the criteria to become a social equity applicant in the corresponding jurisdiction. Aggregate funding from SB 1294 (Bradford) will be included at the end of the section for the jurisdiction, and – if available – data on what programs were funded disaggregated by Fiscal Year. A “Summary of Findings” will be included with this analysis as well. The Summary of Findings will provide a brief overview of the categories highlighted above, so that the reader may quickly identify the differences in approaches to cannabis regulation and cannabis equity by governments throughout the United States. This article will provide a set of policy recommendations that will best provide relief by reducing barriers to entry and possibilities to provide safe access to capital for social equity entrepreneurs in the County of San Diego.

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## **I. San Diego County**

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## History and Background of Cannabis Market

### **November 3, 2005**

As a response to SB 420 the County Board of Supervisors decided to pursue legal action rather than set up a state-ordered medical identification card and registry program.

### **December 12, 2005**

Federal agents raided more than a dozen medical marijuana businesses in San Diego and San Marcos. Agents said the businesses were selling marijuana to customers who did not have written prescriptions from doctors.

### **December 2005**

San Diego County Board of Supervisors voted to file a lawsuit seeking to overturn Prop 215, California's medical marijuana law.

### **November 2006**

The county's legal challenge to Prop 215 was rejected in a ruling that stated California can decriminalize a drug even though it's illegal under federal law.

### **May 19, 2009**

The U.S. Supreme Court denied San Diego County's last attempt at challenging Prop 215. The high court refused to hear the suit brought by San Diego and San Bernardino Counties.

### **July 6, 2009**

The San Diego County Health Department began accepting applications for medical marijuana identification cards.

### **August 5, 2009**

San Diego County Supervisors approved a 45-day moratorium on medical marijuana dispensaries saying they need time for staff to develop land-use regulations. Similar moratoriums existed in Chula Vista and National City.

### **September 16, 2009**

San Diego County Supervisors extended the temporary moratorium on dispensaries for an additional 10 months.

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## **June 30, 2010**

Supervisors approved rules for marijuana dispensaries in unincorporated areas putting them in industrial zones, at least 1,000 feet from homes, schools, churches and playgrounds.

## **March 15, 2017**

Supervisors pass Ordinance No. 10461 repealing medical marijuana collective facility regulations and banning medical and non-medical marijuana facilities.

## **January 27, 2021**

The Board of Supervisors directed staff to develop a Socially Equitable Cannabis Program (Program) and increase enforcement of unpermitted and unlicensed cannabis facilities.

## **June 9, 2021**

The Board directed staff to develop ordinance amendments that will allow the five existing dispensaries within the unincorporated region to (1) sell cannabis for adult use, (2) operate past their sunset date of April 14, 2022, (3) sell edible and drinkable cannabis products, (4) sell branded merchandise, (5) expand by up to 10,000 square feet, and (6) transfer business licenses among existing permit holders.

The Board directed staff to draft ordinance revisions allowing the five existing dispensaries to:

1. Allow for commercial adult use cannabis sales (i.e., anyone over 21 regardless of a medical prescription; applies to Zoning Ordinance and Regulatory Code),
2. Continue operating past the April 2022 sunset date (applies to Zoning Ordinance),
3. Allow for the sale of edible and drinkable cannabis products (applies to Regulatory Code),



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4. Allow for the sale of branded merchandise (applies to Regulatory Code),
5. Allow for up to 10,000-square-foot building expansions (applies to Zoning Ordinance), and
6. Transfer business licenses (which are also called Operating Certificates; applies to Zoning Ordinance and Regulatory Code).

## **October 20, 2021**

Supervisors vote 4-1 to remove the sunset date from the permits of the five operating dispensaries, allowing them to relocate and expand facility size.

According to a report conducted by the Office of Business Research and Analysis (OBRA) at California State University San Marcos there are eight (8) cities within San Diego County that do not permit the commercial sale of cannabis in its jurisdiction. Those cities include Coronado, Del Mar, El Cajon, Escondido, Poway, San Marcos, Santee, Solana Beach, and National City.

Cities within San Diego County that do permit medicinal-only cannabis businesses include Lemon Grove, Oceanside, and Vista. Cities that have permit both medicinal and adult-use cannabis businesses include Chula Vista Imperial Beach, La Mesa, Encinitas, and San Diego.

## Governance Structure

Title II, Division 25, SEC. 21.2501. of San Diego County's Code of Regulations provided therein has determined that the Sheriff's Department would be the issuing and enforcement authority for legally established medical cannabis operation certificates and approved fees to recover the cost of processing applications and compliance monitoring for medical cannabis facility operating certificates.

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## Land Use and Business Licensing

### Land Entitlement Process

The San Diego County Board of Supervisors enacted Ordinance No. 10461 on March 15<sup>th</sup>, 2017, amending sections 1110, 6935, and 6976 of the county's Zoning Ordinances and are now intended to read as follows:

Section 1110 of the San Diego County Zoning Ordinance definition is hereby amended to read as:

Marijuana Facility - Medical and Non-Medical: (a) Any store, office, business, building, property or other facility in or from which marijuana is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated indoors or outdoors, possessed, or transported; (b) This definition shall not apply to cultivation of medical marijuana; (1) by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) by a Primary Care Giver where the amount of marijuana at no time exceeds 1.5 times the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 6935 of the San Diego County Zoning Ordinance is hereby amended and/or repealed to read as:

### 6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

Amortization of Nonconforming Medical Marijuana Collective Facilities.  
Notwithstanding Section 6852, a nonconforming Collective Facility which was lawfully established before April 14, 2017, shall cease operations no later than April 14, 2022. In order for a Collective Facility to be "lawfully" established it must have applied for and obtained a building permit and/or a certificate of

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occupancy and Sheriff's Operating Certificate prior to commencing operations or received County approval of a vested right to continue under previous regulations. The Collective Facility may apply for one six month extension of this period. The Director may grant that extension upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the term of any applicable lease for the premises and whether it may be modified or terminated; (2) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (3) the profits which have been received during the period from April 14, 2017 to April 14, 2022, and (4) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 6976 of the San Diego County Zoning Ordinance is hereby amended to read as:

## 6976 PROHIBITION OF MARIJUANA FACILITIES - MEDICAL OR NON-MEDICAL

No person shall cause or permit the establishment, operation, enlargement or transfer of ownership of a facility of marijuana for medical or non-medical purposes, meeting the definition "Marijuana Facility - Medical and Non-Medical" in Section 1110. To the maximum extent allowed by state law this prohibition shall apply throughout all use regulations.

Section 6935 of the San Diego County Zoning Ordinance establishes the following buffer zones for cannabis businesses in unincorporated areas of San Diego:

### Distance Requirements

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Separation Requirements for Collective Facilities. A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:

1. 1000 feet from a parcel to which a residential Use Regulation applies.
2. 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
3. 1000 feet from a parcel on which another Collective Facility has been established.

## Business Licensing

Title II, Division 25, SEC. 21.2503. of San Diego County's Code of Regulations provides that A

Medical Cannabis Collective, Commercial Cannabis Microbusiness, or Commercial Cannabis

Retailer may only operate a facility in the unincorporated area of San Diego County if a valid Operating Certificate has been issued by the Sheriff's Department to a member of the collective or owner and/or officer of the Commercial Cannabis Microbusiness or Commercial Cannabis Retailer facility. The Sheriff's Department shall not issue new Operating Certificates except to those facilities which were lawfully established prior to April 14, 2017.

SEC. 21.2503 also requires the application for an Operating Certificate shall be developed by the Sheriff's Department. At a minimum, the application developed by the Sheriff shall require the applicant(s) to provide sufficient information deemed necessary by the Sheriff to make an initial determination that (1) the applicant(s) will be operating a legitimate facility in compliance with state law and this ordinance, and (2) the applicant(s) is or are the owner(s) of the property for which the Operating Certificate is sought or have the written permission of the owner(s) of the property for which the license is sought; and

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As a condition for obtaining an Operating Certificate from the Sheriff, the applicant must show proof that the location has been approved by the Department of Planning and Development Services, Zoning Division, and a building permit (including a tenant improvement permit) has been applied for if required by the California Building Code.

## License Types

The County of San Diego's Code of Regulations provides definitions for the regulation of Medical Cannabis Collectives, and Commercial Cannabis Microbusinesses.

"Commercial Cannabis Retailer" means a retail storefront facility that sells cannabis and cannabis products and holds an **A-Type 10 (Adult Use)** or **M-Type 10 (Medical Use)** Retailer license in accordance with Business and Professions Code Section 26050.

"Medical Cannabis Collective Facility" or "Collective Facility" means any location at which members of a medical cannabis collective collectively or cooperatively cultivate, store or exchange cannabis among themselves or reimburse each other or the medical cannabis collective for cultivation, overhead costs and operating expenses.

"Medical Cannabis Collective Facility" or "Collective Facility" does not mean or include the following facilities licensed pursuant to the following provisions of Division 2 of the Health and Safety Code:

1. A clinic licensed pursuant to Chapter 1.
2. A health facility licensed pursuant to Chapter 2.
3. A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2; or 5. A residential hospice or a home health agency licensed pursuant to Chapter 8.

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"Commercial Cannabis Microbusiness" means a cannabis facility that holds an A-Type 12 (Adult Use) or M-Type-12 (Medical Use) Microbusiness license in accordance with Business and Professions Code Section 26050, and is engaged in three of the four following medical commercial cannabis activities:

1. Retailer
2. Cultivation of cannabis on an area less than 10,000 square feet
3. Manufacturing
4. Distribution

## Fees

Medical Marijuana Operation Certificate: **Annual fee \$49,460.**

## Cannabis Business Taxation

On January 27, 2021, the Board of Supervisors approved Item 4, Framework for Our Future: Measures to Provide Economic Access and Equity in the Cannabis Industry. This Board action included direction to explore the development and implementation of a commercial cannabis taxation program.

San Diego County currently does not have a Cannabis Business Tax or Cannabis Tax defined in its code of regulations. The operating dispensaries in the county are considered non-profit collectives, and therefore might not be currently subject to the types of taxes paid by existing commercial cannabis businesses found in certain incorporated cities elsewhere in the county. While SB 94 Cannabis: medicinal and adult use created a methodology to implement the two taxes imposed by Proposition 64, the cultivation tax (9.35 per dry weight ounce for flowers and \$2.75 for leaves) and excise tax (15 percent of the sales price), it did not add language for the regulation of cannabis "nonprofit collectives." Additionally, there is not a state permit designating a cannabis business as

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“nonprofit collective,” thereby the businesses may not be required to remit excise or cultivation taxes to the State of California. These businesses may only be required to remit county sales taxes if the business is structured as such. Conversely, such medical cannabis businesses that were established during Prop 215 were donation-based operators and did not have a point-of-sale transactional relationship with customers. This speaks to the complexity cannabis business operators face in determining their tax liability. It is also compounded when local governments do not have clear and concise language surrounding regulation, permitting, and taxation of cannabis business as well as cannabis as a commodity.

## Efforts to Establish a Cannabis Equity Program

On January 27, 2021 (Item #4), the Board directed staff to amend the County Zoning Ordinance to allow for a suite of uses, including retail, cultivation, manufacturing, distribution, testing, or a combination of these uses, through a microbusiness license.

The Board also directed staff to develop a new Cannabis Permitting Program which will prioritize social equity, access, and business opportunities. The Social Equity Program will allow individuals with past cannabis arrests and/or convictions, of low-income, and of communities with high arrest rates or “Disproportionately Impacted Areas” to have greater opportunities for securing a county operating permit.

## Opportunities for Improvement

The County of San Diego has a long way to go to develop its cannabis business regulatory environment. However, it is taking notable steps and has the opportunity to develop a comprehensive and equitable industry. San Diego County will be one of the first counties in California to adopt a Social Equity Program and install a permitting system that overcomes current barriers established by other municipalities which has enabled the illicit market to retain a

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larger comparative advantage over the legal market. San Diego County still needs to provide pathways for operators who entered the market during the Prop 215 regime with viable and cost-efficient methods to establish their positioning while also balancing methods to support equity entrepreneurs who have been impacted by previous cannabis prohibition policies. Overall, the county also needs to develop a tax structure that is compatible with the tax structure of cities within its jurisdiction. The county needs to not add an additional tax burden on an industry that already has a heavy tax burden.

## II. City of San Diego

### History and Background of Cannabis Market

#### **March 25, 2014**

The City adopts Ordinance No. O-20356, which implements zoning regulations for Medical Marijuana Consumer Cooperatives (MMCCs).

#### **Nov. 8, 2016**

San Diego voters pass Measure N, Non-Medical Cannabis Tax, which imposed a gross receipts tax on non-medical cannabis businesses that operate or provide services within the city. The tax applies to non-medical cannabis business activities, including but not limited to transporting, manufacturing, cultivating, packaging or retail sales. Businesses are initially taxed at a rate of 5 percent of monthly gross receipts and will increase to 8 percent on July 1, 2019. This increase cannot exceed 15 percent of gross receipts.

#### **Feb. 22, 2017**

The city adopts Ordinance No. O-20793, which replaces the MMCC use with a new retail sales use category, “Cannabis Outlet.” It became effective in areas of the City of San Diego outside of the Coastal Overlay Zone on April 12, 2017, and within the Coastal Overlay Zone on Oct. 12, 2017.

#### **Sept. 11, 2017**



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Ordinance No. O-20859 is introduced to regulate the cannabis industry relative to commercial cultivation, manufacturing, storage and distribution of medical and recreational cannabis and cannabis products and to allow by-right cannabis testing labs. It became effective on Nov. 17, 2017, in areas of the City of San Diego outside of the Coastal Overlay Zone, and on Feb. 8, 2018, in areas located within the Coastal Overlay Zone.

## Governance Structure

Cannabis Business Applications must be submitted through the Development Services Department.

The provisions allowing for the regulation of the consumption of Cannabis and the activity of Cannabis Businesses are derived from the San Diego Municipal Code (SDMC). Amendments to provisions related to cannabis must be adopted and amended to the relevant codes established therein.

## Land Use and Business Licensing

### Land Entitlement Process

Chapter 12, Article 6, Division 3, §126.0303 provides that Conditional Use Permits for cannabis related business are decided by Process Two and Process Three:

- 1) Cannabis outlet (under circumstances described in Section 141.0504). Those circumstances are listed below.
  - a. Cannabis outlets that are consistent with the requirements for retailer or dispensary license requirements in the California Business and Professions Code may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), provided that no more than

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four cannabis outlets are permitted in each City Council District. Cannabis outlets are subject to the following regulations.

- i. Cannabis Outlets shall maintain a minimum distance separation of 1,000 feet from resource and population-based city parks, other cannabis outlets, churches, childcare centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. Cannabis Outlets also shall maintain a minimum distance separation of 100 feet from the property line of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the property lines without regard to topography or structures that would interfere with a straight-line measurement.
  - b. A Conditional Use Permit for a cannabis outlet shall expire no later than five years from the date of issuance.
  - c. There additional circumstances enumerated within the subsection cited but was not deemed as pertinent to include in this analysis. To remaining circumstances may be found in Chap 14 Art 1 Div 5, §§141.0504 of San Diego Municipal Codes.
- 2) Cannabis production facilities (under circumstances described in Section 141.1004)
  - a. A cannabis production facility may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), provided that no more than 40 cannabis production facilities are permitted in the City of San Diego. Cannabis production facilities are subject to the following regulations.

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- i. Cannabis Production Facilities shall maintain a minimum distance separation of 1,000 feet from resource and population-based city parks, other cannabis outlets, churches, childcare centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. Cannabis Outlets also shall maintain a minimum distance separation of 100 feet from the property line of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the property lines without regard to topography or structures that would interfere with a straight-line measurement.
- b. A Conditional Use Permit for a cannabis production facility shall expire no later than five years from the date of issuance.
- c. A Conditional Use Permit for a cannabis production facility may be amended in accordance with a Process Two decision as described in Section 112.0503, subject to this section.
  - i. The separation requirements in Section 141.1004(a) shall not be considered in making the findings required for amendments processed in accordance with this section.
  - ii. The cannabis production facility shall be subject to Section 141.1004(a) if expanded beyond the premises identified in the current Conditional Use Permit.
  - iii. A Conditional Use Permit for a cannabis production facility may be amended one or more times as follows:
    1. An application for an amendment may include a request to extend the expiration date for a period not to exceed five years.

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2. An amendment application to extend the expiration date of a Conditional Use Permit must be submitted and deemed complete prior to the Conditional Use Permit expiration date and the Conditional Use Permit shall automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted.

d. The sale of cannabis and cannabis products shall only be conducted by a cannabis outlet in accordance with Section 141.0504. A cannabis production facility is prohibited from providing cannabis and cannabis products to any person other than another cannabis production facility, a testing lab, or a cannabis outlet.

e. There additional circumstances enumerated within the subsection cited but was not deemed as pertinent to include in this analysis. To remaining circumstances may be found in Chap 14 Art 1 Div 10 §141.1004 of San Diego Municipal Codes.

## Distance Requirements

Cannabis Outlets shall maintain a minimum distance separation of 1,000 feet from resource and population-based city parks, other cannabis outlets, churches, childcare centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. Cannabis Outlets also shall maintain a minimum distance separation of 100 feet from the property line of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the property lines without regard to topography or structures that would interfere with a straight-line measurement.

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## Permitting Timeline

Once the Conditional Use Permit (CUP) has been obtained, the business applicant may begin applying for the necessary business permits needed to begin operation. The estimated timeline is below.

**Table 23.** Estimated permitting timeline, City of San Diego

Permit or Application	Type	Approximate Business Days	Currently Processing
Building Permit	Intake	47	2nd Week of February
Building Permit Rapid Review	Intake	42	3rd Week of February
Building Construction Change	Intake	12	5th Week of March

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Demo, Stand Alone Mechanical, Plumbing and Electrical Permits	Intake	9	2nd Week of April
Discretionary Projects	Intake	10	2nd Week of April
Grading, Public Improvement, Mapping	Intake	10	5th Week of March
Plan Review (All Application Types)	Review	<i>Varies based on review type.</i>	
Building Permit - (Hybrid Process PTS/Accela)	Permit Issuance	6	2nd Week of April
Building Permit	Permit Issuance	29	1st Week of March

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Building Permit Rapid Review	Permit Issuance	5	3rd Week of April
Demo, Stand Alone Mechanical, Plumbing and Electrical Permits	Permit Issuance	15	4th Week of March
Sign Permit	Permit Issuance	14	4th Week of March

## Fees

- Annual Cannabis Operating Permit Fee: \$20,802.84 per facility.
- Conditional Use Permit: Deposit: \$8,000; Subsequent Review and Minimum Balance: \$4,000
- General Plan Maintenance Fee: \$451 ○ This fee provides funding for the maintenance of the City’s General Plan and is collected on behalf of the Planning Department. It is non-refundable and is collected once per project at the time of application. Projects that do not require plan review are not subject to the fee.
- Mapping Fee: \$10 ○ This fee is collected to fund automation efforts and on-line GIS data and mapping for Development Services. It is charged when there are plans, drawings, maps or other geographical documents utilized for project review.

## License Types

Cannabis businesses within the supply chain are delineated by license type – only differentiated either as a Cannabis Outlet or Cannabis Production Facility as defined in the San Diego Municipal Code.

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A Cannabis Outlet is defined as: a retail establishment operating with a Conditional Use Permit in accordance with section 141.0504, where cannabis, cannabis products, and cannabis accessories, as defined in California Health and Safety Code sections 11018, 11018.1, and 11018.2, respectively, are sold to the public in accordance with dispensary or retailer licensing requirements contained in the California Business and Professions Code sections governing cannabis and medical cannabis. A cannabis outlet shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code. ([Chap 4 Art 2 Div 15 §42.1502](#))

A Cannabis Production Facility is defined as: individual or combined uses, operating with a Conditional Use Permit in accordance with section 141.1004, engaged in the agricultural raising, harvesting, and processing of cannabis; wholesale distribution and storage of cannabis and cannabis products; and production of goods from cannabis and cannabis products consistent with the requirements of State of California Statutes and the California Departments of Food and Agriculture, Consumer Affairs, and Public Health regulations. ([Chap 4 Art 2 Div 15 §42.1502](#)) Cannabis Business Taxation

## Cannabis Tax Codes

[Chap 3 Art 4 Div 1 §34.0112](#) of the SDMC provides that:

- 1) Every Operator engaged in Cannabis Business in the City shall pay a Cannabis Business Tax at a rate of up to 15 percent of Gross Receipts. Commencing on December 12, 2016, the Cannabis Business Tax rate shall be five percent of Gross Receipts.
- 2) Notwithstanding the maximum tax rate of 15 percent of Gross Receipts imposed under subsection 34.0112(a), the City Council may, in its discretion, at any time by ordinance, implement a lower tax rate for all Cannabis Businesses or establish differing tax rates for different categories of Cannabis Businesses, as defined in such ordinance, subject



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to the maximum rate of 15 percent of Gross Receipts. The City Council may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of 15 percent of Gross Receipts established under subsection 34.0112(a).

3) Commencing on July 1, 2019, except as set forth in subsection 34.0112(d), the Cannabis Business Tax rate shall be set at eight percent of Gross Receipts unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of Gross Receipts.

4) Commencing on May 1, 2022, the Cannabis Business Tax rate for a Cannabis production facility shall be set at two percent of Gross Receipts unless the City Council, by ordinance, takes action to set a different tax rate, not to exceed 15 percent of Gross Receipts

According to the current provisions within the SDMC the tax rate for Cannabis Outlets at eight (8) percent of Gross Receipts. However, City Council does possess the right to increase this rate by ordinance, but not to exceed fifteen (15) percent. Additionally, Cannabis Production Facilities are subject to a two (2) percent tax on Gross Receipts. City Council retains the rights to set a different tax rate not to exceed fifteen (15) percent. This tax rate is coupled with a local sales tax rate of 7.75 percent, and a state excise tax rate of fifteen (15) percent for cannabis retailers and distributors. Setting the aggregate range for taxes on cannabis businesses in the City of San Diego at 24.57 percent 30.75 percent not including income taxes and payroll taxes paid by the business.

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## Revenue from Cannabis Businesses

Total Revenue To-Date	Tax Revenue Generated	Percentage of Total
Fiscal Year 2017/2018	\$2,731,582.89	4.04%
Fiscal Year 2018/2019	\$8,411,449.77	12.45%
Fiscal Year 2019/2020	\$17,288,031.26	25.59%
Fiscal Year 2020/2021	\$23,318,798.46	34.51%
Fiscal Year 2021/2022	\$15,814,037.15	23.41%
<b>Total</b>	<b>\$67,563,899.53</b>	100.00%

**Table 24.** Revenue from Cannabis 2017-2022, City of San Diego

The City of San Diego’s fiscal calendar runs from the month of July in the beginning year to the month of June in the following year, a standard for most municipalities. Cannabis Business Tax Revenues have grown significantly since the City of San Diego began collecting taxes on commercial cannabis activity. Between Fiscal Year 2017/2018 and Fiscal Year 2020/2021 revenue collected from Cannabis Businesses has grown at a rate of approximately 754 percent. Data

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for Fiscal Year 2021/22 is not complete as the actual amount of taxes remitted to the City of San Diego have not been calculated at the time is study. Foregoing the remaining taxes coming into the city’s general budget, cannabis business taxes have generated approximately \$67 million dollars in revenue to-date since the first remittance of cannabis business taxes in Fiscal Year 2017/2018. This number may easily surpass \$70 million by the completion of this fiscal cycle. This data does not include the amount of sales tax generated by cannabis activity within the City of San Diego. Towards that end, this data represents the growth in market share of cannabis businesses within San Diego’s economy and the propensity to become a major contributor to the city’s tax base.

Fiscal Year 2017/2018	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
Q3 (July-September)	\$ -	-	-
Q4 (October-December)	\$ -	-	-
Q1 (January-March)	\$584,107.12	21.38%	-
Q2 (April-June)	\$2,147,475.77	78.62%	-
<b>Total</b>	<b>\$2,731,582.89</b>	100.00%	-

**Table 25. Revenue from Cannabis 2017-2018, City of San Diego**

The tax data for Fiscal Year 2017/2018 demonstrates that the City of San Diego began collecting taxes from cannabis businesses upon the passage of Prop 64 in 2018. There were no cannabis business taxes collected in the first half of the fiscal cycle which fell in quarters three and four of the year 2017. The City of San Diego already developed framework to tax non-medical cannabis business with the adoption of Measure N in 2016, thereby allowing the collection of cannabis business taxes to occur fluidly upon the enactment of Prop 64.

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Fiscal Year 2018/2019	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
Q3 (July-September)	\$1,035,947.01	12.32%	-
Q4 (October-December)	\$1,806,083.24	21.47%	-
Q1 (January-March)	\$2,093,097.40	24.88%	258%
Q2 (April-June)	\$3,476,322.12	41.33%	61.80%
<b>Total</b>	<b>\$8,411,449.77</b>	100.00%	201.50%

**Table 26.** Revenue from Cannabis 2018-2019, City of San Diego

In Fiscal Year 2018/2019 the City of San Diego would realize an annualized growth rate of 200 percent as its regulated commercial cannabis economy begins to find its roots within the city limits.

Fiscal Year 2019/2020	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
Q3 (July-September)	\$2,715,282.07	15.71%	215.60%
Q4 (October-December)	\$4,346,238.69	25.14%	140.60%
Q1 (January-March)	\$4,116,437.51	23.81%	96.70%
Q2 (April-June)	\$6,110,072.99	35.34%	75.80%
<b>Total</b>	<b>\$17,288,031.26</b>	100.00%	110%

**Table 27.** Revenue from Cannabis 2019-2020, City of San Diego

In the third cycle of legal regulation the City of San Diego’s cannabis industry would double in gross receipts – delineated by a growth rate of 100 percent in taxes collected. Trends are beginning to develop as Q2 remains the highest grossing

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period for tax revenue collection. An explanation could be the increased business and consumption activity surrounding 4/20 the industry’s holiday. Not only is consumption higher during this month, but activity related to marketing, manufacturing, and distribution is higher for this month as well.

Fiscal Year 2020/2021	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
Q3 (July-September)	\$3,940,967.51	16.90%	45.10%
Q4 (October-December)	\$5,567,218.67	23.87%	28.10%
Q1 (January-March)	\$5,156,719.20	22.11%	25.30%
Q2 (April-June)	\$8,653,893.08	37.11%	41.60%
<b>Total</b>	<b>\$23,318,798.46</b>	100.00%	34.90%

**Table 28.** Revenue from Cannabis 2020-2021, City of San Diego

Trends remain the same in Fiscal Year 2020/2021. Aggregate growth is not as high as the initial stages of market regulation, but this is to be expected as the number of businesses entering the market precipitously drop and competition between operators begins to stabilize growth rates. The market is still in its infancy stages, so volatility is to be expected as policy makers introduce and amend regulations within the industry. Volatility within the commercial cannabis market can have a deleterious on sustainable revenue to the city’s general fund. An unintended consequence of market volatility in the cannabis industry is stunted or inefficient growth resulting from an unfriendly business environment to investors. In the long run, this yield uncalculated opportunity losses which also could have been reflected in eligible tax revenue to the city. This propensity also poses an unsustainable funding source for programs that rely on this tax revenue. The most profound impact the government can take to reduce volatility of tax revenues collected from the cannabis industry is to find the optimal tax rate that satisfies the city’s stakeholders, but also allows for healthy growth of a new market.

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Fiscal Year 2021/2022	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
Q3 (July-September)	\$3,993,639.32	25.25%	1.30%
Q4 (October-December)	\$5,898,333.99	37.30%	6%
Q1 (January-March)	\$5,416,066.90	34.25%	5%
Q2 (April-June)	\$505,996.94	3.20%	Not Enough Data to Conclude
<b>Total</b>	<b>\$15,814,037.15</b>	100.00%	Not Enough Data to Conclude

**Table 29. Revenue from Cannabis 2021-2022, City of San Diego**

In Fiscal Year 2021/2022 growth seems to be plateauing. This could be for a number of reasons ranging from capped growth due to market prices of products, a cap on the number of retail permits, newer cannabis businesses not opening their doors as quickly due to barriers to entry, or taxes dissuading consumer from buying into the legal market.

### Efforts to Establish Social Equity Program

In 2021 the City of San Diego received a \$75,000 GO-Biz grant from the State of California to conduct a cannabis equity assessment to support and promote equitable ownership and employment opportunities in the legal cannabis industry in communities disproportionately impacted by cannabis prohibition or criminalization. The Cannabis Business Division and the City’s Department of Race and Equity are leading the effort to implement the equity assessment. The city’s Cannabis Division and the Department of Race and Equity developed five (5) phases to carry out this study. They are currently on the final phase (Phase 5) of the study: Monitoring and Reporting – finalizing their reports and finding to deliver to City Council.

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## Opportunities for Improvement

The City of San Diego currently allows up to 36 cannabis outlet permits with a cap of four (4) per each of the nine (9) City council districts. The City of San Diego has issued 26 cannabis outlet permits with 4 currently being processes. None of the current issued permits or permits in-process derive from cannabis social equity applicants. This, in part, is to the City of San Diego not having an established social equity program – at the time of this study. The city has not taken any measurable steps towards a plan to ensure the inclusion of individuals from communities disproportionately impacted by the War on Drugs. However, this plan may be developed from the findings of the Social Equity Study. An effort to utilize the remaining available permits should be prioritized for Qualified Social Equity Applicant while also increasing the number of applicable permits. Another issue area related to land use in the City of San Diego are the zoning restrictions and buffer zones requirements, which makes potential real estate inaccessible for equity entrepreneurs. Additionally, this limit on supply while demand remains constant allows for the market price for real estate in the cannabis industry to remain inaccessibly high – establishing a barrier to access for capital deprived entrepreneurs. Furthermore, the requirement establishing a minimum 1000-foot distance between Cannabis Outlets reinforces this inequity in accessing real estate. Support for this requirement has been reasoned as to prevent business overconcentration. However, the City of San Diego currently allows only four (4) Cannabis Outlet businesses to operate per council district along with buffer zones for schools, places of worship, and residential property lines. To that end, without an impact analysis of traffic to areas where cannabis businesses currently operate, this positionality is not substantiated.

## **III. City of Sacramento**

### History and Background of Cannabis Market

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On November 28, 2017, the City Council authorized staff to create a program to address the negative impacts of disproportionate enforcement of cannabis related regulation in the city of Sacramento before the adoption of Proposition 64 and directed staff to return to City Council with a resolution to establish the program.

According to the Study Cannabis related arrests in the City of Sacramento spiked in 2006 at 1,590 and remained relatively stable until 2010. In 2010, Governor Arnold Schwarzenegger signed California State Senate Bill 1449, which reduced the offense for an ounce or less of cannabis possession.<sup>16</sup> From 2010 to 2011, cannabis arrest rates fell roughly 45% in the city of Sacramento. From 2006 to 2016, the arrest rates citywide dropped by 65%. By 2017, there were less than two hundred cannabis related arrests in the city of Sacramento.

The study also found that Black/African American residents were arrested, where at least one charge was cannabis related, at a rate higher than their citywide population proportion. Black/African American residents make up only 14.65% of the city's population but 47.87% of cannabis related arrests in 2010. White and Asian residents were arrested at a lower rate than their population. Hispanic residents were arrested at a comparable, and slightly lower rate to their population. These trends in arrest rates by race also hold for other years, where Black/African American residents are more likely to be arrested given their population while White, Hispanic and Asian residents are arrested at a lower rate to their population. This finding does not intend to suggest why Black/African American residents were arrested at a higher rate.

Because the study's methodology primarily rested on the calculation of arrest rate data by geography, the recommendations provided delineated neighborhoods by zip code with disproportionate arrest rate statistics among minority populations. It found that the communities with the highest arrest rates disproportionate to their population between 2004 and 2017, based on zip code were: Downtown (95811 and 95814), Land Park (95818), Oak Park (95817), Parkway Meadowview (95823), Del Paso Heights South (95815), Florin Perkins (95826), Fruitridge (95820), and Elder Creek (95824 and 95828).



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On August 9, 2018, the City Council adopted [Resolution 2018-0323](#) establishing the Cannabis Opportunity Reinvestment and Equity (CORE) program and adopting a zero-dollar fee and appropriate a funding for business permits for CORE participants.

On March 26, 2019, the City Council awarded the contract to two organizations, namely, the Sacramento Asian Chamber of Commerce (SACC) and the Greater Sacramento Urban League (GSUL) to administer the program.

## Governance Structure

The Office of Cannabis Management (OCM) is the main governing body regarding cannabis policy in the City of Sacramento. However, cannabis as a commodity product, its recreational use, and its commercial sell are governed in [Title 5 Business Licenses And Regulations](#), [Title 8 Health And Safety](#), and [Title 17 Planning and Development Code](#) of the Sacramento Municipal Codes. Cannabis businesses in Sacramento are required to obtain a Conditional Use Permit (CUP) before they can begin operation. To that effect, cannabis businesses begin their applications with the Planning Division and their plans are subject to public review and input at Planning Commission meetings. Businesses Operating Permits (BOPs) are required to be obtained after being granted a CUP and before a business can become operational in the City of Sacramento. BOPs are submitted through the Office of Cannabis Management, but other permits such as Occupancy Permits must be obtained through the Planning Division.

## Land Use and Business Licensing

Regulations for obtaining a Business Operating Permit (BOP) and operating a cannabis business in the City of Sacramento are found in Title 5.150 of the City Code and are overseen by the Office of Cannabis Management located in the Office of the City Manager. To obtain a BOP and begin operations, a cannabis business must be located in a building that has a CUP for the

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matching type of cannabis activity, have a Certificate of Occupancy from the Building Division that the structure is suited to the requested business activity, possess a state cannabis license, and then have fulfilled all the BOP requirements of Title 5.150. Currently there is a maximum of 40 storefront dispensary BOPs that can be issued in the City. There is also a limit of 50 delivery dispensary BOPs that can be issued in the southeast area of the City.

A Conditional Use Permit (CUP) is a requirement prior to the acquisition of a Business Operating Permit (BOP) and is overseen by the Planning Division in the Community Development Department. The Planning Division and Office of Cannabis Management, along with the City Attorney's Office, Fire Department, Police Department, Building Division, Housing and Dangerous Buildings Division and Code Enforcement Division staff, all work closely together to regulate cannabis businesses in the city.

All proposed sites for a cannabis business require a Conditional Use Permit (CUP), which includes a public hearing. Most public hearings are conducted by the Zoning Administrator, while applications that are beyond the scope of the Zoning Administrator, such as a property that exceeds 125,000 sq. ft. or is less than 600 feet from a neighborhood or community park are heard by the Planning and Design Commission (PDC). Similarly, decisions by the Zoning Administrator may also be appealed to the PDC.

## Distance Requirements

The Sacramento City Code requires a 600-ft buffer from neighborhood and community parks (does not apply to small manufacturers). Applications with proposed sites that are within the 600-ft of neighborhood and community parks will be reviewed by the Planning and Design Commission.

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## License Types

The Planning and Development Code (Title 17) allows for three main types of cannabis uses:

- 1) Production (including cultivation, manufacturing, and distribution),
  - i. **Cannabis cultivation** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cannabis cultivation is permitted in the A, C-2, C-4, M-1, M-1(S), M-2, M-2(S) and M-T zones with a Conditional Use Permit.
  - ii. **Cannabis Manufacturing** means the production, preparation, propagation, and compounding of cannabis and cannabis products. Cannabis manufacturing includes the extraction process, the infusion or mixture of cannabis into another substance, the preparation of an edible item that contains cannabis, and the packaging and labeling of cannabis or cannabis products. Cannabis manufacturing is permitted in the C-2, C-4, M1, M-1(S), M-2, M-2(S), MIP, MRD and M-T zones.
  - iii. **Cannabis distribution** means the procurement, sale, and transport of cannabis and cannabis products between cannabis businesses. Cannabis distribution is permitted in the C-2, C-4, M-1, M-1S, M-2, M-2(S), MIP, MRD and M-T zones.
- 2) Testing
  - i. **Cannabis testing** means performing scientific analysis of cannabis or cannabis products to determine its chemical profile, the presence of contaminants, or other similar data. Cannabis testing is permitted by

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right in the C-2, C-4, M-1, M-1(s), M-2, M-2(S), MIP, MRD, and M-T zones. ii.

- 3) Dispensaries (which may be either storefront or delivery-only).
  - i. A **cannabis dispensary** covers two types of sub-uses, a storefront cannabis dispensary and a delivery-only cannabis dispensary. A storefront cannabis dispensary means a business selling cannabis or cannabis products from a building or structure that is open to customers. A storefront cannabis dispensary may deliver cannabis products by meeting the additional delivery specific requirements and obtaining the appropriate authorizations. A delivery only cannabis dispensary means a business selling cannabis or cannabis products only by delivery, not by completing the transfer in a building or structure that is open to customers or elsewhere on the dispensary site. 6 Storefront cannabis dispensaries and delivery-only cannabis dispensaries are permitted in the C-2, C-4, M-1, M-1(S), M-2, M-2(S), and M-T zones with a Conditional Use Permit. A storefront cannabis dispensary is also permitted in the SC zone.

## Fees

**Table 30.** Permit types and fees, City of Sacramento

Permit Type	BOP Fee	BOP Fee
	New	Renew
Cultivation up to 5,000 sq ft	\$9,700	\$ 8,570
Cultivation up to 10,000 sq ft	\$ 20,210	\$ 17,840

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Cultivation up to 22,000 sq ft	\$ 28,910	\$ 25,300
Nursery	\$ 9,700	\$ 8,570
Dispensary	\$ 23,610	\$ 20,800
Dispensary - Delivery Only	\$ 23,610	\$ 20,800
Dispensary - Delivery Only - Less than \$500k	\$ 9,760	\$ 8,580
Distribution Center up to \$5m	\$ 9,200	\$ 8,100
Distribution Center up to \$20m	\$ 19,000	\$ 17,300
Distribution Center over \$20m	\$ 33,600	\$ 30,400
Distribution Service - Transport Only *	\$ 5,530	\$ 4,850
Manufacture Type 1 - (Class A) - up to \$100k *	\$ 4,440	\$ 3,700
Manufacture Type 1 - (Class B) - up to \$1m	\$ 8,880	\$ 8,400
Manufacture Type 1 - (Class C) - up to \$3m	\$ 17,660	\$ 15,500
Manufacture Type 1 - (Class D) - over \$3m	\$ 30,900	\$ 25,625
Manufacture N or P (Class A) - up to \$100k *	\$ 2,590	\$ 2,290
Manufacture N or P (Class B) - up to \$1m	\$ 7,670	\$ 6,750
Manufacture N or P (Class C) - up to \$3m	\$ 16,920	\$ 14,875
Manufacture N or P (Class D) - over \$3m	\$ 28,410	\$ 23,400
Microbusiness - (3) Manufacturing, Retail, Distribution, Cultivation	\$ 36,800	\$ 35,100
Testing Lab *	\$ 14,270	\$ 12,570

Cannabis Tax Codes

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Section 3.08.205 Marijuana Businesses of Chapter 3 of the Sacramento City Code provides that:

A. Every person engaged in a marijuana business shall pay an annual business operations tax as follows:

1. On and after July 1, 2011, four percent of each dollar of gross receipts for the reporting period.
2. Notwithstanding the tax rate imposed in subsection (A)(1), the city council may, in its discretion, at any time by resolution implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rate established under subsection (A)(1).

B. For purposes of this section, the following terms have the following meanings:

“Gross receipts” has the meaning as defined in Section [3.08.020](#), as it pertains to the marijuana business’ reporting period, and includes receipts from the sale of marijuana and from the sale of paraphernalia used for consuming marijuana and any other products, goods, or services sold or provided by the marijuana business.

“Marijuana” or “Cannabis” has the meaning as defined in California [Health and Safety Code](#) Section 11018.

“Marijuana business” means a business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing, or selling wholesale and/or retail sales of marijuana. A marijuana business includes any facility, building, structure or location, whether fixed, mobile, permanent or temporary, where marijuana is made available, sold, given, distributed, or otherwise provided in accordance with [Health and Safety Code](#) Section 11362.5 and Article 2.5 of Chapter 6 of Division 10 of the [Health and Safety Code](#) ([Health and Safety Code](#) Section 11362.7 et seq.). A marijuana business includes

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medical marijuana “cooperatives” and “collectives” that are established as not for profit businesses.

“Reporting period” means a year, quarter or calendar month, as determined by the administrator.

## Revenue from Cannabis Businesses

Permit Type	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
FY 2018-19 Total	\$ 11,480,470.00	-	50%
Dispensary	\$ 5,743,485.00	50.0%	-
Manufacturing	\$ 2,931,658.00	25.5%	-
Cultivation	\$ 1,206,658.00	10.5%	-
Testing Lab	\$ 41,820.00	0.4%	-
Delivery	\$ 561,060.00	4.9%	-
Distribution	\$ 579,895.00	5.0%	-

**Table 31. Revenue from Cannabis by permit type 2018-2019, City of Sacramento**

Data from this table shows a growing influence of Cultivation, Deliver, and Distribution businesses in the City of Sacramento’s tax portfolio. While Dispensaries continue to make up majority of the tax base, the growth rate has not been as precipitous relative to other supply chain sectors. The data suggests that Manufacturing businesses are losing their influence in the market as the tax rate for these businesses has declined by 75 percent over the past two fiscal cycles. This could also be an indication that gross receipts for this business type is declining. Delivery and Distribution are the areas in the Cannabis Industry supply chain that have contributed most to the aggregate growth rate for Fiscal Year

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2020-21 – adding a combined \$5,414,926 in tax revenue and representing growth rates of 160 percent respectively.

Since the adoption of Resolution 2018-0323 - establishing the Cannabis Opportunity Reinvestment and Equity (CORE) program the City of Sacramento has collected \$51,756,280 in Business Operating Taxes (BOTs) from the cannabis industry to the General Fund. Yet, since the adoption and implementation of the CORE program the city has only appropriated \$2,450,000 from the General Fund to the CORE program or 4.7 percent of cannabis industry tax revenue. This budgetary spending does not suggest that the CORE program is a policy or budgetary priority.

## Efforts to Establish Social Equity Program

The City of Sacramento has determined, based on its 2018 Cannabis Equity Study, that a two-year pilot program dedicated to aiding communities who were subject to criminal law enforcement of cannabis related crimes at a disproportionate rate to their population within the city and, as a result, were negatively impacted is in the best interests of the City. As such, the City has adopted the Cannabis Opportunity Reinvestment and Equity Program (CORE) described herein.

The CORE Program seeks to reduce the barriers of entry and participation for communities that have been negatively impacted by the disproportionate law enforcement of cannabis related crimes by providing them access to cannabis business development resources, services, and contracting and shareholder opportunities described herein. The CORE Program is a conscious effort to provide the business plan development, training, mentoring, and support necessary to ensure that the emerging cannabis market is accessible to all, regardless of economic status, gender, racial, cultural background and criminal history. Although City funding for the CORE Program's cannabis business development resources and services shall expire in two years from the date of adoption (unless such time for these pilot program support services is otherwise reduced or extended by resolution of the City Council), all other program definitions, eligibility, processing, benefits, features and functions shall remain intact as policy.



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## Criteria to Become Equity Applicant

An individual that is eligible to participate in the program is either:

- 1) Classification 1. A current or former resident of the City of Sacramento who previously resided or currently resides in a low-income household and was either: a) arrested or convicted for a cannabis related crime in Sacramento between the years 1980 and 2011; or is b) an immediate family member of an individual described in subsection a of Classification 1 or Classification 2.
- 2) Classification 2. A current or former resident of the City of Sacramento who has lived in a low-income household for at least five (5) years, between the years of 1980 and 2011 in the following zip codes: 95811, 95815, 95817, 95820, 95823, 95824, 95826, 95828, and 95818.

A cannabis business that is eligible to participate in the program is either:

- 3) Classification 3. A cannabis business with not less than 51% ownership by individuals meeting Classifications 1 or 2 criteria that reside within the city district in which their business sits, if any. If no such individuals exist, individuals meeting Classifications 1 or 2 criteria from other applicable areas may be utilized.
- 4) Classification 4. A cannabis business that is a CORE Incubator.
- 5) Classification 5. A Cannabis Social Enterprise with not less than 51% ownership by individuals meeting Classifications 1 or 2 criteria.

## Revenue from SB 1294

**Total: \$12,629,304.60**

On March 9, 2020, the Office of Cannabis Management (OCM) submitted an application for these grant funds. OCM was notified by Go-Biz on April 21, 2020, that the city would be awarded **\$3,831,955.93**, the fourth highest award in

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the State. Per Go-Biz's guidelines, these funds must all be utilized within one year from disbursement. Accordingly, approximately 90 percent of the Go-Biz grant funds will be used to launch a city-sponsored no-interest revolving loan program for cannabis business start-up costs solely for CORE applicants.

In the beginning of 2020, the City also received equity grant funds from the Bureau of Cannabis Control (BCC) in the amount of **\$1,197,119.34**. Those funds are currently being expended to reimburse up to \$25,000 in start-up costs incurred by CORE applicants and permit holders. To date, 12 requests for reimbursements have been submitted to the city. The grant funds were intended to cover up to 40 requests for reimbursements of \$25,000 each.

On February 1, 2021, the Office of Cannabis Management (OCM) submitted an application for these grant funds. OCM was notified by Go-Biz on March 5, 2021, that the city would be awarded **\$1,813,612.38**, the fourth highest award in the State.

Accordingly, the Go-Biz grant funds in this allocation will be used as follows:

- **\$1,450,891** – Grant program for CORE applicants. Feedback suggests that one of the largest barriers to starting a cannabis business is finding a location that already has a Conditional Use Permit (CUP). In most cases, the cost of obtaining the CUP is borne by the cannabis business operator and can range from \$16,000 to \$33,000. This does not include the expenses associated with tenant improvements to the property, equipment costs, obtaining state licenses, and other regulatory and small business costs.
- **\$362,721** – Costs for administration of the Grant and Direct Technical Assistance Programs on behalf of the city.

On November 15, 2021, the Office of Cannabis Management applied for grant funds from Go-Biz once more. OCM was notified on December 24, 2021, that the city would be awarded \$2,570,697 in grant program funding and an additional \$3,215,919 due to having an equity program for a total award of **\$5,786,617**. The

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anticipated use of funds would be to implement the second iteration of the city's direct technical services program for equity applicants and entrepreneurs, assist equity operators with receiving their annual state licenses, and to provide additional capital to assist equity entrepreneurs in the industry.

\$4.351 million will be used to fund the Cannabis Equity Grant (CEG) 2022 Program.

- \$1 million will be set aside for larger projects, to be chosen by competitive process. The number of projects funded will depend on the score of each proposal.
- \$3.351 million for tiered funding
  - o Tiered funding levels based on where CORE members are in the process (i.e. CUP pending, CUP approved, build out, BOP pending, etc.)
  - o Funding will increase for each tier and be highest for those who are closer to opening.
  - o The number and amount of each grant will depend on the number of applicants in each tier.

## Opportunities for Improvement

Although a few CORE participants have enjoyed some important benefits and success stories, over a period of 4 years the city has pitted communities of color against each other on cannabis matters, and severely delayed, fragmented and weakened the market entry support needed by CORE participants. There has not been any cannabis business tax revenue has allocated for access to capital funding for CORE entrepreneurs.

In large part due to policy and program implementation failures, CORE entrepreneurs still face extraordinarily high market entry costs and barriers. The latter includes exorbitant local Conditional Use Permit (CUP) and state application fees, the requirement for long term leases of real property under a

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cloud of uncertainty, and the need for very expensive business consultants and attorneys to develop business plans and comply with highly complex regulations.

Jurisdiction	Number of BOP's Issued	Number of BOP Applications Pending	Total	Percentage of Subtotal
District 1	0	0	0	0
District 2	40 (17.09%)	57 (27.53%)	97	21.99%
District 3	24 (10.25%)	19 (9.17%)	43	9.75%
District 4	7 (2.99%)	0	7	1.58%
District 5	21 (8.97%)	21 (10.14%)	42	9.52%
District 6	142 (60.68%)	107 (51.69%)	249	56.46%
District 7	0	0	0	0
District 8	0	3 (1.44%)	3	.69%
Subtotal	<b>234</b>	<b>207</b>	<b>441</b>	N/a
CORE	15 (6.4%)	63 (30.43%)	78	17.68%

**Table 32. Cannabis Business Operating Permits issued and pending applications by District, City of Sacramento.** Data retrieved from Office of Cannabis Management as of 4/24/2021

The City of Sacramento requires every applicant to procure a CUP prior to applying for a BOP. Because the CUP is a land entitlement permit the city does not record if the CUP applications are for equity businesses. However, the city does track BOP applications that are for equity businesses pursuant to its own equity business ownership definition incorporated into Resolution 2018-0323 - establishing the Cannabis Opportunity Reinvestment and Equity (CORE)

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program. This allows for the calculation of operating equity entrepreneurs relative to the entire market in the aggregate. The city has reported approximately 283 CUPs issued since the start of 2018. The breakdown is as follows:

- 2018: 148 CUPs Issued
- 2019: 58 CUPs Issued
- 2020: 60 CUPs Issued
- 2021: 17 CUPs Issued

In the aggregate – cannabis equity entrepreneurs make up 17.68 percent of Sacramento’s market. The trends continue throughout this series of data as well – District 2 and District 6 have the highest concentration of operating cannabis businesses as well as cannabis business applications. There have been arguments made in favor of the moratorium in District 2 expressing concerns over market saturation. However, data from the City of Sacramento highlights that there is 26 approved CUPs that are not associated with any BOPs as of June 1, 2021. 16 or 61.5% of those CUPs are in District 2. This data alone does not support the idea of market oversaturation and instead supports the concept of artificial scarcity in which the Real Estate stock may seem to be low therefore artificially creating scarcity and driving up real estate prices as a result of the limited market supply.

## IV. City of Oakland

### History and Background of Cannabis Market

#### **May 19, 1998**

The Oakland City Council passed [Resolution No. 72516 C.M.S.](#) in support of the Oakland Cannabis Buyers Collective when the federal government sued the collective (and five other entities) seeking an injunction to get the collective to cease distributing and manufacturing cannabis.

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## **November 2, 2004**

Oakland residents passed [Ballot Measure Z](#). Ballot Measure Z was a continuation of Oakland’s dualpronged approach to cannabis: focusing on social justice reform and proper regulation. The ballot measure made citations and arrests of private adult cannabis use Oakland’s lowest law enforcement priority and set the groundwork for establishing a system to license, tax, and regulate cannabis. Oakland followed up Measure Z by enacting [Ordinance No. 12694](#), which established a community oversight committee with the role of assisting the city council in fulfilling the objectives of Measure Z.

## **July 2011**

Medical cannabis dispensaries in Oakland become regulated under [Title 5, Chapter 5.80 of the Oakland Municipal Code](#), which became effective in July of 2011 and was most recently amended on March 28, 2017.

## **Spring 2017**

The City of Oakland adopts a landmark Equity Permit Program to promote equitable ownership and employment opportunities to decrease disparities in life outcomes for marginalized communities of color and to address the disproportionate impacts of the war on drugs in those communities.

## **December 10, 2019**

The Oakland City Council adopted [Ordinance No. 13573 C.M.S.](#) amending the Oakland Municipal Code (“OMC”) Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and categorybased tax structure for cannabis businesses.

## Governance Structure

Measure Z established a Community Oversight Committee which would later be named the Cannabis Oversight Committee. Measure Z granted this body with the power to make recommendations to the Oakland City Council regarding the licensure, taxation, and regulation of cannabis for adult use. However, the authority to regulate the issuance of commercial cannabis permits, disburse sales

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tax revenue, receive governmental grants on behalf of cannabis equity businesses, and make amendments to the City Municipal Code, resides within the City Administration and the City Council.

## Land Use and Business Licensing

The City of Oakland does not require conditional use permits for any Cannabis Business within its jurisdiction. Instead, the City of Oakland requires that each Cannabis Business Operator must receive an environmental determination pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) from the City prior to approval of the Cannabis Operation Permit. The City, in its discretion and based on substantial evidence in the record, may determine that either: (1) a CEQA exemption applies, and a Notice of Exemption (NOE) is appropriate, or (2) further environmental study, including but not limited to, an Initial Study, Environmental Impact Report (EIR), or other study may be needed depending upon the proposed Cannabis operation. The city will inform the Cannabis operator before granting the Cannabis Operation Permit as to what, if any, further environmental review is needed, or whether an NOE is appropriate. If the City determines that the Cannabis operation should receive an NOE, then the Cannabis operator must then file the NOE with Alameda County Clerk and the state Office of Planning and Research (OPR) within five (5) days from the date of the Cannabis Permit approval. The Cannabis Operator shall furnish proof of the filed NOE to the City Administrator or his/her designee upon request.

The Port of Oakland has land use (zoning) jurisdiction in the Port Area. Cannabis-related businesses are allowed in certain areas of the Port Area under specific conditions. Having an allowed use provides the tenant with authority to obtain a City Business Permit. A Special Business Permit must be obtained from the city before operating the business. The Port Area includes the Aviation (Airport), Maritime (Seaport), and Oakland Airport Business Park (OABP) areas. Aviation and Maritime areas are restricted to uses related to those industries (non-cannabis) and are primarily owned by the Port. The Oakland Airport

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Business Park (OABP) is a mix of light industrial, R&D, warehousing, and commercial uses.

The Port does not have a conditional use permit process. Uses are “allowed” or “not allowed”, and some allowed uses are only allowed under specific conditions. Cannabis activities are allowed under various use categories.

- Growing/Cultivation- Indoor Agriculture is an allowed use covering this activity. This use is allowed in the BPI.
- Extraction- Oil extraction or other processing of plants to create raw materials is considered a Light Industrial use. This use is allowed in the BPI and on Oakport Street properties.
- Edibles- Creation of end products to sell in dispensaries is considered Light or Custom Manufacturing. Both uses are allowed in the BPI and on Oakport Street properties.
- Research- R&D activities working with cannabis and cannabis products are allowed in the BPI.
- Dispensaries, Delivery Only- Dispensaries that do not serve customers on site are considered a Warehouse and Distribution use and are allowed in the BPI.
- Dispensaries, Walk-in- Standard dispensaries are considered Medical Service, or General Retail, which are both allowed only in the CC.
- General Wholesale- Wholesale activities are allowed in the BPI and on Oakport Street properties.
- Warehousing, Storage, and Distribution- Warehousing and distribution activities are allowed in the BPI.

Chapter 5.80.020 of the Oakland Municipal Code establishes the requirement for Cannabis Business Operators to retain a business permit to lawfully engage in commercial cannabis activity. Providing that it is unlawful for any owner, operator, or association to own, conduct, operate, maintain, participate therein, or to cause or allow to be conducted, operated, or maintained, any dispensary,



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delivery or delivery only dispensary in or into the City unless there exists a valid business permit in compliance with the provisions of Chapter 5.02 and a permit issued under this chapter.

The chapter establishes that the City Administrator shall issue no more than eight new valid permits for the operation of dispensaries in the City per calendar year, with a minimum of half of the dispensary permits issued each calendar year issued to Equity Applicants. Delivery only dispensaries shall not be subject to these limits. Dispensary permits shall be issued through an equity permit process done in collaboration with the C. 2559238 Page 7 department of race and equity. No individual or entity shall have a direct or indirect interest in more than two (2) dispensary permits.

## Distance Requirements

Six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes), another dispensary or youth center, unless the school or youth center moved into the area after the dispensary was issued a permit.

## License Types

- a. Medical
- b. Adult Use
- c. Medical and Adult Use
- d. Delivery-Only Dispensary
- e. Indoor Cultivator
- f. Outdoor Cultivator
- g. Distributor

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- h. Transporter
- i. Testing Laboratory
- j. Manufacturing with Volatile Solvents
- k. Manufacturing with Non-Volatile Solvents

## Fees

## Cannabis Business Taxation

### Revenue

In July 2009, Oakland voters approved Measure F making Oakland the first City in the nation to impose a tax on (medical) cannabis businesses. Measure F established a tax rate of \$18 per \$1,000, or 1.8 percent (1.8%), of gross receipts.

In November 2010, Oakland voters approved the 2010 Measure V increasing the tax rate on medical cannabis businesses from 1.8 percent (1.8%) to five percent (5%) of annual gross receipts and creating a new tax rate of 10 percent (10%) of gross receipts on non-medical cannabis businesses, referred to as adult-use or recreational. The additional 10 percent adult-use tax rate was put forth in anticipation of Proposition 19, which would have legalized adult use of cannabis in November 2010. Since Proposition 19 failed at the ballot box, Oakland did not implement the adult-use tax rate until January 1, 2018 following the passage of Proposition 64 and City Council's legalization of adult use in 2017.

In November 2018, Oakland voters approved the 2018 Measure allowing cannabis businesses to pay business taxes quarterly,

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cannabis manufacturing and/or cultivation businesses to deduct the value of raw materials from gross receipts in calculating business taxes and authorizing the City Council, without returning to voters, to amend medical or nonmedical cannabis business taxes in any manner that does not increase the tax rate.

In December 2019, the Oakland City Council adopted [Ordinance No. 13573 C.M.S.](#) amending OMC Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses beginning in 2020 and changing each year for 2021 and 2022 calendar years. Thereafter, the tax rate structure is scheduled to remain the same as the 2022 tax structure unless the City Council makes further changes as authorized in the 2018 Measure V.

All cannabis tax revenues are collected on a calendar year basis and deposited in the GPF. Table 14 summarizes the reported cannabis business tax revenue for the years 2015-2022.

**Table 33. Historical Cannabis Business Tax Revenue 2015-2022, City of Oakland**

Tax Year	Number of Businesses	Revenue
2022	259	\$7.92 million
2021	187	\$13.47 million

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2020	252	\$8.89 million
2019	1 9 5	\$12.85 millio n
2018	139	\$8.07 milli on
2017	85	\$7.48 million
2016	77	\$4.64 million
2015	70	\$3.61 million
	<b>Total</b>	<b>\$66.93 million</b>

The City of Oakland also provides an example of a progressive tax and fiscal spending structure. A progressive tax is characterized by a more than proportional rise in the tax liability relative to the increase in income. Progressive income taxation may result in a more equitable income distribution, higher revenues, less financial and economic volatility, and faster growth.<sup>[1]</sup> The City of Oakland is deliberating over the best way to adopt and implement an “Emerald

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New Deal Healing and Reparation Fund” Proposed To (A) Establish The “Emerald New Deal Fund”, a Fund Of The City Of Oakland, To Provide Community And Economic Development Services And/Or Programs That Address The Racially Inequitable Impacts Of The War On Drugs On Individuals, Families, And Communities In Our City; (B) Deposit The Revenue Of The Cannabis Business Tax Into The Hereby Established “Emerald New Deal Fund”; And (C) Establish An “Emerald New Deal Fund Oversight Commission” As A Commission Of The City Of Oakland To Recommend Strategic Investments Of The Emerald New Deal Fund.

## *A. Emerald New Deal Services and Programming*

The END proposes to spend the City’s cannabis tax revenues in the following manner:

- Category One: Up to 15 percent (15%) for the City’s costs of administering the Emerald New Deal<sup>[2]</sup>
- Category Two: Up to 35 percent (35%) towards City of Oakland programs that support individuals and neighborhoods most impacted by the War on Drugs.
- Category Three: Up to 50 percent (50%) to private, non-profit, and public agencies that support individuals and neighborhoods most impacted by the War on Drugs.

Category One costs of administering the END would include staffing the END’s proposed Planning and Oversight Commission, drafting mandated reports, drafting and process multiple Requests for Proposals (RFPs), processing subsidies for commission members, and monitoring the use of cannabis tax revenues. These costs would be new costs to the City as the City does not currently specifically track and produce reports on the use cannabis tax revenues. Staff anticipates these new functions would require approximately two to three full time equivalent

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(FTE) positions in the Economic and Workforce Development Department (EWDD), one FTE position in the

Finance Department, and a portion of new positions in the Offices of the City Auditor and City Attorney.

Allocating up to fifteen percent (15%) of cannabis tax revenues to the administration of the END should be sufficient to cover the costs of administering the END assuming revenue from cannabis business tax remains at or above \$8 million annually. However, as currently drafted, the END specifies that the costs of cannabis equity assistance programs, such as loans and technical assistance to cannabis equity applicants, fall under administrative costs (See proposed OMC 4.58.030 (B)(e)). Given the costs of operating a cannabis business and the fact that there are over three-hundred unique verified equity applicants, 15 percent (15%) of cannabis tax revenues could be inadequate to funding these cannabis equity program services plus new City administrative costs.

Category Two contemplates funding a wide variety of City programs, such as workforce development, blight abatement, illegal dumping removal, services for unhoused people, and loans to cannabis equity businesses. The current funding sources for these different City programs include various sources of funds, including the General Fund, Federal Workforce Innovation and Opportunity Act (WIOA) funds, Measure Q Parcel Tax and Measure W, Vacant Property Tax, and state grants.

Category Three envisions a broad array of external programming. Examples of potential external programs under Category Three include workforce development, services for unhoused persons, mental health, housing, business support, physical health, and educational programs. The City currently makes available funding for external organizations for these purposes, such as in Fiscal Year (FY) 21-22 the Department of Violence Prevention (DVP) oversaw contracts with community-based organizations (CBOs) of approximately \$11.7 million. The City's annual investment in homeless services totals tens of millions of dollars. Similarly, the Workforce Development Division of EWDD had a total budget for Workforce Services in FY 21-22 of approximately \$6.8 million, which

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does not include additional Workforce Services provides by other City departments.

## Tax Rate

On December 10, 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending the Oakland Municipal Code (“OMC”) Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses. The new tiered and category-based tax structure for 2022 Tax Year, and if applicable, for a business newly established in calendar year 2021, is as follows:

Ordinance No. 13573 C.M.S. established a progressive business tax rate for Cannabis Equity Businesses and Non-Cannabis Equity Business.

Every person engaged in a Cannabis Business shall pay business tax at the rates provided in this Section.

1. Equity Cannabis Businesses (under \$1.5 million).

With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019. Every person engaged in an Equity Cannabis Business with total gross receipts less than or equal to one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

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2. General Cannabis Businesses (under \$500k).

With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019. Every person engaged in a General Cannabis Business with total gross receipts less than or equal to five hundred thousand dollars (\$500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

3. Equity Retail Cannabis & Equity Indoor Cultivation (over \$1,5 million but less than \$5 million).

Every Equity Cannabis Business engaged in Retail Cannabis or Indoor Cultivation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to



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one million five hundred thousand dollars  
(\$1,500,000.00) and derived from a Medical  
Cannabis Business; plus

iii. Sixty-five dollars (\$65.00) for each one  
thousand dollars (\$1,000.00) of gross receipts,  
or fractional part thereof, greater than to one  
million five hundred thousand dollars  
(\$1,500,000.00) and derived from a  
Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

i. One-dollar and twenty cents (\$1.20) for  
each one thousand dollars (\$1,000.00) of gross  
receipts, or fractional part thereof, less than or  
equal to one million five hundred thousand  
dollars

(\$1,500,000.00); plus ii. Fifty dollars (\$50.00) for  
each one thousand dollars (\$1,000.00) of gross  
receipts, or fractional part thereof, over one  
million five hundred thousand dollars  
(\$1,500,000.00).

c. Annual 2022 Business Certificates and  
After.

With respect to any 2022 business tax certificate  
and for each following year:

i. One-dollar and twenty cents (\$1.20) for  
each one thousand dollars (\$1,000.00) of gross  
receipts, or fractional part thereof, less than or  
equal to one million five hundred thousand  
dollars (\$1,500,000.00); plus

ii. Fifty dollars (\$50.00) for each one  
thousand dollars (\$1,000.00) of gross receipts,

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or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

4. General Retail Cannabis & General Indoor Cultivation (over \$500k but less than \$5 million).

Every General Cannabis Business engaged in Retail Cannabis or Indoor Cultivation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal five hundred thousand dollars (\$500,000.00); plus

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a

Medical Cannabis Business; plus iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a Non-Medical Cannabis Business.

5. Indoor Cultivation (Over \$5 million).

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Every person engaged in Indoor Cultivation with total gross receipts greater than five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business

b. Annual 2021 Business Certificates and After.

With respect to any 2021 business tax certificate, and for each following year, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

6. Retail Cannabis (Over \$5 million).

Every person engaged in Retail Cannabis with total gross receipts greater than five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued

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pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates

With respect to any 2021 business tax certificate:

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
  - ii. Eighty dollars (\$80.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business.
- 1L c. Annual 2022 Business Certificates and After. With respect to any 2022 business tax certificate, and for each following year, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

7. Equity Cannabis Manufacturing, Equity Outdoor Cultivation, & Equity Cannabis Packaging and Storage (Over \$1.5 million).

Every Equity Cannabis Business engaged in Cannabis Manufacturing, Outdoor Cultivation, or Cannabis Packaging with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

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a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any Medical Cannabis Business; plus
- iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus
- iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or

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equal to one million five hundred thousand dollars (\$1,500,000.00); plus ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to one million five hundred thousand dollars (\$1,500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate and for each following year:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00);
- ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00).

8. General Cannabis Manufacturing, General Outdoor Cultivation, & General Cannabis Packaging and Storage (Over \$500k).

Every General Cannabis Business engaged in Cannabis Manufacturing, Outdoor Cultivation, or Cannabis Packaging with total gross receipts greater

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than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand dollars (\$500,000.00); plus

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over to five hundred thousand dollars (\$500,000.00) and attributable to any Medical

Cannabis Business; plus iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-

Medical Cannabis Business; plus iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-

Medical Cannabis Business

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

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- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand dollars (\$500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five hundred thousand dollars (\$500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate, and for each following year:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iv. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00).



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9. Equity Cannabis Distribution and Transportation (Over \$1.5 million).

Every Equity Cannabis Business engaged in Cannabis Distribution and Transportation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of: a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand (\$1,500,000.00);
- plus ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any Medical Cannabis Business;
- plus iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus
- iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any NonMedical Cannabis Business.

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b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to one million five hundred thousand dollars (\$1,500,000.00).

c. Annual 2022 Business Certificates.

With respect to any 2022 business tax certificate, and for each year thereafter:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five million dollars (\$5,000,000.00).

10. General Cannabis Distribution and Transportation (Over \$500k).

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Every General Cannabis Business engaged in Cannabis Distribution and Transportation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand (\$500,000.00); plus

ii. Fifty dollars (\$50,00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) and attributable to any Medical

Cannabis Business; plus iii. Fifty dollars (\$50,00) for each one thousand dollars (\$1,000,00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000,00) but less than or equal to five million dollars

(\$5,000.000.00) and attributable to any Non-Medical Cannabis Business; plus iv. Ninety-five dollars (\$95,00) for each one thousand dollars (\$1,000,00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000,00) and attributable to any NonMedical Cannabis Business.

b. Annual 2021 Business Certificates.

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With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand (\$500,000.00); plus
- ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five hundred thousand (\$500,000.00).

c. Annual 2022 Business Certificates.

With respect to any 2022 business tax certificate, and for each year thereafter:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- iii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iv. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over five million dollars (\$5,000,000.00).

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## 11. Cannabis Testing.

With respect to any 2020 business tax certificate and for each year thereafter, and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019, the rates defined in this Section 5,04,480 shall no longer be applicable to Cannabis Testing and such businesses shall pay business tax at the rate if any, otherwise applicable to that business notwithstanding this Section 5,04.480.

[The remainder of this page is intentionally left blank]

In addition to the new tiered and category-based tax structure, the City Council also adopted four different tax rebate programs totaling nine separate and distinct conditions upon which a cannabis business would be entitled to the rebate of a portion of the taxes paid for 2022 Tax Year and, if applicable, 2021 Tax Year for a business newly established in calendar year 2021 if the business meets the required conditions. The rebate programs are as follows:

### Efforts to Establish Social Equity Program

In anticipation of state legalization of the cannabis industry's supply chain and the adult use of cannabis, the City of Oakland began exploring approaches to legalizing the cannabis industry within Oakland in 2015 and 2016. Discussions at

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the City Council centered around one question: Who benefits from cannabis legalization? This inquiry led the City Council in the fall of 2016 to adopt the goal of promoting equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color and to direct the City Administration to conduct a race and equity analysis of proposed medical cannabis regulations.

In March 2017 staff returned with a race and equity analysis that identified barriers to achieving a more equitable cannabis industry and strategies to remove those barriers. For example, the analysis found within the cannabis industry disparities in access to capital and real estate as well as disparities in operators' familiarity with the "red tape" involved in governmental processes and operating a compliant cannabis business. In response, the analysis recommended creation of several measures to prioritize lower-income Oakland residents that either had a cannabis conviction arising out of Oakland or had lived in areas of Oakland that experienced disproportionately higher levels of cannabis enforcement. Strategies identified to prioritize equity applicants included:

- A no-interest revolving loan program funded by new cannabis tax revenue.
- A phased permitting process whereby the City Administrator must issue half of all permits under OMC 5.80 and 5.81 to equity applicants during the initial phase.
- An incubator program that prioritizes general applicants who provide three years of free space and security to equity applicants; and
- Application and permit fee exemptions for equity applicants.

## Criteria to Become an Equity Applicant:

The Equity Permit Program described under Oakland Municipal Code (OMC) 5.80.045 and OMC 5.81.060 defines an "Equity Applicant" as an Applicant whose ownership/owner:

- 1) Is an Oakland resident; and

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2) Has an annual income at or less than 80 percent of Oakland Average Medium Income (AMI) adjusted for household size:

- \$73,100 for a one-person household
  - \$83,550 for a two-person household
  - \$94,000 for a three-person household
  - \$104,000 for a four-person household
  - \$112,800 for a five-person household
  - \$121,150 for a six-person household
  - \$129,500 for a seven-person household
  - \$137,850 for an eight-person household;
- and

3) Either

- a) has lived in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X for at least ten of the last twenty years OR
- b) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland.

## Revenue from SB 1294

**Total: \$16,096,558.30**

The Governor's Office of Business and Economic Development (Go-Biz) has awarded the City of Oakland a grant in the amount of **\$5,435,140.82** to support Oakland's Equity Program in 20222023. \$2,428,953.10 of the amount awarded is anticipated to be allocated to grants for equity businesses. \$2,250,000.00 of the total funds awarded

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will be used to support/provide no-interest loans for equity entrepreneurs to purchase real estate. \$330,357.00 will be used to retain a consultant to assist equity businesses and entrepreneurs with technical assistance. The remaining \$212,915.36 will be used to provide support for the City’s workforce development and apprenticeship program.

The City of Oakland has received three state grants thus far to support its cannabis equity program: in the spring of 2020 the city received a grant of approximately **\$1,650,000** from the Bureau of Cannabis Control; in the summer of 2020 the City received a **\$6,576,705** grant from the Governor’s Office of Business and Economic Development (Go-Biz); then in the summer of 2021 the City 3 received a **\$2,434,712.51** from Go-Biz.

Tables 15-17 provide an overview of the uses of each of these grants and the subsequent narrative offers an update on the various programs funded through state grants.

**Table 34.** BCC Grants 2020-2021, City of Oakland

Category	Amount	Status
Grants to Operators	\$850,000	Dispersed
Commercial Kitchens	\$250,000	Dispersed
Commercial Kitchens OR Events Featuring Equity Businesses	\$200,000	Dispersed
Workforce Development	\$200,000	Dispersed



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Program Analyst Position	\$150,000	Dispersed
TOTAL BCC FUNDING	\$1,650,000	

**Table 35.** Go-Biz Grants 2020-2021, City of Oakland

Category	Amount	Status
Grants to Operators for All Eligible Expenses	\$1,510,239	Dispersed
No Interest Revolving Loans to Operators for All Eligible Expenses	\$960,239	Dispersed
No Interest Loans to Purchase Property	\$2,010,239	Funds to Purchase Property Dispersed; Approximately \$116k Remaining
Utilization of Shared-Use Manufacturing Facilities	\$50,000	Dispersed
Workforce Development	\$800,000	Approximate ly \$138k Remaining
Loan and Grant Administration	\$350,000	Dispersed

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Technical Assistance	\$250,000	Dispersed
Legal Assistance	\$165,000	Dispersed
City Staff Costs Administering Equity Program	\$480,987	Dispersed
TOTA	\$6,576,704	

**Table 36.** Go-Biz Grants 2021-2022, City of Oakland

Category	Amount	Status
Grants and/or No-Interest Revolving Loans to	\$1,448,475.41	Approximately \$470k Remaining

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Operators for All Eligible Expenses		
Grants to Utilize Shared-Use Manufacturing Facilities	\$500,000	Approximately \$167k Remaining
Loan and Grant Administration	\$160,000	Approximately \$77k Remaining
Technical Assistance	\$121,500	Approximately \$19.9k Remaining
Legal Assistance	\$121,500	Approximately \$57.4k Remaining
Portion of City Administrator Analyst Position	\$83,237.10	Not Yet Dispersed
TOT	\$2,434,712.51	

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**Table 37. Permit Applications by Category, City of Oakland  
Permit Applications by Category**

Completed Applications by Business Type	General	Incubator*	Interested in Incubating*	Equity
Delivery	179	68	4	252
Cultivator (Indoor)	216	123	17	162
Cultivator (Outdoor)	6	5	0	37
Distributor	155	90	4	234
Manufacturing (Volatile)	54	40	0	47
Manufacturing (Non-Volatile)	102	55	2	173
Transporter	5	4	0	40
Lab Testing	2	1	0	10
<b>Grand Totals</b>	<b>719</b>	<b>386</b>	<b>27</b>	<b>955</b>

## V. County of Humboldt

History and Background of Cannabis Market

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## **1983**

Campaign Against Marijuana Planting (CAMP) established. CAMP was a joint task force created to coordinate federal, state, and local agencies for at least eight (8) weeks every year between August and October to locate and eradicate primarily outdoor cannabis agriculture. CAMP's funding sources came from a combination of law enforcement and environmental agencies that changed over time, but were dominated by the U.S. Drug Enforcement Agency (DEA) and California's Bureau of Narcotics Enforcement (BNE).<sup>3</sup>

## **1984**

Beginning in June 1984, the CAMP Headquarters, upon request, began dispatching fixed-wing aircraft piloted by BNE agents and equipped with LORAN-C "navigational aids to find the exact location of marijuana gardens. As the eradication phase (July 15 through October 18) of the program progressed, additional aerial observation services were provided in the form of piloted USFS aircraft and Funds provided directly to some sheriff's departments to do their own flying and/or hire a private contractor for the service. Also, when available, piloted DEA aircraft were used to fly CAMP missions.<sup>4</sup>

## **1985**

CAMP began the 1985 eradication phase of the program in Humboldt County with the spring raids between May 6-10. The purpose of the spring raids was to send an early message to both present and potential marijuana cultivators that CAMP was back; to train CAMP field command staff in eradication techniques; and clear as much public land as possible for safe access by the public.<sup>5</sup>

## **1986**

California Supreme Court rules, in the People vs Mayoff case, that random aerial surveillance is constitutional, but the flight needs to be high enough to not be able to observe the details of human activity and urges the CA legislature to

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establish standards to “balance the needs of law enforcement against legitimate privacy expectations.”<sup>6</sup>

<sup>3</sup> Corva, D. Requiem for a CAMP: The life and death of a domestic U.S. drug war institution. *International Journal of Drug Policy*

(2013), <http://dx.doi.org/10.1016/j.drugpo.2013.02.003>

<sup>4</sup> “Camp - Library.humboldt.edu,” accessed June 9, 2022, <https://library.humboldt.edu/humco/holdings/CAMP/CAMP1987.pdf>.

<sup>5</sup> Ibid....

<sup>6</sup> SCOCAL, *People v. Mayoff*, 42 Cal.3d 1302 available at: (<https://socal.stanford.edu/opinion/people-v-mayoff-23429>) (last visited Wednesday June 8, 2022).

## **June 2008**

Operation Southern Sweep – focus is most concentrated on ranchland nicknamed “Buddaville” in Southern Humboldt County. The operation employed convoys of state and federal drug enforcement agents, 450 of them, who converged in Humboldt County. A rugged 2,000-acre Southern Humboldt area known as Buddhaville was the focus of the operation and agents searched numerous homes linked to it. One home in Arcata was raided and a small grow located.

## **January 26, 2016**

The Humboldt County Board of Supervisors adopted [Ordinance No. 2544](#) (superseded by [Ordinance No. 2599](#), May 8, 2018), the Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), which provides for the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in Coastal and Non-Coastal zoning districts. The purpose of these regulations is to protect the public health, safety, and welfare of residents of Humboldt County, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation, and to prevent adverse environmental effects of any new commercial cannabis activities, consistent with the MMRSA law.

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## **August 2019**

The first addition of the Humboldt County Cannabis Equity Assessment (CEA) was written in 2019 to assess the effects the War on Drugs had on the cannabis community in Humboldt County.

### Governance Structure

Decisions related to regulating Commercial Cannabis in Humboldt County resides within the County Administration and the County Board of Supervisors. Powers allowing for cannabis businesses to engage in commerce reside in Humboldt County Municipal Codes. The primary governmental body responsible for accepting applications and issuing permits in Humboldt County is the Planning and Building Department.

### Land Use and Business Licensing

#### Land Entitlement Process

Humboldt County requires Commercial Cannabis Businesses to be issued a Conditional Use Permit (CUP) as a step in the Planning and Building Department's permitting process for all commercial cannabis activity, within the Inland Area, as specified. Commercial Cannabis Activity in the Humboldt County Municipal Codes (HCMC) includes any activity involving the cultivation, processing, distribution, manufacturing, testing, sale, or related activities, of cannabis for commercial purposes. Medical-only retail dispensaries are not required to obtain a CUP. The County of Humboldt requires commercial cannabis cultivation businesses to obtain a zoning clearance certificate, special permit, or use permit, and the person engaged in such activity must obtain all required State licenses and permits. Medical Cannabis retailers must also meet the requirements determined by the planning commission while remaining compliant

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to with the established requirements for granting and renewal of a conditional use permit and coastal development permit.

## Distance Requirements

Section 55.3.9.2 of the HCMCs establish the following provisions regulating distance requirement for medicinal dispensaries:

The Planning Commission shall specifically regulate the location of medical cannabis Dispensaries by considering the potential impacts and cumulative impacts of proposed medical cannabis Dispensaries to the community area as a whole and specifically on the following existing uses located within a 600-foot radius of a proposed Dispensary, regardless of whether those existing uses are located within the jurisdiction of the County. The Planning Commission shall have the discretion to deny a conditional use permit for any proposed medical cannabis Dispensary within 600 feet of the following uses if the Commission determines that the impacts of a proposed Dispensary have the potential to be significant on the following uses:

- Residential neighborhoods and their inhabitants.
- Church, as defined herein.
- Playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein.
- Residential treatment facilities, as defined herein; and
  
- The cumulative impacts resulting from the addition of another cannabis dispensary, delivery service or other distribution or transfer facility when there are others within a 600-foot radius of the proposed new facility.
- No medical cannabis Dispensaries, operators, establishments, or providers who possess, cultivate, or distribute medical cannabis shall be



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located within a 600-foot radius of a school [Health & Safety Code section 11362.768 (b)]. This distance shall be measured in a straight line from the property line of the school to the property line of the medical cannabis dispensing facility, operator, establishment, or provider.

Section 55.4 of the HCMC's establishes distance requirements for the Commercial Cultivation, Processing, Manufacturing, Distribution, Testing, and Sale of Cannabis for the inland area.

#### **55.4.5.1 Special Area Provisions.**

- No commercial cannabis activity shall be permitted within six hundred (600) feet of a school.
- No commercial cannabis activity shall be permitted within tribal lands without the express written consent of the tribe.
- A special permit shall be required for any commercial cannabis activity in a TPZ zoning district, when authorized pursuant to Section 314-55.4.6.5(preexisting cultivation sites).

#### **55.4.5.1.4 City Spheres of Influence, Community Planning Areas, Tribal Lands.**

- A conditional use permit shall be required for any commercial cannabis activity were located within the sphere of influence (SOI) of any incorporated city or within any of the following mapped community planning areas (CPAs): Blue Lake, Fieldbrook-Glendale, Fortuna, Hydesville-Carlotta, McKinleyville, Rio Dell-Scotia, Shelter Cove, Trinidad-Westhaven, and Willow Creek.
- A conditional use permit shall also be required for any commercial cannabis activity were located within one thousand (1,000) feet of any incorporated city, tribal lands, or any of the community planning areas (CPAs) identified herein. For purposes of determining the Trinidad planning area, the Trinidad general plan shall be utilized.

#### **55.4.5.1.4.2 Early Notification to Surrounding Areas, Nearby Cities, and Tribes.**

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- Whenever a permit application for a commercial cannabis activity is located within any of the areas specified in Section 314-55.4.5.1.4.1 and has been determined complete for processing in accordance with Section 312-6.1, notice of the proposed project shall be provided to all property owners and occupants by first class mail to the address(es) shown on the latest assessment roll within one thousand (1,000) feet of the perimeter of the parcel on which a permit is being requested. The notice shall include the location of the project and a description of the size and type of activity proposed.

- The appropriate city or tribe shall also be notified in cases where a project is located within one thousand (1,000) feet of the city limit or boundary of tribal lands, or within the city's sphere of influence or tribe's ancestral area. This notice shall be in addition to the notice that may be required by Section 312-8.1 or 312-8.3. Pursuant to Section 312-9.2.3, a written request that a public hearing be held may be submitted at any time prior to the Hearing Officer's administrative decision on a project.

#### **55.4.5.1.5 Areas of Traditional Tribal Cultural Affiliation.**

- The County shall engage with local tribes before consenting to the issuance of any clearance or permit, if commercial cannabis activities occur or are proposed within an area of traditional tribal cultural affiliation. This process will include referral of the project to and engagement with the tribe(s) through coordination with their tribal historic preservation officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees.

- During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to tribal cultural resources, as defined herein. Examples include but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a

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tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

#### **55.4.5.4 Permit Limits and Permit Counting.**

- No more than eight (8) acres of commercial cannabis cultivation permits may be issued to a single person. No more than ten (10) persons shall be granted permits authorizing three (3) or more acres of cultivation pursuant to the provisions of Section 314-55.4.6.1.2.3.

#### License Types

- Cultivation/processing.
- Dispensary.
- Transporter: for independent transportation contractors, based in unincorporated Humboldt County. Cannabis Transportation Affidavit must be completed with application.
- Transporter-Special: independent transportation contractors with a physical base and license not located in unincorporated Humboldt County. Cannabis Transportation Affidavit must be completed with application.
- Manufacturer.
- Distributor/distribution.
- Testing.
- Nursery.
- Tourism.

As of 12/31/2021 the breakdown for license type in Humboldt County is:

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**Table 38.** Cannabis licenses applied for, but not approved and licenses approved by type, County of Humboldt

Commercial Cannabis Activity Type	# of Applicants who have submitted an application, but has not been approved, to the jurisdiction to engage in each cannabis activity type.	Total # of Licensees who have an Approved Permit or Interim Permit to engage in Cannabis Activity
Cultivation	879	1320
Manufacturing	23	42
Distribution	17	45
Retail (all types)	4	15
Testing Laboratory	1	0
Total:	924	1422

Cannabis business activity in Humboldt County is concentrated in its cultivation economy. Cannabis cultivators/growers make up over 90 percent of Licensees who have an approved permit to engage in Cannabis Activity in Humboldt County. This propensity has caused Humboldt County’s general fund to become sensitive to the collection of the cultivation tax imposed by Measure S. Currently, the tax rate from the county is not progressive, there has been a growing gap between taxes billed by the county and taxes remitted from the operators. County Administrators and County Board of Supervisors have started to implement a

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moratorium on tax collection and have been engaging in discussions regarding the development of a tax relief program for cultivators.

## Fees

**Table 39. Cannabis business activity fees, County of Humboldt**

Department	Service or Charge	Current Fee
268 Code Planning	Cannabis Application Assistance/PreApplication Fee	\$291.00
	Cannabis Conditional Use Permit	Actual Cost (minimum deposit \$4,500)
	Cannabis Special Permit	Actual Cost (minimum deposit \$3,250)
	Cannabis Zoning Clearance Certificate	Actual Cost (minimum deposit \$2,750)
	Post application review of conditions/mitigation monitoring	Actual cost (minimum deposit \$750)
	Cannabis Permit Transfer/Change	\$150.00
	Cannabis CEQA	Actual Cost
	Cannabis Extension/Modification	Actual Cost (minimum deposit \$875)
	Cannabis Permit Provided by Contracted Services	Contract Rate plus 20%

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	Cannabis Technology Fee - Public Hearing Review Permits	.10 X total permit fee
	Cannabis Technology Fee - Administrative Review Permits	.10 X total permit fee
	Cannabis Technology Fee - Administrative Review Permits	\$45.00
	Zone Boundary Interpretations	\$660.00
	Administrative Enforcement Agreement	\$250.00
	Determination of Status / Certificate of Compliance (plus charge for concurrent review of adjacent lots)	Actual Cost (minimum deposit \$825)
	Information Request	Actual Cost (minimum deposit \$150)
	Information Request	Actual Cost (minimum deposit \$150)
	CalFire Timberland Exemption	\$125.00
	Lot Line Adjustment	Actual Costs (minimum deposit \$1850)
	Northwest Information Center - Historical Data Base	\$75.00
	Public Noticing Costs (newspaper and neighbors)	Actual cost

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## Cannabis Business Taxation

Measure S was placed on the ballot by vote of the Humboldt County Board of Supervisors on July 19, 2016, as authorized by California Business and Professions Code section 19348 and Revenue and Taxation Code section 7284. It passed with 65.8% of votes by Humboldt County Residents. The tax would be applicable to the commercial cultivation of medical cannabis as authorized by the California Medical Cannabis Regulation and Safety Act and Title III, Division 1, Chapters 3 and 4 of the Humboldt County Code, and to the commercial cultivation of marijuana for casual or recreational use in the event that is legalized or decriminalized in the State of California and permitted by the County Code.

**Chapter 9 Sec. 719-4. Imposition of Tax** establishes the taxable rate for commercial cannabis cultivation businesses. It declares:

Each person issued a commercial marijuana cultivation permit shall pay an annual tax of one dollar (\$1.00) per square foot of outdoor cultivation area, two dollars (\$2.00) per square foot of mixed-light cultivation area or three dollars (\$3.00) per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property.

The initial maximum annual rate is one dollar per square foot of cultivation area for outdoor cultivation, two dollars per square foot of cultivation area for mixed light cultivation and three dollars per square foot of cultivation area for indoor cultivation. The tax rate shall be adjusted annually by the Consumer Price Index. Revenue from the tax will be deposited in the County General Fund. The tax will remain in effect until repealed.

The cultivation tax will be collected annually in two installments by the Humboldt County

Treasurer-Tax Collector. The tax will begin to accrue on the date the cultivator becomes engaged in legally authorized commercial marijuana cultivation in accordance with the Humboldt County Code. Failure to pay the tax within 30 days of the date due will incur penalties of 25 percent of the total amount due, plus an additional 10 percent for each month the tax remains unpaid, up to a maximum penalty of 100 percent of the tax payable on the due date. Violation of

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the cultivation tax ordinance shall also constitute a public nuisance, subject to all administrative, civil, or criminal remedies available to the County.

Humboldt County does not have any additional taxes for commercial cannabis business not specified as cultivation in its municipal codes.

## Revenue from Cannabis Businesses

YEAR	Taxes Billed	Tax Revenue Collected	Percentage of Total Collected	% Change from Previous Fiscal Year
<b>TOTAL</b>	<b>\$ 59,300,000.00</b>	<b>\$ 47,604,327.00</b>		
Fiscal Year 2016/17		\$ 178,377.00	0.37%	
Fiscal Year 2017/18	\$ 19,300,000.00	\$ 7,191,257.00	15.11%	3931.5%
Fiscal Year 2018/19	\$ 20,900,000.00	\$ 11,888,712.00	24.97%	65.3%
Fiscal Year 2019/20	\$ 19,100,000.00	\$ 10,817,666.00	22.72%	9.0%
Fiscal Year 2020/21	\$ -	\$ 17,528,315.00	36.82%	62.0%

To date, Humboldt County has collected \$47.6 million in tax revenue from Measure S. This total does not incorporate sales taxes into its calculus as the process would take hours of accounting. The amount of taxes generated is a considerable amount given Humboldt County only utilizes a commercial cultivation tax. This indicates that markets which are primarily comprised of cultivation business can generate a significant amount of revenue on their own, as long as the tax is sustainable.



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Overall Measure S taxes have realized a trend of upward growth over the past four (4) fiscal cycles. However, In Fiscal Year 2019/20 revenue dropped by nine (9) percent. This decrease was in anticipation of refunds associated with expected changes to the tax structure of cultivation square footage calculations. Preliminary tax revenues remitted in Fiscal Year 2020/21 to the Humboldt County Treasurer-Tax collector have totaled \$2.3 million as of December 2021, compared to the \$6.8 million collected in December 2020. This precipitous decline in revenue collection is a signal of how the current condition of Humboldt County's cannabis market. Since only 41 percent of cultivators paid their billed taxes, this is an indication that the tax rate is not optimal and business owners may benefit from a tax relief program.

## Efforts to Establish Social Equity Program

The California Center for Rural Policy (CCRP) at Humboldt State University was asked by the Humboldt County Board of Supervisors (HCBOS) to create a Humboldt County Cannabis Equity

Assessment (CEA). The Humboldt Institute for Interdisciplinary Marijuana Research (HIIMR) collected secondary data to create the assessment. The assessment found that Humboldt County has a long history of involvement in the cannabis industry and its policing. Humboldt County was "ground zero" for the war on California cannabis producers in the late 1970s and continuing for two decades, after which it remained a top ten target of annual eradication efforts.

The study's key takeaways were:

- Humboldt County has been a leader among rural counties in efforts to navigate the transition to a legalized cannabis industry.
- Small, rural counties in California, including Humboldt, had higher rates of cannabis arrests than other counties as well as the state as a whole.

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- Between 2009-2014, drug offenses made up 32.6% of all felony arrests in Humboldt County.  
This translates to an average of 742 arrests per year over a five-year period.
- Data suggests that Humboldt County's regions of highest poverty are not applying for cannabis licenses.

The study provided recommendations for programs that would assist population identified in the study as the demographic who was most impacted by the War on Drugs and who would also benefit the most from an equity program. The study also provided recommendations for what the criteria of an equity applicant should be. The benefits extended to eligible equity participants are:

1. Direct payment on the applicant's behalf of fees for Application Assistance Meetings for cannabis related permits, with the County of Humboldt Cannabis Services Division of the Department of Planning and Building.
2. Direct payment on the applicant's behalf of deposits and permitting fees for Humboldt County Cannabis Activity Zoning Clearance Certificate, Special Permit, Conditional Use Permit, or Coastal Development Permit.
3. Direct payment on the applicant's behalf of fees by the County Agricultural Commissioner's Office for Weights and Measures, for sealing and annual registration of scales used in cannabis licensed businesses, or fees associate with Pesticide Applicator requirements.
4. Direct grants to applicants of up to \$10,000 toward the equity applicant or equity licensee's annual fees and applicant or licensee's contribution toward RMA work for a Humboldt County Road Maintenance Associations for public and private road networks providing access to cannabis activity operations by eligible cannabis equity program applicants or licensees, where such road networks may adversely impact watersheds providing habitat for threatened or endangered species.

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5. Direct payment on the applicant's behalf of fees to agencies and/or professionals offering technical assistance for the formation of an incorporated cooperative, such as an Agricultural Cooperative or Cannabis Cooperative Association pursuant to California Business and Professions Code sections 26220 -26231.2, with majority membership comprised of Humboldt County cannabis permit applicants or licensees. Cost of project may not exceed \$10,000 or funds remaining
6. Direct grants to applicants, not to exceed \$10,000 per grant, for purposes of assuring compliance with regulatory requirements of the County or California permits or licenses, mitigating adverse environmental effects, or ensuring financial solvency, of cannabis cultivation or other activities including, but not limited to:
  - a. Water storage for irrigation during forbearance periods of surface water diversion required by state or local regulations.
  - b. Remediation and relocation of cannabis facilities located within streamside setbacks required by state or local regulation.
  - c. Installation of solar electrical systems to replace diesel or gasoline generator power for off-grid cannabis facilities where connecting to the grid is economically infeasible.
  - d. Rent for facilities where the above activity is occurring with documented consent of facility owner(s) of the cannabis cultivation and related activities.
7. Direct payment on the applicant's behalf of fees to agencies and/or professionals who offer cannabis small business development assistance, including but not limited to business planning, loan application preparation, site location services, human resource management, capital procurement services, bookkeeping and accounting practices and systems, for Humboldt County-based cannabis businesses. Cost of project may not exceed \$10,000 or funds remaining.
8. Direct payment on the applicant's behalf of fees for employment skill training for eligible equity participants and employees of their licensed cannabis operations in Humboldt County.

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9. Expungement services, as handled by the District Attorney's office, for cannabis-related convictions if eligible. Economic Development staff will assist applicants seeking information about expungement of cannabis-related convictions and direct them to the District Attorney Office's for expedited review.
10. Direct payment on the applicant's behalf for the Equity Trade Certification mark and Equity Trade Certification (ETC) Programs through the Original Equity Group.

## Project Trellis

The Project Trellis Local Equity Program was developed after the passage of Proposition 64, but prior to the passage of California Senate Bill 1294 the California Cannabis Equity Act of 2018. The program provides three levels of support to cannabis equity entrepreneurs. They are: 1) Cannabis Business Micro-grant program; 2) Local Equity Program; and 3) a Marketing and Promotion Program. The Cannabis Business Micro-grant program diverts the County's Measure S funding and provides cannabis businesses an opportunity to apply for funding to cover business related expenditures. The Local Equity program provides resources to local communities and individuals who have been impacted by the War on Drugs. The Marketing and Promotion component is designed to promote and maintain Humboldt grown cannabis as a national and industry brand.

Initially, Project Trellis was funded from Measure S cultivation tax dollars, however, because the tax rate has been reduced by 75 percent resulting from the tax's negative impact to cultivators, Project Trellis is funded by SB 1294 dollars. Through interviews and data, the Humboldt County Cannabis Equity Assessment identified those most effected by the criminalization of cannabis in Humboldt County. It was identified that certain populations and neighborhoods, particularly small growers, and those effected by past policies, while participating in the cannabis industry, were negatively impacted. The findings of the Cannabis Equity Assessment were then used to create the Program's equity eligibility requirements, which are outlined in the Local Equity Program Manual. Additionally, the Local Equity Program Manual outlines the

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services available to those who meet the eligibility requirements. The Program implements the State of California and County of Humboldt's legislative goals to further equity among those impacted by the criminalization of cannabis. The Local Equity Program receives a percentage of the 10% Measure S allocation provided to Project Trellis.

## Criteria to Become an Equity Applicant

The adopted criteria by the Local Equity Program Manual establishes a primary and secondary set of qualifications for applicants. They are as follows:

- 1) **Primary Qualifications:** To be considered for Local Equity Program eligibility individuals need to meet all of the following initial qualifications:
  - a. The applicant's household is at or below the moderate income level based on 2020 Department of Housing and Urban Development (HUD) Income Limits (ILs) for Humboldt County.
  - b. The applicant is a Humboldt County resident.
  - c. The applicant is a shareholder or has at least 20% ownership interest in a cannabis business, such as cultivation, distribution, manufacturing, retail, testing, laboratory, or micro-business.
- 2) **Secondary Qualifications:** After meeting the initial qualifications, individuals must meet one of the following eligibly criteria:
  - a. The applicant has obtained or applied for a cannabis cultivation, distribution, manufacturing, retail or other cannabis-related permit (either interim or permanent), and the permit is for a business located in a community defined by Humboldt County as having a poverty rate of 17% or above.
  - b. The applicant has engaged in or currently engages in small-scale cultivation of cannabis on property in Humboldt

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County owned, leased, or with the express permission of the owner, with a cultivation area 10,000 square feet, or less.

- c. The applicant is a woman, person of color, or LGBTQ individual who has worked or currently works in the cannabis industry.
- d. The applicant has obtained or applied for a cannabis permit, or who has worked in or currently works in the cannabis industry, in Humboldt County, and was arrested and/or convicted of a non-violent cannabis-related offense or was subject to asset forfeiture arising from a cannabis-related event.
- e. The applicant experienced sexual assault, exploitation, domestic violence, and/or human trafficking as a result of participating in the cannabis industry.
- f. The applicant was or is homeless or suffered a loss of housing as a result of marijuana enforcement.

## Revenue from SB 1294

**Total: \$8,283,449.41**

Humboldt County's Local Equity Program has received three awards of State CEG funds. The first award, from the Bureau of Cannabis Control (BCC), in the amount of 1,338,683.13. The second award, from the Governor's Office Business and Economic Development (GO-Biz), in the amount of \$2,459,581.02. The third award, from GO-Biz, in the amount of \$1,055,870.22. And the most recent award in the amount of \$3,429,315.04. The breakdown, by fiscal year is as follows:

### **Fiscal Year (FY) 2019-20: \$280,000 awarded (Project Trellis)**

- 2 relocation projects
- 1 encroachment project

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- 1 legacy logging road decommissioning/watershed remediation project
- 1 culvert project
- 2 solar system projects
- 2 education program projects
- 1 Americans with Disabilities Act (ADA) bathroom project
- 1 greenhouse/warehouse upgrade project
- 3 water storage upgrade projects - 12 water tanks
- Employing cannabis workers for cannabis businesses

## **FY 2020-21: \$520,000 awarded**

- 3 marketing projects
- 2 water storage upgrade projects
- 2 education program projects
- 6 Stream crossing/culvert projects
- 1 ADA compliance project
- 1 wildfire fuel reduction project
- 1 California Department of Food and Agriculture (CDFA) Appellation of Origin project
- 1 No-cost Sun and Earth certification project serving 33 farms

## **FY 2020-21, Equity grant round V1.0 - \$1.3 million** (the below breakdown does not include administrative costs)

- Regulatory and compliance: **\$512,000**
- 9 solar systems
- 1 well

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- 3 ponds
- 142 water tanks
- 1 water system foundation
- 2 septic systems
- 5 relocation/site remediations
- 3 stream crossings
- 11 culverts
- 1 paved easement
- 1 driveway apron
- Small business consulting services: **\$559,000**
- Accounting/bookkeeping/tax professionals
- Human resources
- Web design
- Marketing
- Environmental consultants
- Compliance consultants
- Soil testing consultant
- 44 paid Planning and Building Department fees: **\$88,000**

9 paid trainings for retention of a qualified and diverse workforce: **\$41,000**

**FY 2020-21, Equity grant round V2.0 ~2.4 million** (the below breakdown does not include the approximately \$600,000 in pending payments remaining, workshops cost through CR and CalPoly, or administrative costs)

- 80 direct grants for purposes of solvency, compliance, or environmental remediation:

**\$720,000**



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- Water storage
- 50 water tanks
- 13 rain catchments system
- 1 pond
- 2 greenhouses
- 5 drying sheds
- 5 grading/encroachment
- 11 culverts/stream crossings
- 29 financial solvency/debt
- 8 solar
- 1 septic system
- 5 remediation/relocation
- 65 Small business consulting services: **\$292,500**
- Accounting/bookkeeping/tax professionals
- Human resources
- Web design
- Marketing
- Environmental consultants
- Compliance consultants
- Soil testing consultant
- 89 Planning and Building Department fees: **\$356,000**
- 16 road maintenance association fees: **\$144,000**
- 10 cooperative fees: **\$90,000**

## State Governments

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## VI. State of Illinois

### Cannabis Business Regulatory Laws

Legislators in the Illinois State Legislature Passed HB 1438 – The Cannabis Regulation and Tax Act on June 25, 2019. The Bill went in effect on January 1, 2020. Similar to California’s Proposition 64, HB 1438 would establish provisions for the consumption of cannabis for adults 21 and older. The bill would establish provision regulating the commercial sale of cannabis and cannabis businesses, including a tax structure. This bill also establishes provisions to adopt a statewide cannabis equity program with identified benefits. The bill differentiates itself from California’s Proposition 64 mainly by including equity within the initial language of the bill. HB 1438 defines – at the state level – a “social equity applicant” and “disproportionately impacted.” Additionally, it establishes a timeline and fee schedule to allow current medical dispensaries and cultivation facilities with a timeline, fee schedule, and pathway into the newly regulated market through an early approval process. HB 1438 also sets a cap on the amount of taxes on gross receipts local governments can impose on cannabis businesses. Lastly, HB 1438 includes language allowing for the automatic expungement and governor pardons for eligible cannabis offenses and establishes definitions of eligible cannabis offenses.

However, in similar fashion to Prop 64, the CRTA allows municipalities to adopt local ordinances that are reasonable and regulate zoning rules and also additional regulations that govern the time, place, manner and number of cannabis businesses in their city limits. [410 ILCS 705/55-25](#). The restrictions placed on cannabis businesses may not be more restrictive than those found in the CRTA. However, a municipality may prohibit or significantly limit a cannabis business establishment’s location.

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## Personal Use of Cannabis

Starting January 1, 2020, adults over 21 will be able to legally purchase cannabis for recreational use from licensed dispensaries across the state.

- Possession limit for Illinois residents:
  - 30 grams of cannabis flower.
  - 5 grams of cannabis concentrate; and
  - No more than 500 milligrams of THC contained in a cannabis-infused product; and
  - Registered patients in the medical cannabis pilot program may possess more than 30 grams of cannabis if it is grown and secured in their residence under certain conditions.
- Possession limit for non-Illinois residents:
  - 15 grams of cannabis flower.
  - 2.5 grams of cannabis; and
  - No more than 250 milligrams of THC contained in a cannabis-infused product.

## Promoting Equity

- HB 1438 creates a \$30 million low-interest loan program
  - Department of Commerce and Economic Opportunity (DCEO) will administer a low-interest loan program to qualified “social equity applicants” to help defray the start-up costs associated with entering the licensed cannabis industry.

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- Establishes the definition of a “social equity applicant” status for licensing

- A social equity applicant is an Illinois resident that meets one of the following criteria:

- § Applicant with at least 51 percent ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a disproportionately impacted area.

- § Applicant with at least 51 percent ownership and control by one or more individuals who have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.

- § For applicants with a minimum of 10 full-time employees, an applicant with at least 51% of current employees who:

- Currently reside in a disproportionately impacted area; or
- Have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.

- Application for new entrants to the market

- The Act contains the scoring criteria that the Illinois Department of Financial and Professional Regulation will utilize to score applications for new dispensing organizations.

- § 50 out of 250 points, or 20 percent of the total points available, are designated for applicants that qualify as “social equity applicants.” § The

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remainder of the points are designated for the following:

- 65 points – security and record keeping
- 65 points – business plan, financials, operating and floor plan
- 30 points – knowledge and experience
- 15 points – suitability of employee training plan
- 5 points – labor and employment practices
- 5 points – environmental plan
- 5 points – Illinois owner (51 percent or more of ownership)
- 5 points – status as a veteran (51 percent or more of ownership)
- 5 points – diversity plan

§ IDFPR may award up to 2 bonus points for a plan to engage with the community the applicant will be located in.

○ The Department of Agriculture will develop a similar application scoring system through the rulemaking process for cultivation centers, infusers, craft growers and transporting organizations.

§ The application for each license type will designate 20 percent of the total points for applicants that qualify as “social equity applicants.”

- Fee waivers

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- The Department of Financial and Professional Regulation and the Department of Agriculture will waive 50 percent of any non-refundable license application fees and any non-refundable fees associated with purchasing a license to operate a cannabis business establishment if social equity applicants meet certain conditions.
  
- Reducing up-front costs
  - Applicants who receive a conditional dispensing organization license will have 180 days from the date of the award to identify a physical location for the dispensing organization retail storefront when new entrants are allowed in the market. This will reduce the costs associated with entering the industry.
  
- Identification of “disproportionately impacted areas”
  - DCEO will designate “disproportionately impacted areas” for social equity applicants § “Disproportionately impacted area” is defined as a geographic area that is economically disadvantaged and has been impacted by high rates of arrest, conviction, and incarceration for violations of the Cannabis Control Act.

## Achieving Equity Through Ownership and Licensure

- Early approval adult use license for current medical cannabis license holders
  - Timeline for licensing

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## § Cultivation organizations:

- Medical cannabis cultivators may apply for a license within 60 days of the effective date of the Act.
- Licenses will be distributed to eligible applicants within 14 days if certain conditions are met.

## § Dispensing organizations:

- Medical cannabis dispensaries may apply for a license within 60 days of the effective date of the Act.
- Licenses will be distributed to eligible applicants within 14 days if certain conditions are met.
- These entities may apply for a second license at a new location under the same parameters.

## § Licensing costs for early approval adult use licenses

- Cultivation organizations:
  - Non-refundable application fee: \$100,000
  - Cannabis business development fund fee: 5% of total sales between June 1, 2018, to June 1, 2019, or \$750,000, whichever is less, but not less than \$250,000.
- Dispensing organizations:
  - License 1

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§ Non-refundable application fee: \$30,000

§ Cannabis business development fund fee:  
3% of total sales between June 1, 2018, to June  
1, 2019, or \$100,000, whichever is less.

○ License 2

§ Non-refundable application fee: \$30,000

§ Cannabis business development fund fee:  
\$200,000

## License Types and Fees

- License types ○ Cultivation centers

- § Non-refundable application fee: \$100,000 ○ Craft growers

- § Non-refundable application fee \$5,000

- § License fee \$40,000 ○ Infusers

- § Non-refundable application fee \$5,000

- § License fee \$5,000 ○ Transporting organizations

- § Non-refundable application fee \$5,000

- § License fee \$10,000 ○ Dispensing organizations

- § Non-refundable application fee \$5,000

- § License fee \$60,000

## Providing Relief for Minor Violations of The Cannabis Control Act



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- Category 1: Local law enforcement and ISP will automatically expunge arrests not leading to a conviction for possession and manufacture or possession with intent to deliver for up to 30 grams.
  - Eligible records = arrests for section 4 and section 5 of the Cannabis Control Act for amounts less than 30 grams. Must not be associated with a violent crime or a penalty enhancement for selling to a person under the age of 18 if the individual was over 18.
  - Local law enforcement will identify all eligible records and automatically expunge records that did not result in a conviction by the following deadlines:
    - § Arrest records between January 1, 2013, and effective date must be expunged by January 1, 2021
    - § Arrest records between January 1, 2000, and January 1, 2013, must be expunged by January 1, 2023
    - § Arrest records prior to January 1, 2000, must be expunged prior to January 1, 2025.
  - Records will be expunged if one year or more has elapsed since the date of the arrest with no criminal charges filed or charges were subsequently dismissed, vacated, or the individual was acquitted.
- Category 2: Governor will grant pardons authorizing expungement for convictions for possession and manufacture or possession with intent to deliver for up to 30 grams.
  - Eligible records = convictions for Section 4 and Section 5 of the Cannabis Control Act for amounts less than 30 grams. Must not be associated with a violent crime or a penalty enhancement for selling to a person under the age of 18 if the individual was over 18.
  - Illinois State Police (ISP) will identify all eligible convictions based on criminal history records and provide data to Prisoner Review Board (PRB) within 180 days of effective date.

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- PRB will review records for eligibility to ensure that they are the proper convictions, and that conviction is not associated with excluded violent crime. PRB will provide notice to State's Attorney of any felony conviction eligible for clemency and provide State's Attorney 60 days to file a written objection on the basis that record is ineligible. ○ Governor will issue pardons authorizing expungement.
- Attorney General, on behalf of Prisoner Review Board, will file a petition with circuit court to expunge records of convictions that were granted clemency. Courts have 90 days to enter an order that directs ISP, local arresting authority, and court to expunge relevant records.
- Category 3: Individuals and State's Attorneys may file motions with courts to vacate convictions for possession up to 500 grams.
  - Eligible records = convictions for possession and manufacture/delivery/possession with intent to deliver under Section 4 and Section 5 of the Cannabis Control Act, including possession up to 500 grams. No limitations on associated with violent crime.
  - Individual or State's Attorneys may file motions with the circuit court where the conviction was entered asking the court to vacate the conviction and expunge court, law enforcement and ISP records.
  - State's Attorneys may file an objection.
  - Court will consider reasons to retain the records (if provided by law enforcement), the petitioner's current age and age at the time of conviction, time elapsed since conviction, and any adverse consequences to individual if denied.
  - Motions must be filed after completion of any sentence or condition imposed by the conviction.

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- State's Attorneys and civil legal aid organizations (on behalf of clients) may file motions to vacate that includes more than one individual at a time.
- Exclusions: Violent Crimes
  - If the cannabis offense was connected to a violent crime it is ineligible for the automatic expungement processes, but the individual (or State's Attorney) can still file motion with the court to vacate conviction. This list of violent crimes comes from the Rights of Crime Victims and Witnesses Act. § any felony in which force or threat of force was used against the victim;
    - § any offense involving sexual exploitation, sexual conduct, or sexual penetration;
    - § crimes related to child pornography, posting of pornographic material of a person under 17 years of age or non-consensual dissemination of private sexual images;
    - § domestic battery or stalking;
    - § violation of an order of protection, a civil no contact order, or a stalking no contact order;
    - § any misdemeanor which results in death or great bodily harm to the victim; or
    - § involuntary manslaughter and reckless homicide.

## Taxation

- All tax revenue is deposited in the new Cannabis Regulation Fund73 9
- Cultivation privilege tax
  - 7% of the gross receipts from the sale of cannabis by a cultivator or a craft grower to a dispensing organization
- Cannabis purchaser excise tax:

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- 10% of the purchase price – Cannabis with a THC level at or below 35%
- 20% of the purchase price – All cannabis infused products
- 25% of the purchase price – Cannabis with a THC level above 35%
- This tax is not imposed on cannabis that is subject to tax under the Compassionate Use of Medical Cannabis Pilot Program Act
- This tax shall be in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision thereof.
- Municipal Cannabis Retailers' Occupation Tax
  - On and after January 1, 2020, the corporate authorities of a municipality may, by ordinance, impose a tax on all persons engaged in the business of selling cannabis at retail locations in the municipality on the gross receipts from these sales.
  - § If imposed, the tax shall be imposed in 0.25% increments
  - § The tax may not exceed 3% of the gross receipts from these sales
- Cannabis County Retailers' Occupation Tax
  - On and after January 1, 2020, the corporate authorities of a county may, by ordinance, impose a tax on all persons engaged in the business of selling cannabis at retail locations in the county on the gross receipts from these sales.
  - § If imposed, the tax shall be imposed in 0.25% increments
  - § The tax rate may not exceed:
    - 3.75% of the gross receipts of sales made in unincorporated areas of the county
    - 0.75% of the gross receipts of sales made in a municipality located in a non-home rule county

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- 3% of the gross sales receipts made in a municipality located in a home rule county.

## Local Ordinances

- A unit of government, including a home rule unit or any non-home rule county within the unincorporated territory of the county, may enact ordinances to prohibit or significantly limit a cannabis business establishment's location.
- Voters in any precinct within a municipality that has a population greater than 500,000 residents may petition their alderman seeking an ordinance to establish the precinct as a 'restricted cannabis zone.' The ordinance may prohibit home cultivation, cannabis business establishments, or both.
- Municipalities may enact reasonable zoning restrictions pertaining to licensed cultivation centers, craft growers, processing organizations, and dispensaries.
- A unit of local government, including a home rule unit, or any non-home rule county the unincorporated territory of the county may regulate the on-premises consumption of cannabis at or in a cannabis business establishment within its jurisdiction in a manner consistent with this Act. A cannabis business establishment or other entity authorized or permitted by a unit of local government to allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

## Projected Revenue

- The Department of Revenue projects that this industry will generate over \$57 million in tax revenue and licensing fees in FY20.

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- This figure represents the combined revenue projections that Governor's Office received from the Department of Revenue concerning the taxation of cannabis as well as the application and licensing fees estimated by the Department of Agriculture and the Department of Financial and Professional Regulation.

## § Breakdown

- DOR tax revenue: \$34 million (midpoint of the range projected by DOR: 10-58 million)
- DOA estimate: \$12.7 million
- IDFPR estimate: \$10.78 million
- The Department of Revenue estimates that the state will generate \$140.5 million in tax revenue in FY21.
  - This excludes agencies' application and licensing fees as the program continues to expand.
- The Department of Revenue projects significant revenue growth as the cannabis market matures in Illinois. The state could generate \$253.5 million in FY22, \$323.5 million in FY23, and \$375.5 million in FY24.

## VII. State of New York

S854A – The Marihuana Regulation and Taxation Act (MRTA) was signed into law by the State of New York on March 31<sup>st</sup>, 2021. The MRTA establishes the cannabis law; defines terms; establishes the New York state Cannabis Control Board and the Office of Cannabis Management; outlines powers and duties thereof; authorizes the lawful use of medical cannabis; authorizes research programs related thereto; establishes a cannabis research license to permit a licensee to produce, process, purchase and/or possess cannabis for certain limited research purposes; relates to adult-use cannabis; authorizes a person to apply for a license to cultivate, process, distribute, deliver or dispense cannabis for

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sale in this state; relates to the description of cannabis, and the growing of and use of cannabis by persons twenty-one years of age or older; makes technical changes regarding the definition of cannabis; relates to removing certain references to marijuana relating to forfeiture actions; relates to the qualification of certain offenses involving cannabis; exempts certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; relates to the definition of smoking; provides for the licensure of persons authorized to produce, process and sell marijuana; relates to the criminal sale of cannabis; relates to drug paraphernalia; adds a new article on cannabis to the penal law; authorizes a motion for resentencing for persons convicted of certain marijuana offenses; levies an excise tax on certain sales of cannabis; creates the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund.

The MRTA establishes an “Opt-Out” Authorization provision therein.

**§ 131(1) of the MRTA** gives cities, towns and villages the ability to opt-out of allowing adult-use dispensaries and/or adult-use social consumption sites to operate within their boundaries. The licensure and establishment of a retail dispensary and/or on-site consumption operation (authorizing the retail sale of adult-use cannabis to consumers) shall not apply to a city, town or village that adopts a local law prohibiting the granting of such retail dispensary licenses and/or on-site consumption licenses within their respective jurisdictions. Any law enacted by a town shall apply only to the area of the town outside of any village situated within such town. The right to opt-out does not apply to cultivation of cannabis within a municipality’s boundaries.

An opt-out local law must be adopted by December 31, 2021 and is subject to a permissive referendum under Municipal Home Rule Law §24. Municipalities may not opt-out after December 31, 2021. However, a local law repealing such prohibition may be adopted at any time. Such repeal would also be subject to a permissive referendum.

**§ 131(2) of the MRTA provides:**

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Cities, towns and villages that do not-opt out of allowing retail dispensaries or on-site consumption sites within their boundaries may adopt local laws establishing reasonable time(s), place(s) and operational restrictions on these facilities. Municipalities may incorporate these local controls within their zoning codes. However, a municipality that does not opt-out cannot adopt regulations that make the operation of licensed retail dispensaries or on-site consumption sites “unreasonably impracticable” as determined by the Board.

Zoning limitations cannot make the legal operation of a licensed retail dispensary or on-site consumption site so difficult that the activity becomes impractical and, therefore, effectively operate as a ban on such uses. Local governments may not use a zoning code to effectively eliminate cannabis businesses in their communities by, for example, “finding zones in which it is very difficult to site these businesses, or putting them on the edge of town where nobody wants to go, or in some other way making it so difficult for these businesses to be sited that the businesses won’t site in their communities.” *Diesel v. Jackson County*, 284 Or. App. 301 (Court of Appeals of Oregon 2017) (The Oregon court concluded that Jackson County’s zoning restrictions were not unreasonable, given both the petitioner’s concession that the land within the zones where cannabis cultivation was allowed was suitable for such use and the lack of evidence that inadequate land was available within those zones.)

Municipalities may, however, regulate retail dispensaries or on-site consumption establishments by specifying a particular distance from residentially zoned areas and facilities in which families and children congregate. Such restrictions may also include restrictions on the hours of operation. Moreover, zoning regulations may be used to prohibit such facilities from operating within a specified distance of another retail dispensary or on-site consumption establishment to avoid the impacts associated with the concentration of such uses in one place. However, municipalities need to ensure that after the law is adopted, reasonable alternative locations remain available for licensed retail dispensaries and on-site consumption establishments and that such restrictions are not considered “unreasonably impractical”. Pursuant to Section 131(2) of the MRTA, the Board determines whether local zoning restrictions are “unreasonably impracticable”. In making this determination, the Board will likely consider whether the potential locations



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are accessible to the general public, the surrounding infrastructure and the likelihood that the alternate locations will ever realistically become available for use.

## **MRTA § 72(6) and § 77(4)**

The MRTA includes a provision that no cannabis retail licensee shall locate a storefront within 500 feet of a school grounds or within 200 feet of a house of worship. For these purposes, a “school” is defined as any “public or private elementary, parochial, intermediate, junior high, vocational, or high school.” School grounds include any building, structure, athletic playing field, playground or land contained within the real property boundary line” of such a school. Municipalities may increase this separation distance requirement pursuant to locally enacted time, place and manner requirements.

Article 4 of the 128 Page Bill Text establishes the requirements for Adult-Use Cannabis in the State of New York.

## § 61. License Application.

1. Any person may apply to the board for a license to cultivate, process, distribute, deliver, or dispense cannabis within this state for sale. Such application shall be in writing and verified and shall contain such information as the board shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the board shall approve the application, it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute, deliver or dispense cannabis in the premises therein specifically licensed.

## § 63. Fees.

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1. The board shall have the authority to charge applicants for licensure under this article a nonrefundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the board to achieve the policy and purpose of this chapter.

a. The board shall also have the authority to assess a registered organization with a onetime special licensing fee for a registered organization adult-use cultivator processor, distributor retail dispensary license. Such fee shall be assessed at an amount to adequately fund social and economic equity and incubator assistance pursuant to this article and paragraph (c) of subdivision three of section ninety-nine-ii of the state finance law. Provided, however, that the board shall not allow registered organizations to dispense adult-use cannabis from more than three of their medical cannabis dispensing locations. The timing and manner in which registered organizations may be granted such authority shall be determined by the board in regulation.

2. The board shall have the authority to charge licensees a biennial license fee. Such fee shall be based on the amount of cannabis to be cultivated, processed, distributed and/or dispensed by the licensee or the gross annual receipts of the licensee for the previous license period, and any other factors deemed reasonable and appropriate by the board.

3. The board shall waive or reduce fees pursuant to this section for social and economic equity applicants.

## § 64. Selection criteria.

1. The board shall develop regulations for use by the office in determining whether or not an applicant should be granted the privilege of an initial adult-use cannabis license, based on, but not limited to, the following criteria:

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- a. the applicant is a social and economic equity applicant;
- b. (b) the applicant will be able to maintain effective control against the illegal diversion or inversion of cannabis;
- c. the applicant will be able to comply with all applicable state laws and regulations;
- d. the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought including with assistance from the social and economic equity and incubator program, if applicable;
- e. where appropriate and applicable, the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application or has a plan to do so if qualifying as a social and economic equity applicant;
- f. the applicant qualifies as a social and economic equity applicant or sets out a plan for benefiting communities and people disproportionately impacted by enforcement of cannabis laws;
- g. it is in the public interest that such license be granted, taking into consideration, but not limited to, the following criteria:
  - i. that it is a privilege, and not a right, to cultivate, process, distribute, and sell adult-use cannabis;
  - ii. the number, classes, and character of other licenses in proximity to the location and in the particular municipality, subdivision thereof or geographic boundary as established by the board;
  - iii. evidence that all necessary licenses and permits have been or will be obtained from the state and all other relevant governing bodies;

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- iv. effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;
  - v. the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;
  - vi. the ability to increase climate resiliency and minimize or eliminate adverse environmental impacts, including but not limited to water usage, energy usage, carbon emissions, waste, pollutants, harmful chemicals and single use plastics;
  - vii. the effect on the production, price and availability of cannabis and cannabis products;
  - viii. the applicant's history of violations and compliance with the laws of another jurisdiction, in which they operate or have operated a cannabis license or registration, related to the operation of a cannabis business;
  - ix. the applicant's history of violations related to the operation of a business, including but not limited to, violations related to labor laws, federal occupational safety and health law and tax compliance; and
  - x. any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage, public health and safety and the public interest of the state, county or community;
- h. the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter, or any regulations promulgated hereunder;

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- i. the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees, and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. In evaluating applications from entities with twenty-five or more employees, the office shall give consideration to whether applicants have entered into an agreement with a statewide or local bona-fide building and construction trades organization for construction work on its licensed facilities;
- j. the applicant will contribute to communities and people disproportionately harmed by enforcement of cannabis laws through including, but not limited to, the social responsibility framework as provided in section sixty-six of this article and report these contributions to the board;
- k. if the application is for an adult-use cultivator or processor license, the environmental and energy impact, including compliance with energy standards, of the facility to be licensed;
- l. the applicant satisfies any other conditions as determined by the board; and
- m. if the applicant is a registered organization, the organization's maintenance of effort in manufacturing and/or dispensing and/or research of medical cannabis for certified patients and caregivers;

2. If the board is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons recommended by the board for denial. The state cannabis advisory board shall have the authority to recommend to the board the number of licenses issued pursuant to this article to ensure a competitive market where no licensee is dominant in the statewide marketplace or in any individual category of licensing, to actively promote and potentially license social and economic equity applicants, and carry out the goals of this chapter.

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§ 67. Amendments; changes in ownership and organizational structure.

1. Licenses issued pursuant to this article shall specify:
  - a. the name and address of the licensee;
  - b. the activities permitted by the license;
  - c. the land, buildings and facilities that may be used for the licensed activities of the licensee;
  - d. a unique license number issued by the board to the licensee; and
  - e. such other information as the board shall deem necessary to assure compliance with this chapter;
2. Upon application of a licensee to the board, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The board shall establish a fee for such amendments.
3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the board. The board may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.
4. For purposes of this section, "substantial corporate change" shall mean:
  - a. for a corporation, a change of fifty-one percent or more of the officers and/or directors, or a transfer of fifty-one percent or more of stock of such corporation, or an existing stockholder obtaining fifty-one percent or more of the stock of such corporation; or
  - b. for a limited liability company, a change of fifty-one percent or more of the managing members of the company, or a transfer of fifty-one percent or more of ownership interest in said company, or an existing member obtaining a cumulative

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of fifty-one percent or more of the ownership interest in said company; or

- c. for a partnership, a change of fifty-one percent or more of the managing partners of the company, or a transfer of fifty-one percent or more of ownership interest in said company, or an existing member obtaining a cumulative of fifty-one percent or more of the ownership interest in said company.

## § 68. Adult-use cultivator license.

1. An adult-use cultivator's license shall authorize the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The board may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing without the need for an adult-use processor license.
2. For purposes of this section, cultivation shall include, but not be limited to, the agricultural production practices of planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.
3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license solely for the distribution of their own products.
4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.
5. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to

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this chapter, provided that one adult-use cultivator license may authorize adult-use cultivation in more than one location pursuant to criteria established by the board in regulation. § 68-a. Registered organization adult-use cultivator processor 4 distributor retail dispensary license.

1. A registered organization cultivator processor distributor retail dispensary license shall have the same authorization and conditions as adult-use cultivator, adult-use processor, adult-use distributor and adult-use retail dispensary licenses issued pursuant to this article provided, however that the location of its adult-use dispensaries shall be limited to only three of the organization's medical dispensaries' premises and facilities authorized pursuant to article

three of this chapter, and that it may only distribute its own products. Provided further that such registered organization shall maintain its medical cannabis license and continue offering medical cannabis to a degree established by regulation of the board. Such license does not qualify such organization for any other adult-use license.

2. A person holding a registered organization adult-use cultivator processor distributor retail dispensary license may not also hold another retail dispensary license pursuant to this article and no registered organization adult-use cultivator processor distributor retail dispensary shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary.

§ 68-b. Registered organization adult-use cultivator, processor and 28 distributor license.

1. A registered organization cultivator, processor and distributor license shall have the same authorization and conditions as an adult-use cultivator, processor, and distributor license, provided, however, that such license does not qualify such organization for any other adultuse license and may only authorize the distribution of the licensee's own products.



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## § 69. Adult-use processor license.

1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors or distributors. A person holding an adult-use processor's license may apply for, and obtain, one distributor's license solely for the distribution of their own products.
2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.
3. No processor shall be engaged in any other business on the premises to be licensed; except that a person issued an adult-use cannabis cultivator, processor, and/or distributor license may hold and operate all issued licenses on the same premises.
4. No cannabis processor licensee may hold more than one cannabis processor license provided a single license may authorize processor activities at multiple locations, as set out in regulations by the board.
5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.
6. Adult-use processor licensees are subject to minimum operating requirements as determined by the board in regulation.

## § 70. Adult-use cooperative license.

1. A cooperative license shall authorize the acquisition, possession, cultivation, processing, distribution and sale from the licensed premises of

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the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:
  - a. be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined and authorized by the board;
  - b. subordinate capital, both as regards control over the cooperative undertaking, and as regards the ownership of the pecuniary benefits arising therefrom;
  - c. be democratically controlled by the members themselves on the basis of one vote per member;
  - d. vest in and allocate with priority to and among the members of all increases arising from their cooperative endeavor in proportion to the members' active participation in the cooperative endeavor; and
  - e. the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nine-teen hundred ninety-five.
3. A cooperative member shall be a natural person and shall not be a member of more than one adult-use cooperative licensed pursuant to this section.
4. No natural person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.
5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this chapter.

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6. The board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits on the size and scope of cooperative licensees, and other measures designed to incentivize the use and licensure of cooperatives.

## § 71. Adult-use distributor license.

1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use cultivator, processor, adult-use cooperative, microbusiness, or registered organization authorized pursuant to this chapter to sell adult-use cannabis, to duly licensed retail dispensaries and on-site consumption sites.

2. No distributor shall have a direct or indirect economic interest in any microbusiness, adult-use retail dispensary, adult-use on-site consumption licensee or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section thirty-nine of this chapter, from being granted licensure by the board to distribute adult-use cannabis products cultivated and processed by the registered organization to licensed adult-use retail dispensaries.

3. Any distributor with a direct or indirect interest in a licensed cultivator or processor, shall only distribute cannabis or cannabis products cultivated and/or processed by such licensee.

4. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee, authorized by the board, for the distribution of cannabis, including based on the volume of cannabis distributed.

5. Adult-use distributor licensees are subject to minimum operating requirements as determined by the board in regulation.

## § 72. Adult-use retail dispensary license.

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1. A retail dispensary license shall authorize the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.
2. No person may have a direct or indirect financial or controlling interest in more than three adult-use retail dispensary licenses issued pursuant to this chapter.
3. No person holding a retail dispensary license may also hold an adult-use cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter, except for such organizations licensed pursuant to sections sixty-eight-a and sixty-eight-b of this article.
4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be able to demonstrate possession of the premises within thirty days of final approval of the license through a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.
5. With the exception of delivery or microbusiness licensees, no premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry.
6. No cannabis retail licensee shall locate a storefront within five hundred feet of a school grounds as such term is defined in the education law or within two hundred feet of a house of worship.

## § 73. Microbusiness license.

1. A microbusiness license shall authorize the limited cultivation, processing, distribution, delivery, and dispensing of their own adult-use cannabis and cannabis products.
2. A microbusiness licensee may not hold any direct or indirect interest in any other license in this chapter and may only distribute its own cannabis and cannabis products to dispensaries.

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3. The size, scope and eligibility criteria of a microbusiness shall be determined in regulation by the board in consultation with the executive director and the chief equity officer. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

## § 74. Delivery license.

1. A delivery license shall authorize the delivery of cannabis and cannabis products by licensees independent of another adult-use cannabis license, provided that each delivery licensee may have a total of no more than twenty-five individuals, or the equivalent thereof, providing full-time paid delivery services to cannabis consumers per week under one license. For the purposes of this section the state cannabis advisory board shall provide recommendations to the board for the application process, license criteria, and scope of licensed activities for this class of license. No person may have a direct or indirect financial or controlling interest in more than one delivery license. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

## § 75. Nursery license.

1. A nursery license shall authorize the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult-use cultivators, cooperatives, microbusinesses or registered organizations. For the purposes of this section, the office shall provide recommendations to the board for the application process, license criteria and scope of licensed activities for this class of license. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

2. A person or entity holding an adult-use cultivator's license may apply for, and obtain, one nursery license to sell directly to other cultivators, cooperatives, microbusinesses, or registered organizations.

## § 76. Notification to municipalities of adult-use retail

dispensary or on-site consumption license.

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1. Not less than thirty days nor more than two hundred seventy days before filing an application for licensure as an adult-use retail dispensary or registered organization adult-use cultivator processor distributor retail dispensary or an on-site consumption licensee, an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application.
2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section:
  - a. notification need only be given to the clerk of a village when the premises is located within the boundaries of the village; and
  - b. in the city of New York, the community board established pursuant to section twenty-eight hundreds of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.
3. Such notification shall be made in such form as shall be prescribed by the rules of the board.
4. When a city, town, or village, and in New York city a community board, expresses an opinion for or against the granting of such registration, license or permit application, any such opinion shall be deemed part of the record upon which the office makes its recommendation to the board to grant or deny the application and the board shall respond in writing to such city, town, village or community board with an explanation of how such opinion was considered in the granting or denial of an application.
5. Such notification shall be made by:
  - a. certified mail, return receipt requested.
  - b. overnight delivery service with proof of mailing; or
  - c. personal service upon the offices of the clerk or community board.

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6. The board shall require such notification to be on a standardized form that can be obtained on the internet or from the board and such notification to include:
- a. the trade name or "doing business as" name, if any, of the establishment.
  - b. the full name of the applicant.
  - c. the street address of the establishment, including the floor location or room number, if applicable;
  - d. the mailing address of the establishment, if different than the street address;
  - e. the name, address and telephone number of the attorney or representative of the applicant, if any;
  - f. a statement indicating whether the application is for:
    - i. a new establishment.
    - ii. a transfer of an existing licensed business.
    - iii. a renewal of an existing license; or iv. an alteration of an existing licensed premises.
  - g. if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;
  - h. in the case of a renewal or alteration application, the registration or license number of the applicant; and
  - i. the type of license.

§ 77. Adult-use on-site consumption license; provisions governing on-site consumption licenses.

1. No applicant shall be granted an adult-use on-site consumption license for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as provided

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in this section. This subdivision shall not apply to premises leased from government agencies; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the office at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements.

2. No person may have a direct or indirect financial or controlling interest in more than three adult-use on-site consumption licenses issued pursuant to this chapter.
3. No person holding an adult-use on-site consumption license may also hold an adult-use retail dispensary, cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter.
4. No applicant shall be granted an adult-use on-site consumption license for any premises within five hundred feet of school grounds as such term is defined in the education law or two hundred feet from a house of worship.
5. The board may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of an adult-use on-site consumption license at a particular location:
  - a. that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;
  - b. the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof.
  - c. evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;



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- d. whether there is a demonstrated need for spaces to consume cannabis;
  - e. effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;
  - f. the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and
  - g. any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.
6. If the board shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the board for a review of such action in a manner to be prescribed by the rules of the board.
7. No adult-use cannabis on-site consumption licensee shall keep upon the licensed premises any adult-use cannabis products except those purchased from a licensed adult-use distributor; registered organization adult-use cultivator processor distributor retail dispenser; registered organization adult-use cultivator, processor and distributor; cooperative, or microbusiness authorized to sell adult-use cannabis, and only in containers approved by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board. No adult-use on-site consumption licensee shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.
8. No adult-use on-site consumption licensee shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any cannabis for consumption on the premises where sold in a container or package containing a quantity or number of servings more than authorized by the board.
9. No adult-use on-site consumption licensee shall suffer, permit or promote activities or events on its premises wherein any person shall use

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such premises for activities including, but not limited to, gambling, exposing or simulating, contests, or fireworks that are prohibited by subdivision six, six-a, six-b, six-c or seven of section one hundred six of the alcoholic beverage control law or any other similar activities the board deems to be prohibited.

10. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the board of controlling access to the facility.

11. Each adult-use on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licenses which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The board is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for onsite consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the board.

12. All licensed adult-use on-site consumption premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the

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board, during the hours when the said premises are open for the transaction of business.

13. An adult-use on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one. No person under the age of twenty-one shall be permitted on the premises of a cannabis on-site consumption facility.

14. The provisions of article thirteen-E of the public health law restricting the smoking or vaping of cannabis shall not apply to adult-use on-site consumption premises.

## § 82. Laboratory testing.

1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The board may assign an approved testing laboratory, which the processor of adult-use cannabis must use, and may establish consortia with neighboring states, to inform best practices, and share laboratory data.

## § 87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program.

1. The board, in consultation with the chief equity officer and executive director, and after receiving public input shall create and implement a social and economic equity plan and actively promote applicants from communities disproportionately impacted by cannabis prohibition, and promote racial, ethnic, and gender diversity when issuing licenses for adultuse cannabis related activities, including mentoring potential applicants, by prioritizing consideration of applications by applicants who are from communities disproportionately impacted by the enforcement of cannabis prohibition or who qualify as a minority or women-owned business, distressed farmers, or service-disabled veterans. Such qualifications shall be determined by the board, with recommendations from the state cannabis advisory board, the chief equity officer and executive director, by regulation.

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2. The board's social and economic equity plan shall also promote diversity in commerce, ownership and employment, and opportunities for social and economic equity in the adult-use cannabis industry. A goal shall be established to award fifty percent of adult-use cannabis licenses to social and economic equity applicants and ensure inclusion of:
  - a. individuals from communities disproportionately impacted by the enforcement of cannabis prohibition;
  - b. minority-owned businesses;
  - c. women-owned businesses;
  - d. minority and women-owned businesses, as defined in paragraph (d) of subdivision five of this section;
  - e. distressed farmers, as defined in subdivision five of this section; and
  - f. service-disabled veterans;
3. The social and economic equity plan shall require the consideration of additional criteria in its licensing determinations. Under the social and economic equity plan, extra priority shall be given to applications that demonstrate that an applicant:
  - a. is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;
  - b. has an income lower than eighty percent of the median income of the county in which the applicant resides; and
  - c. was convicted of a marijuana-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marijuana-related offense.
4. The board in consultation with the cannabis advisory board and the chief equity officer, shall also create an incubator program to encourage social and economic equity applicants to apply and, if granted an adult-use cannabis license, permit or registration, the

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program shall provide direct support in the form of counseling services, education, small business coaching and financial planning, and compliance assistance.

5. For the purposes of this section, the following definitions shall apply:
  - a. "Minority-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
    - i. at least fifty-one percent owned by one or more minority group members;
    - ii. an enterprise in which such minority ownership is real, substantial and continuing;
    - iii. an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
    - iv. an enterprise authorized to do business in this state and independently owned and operated; and an enterprise that is a small business;
  - b. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
    - i. black persons having origins in any of the black African racial groups;
    - ii. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
    - iii. Native American or Alaskan native persons having origins in any of the original peoples of North America; or
    - iv. Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

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- c. "Women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
- i. at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
  - ii. an enterprise in which the ownership interest of such women is real, substantial and continuing;
  - iii. an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
  - iv. an enterprise authorized to do business in this state and independently owned and operated; and
  - v. an enterprise that is a small business.
- d. A firm owned by a minority group member who is also a woman may be defined as a minority-owned business, a women-owned business, or both.
- e. "Distressed farmer" shall mean:
- i. a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that meets the small farm classification developed by the Economic Research Service of the United States Department of Agriculture, has filed a schedule F with farm receipts for the last three years, qualifies for an agriculture assessment and meets other qualifications defined in regulation by the board to demonstrate that they operate a farm operation as defined in section three hundred one of the agriculture and markets law and has been disproportionately impacted, including but not limited to incurring operating losses, by low commodity prices and faces the loss of farmland through development or suburban sprawl and meets

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any other qualifications as defined in regulation by board; or (ii) a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that is a small farm operator and a member of a group that has been historically underrepresented in farm ownership and meets any other qualifications as defined in regulation by board.

f. "Service-disabled veterans" shall mean persons qualified under article seventeen-B of the executive law.

g. "Communities disproportionately impacted" shall mean, but not be limited to, a history of arrests, convictions, and other law enforcement practices in a certain geographic area, such as, but not limited to, precincts, zip codes, neighborhoods, and political subdivisions, reflecting a disparate enforcement of cannabis prohibition during a certain time period, when compared to the rest of the state. The board shall, with recommendations from the state cannabis advisory board, the chief equity officer and executive director, issue guidelines to determine how to assess which communities have been disproportionately impacted and how to assess if someone is a member of a community disproportionately impacted.

6. The board shall actively promote applicants that foster racial, ethnic, and gender diversity in their workforce.

7. Licenses issued under the social and economic equity plan shall not be transferred or sold within the first three years of issue, except to a qualified social and economic equity applicant and with the prior written approval of the board. In the event a social and economic equity applicant seeks to transfer or sell their license at any point after issue and the transferee is to a person or entity that does not qualify as a social and economic equity applicant, the transfer agreement shall require the new license holder to pay to the board any outstanding amount owed by the transferor to the board as repayment of any loan issued by the board as well as any other fee or assessment as determined by the board.

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New York Tax Law § 493(3) and § 496-b

Cannabis products will be subject to a 13% sales tax in New York, 9% of which will be directed to state coffers and 4% to localities. The 4% cannabis excise tax for local government purposes would be imposed on the retail sale of adult-use cannabis products from retail dispensaries to consumers. The revenue from the tax will be distributed quarterly to each county. Counties will receive 25% of the local retail tax revenue and 75% of the revenue would be distributed quarterly by the counties to the cities, towns and villages within such county in which a retail dispensary is located.

## VIII. Summary of Analysis

This Comparative Analysis reviewed the regulatory environment and dynamics of six (6) different governments and jurisdictions. The foundation for cannabis regulation is similar but diverges when analyzing approaches to land-use and zoning, permitting processes and fees, tax rates tax collection, and lastly, the varying approaches to address the War on Drugs and barriers to market entry through local equity programs. While cannabis has a long history in the United States and an even richer history in California, it is still in its infancy stage where the commercial market, policy makers, and regulators are concerned. This is impressed upon researchers when studying jurisdictional and market nuances as the industry develops. A summary of the differences in approaches included in this analysis are listed below first by category and secondly by jurisdiction.

Overall, Humboldt County provides the most applicable approach to regulating commercial cannabis businesses and cannabis equity. Humboldt County and San Diego, albeit having many differences in demographic makeup also bear many similarities in land zoning and population density in the two county's unincorporated areas. Prioritizing the emergence of cannabis cultivation businesses could become the priority for San Diego County. Over 90 percent of permits issued in Humboldt County have been for Commercial Cannabis



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Businesses. It must also be noted that Humboldt County anticipates increasing the number of storefront retail dispensaries in the near future.

In Addition, there are a number of equitable regulatory approaches that can be taken from the other

Jurisdictions. As the county's commercial cannabis business industry blossoms the Board of Supervisors should consider establishing an Office of Cannabis Management or similar body which will be the primary body tasked with managing the cannabis industry – including reviewing and issuing cannabis business operating permits. The development of this regulatory body would ease the burden of issuing cannabis business permits from the jurisdiction of the County Sheriff's Department. To add an additional layer of equity the Board of Supervisors should incorporate a

Cannabis Oversight Committee led by residents in the unincorporated areas within San Diego County – the City of Oakland utilizes this commission to ensure community input is included in decisions related its cannabis market. One of the main point of contentions for equity entrepreneurs has been the encumbrance of retaining a Conditional Use Permit (CUP). The City of Oakland does not require cannabis business operators to retain a CUP before pursuing a Business Operating Permit (BOP). The city also has leveraged city owned property for- lease or for- sale to equity applicants to ensure there is available real estate to assist with starting or incubating their businesses.

Another equitable approach taken by the City of Sacramento and the City of Oakland has been to not require equity applicants to have entered in a lease agreement or purchased a building prior to applying for any license type. A Letter of Intent (LOI) to lease or purchase the property signed by the owner must be included with the Business Operating Permit Application. At this time, an applicant's ability to negotiate the terms of their lease or purchase can have a positive or negative impact to their financial and business models. Social Equity Applicants in cities like Los Angeles who were required to acquire a building prior to applying for their business permit became inundated with rent for commercial properties for upwards to a year of owed backpay while also not being guaranteed they would be the recipient of a commercial cannabis permit as result of the City of Los Angeles' "first come-first served" process. That process

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has reinforced disparaging inequities in Los Angeles' cannabis industry and resulted in a lawsuit by Social Equity Applicants.

In that regard, there has been debate by City Administrators, City Council Members, and Board of Supervisors throughout the State of California regarding the most equitable process for Retail Storefront delivery permits which have proven to be the most sought-after permit type. There has three main approaches to the application process for issuing cannabis retail storefront permits: 1) Merit Based Application Process, wherein application are scored by an anonymous group of professionals or city planners/admin; 2) a Lottery System whereby businesses and individuals are allowed to submit their application for consideration; and 3) a "first come – first served" system where a portal may be opened and applicants are selected based on the file order of their application. While all the processes have their own respective inadequacies, the process which has proven to have the most equitable outcomes has been the Merit Based Application process. Such process has been implemented by the City of Sacramento, the City of Oakland, and is being adopted by the City of Long Beach.

The City of Oakland also provides an example of a progressive tax and fiscal spending structure. A progressive tax is characterized by a more than proportional rise in the tax liability relative to the increase in income. Progressive income taxation may result in a more equitable income distribution, higher revenues, less financial and economic volatility, and faster growth.<sup>[3]</sup> The City of Oakland is deliberating over the best way to adopt and implement an "Emerald New Deal Healing and Reparation Fund" Proposed To (A) Establish The "Emerald New Deal Fund", a Fund Of The City Of Oakland, To Provide Community And Economic Development Services And/Or Programs That Address The Racially Inequitable Impacts Of The War On Drugs On Individuals, Families, And Communities In Our City; (B) Deposit The Revenue Of The Cannabis Business Tax Into The Hereby Established "Emerald New Deal Fund"; And (C) Establish An "Emerald New Deal Fund Oversight Commission" As A Commission Of The City Of

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Oakland To Recommend Strategic Investments Of The Emerald New Deal Fund.

The Emerald New Deal proposes to spend the City's cannabis tax revenues in the following manner:

- Category One: Up to 15 percent (15%) for the City's costs of administering the END<sup>3</sup>
- Category Two: Up to 35 percent (35%) towards City of Oakland programs that support individuals and neighborhoods most impacted by the War on Drugs.
- Category Three: Up to 50 percent (50%) to private, non-profit, and public agencies that support individuals and neighborhoods most impacted by the War on Drugs.

Category One costs of administering the END would include staffing the END's proposed

Planning and Oversight Commission, drafting mandated reports, drafting and process multiple Requests for Proposals (RFPs), processing subsidies for commission members, and monitoring the use of cannabis tax revenues.

Category Two contemplates funding a wide variety of City programs, such as workforce development, blight abatement, illegal dumping removal, services for unhoused people, and loans to cannabis equity businesses.

Category Three envisions a broad array of external programming. Examples of potential external programs under Category Three include workforce development, services for unhoused persons, mental health, housing, business support, physical health, and educational programs.

As localities throughout the State of California begin to adopt Cannabis Social Equity Programs, there have been two general approaches to their implementation outlined in their adopted ordinances. The cities of Oakland, San Francisco, Long Beach, Sacramento, and Los Angeles have adopted program models which set legal definitions for social equity related provisions as well as concrete criteria which is not malleable once adopted by a City Council or Board of Supervisors. Manuals are different in that they require less bureaucracy to

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change should the input from the community provide necessary input to their businesses. The City of Richmond and the County of Humboldt have adopted program manuals to assist with running their programs. Like the ordinances in other cities the program manuals establish criteria to become an equity applicant, classifications of equity applicants and businesses, and additional provisions therein. Program manuals are able to be configured to fit the changing regulatory and economic environment impacting cannabis equity businesses. For example, the City of Richmond's program manual allows the City Manager, or the City Manager's designee, is authorized to make amendments that are not

substantive to the Program. Substantive amendments must be approved by the City Council. All services and factors listed in the manual are at the discretion of City of Richmond and are subject to updates and revisions in accordance with the Program, as approved by the City Council. Humboldt County's Local Equity Program (LEP) Project Trellis V1.0 fared different social equity criteria and different mechanisms to issue grants to equity entrepreneurs than in V2.0. Humboldt County was able to change the provisions of their equity program because of the malleability of the adopted manual. For example, once the county reduced the cultivation tax rate, the funds used to operate the program dwindled and needed to be eligible to receive funding from SB 1294 (Bradford). This is just one example of how a manual can be utilized more efficiently to meet the needs of cannabis equity entrepreneurs.

Lastly, it is imperative that state and local governments recognize the various socioeconomic gaps that are attributed to mass incarceration and the War on Drugs. Therefore, social equity programs need to provide more support just than business education services. Professors and students of sociology, history, political science, as well as legal scholars corroborate the statistical relationship between the preponderance of minority groups – particularly Black and Brown individuals in the prison system with the lack of economic, psychological, and educational resources in their communities. A true Social Equity Program should seek to repair these harms caused by the War on Drugs in addition to providing the necessary resources to communities which were the primary targets of cannabis prohibition to be able to enter and compete in the now-legal cannabis industry.

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## Comparative Analysis Brief

### Governance

#### San Diego County

- Title II Division 25 Sec 21.2501 provides that the Sheriff's Department is the responsible body for approving, issuing, and renewing cannabis business operating permits and certifications. The Sheriff acts as the authoritative body tasked with enforcement of legally established medical cannabis businesses

#### City of San Diego

- Cannabis Business Applications must be submitted through the Development Services Department. The provisions allowing for the regulation of the consumption of Cannabis and the activity of Cannabis Businesses are derived from the San Diego Municipal Code (SDMC).

#### City of Sacramento

- The Office of Cannabis Management (OCM) is the main governing body regarding cannabis policy in the City of Sacramento. However, cannabis as a commodity product, its recreational use, and its commercial sell are governed in Title 5 Business Licenses And

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## Regulations, Title 8 Health And Safety, and Title 17 Planning and Development Code of the

Sacramento Municipal Codes. Cannabis businesses in Sacramento are required to obtain a Conditional Use Permit (CUP) before they can begin operation. To that effect, cannabis businesses begin their applications with the Planning Division and their plans are subject to public review and input at Planning Commission meetings. Businesses Operating Permits (BOPs) are required to be obtained after being granted a CUP and before a business can become operational in the City of Sacramento. BOPs are submitted through the Office of Cannabis Management, but other permits such as Occupancy Permits must be obtained through the Planning Division.

## City of Oakland

- The authority to regulate the issuance of commercial cannabis permits, disburse sales tax revenue, receive governmental grants on behalf of cannabis equity businesses, and make amendments to the City Municipal Code, resides within the City Administration and the City Council. However, the City of Oakland also relies on the expertise and therefore perspectives of commissioners who sit on the City of Oakland's Cannabis Oversight Committee for matters related to cannabis.

## County of Humboldt

- Decisions related to regulating Commercial Cannabis in Humboldt County resides within the County Administration and the County Board of Supervisors. Powers allowing for cannabis businesses to engage in commerce reside in Humboldt County Municipal Codes. The primary governmental body responsible for accepting applications and issuing permits in Humboldt County is the Planning and Building Department.

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## State of Illinois

- HB 1438 The Cannabis Regulation and Tax Act grants the Illinois Department of Financial and Professional Regulation with implementing and administrating multiple aspects of the Adult-Use Cannabis Program, including the licensing and oversight of dispensing organizations, dispensary agents, and agent education providers.

## State of New York

- S854A – The Marihuana Regulation and Taxation Act (MRTA) was signed into law by the State of New York on March 31<sup>st</sup>, 2021. The MRTA establishes the cannabis law; defines terms; establishes the New York state Cannabis Control Board and the Office of Cannabis Management; outlines powers and duties thereof.

## **Land Entitlement Process**

### County of San Diego

- Because the County of San Diego does not have a commercial cannabis market the permitting processes for cannabis businesses are only for medical only “cooperatives,” which do not possess the same legal definition as medical only dispensaries and adult-use dispensaries. The current regulatory landscape for San Diego county does not require the attainment of a Conditional Use Permit for the businesses currently operating with the counties unincorporated area.

### City of San Diego

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- Chapter 12, Article 6, Division 3, §126.0303 provides that Conditional Use Permits for cannabis related business are decided by processes outlined in the Municipal Codes. The excerpt can be found in the comprehensive comparative analysis.

## City of Sacramento

- A Conditional Use Permit (CUP) is a requirement prior to the acquisition of a Business Operating Permit (BOP) and is overseen by the Planning Division in the Community Development Department. The Planning Division and Office of Cannabis Management, along with the City Attorney's Office, Fire Department, Police Department, Building Division, Housing and Dangerous Buildings Division and Code Enforcement Division staff, all work closely together to regulate cannabis businesses in the city.

- All proposed sites for a cannabis business require a Conditional Use Permit (CUP), which includes a public hearing. Most public hearings are conducted by the Zoning Administrator, while applications that are beyond the scope of the Zoning Administrator, such as a property that exceeds 125,000 sq. ft. or is less than 600 feet from a neighborhood or community park are heard by the Planning and Design Commission (PDC). Similarly, decisions by the Zoning Administrator may also be appealed to the PDC.

- Regulations for obtaining a Business Operating Permit (BOP) and operating a cannabis business in the City of Sacramento are found in Title 5.150 of the City Code and are overseen by the Office of Cannabis Management located in the Office of the City Manager. To obtain a BOP and begin operations, a cannabis business must be located in a building that has a CUP for the matching type of cannabis activity, have a Certificate of Occupancy from the Building Division that the structure is suited to the requested business activity, possess a state cannabis license,



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and then have fulfilled all the BOP requirements of Title 5.150. Currently there is a maximum of 40 storefront dispensary BOPs that can be issued in the City. There is also a limit of 50 delivery dispensary BOPs that can be issued in the southeast area of the City.

## City of Oakland

- jurisdiction. Instead, the City of Oakland requires that each Cannabis Business Operator must receive an environmental determination pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) from the City prior to approval of the Cannabis Operation Permit. The City, in its discretion and based on substantial evidence in the record, may determine that either: (1) a CEQA exemption applies, and a Notice of Exemption (NOE) is appropriate, or (2) further environmental study, including but not limited to, an Initial Study, Environmental Impact Report (EIR), or other study may be needed depending upon the proposed Cannabis operation.

-

- The Port does not have a conditional use permit process. Uses are “allowed” or “not allowed”, and some allowed uses are only allowed under specific conditions. Cannabis activities are allowed under various use categories.

-

- Chapter 5.80.020 of the Oakland Municipal Code establishes the requirement for Cannabis Business Operators to retain a business permit to lawfully engage in commercial cannabis activity.

## Humboldt County

- Humboldt County requires Commercial Cannabis Businesses to be issued a Conditional Use Permit (CUP) as a step in the Planning and

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Building Department's permitting process for all commercial cannabis activity, within the Inland Area, as specified.

## State of Illinois

- 410 ILCS 705/55-25 provides that:
  - o (1) A unit of local government, including a home rule unit or any non-home rule county within the unincorporated territory of the county, may enact reasonable zoning ordinances or resolutions, not in conflict with this Act or rules adopted pursuant to this Act, regulating cannabis business establishments...
  - o (2) A unit of local government, including a home rule unit or any non-home rule county within the unincorporated territory of the county, may enact ordinances or rules not in conflict with this Act or with rules adopted pursuant to this Act governing the time, place, manner, and number of cannabis business establishment operations, including minimum distance limitations between cannabis business establishments and locations it deems sensitive, including colleges and universities, through the use of conditional use permits. A unit of local government, including a home rule unit, may establish civil penalties for violation of an ordinance or rules governing the time, place, and manner of operation of a cannabis business establishment or a conditional use permit in the jurisdiction of the unit of local government. No unit of local government, including a home rule unit or non-home rule county within an unincorporated territory of the county, may unreasonably restrict the time, place, manner, and number of cannabis business establishment operations authorized by this Act.
- The Act allows for local governments to regulate cannabis pursuant to their zoning laws as well as any additional regulations as long as they do not conflict with provisions set forth in the CRTA.
  - o City of Chicago

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§ The Cannabis Zoning Ordinance regulates where new adult use cannabis dispensaries may open in the City of Chicago.

§ The ordinance permits new adult use cannabis dispensaries in certain Business (B), Commercial (C), Downtown (D), Manufacturing (M) and Planned Manufacturing (PMD) zoning districts provided they obtain a

special use permit from the Zoning Board of Appeals (ZBA). This ensures each new adult use cannabis dispensary receives a public hearing before the ZBA and provides an opportunity for public comment.

§ The ordinance also permits cannabis craft grower, processor and infuser facilities to locate by right in certain Manufacturing (M) zoning districts if they are 660 feet away from residential districts. However, if such facilities are located within 660 feet of a residential district, they must, like adult use cannabis dispensaries, obtain a special use permit from the ZBA. Additional details on the special use process can be found on the ZBA cannabis application checklist.

§ The 2021 amendment to the Cannabis Zoning Ordinance eliminated the lottery and cap system for adult use cannabis dispensaries that was previously in place.

§ Additionally, the Cannabis Zoning Ordinance prohibits adult use cannabis dispensaries from locating within a portion of downtown and within 500 feet of a school. State law generally prohibits certain cannabis dispensaries from locating within 1,500 feet of another cannabis dispensary, with some exception. For instance, state law does permit social equity adult use cannabis dispensaries to locate within 1,500 feet of non-social equity adult use cannabis dispensaries.

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## State of New York

- **§ 131(2) of the MRTA provides:**
  - o Cities, towns and villages that do not-opt out of allowing retail dispensaries or onsite consumption sites within their boundaries may adopt local laws establishing reasonable time(s), place(s) and operational restrictions on these facilities. Municipalities may incorporate these local controls within their zoning codes. However, a municipality that does not opt-out cannot adopt regulations that make the operation of licensed retail dispensaries or on-site consumption sites “unreasonably impracticable” as determined by the Board.
  - o Zoning limitations cannot make the legal operation of a licensed retail dispensary or on-site consumption site so difficult that the activity becomes impractical and, therefore, effectively operate as a ban on such uses. Local governments may not use a zoning code to effectively eliminate cannabis businesses in their communities by, for example, “finding zones in which it is very difficult to site these businesses, or putting them on the edge of town where nobody wants to go, or in some other way making it so difficult for these businesses to be sited that the businesses won’t site in their communities.” *Diesel v. Jackson County*, 284 Or. App. 301 (Court of Appeals of Oregon 2017) (The Oregon court concluded that Jackson County’s zoning restrictions were not unreasonable, given both the petitioner’s concession that the land within the zones where cannabis cultivation was allowed was suitable for such use and the lack of evidence that inadequate land was available within those zones.)
  - o Municipalities may, however, regulate retail dispensaries or on-site consumption establishments by specifying a particular distance from residentially zoned areas and facilities in which

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families and children congregate. Such restrictions may also include restrictions on the hours of operation. Moreover, zoning regulations may be used to prohibit such facilities from operating within a specified distance of another retail dispensary or on-site consumption establishment to avoid the impacts associated with the concentration of such uses in one place. However, municipalities need to ensure that after the law is adopted, reasonable alternative locations remain available for licensed retail dispensaries and on-site consumption establishments and that such restrictions are not considered “unreasonably impractical”. Pursuant to Section 131(2) of the MRTA, the Board determines whether local zoning restrictions are “unreasonably impracticable”. In making this determination, the Board will likely consider whether the potential locations are accessible to the general public, the surrounding infrastructure and the likelihood that the alternate locations will ever realistically become available for use.

- On February 22, 2022, Governor Kathy Hochul signed into law S.8084-A/A.9283-A, creating a new Adult-Use Conditional Cultivator License, authorizing eligible hemp growers to apply for a license to grow cannabis containing over 0.3% THC for the adult-use cannabis market. To be eligible for licensure, the hemp grower must have been authorized to grow hemp under the Department of Agriculture and Markets Industrial Hemp Research Pilot Program and meet certain other requirements. The Conditional Cultivator program puts New York farmers first, jumpstarting the New York Cannabis Industry and the Cannabis Law’s focus on social and economic equity. On March 10, 2022 the Cannabis Control Board (Board) approved the application and opening of the application window for Conditional Cultivators beginning March 15, 2022 and remaining open until June 30, 2022.
- On March 10, 2022, the New York State Cannabis Control Board released proposed regulations for conditional adult-use retail dispensaries. New York’s conditional adult-use dispensary licenses are temporary

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licenses only available for “justice involved” applicants. This includes those who have had a cannabis-related offense or have an immediate family member with a cannabis related offense, who have experience owning and operating a business.

## **Distance Requirements**

### County of San Diego

- Separation Requirements for Collective Facilities. A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:
  - 1000 feet from a parcel to which a residential Use Regulation applies.
  - 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
  - 1000 feet from a parcel on which another Collective Facility has been established.

### City of San Diego

- Cannabis Outlets shall maintain a minimum distance separation of 1,000 feet from resource and population-based city parks, other cannabis outlets, churches, childcare centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. Cannabis Outlets also shall maintain a minimum distance separation of 100 feet from the property line of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the property lines without regard to topography or structures that would interfere with a straight-line measurement.

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## City of Sacramento

- The Sacramento City Code requires a 600-ft buffer from neighborhood and community parks (does not apply to small manufacturers). Applications with proposed sites that are within the 600-ft of neighborhood and community parks will be reviewed by the Planning and Design Commission.

## City of Oakland

- Six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes), another dispensary or youth center, unless the school or youth center moved into the area after the dispensary was issued a permit.

## County of Humboldt

- The Planning Commission shall have the discretion to deny a conditional use permit for any proposed medical cannabis Dispensary within 600 feet of the following uses if the Commission determines that the impacts of a proposed Dispensary have the potential to be significant on the following uses:
  - o Residential neighborhoods and their inhabitants.
  - o Church, as defined herein.
    - o Playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein.
    - o Residential treatment facilities, as defined herein; and

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- The cumulative impacts resulting from the addition of another cannabis dispensary, delivery service or other distribution or transfer facility when there are others within a 600-foot radius of the proposed new facility.
- No medical cannabis Dispensaries, operators, establishments, or providers who possess, cultivate, or distribute medical cannabis shall be located within a 600-foot radius of a school [Health & Safety Code section 11362.768 (b)]. This distance shall be measured in a straight line from the property line of the school to the property line of the medical cannabis dispensing facility, operator, establishment, or provider.

## State of Illinois

- Medicinal Dispensaries ○ The Illinois Department of Agriculture has established that applications for Medical Dispensaries must provide a location map of the area surrounding the facility. Identify the relative locations of the following on the map, or by notations, the distance and direction to the property line (minimum of 2500 lineal feet):
  - § Pre-existing public or private pre-school
  - § Elementary or secondary school
  - § Day care center • Day care home
  - § Group day care home
  - § Part day childcare facility
  - § Area zoned exclusively for residential use
  - § Minimum of 1,000 lineal feet to another cultivation center or a medical cannabis dispensary
- Adult Use Dispensaries ○ The power to grant special-use or conditional use permit for the commercial cannabis resides in the local government as provided in the CRTA.



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## State of New York

- § 72(6) and § 77(4) of the MRTA establishes the following distance requirements for

Cannabis Retail Facilities ○ No cannabis retail licensee shall locate a storefront within 500 feet of a school grounds or within 200 feet of a house of worship.

§ For these purposes, a “school” is defined as any “public or private elementary, parochial, intermediate, junior high, vocational, or high school.” School grounds include any building, structure, athletic playing field, playground or land contained within the real property boundary line” of such a school.

§ Municipalities may increase this separation distance requirement pursuant to locally enacted time, place and manner requirements.

## **License Types**

### County of San Diego

- The County of San Diego’s Code of Regulations provides definitions for the regulation of Medical Cannabis Collectives, and Commercial Cannabis Microbusinesses.

○ "Commercial Cannabis Retailer" means a retail storefront facility that sells cannabis and cannabis products and holds an **A-Type 10 (Adult Use)** or **M-Type 10 (Medical Use)** Retailer license in accordance with Business and Professions Code Section 26050.

○ “Medical Cannabis Collective Facility" or "Collective Facility" means any location at which members of a medical cannabis collective collectively or cooperatively cultivate, store or exchange cannabis among themselves or reimburse each other or the

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medical cannabis collective for cultivation, overhead costs and operating expenses.

o "Commercial Cannabis Microbusiness" means a cannabis facility that holds an AType 12 (Adult Use) or M-Type-12 (Medical Use) Microbusiness license in accordance with Business and Professions Code Section 26050, and is engaged in three of the four following medical commercial cannabis activities:

§ Retailer

§ Cultivation of cannabis on an area less than 10,000 square feet

§ Manufacturing

§ Distribution

## City of San Diego

- Cannabis businesses within the supply chain are delineated by license type – only differentiated either as a Cannabis Outlet or Cannabis Production Facility as defined in the San Diego Municipal Code.

- A Cannabis Outlet is defined as: a retail establishment operating with a Conditional Use Permit in accordance with section 141.0504, where cannabis, cannabis products, and cannabis accessories, as defined in California Health and Safety Code sections 11018, 11018.1, and 11018.2, respectively, are sold to the public in accordance with dispensary or retailer licensing requirements contained in the California Business and Professions Code sections governing cannabis and medical cannabis. A cannabis outlet shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code. (Chap 4 Art 2 Div 15 §42.1502)

- A Cannabis Production Facility is defined as: individual or combined uses, operating with a Conditional Use Permit in accordance

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with section 141.1004, engaged in the agricultural raising, harvesting, and processing of cannabis; wholesale distribution and storage of cannabis and cannabis products; and production of goods from cannabis and cannabis products consistent with the requirements of State of California Statutes and the California Departments of Food and Agriculture, Consumer Affairs, and Public Health regulations.

(Chap 4 Art 2 Div 15 §42.1502) City of Sacramento

- The Planning and Development Code (Title 17) allows for three main types of cannabis uses:

- o Production (including cultivation, manufacturing, and distribution),

§ **Cannabis cultivation** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cannabis cultivation is permitted in the A, C-2, C-4, M-1, M-1(S), M-2, M-2(S) and MT zones with a Conditional Use Permit.

§ **Cannabis Manufacturing** means the production, preparation, propagation, and compounding of cannabis and cannabis products. Cannabis manufacturing includes the extraction process, the infusion or mixture of cannabis into another substance, the preparation of an edible item that contains cannabis, and the packaging and labeling of cannabis or cannabis products. Cannabis manufacturing is permitted in the C-2, C-4, M1, M-1(S), M-2, M-2(S), MIP, MRD and M-T zones.

§ **Cannabis distribution** means the procurement, sale, and transport of cannabis and cannabis products between cannabis businesses. Cannabis distribution is permitted in the C-2, C-4, M-1, M-1S, M-2, M-2(S), MIP, MRD and M-T zones. o Testing

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§ **Cannabis testing** means performing scientific analysis of cannabis or cannabis products to determine its chemical profile, the presence of contaminants, or other similar data. Cannabis testing is permitted by right in the C-2, C-4, M-1, M-1(s), M-2, M-2(S), MIP, MRD, and M-T zones.

§

- Dispensaries (which may be either storefront or delivery-only).

§ A **cannabis dispensary** covers two types of sub-uses, a storefront cannabis dispensary and a delivery-only cannabis dispensary. A storefront cannabis dispensary means a business selling cannabis or cannabis products from a building or structure that is open to customers. A storefront cannabis dispensary may deliver cannabis products by meeting the additional delivery-specific requirements and obtaining the appropriate authorizations. A delivery-only cannabis dispensary means a business selling cannabis or cannabis products only by delivery, not by completing the transfer in a building or structure that is open to customers or elsewhere on the dispensary site. 6 Storefront cannabis dispensaries and delivery-only cannabis dispensaries are permitted in the C-2, C-4, M-1, M-1(S), M-2, M-2(S), and MT zones with a Conditional Use Permit. A storefront cannabis dispensary is also permitted in the SC zone.

## City of Oakland

- Medical
- Adult Use
- Medical and Adult Use
- Delivery-Only Dispensary

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- Indoor Cultivator
- Outdoor Cultivator
- Distributor
- Transporter
- Testing Laboratory
- Manufacturing with Volatile Solvents
- Manufacturing with Non-Volatile Solvents

## County of Humboldt

- Cultivation/processing.
- Dispensary.
- Transporter: for independent transportation contractors, based in unincorporated Humboldt County. Cannabis Transportation Affidavit must be completed with application.
- Transporter-Special: independent transportation contractors with a physical base and license not located in unincorporated Humboldt County. Cannabis Transportation Affidavit must be completed with application.
- Manufacturer.
- Distributor/distribution.
- Testing.
- Nursery.
- Tourism.

## State of Illinois

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- Dispensary
- Craft Grower
- Infuser
- Transporter
- Cultivation Center

## State of New York

- Cultivator
- Processor
- Cooperative
- Distributor
- Retail Dispensary
- Microbusiness
- Delivery
- Nursery
- On-site Consumption

## **Fees**

County of San Diego

- Medical Marijuana Operation Certificate: **Annual fee \$49,460.**

City of San Diego – Revisit after updated permit fee schedule

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City of Sacramento

**Table 30. Permit types and fees, City of Sacramento**

Permit Type	BOP Fee	BOP Fee
	New	Renew
Cultivation up to 5,000 sq ft	\$9,700	\$ 8,570
Cultivation up to 10,000 sq ft	\$ 20,210	\$ 17,840
Cultivation up to 22,000 sq ft	\$ 28,910	\$ 25,300
Nursery	\$ 9,700	\$ 8,570
Dispensary	\$ 23,610	\$ 20,800
Dispensary - Delivery Only	\$ 23,610	\$ 20,800
Dispensary - Delivery Only - Less than \$500k	\$ 9,760	\$ 8,580
Distribution Center up to \$5m	\$ 9,200	\$ 8,100
Distribution Center up to \$20m	\$ 19,000	\$ 17,300
Distribution Center over \$20m	\$ 33,600	\$ 30,400
Distribution Service - Transport Only *	\$ 5,530	\$ 4,850
Manufacture Type 1 - (Class A) - up to \$100k *	\$ 4,440	\$ 3,700
Manufacture Type 1 - (Class B) - up to \$1m	\$ 8,880	\$ 8,400
Manufacture Type 1 - (Class C) - up to \$3m	\$ 17,660	\$ 15,500
Manufacture Type 1 - (Class D) - over \$3m	\$ 30,900	\$ 25,625
Manufacture N or P (Class A) - up to \$100k *	\$ 2,590	\$ 2,290
Manufacture N or P (Class B) - up to \$1m	\$ 7,670	\$ 6,750
Manufacture N or P (Class C) - up to \$3m	\$ 16,920	\$ 14,875

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Manufacture N or P (Class D) - over \$3m	\$ 28,410	\$ 23,400
Microbusiness - (3) Manufacturing, Retail, Distribution, Cultivation	\$ 36,800	\$ 35,100
Testing Lab *	\$ 14,270	\$ 12,570

## City of Oakland

Gross Sales	1 <sup>st</sup> Permit	Each Additional Permit
Gross Sales > \$999,999	\$11,640.03	\$5,362.00
Gross Sales = \$500,000 - \$999,999	\$5,816.00	\$2,160.00
Gross Sales < \$500,000	\$3,173.00	\$1,170.00
Dispensary	\$15,980.45	
On-Site Consumption Application Fee	\$2,757.31	
On-Site Consumption Annual Permit Fee	\$2,196.99	

**Table 40.** Permit fees by gross sales, City of Oakland

## County of Humboldt

**Table 39.** Cannabis business activity fees, County of Humboldt

Department	Service or Charge	Current Fee
268 Code Planning	Cannabis Application Assistance/PreApplication Fee	\$291.00



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	Cannabis Conditional Use Permit	Actual Cost (minimum deposit \$4,500)
	Cannabis Special Permit	Actual Cost (minimum deposit \$3,250)
	Cannabis Zoning Clearance Certificate	Actual Cost (minimum deposit \$2,750)
	Post application review of conditions/mitigation monitoring	Actual cost (minimum deposit \$750)
	Cannabis Permit Transfer/Change	\$150.00
	Cannabis CEQA	Actual Cost
	Cannabis Extension/Modification	Actual Cost (minimum deposit \$875)
	Cannabis Permit Provided by Contracted Services	Contract Rate plus 20%
	Cannabis Technology Fee - Public Hearing Review Permits	.10 X total permit fee
	Cannabis Technology Fee - Administrative Review Permits	.10 X total permit fee
	Cannabis Technology Fee - Administrative Review Permits	\$45.00
	Zone Boundary Interpretations	\$660.00
	Administrative Enforcement Agreement	\$250.00
	Determination of Status / Certificate of Compliance (plus charge for concurrent review of adjacent lots)	Actual Cost (minimum deposit \$825)
	Information Request	Actual Cost (minimum deposit \$150)

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	Information Request	Actual Cost (minimum deposit \$150)
	CalFire Timberland Exemption	\$125.00
	Lot Line Adjustment	Actual Costs (minimum deposit \$1850)
	Northwest Information Center - Historical Data Base	\$75.00
	Public Noticing Costs (newspaper and neighbors)	Actual cost

## State of Illinois

- Applicants must submit a \$5,000 nonrefundable fee, unless they are Social Equity Applicants (see below).
- Social Equity Applicants are required to submit a reduced nonrefundable fee of \$2,500.
- Retail: Two-year license fee \$60,000 o \$30,000 for Social Equity Applicants
- Cultivation: \$100,000 annually – may be discounted for Social Equity Applicants
- Craft growers: \$40,000 annually – may be discounted for Social Equity Applicants
- Manufacturing (Infusion): \$20,000 annually - may be discounted for Social Equity Applicants -           Transporter: \$10,000 annually

## State of New York

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- The State of New York cannabis regulatory environment is still in its infancy and the only cannabis business permit applications which have been opened have been for Adult-Use Conditional Cultivator License. The application window for the Adult-Use Conditional Cultivator License approved by the Cannabis Control Board is March 15, 2022 – June 30, 2022.
- Applicants must pay a **non-refundable \$2,000** Application and Licensing Fee to complete their application submission.

## **Taxation and Revenue**

### County of San Diego

- San Diego County currently does not have a Cannabis Business Tax or Cannabis Tax defined in its code of regulations. The operating dispensaries in the county are considered non-profit collectives, and therefore might not be currently subject to the types of taxes paid by existing commercial cannabis businesses found in certain incorporated cities elsewhere in the county. While SB 94 Cannabis: medicinal and adult use created a methodology to implement the two taxes imposed by Proposition 64, the cultivation tax (9.35 per dry weight ounce for flowers and \$2.75 for leaves) and excise tax (15 percent of the sales price), it did not add language for the regulation of cannabis “non-profit collectives.” Additionally, there is not a state permit designating a cannabis business as “non-profit collective,” thereby the businesses may not be required to remit excise or cultivation taxes to the State of California. These businesses may only be required to remit county sales taxes if the business is structured as such. Conversely, such medical cannabis businesses that were established during Prop 215 were donation-based operators and did not have a point-of-sale transactional relationship with customers. This speaks to the complexity cannabis business operators face in determining

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their tax liability. It is also compounded when local governments do not have clear and concise language surrounding regulation, permitting, and taxation of cannabis business as well as cannabis as a commodity.

## City of San Diego

- According to the current provisions within the SDMC the tax rate for Cannabis Outlets at eight (8) percent of Gross Receipts. However, City Council does possess the right to increase this rate by ordinance, but not to exceed fifteen (15) percent. Additionally, Cannabis Production Facilities are subject to a two (2) percent tax on Gross Receipts. City Council retains the rights to set a different tax rate not to exceed fifteen (15) percent. This tax rate is coupled with a local sales tax rate of 7.75 percent, and a state excise tax rate of fifteen (15) percent for cannabis retailers and distributors. Setting the aggregate range for taxes on cannabis businesses in the City of San Diego at 24.57 percent 30.75 percent not including income taxes and payroll taxes paid by the business.

Total Revenue To-Date	Tax Revenue Generated	Percentage of Total
Fiscal Year 2017/2018	\$ 2,731,582.89	4.04%
Fiscal Year 2018/2019	\$ 8,411,449.77	12.45%
Fiscal Year 2019/2020	\$ 17,288,031.26	25.59%
Fiscal Year 2020/2021	\$ 23,318,798.46	34.51%
Fiscal Year 2021/2022	\$ 15,814,037.15	23.41%

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<b>Total</b>	<b>\$ 67,563,899.53</b>	100.00%
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**Table 24.** Revenue from Cannabis 2017-2022, City of San Diego

- The City of San Diego’s fiscal calendar runs from the month of July in the beginning year to the month of June in the following year, a standard for most municipalities. Cannabis Business Tax Revenues have grown significantly since the City of San Diego began collecting taxes on commercial cannabis activity. Between Fiscal Year 2017/2018 and Fiscal Year 2020/2021 revenue collected from Cannabis Businesses has grown at a rate of approximately 754 percent. Data for Fiscal Year 2021/22 is not complete as the actual amount of taxes remitted to the City of San Diego have not been calculated at the time is study. Foregoing the remaining taxes coming into the city’s general budget, cannabis business taxes have generated approximately \$67 million dollars in revenue to-date since the first remittance of cannabis business taxes in Fiscal Year 2017/2018. This number may easily surpass \$70 million by the completion of this fiscal cycle. This data does not include the amount of sales tax generated by cannabis activity within the City of San Diego. Towards that end, this data represents the growth in market share of cannabis businesses within San Diego’s economy and the propensity to become a major contributor to the city’s tax base.

## City of Sacramento

Section 3.08.205 Marijuana Businesses of Chapter 3 of the Sacramento City Code provides that:

- Every person engaged in a marijuana business shall pay an annual business operations tax as follows:
  - On and after July 1, 2011, four percent of each dollar of gross receipts for the reporting period.

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- Notwithstanding the tax rate imposed in subsection (A)(1), the city council may, in its discretion, at any time by resolution implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rate established under subsection (A)(1).

Permit Type	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
FY 2018-19 Total	\$ 11,480,470.00	-	50%
Dispensary	\$ 5,743,485.00	50.0%	-
Manufacturing	\$ 2,931,658.00	25.5%	-
Cultivation	\$ 1,206,658.00	10.5%	-
Testing Lab	\$ 41,820.00	0.4%	-
Delivery	\$ 561,060.00	4.9%	-
Distribution	\$ 579,895.00	5.0%	-

**Table 31.** Revenue from Cannabis by permit type 2018-2019, City of Sacramento

Permit Type	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
FY 2019-20 Total	\$ 14,858,251.00	-	29.4%
Dispensary	\$ 5,603,776.00	48.5%	25.6%
Manufacturing	\$ 1,246,439.00	8.4%	57.5%
Cultivation	\$ 1,738,025.00	11.7%	44.0%
Testing Lab	\$ 112,680.00	0.8%	169.4%
Delivery	\$ 1,195,629.00	8.0%	113.1%
Distribution	\$ 2,168,651.00	14.6%	274.0%

**Table 41.** Revenue from Cannabis by permit type 2019-2020, City of Sacramento

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Permit Type	Tax Revenue Generated	Percentage of Total	% Change from Previous Fiscal Year
FY 2020-21 Total	\$ 25,417,559.00	-	71.1%
Dispensary	\$ 10,117,129.00	40.0%	40.0%
Manufacturing	\$ 742,777.00	3.0%	40.4%
Cultivation	\$ 4,214,166.00	16.6%	142.0%
Testing Lab	\$ 205,386.00	8.0%	82.2%
Delivery	\$ 3,133,637.00	12.3%	162.0%
Distribution	\$ 5,645,569.00	22.2%	160.0%

**Table 42.** Revenue from Cannabis by permit type 2020-2021, City of Sacramento

## City of Oakland

- On December 10, 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending the Oakland Municipal Code (“OMC”) Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses. The new tiered and category-based tax structure for 2022 Tax Year, and if applicable, for a business newly established in calendar year 2021, is as follows:

## County of Humboldt

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- **Chapter 9 Sec. 719-4. Imposition of Tax** establishes the taxable rate for commercial cannabis cultivation businesses. It declares:

o Each person issued a commercial marijuana cultivation permit shall pay an annual tax of one dollar (\$1.00) per square foot of outdoor cultivation area, two dollars (\$2.00) per square foot of mixed-light cultivation area or three dollars (\$3.00) per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property.

o The initial maximum annual rate is one dollar per square foot of cultivation area for outdoor cultivation, two dollars per square foot of cultivation area for mixed light cultivation and three dollars per square foot of cultivation area for indoor cultivation. The tax rate shall be adjusted annually by the Consumer Price Index. Revenue from

the tax will be deposited in the County General Fund. The tax will remain in effect until repealed.

o The cultivation tax will be collected annually in two installments by the Humboldt County Treasurer-Tax Collector. The tax will begin to accrue on the date the cultivator becomes engaged in legally authorized commercial marijuana cultivation in accordance with the Humboldt County Code. Failure to pay the tax within 30 days of the date due will incur penalties of 25 percent of the total amount due, plus an additional 10 percent for each month the tax remains unpaid, up to a maximum penalty of 100 percent of the tax payable on the due date. Violation of the cultivation tax ordinance shall also constitute a public nuisance, subject to all administrative, civil, or criminal remedies available to the County.

o Humboldt County does not have any additional taxes for commercial cannabis business not specified as cultivation in its municipal codes.



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YEAR	Taxes Billed	Tax Revenue Collected	Percentage of Total Collected	% Change from Previous Fiscal Year
<b>TOTAL</b>	<b>\$ 59,300,000.00</b>	<b>\$ 47,604,327.00</b>		
Fiscal Year 2016/17		\$ 178,377.00	0.37%	
Fiscal Year 2017/18	\$ 19,300,000.00	\$ 7,191,257.00	15.11%	3931.5%
Fiscal Year 2018/19	\$ 20,900,000.00	\$ 11,888,712.00	24.97%	65.3%
Fiscal Year 2019/20	\$ 19,100,000.00	\$ 10,817,666.00	22.72%	9.0%
Fiscal Year 2020/21	\$ -	\$ 17,528,315.00	36.82%	62.0%

**Table 43.** Taxes billed and Tax Revenue collected 2016-2021, County of Humboldt

## SB 1294 Funding

### County of San Diego

- No applications submitted; therefore, there has been no funds awarded City of San Diego
- **\$75,000** to carry out a Social Equity Assessment City of Sacramento
- Total: **\$12,629,304.60** o March 9, 2020

§ **\$3,831,955.93** to launch a city-sponsored no-interest revolving loan program for cannabis business start-up costs solely for Cannabis Equity program applicants.

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○ January-February 2022

§ **\$1,197,119.34** to reimburse up to \$25,000 in start-up costs incurred by Cannabis Equity program applicants and permit holders.

○ February 1, 2021

§ **\$1,813,612.38**

- **\$1,450,891** to establish a tiered grant system for cannabis equity entrepreneurs
- **\$362,721** to cover costs for administration of the Grant and Direct Technical Assistance Programs on behalf of the city.

○ November 15, 2021 § **\$5,786,617**

- The funds have not yet been awarded. However, the anticipated use of these funds will be to implement the second iteration of the city's direct technical services program for equity applicants and entrepreneurs, assist equity operators with receiving their annual state licenses, and to provide additional capital to assist equity entrepreneurs in the industry.

City of Oakland

- **Total: \$16,096,558.30** ○ The Governor's Office of Business and Economic Development (Go-Biz) has awarded the City of Oakland a grant in the amount of **\$5,435,140.82** to support Oakland's Equity Program in 2022-2023. \$2,428,953.10 of the amount awarded is anticipated to be allocated to grants for equity businesses. \$2,250,000.00 of the total funds awarded will be used to support/provide no-interest loans for equity entrepreneurs to

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purchase real estate. \$330,357.00 will be used to retain a consultant to assist equity businesses and entrepreneurs with technical assistance. The remaining \$212,915.36 will be used to provide support for the City's workforce development and apprenticeship program.

- o The City of Oakland has received three state grants thus far to support its cannabis equity program: in the spring of 2020 the city received a grant of approximately **\$1,650,000** from the Bureau of Cannabis Control; in the summer of 2020 the City received a **\$6,576,705** grant from the Governor's Office of Business and Economic Development (Go-Biz); then in the summer of 2021 the City 3 received a **\$2,434,712.51** from Go-Biz.

## County of Humboldt

- **Total: \$8,283,449.41**
  - o Humboldt County's Local Equity Program has received three awards of State CEG funds. The first award, from the Bureau of Cannabis Control (BCC), in the amount of 1,338,683.13. The second award, from the Governor's Office Business and Economic Development (GO-Biz), in the amount of \$2,459,581.02. The third award, from GO-Biz, in the amount of \$1,055,870.22. And the most recent award in the amount of \$3,429,315.04.

## **Efforts to Establish an Equity Program**

### County of San Diego

- On January 27, 2021 (Item #4), the Board directed staff to amend the County Zoning Ordinance to allow for a suite of uses, including retail,

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cultivation, manufacturing, distribution, testing, or a combination of these uses, through a microbusiness license.

- The Board also directed staff to develop a new Cannabis Permitting Program which will prioritize social equity, access, and business opportunities. The Social Equity Program will allow individuals with past cannabis arrests and/or convictions, of low-income, and of communities with high arrest rates or “Disproportionately Impacted Areas” to have greater opportunities for securing a county operating permit.

## City of San Diego

- In 2021 the City of San Diego received a \$75,000 GO-Biz grant from the State of California to conduct a cannabis equity assessment to support and promote equitable ownership and employment opportunities in the legal cannabis industry in communities disproportionately impacted by cannabis prohibition or criminalization. The Cannabis Business Division and the City’s Department of Race and Equity are leading the effort to implement the equity assessment. The city’s Cannabis Division and the Department of Race and Equity developed five (5) phases to carry out this study. They are currently on the final phase (Phase 5) of the study: Monitoring and Reporting – finalizing their reports and finding to deliver to City Council.

## City of Sacramento

- The City of Sacramento has determined, based on its 2018 Cannabis Equity Study, that a two-year pilot program dedicated to aiding communities who were subject to criminal law enforcement of cannabis related crimes at a disproportionate rate to their population within the city and, as a result, were negatively impacted is in the best interests of the

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City. As such, the City has adopted the Cannabis Opportunity Reinvestment and Equity Program (CORE) described herein.

- The CORE Program seeks to reduce the barriers of entry and participation for communities that have been negatively impacted by the disproportionate law enforcement of cannabis related crimes by providing them access to cannabis business development resources, services, and contracting and shareholder opportunities described herein. The CORE Program is a conscious effort to provide the business plan development, training, mentoring, and support necessary to ensure that the emerging cannabis market is accessible to all, regardless of economic status, gender, racial, cultural background and criminal history. Although City funding for the CORE Program's cannabis business development resources and services shall expire in two years from the date of adoption (unless such time for these pilot program support services is otherwise reduced or extended by resolution of the City Council), all other program definitions, eligibility, processing, benefits, features and functions shall remain intact as policy.

## City of Oakland

- In anticipation of state legalization of the cannabis industry's supply chain and the adult use of cannabis, the City of Oakland began exploring approaches to legalizing the cannabis industry within Oakland in 2015 and 2016. Discussions at the City Council centered around one question: Who benefits from cannabis legalization? This inquiry led the City Council in the fall of 2016 to adopt the goal of promoting equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color and to direct the City Administration to conduct a race and equity analysis of proposed medical cannabis regulations.

- In March 2017 staff returned with a race and equity analysis that identified barriers to achieving a more equitable cannabis industry and strategies to remove those barriers. For example, the analysis found within

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the cannabis industry disparities in access to capital and real estate as well as disparities in operators' familiarity with the "red tape" involved in governmental processes and operating a compliant cannabis business. In response, the analysis recommended creation of several measures to prioritize lower-income Oakland residents that either had a cannabis conviction arising out of Oakland or had lived in areas of Oakland that experienced disproportionately higher levels of cannabis enforcement.

## County of Humboldt

The California Center for Rural Policy (CCRP) at Humboldt State University was asked by the Humboldt County Board of Supervisors (HCBOS) to create a Humboldt County Cannabis Equity Assessment (CEA). The Humboldt Institute for Interdisciplinary Marijuana Research (HIIMR) collected secondary data to create the assessment. The assessment found that Humboldt County has a long history of involvement in the cannabis industry and its policing. Humboldt County was "ground zero" for the war on California cannabis producers in the late 1970s and continuing for two decades, after which it remained a top ten target of annual eradication efforts.

The study's key takeaways were:

- Humboldt County has been a leader among rural counties in efforts to navigate the transition to a legalized cannabis industry.
- Small, rural counties in California, including Humboldt, had higher rates of cannabis arrests than other counties as well as the state as a whole.
- Between 2009-2014, drug offenses made up 32.6% of all felony arrests in Humboldt County.  
This translates to an average of 742 arrests per year over a five-year period.

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- Data suggests that Humboldt County’s regions of highest poverty are not applying for cannabis licenses.

## State of Illinois

- HB 1438 creates of a \$30 million low-interest loan program
  - o Department of Commerce and Economic Opportunity (DCEO) will administer a low-interest loan program to qualified “social equity applicants” to help defray the start-up costs associated with entering the licensed cannabis industry.
- Establishes the definition of a “social equity applicant” status for licensing
  - o A social equity applicant is an Illinois resident that meets one of the following criteria:
    - § Applicant with at least 51 percent ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a disproportionately impacted area.
    - § Applicant with at least 51 percent ownership and control by one or more individuals who have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.
    - § For applicants with a minimum of 10 full-time employees, an applicant with at least 51% of current employees who:

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- Currently reside in a disproportionately impacted area; or
- Have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.

## State of New York

- The board, in consultation with the chief equity officer and executive director, and after receiving public input shall create and implement a social and economic equity plan and actively promote applicants from communities disproportionately impacted by cannabis prohibition, and promote racial, ethnic, and gender diversity when issuing licenses for adult-use cannabis related activities, including mentoring potential applicants, by prioritizing consideration of applications by applicants who are from communities disproportionately impacted by the enforcement of cannabis prohibition or who qualify as a minority or women-owned business, distressed farmers, or service-disabled veterans. Such qualifications shall be determined by the board, with recommendations from the state cannabis advisory board, the chief equity officer and executive director, by regulation.

- The board's social and economic equity plan shall also promote diversity in commerce, ownership and employment, and opportunities for social and economic equity in the adult-use cannabis industry. A goal shall be established to award fifty percent of adult-use cannabis licenses to social and economic equity applicants and ensure inclusion of:

- o individuals from communities disproportionately impacted by the enforcement of cannabis prohibition;
- o minority-owned businesses; o women-owned businesses; o minority and women-owned businesses, as defined in paragraph (d) of subdivision five of this section;



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- distressed farmers, as defined in subdivision five of this section;
- and ○ service-disabled veterans;
- The social and economic equity plan shall require the consideration of additional criteria in its licensing determinations. Under the social and economic equity plan, extra priority shall be given to applications that demonstrate that an applicant:
  - is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;
  - has an income lower than eighty percent of the median income of the county in which the applicant resides; and
  - was convicted of a marijuana-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marijuana-related offense.
- The board in consultation with the cannabis advisory board and the chief equity officer, shall also create an incubator program to encourage social and economic equity applicants to apply and, if granted an adult-use cannabis license, permit or registration, the program shall provide direct support in the form of counseling services, education, small business coaching and financial planning, and compliance assistance.
- Governor Kathy Hochul's proposed 2022/2023 budget includes a \$200 million fund backed by state and private dollars to provide capital and startup support for applicants from underrepresented communities.

## IX. Policy Recommendations

- a. Make the Social Equity Program a budget priority to ensure ongoing direct technical support for a minimum of 5 years.
- b. Demarcate capital from the county's general fund to assist Social Equity

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Entrepreneurs with sustainable and sufficient financial support to enter the cannabis market.

- c. Adopt, Establish, and provide funding for a Cannabis Regulatory Body (Office of Cannabis Management or similar regulatory body) to staff and regulate San Diego County's cannabis industry. This body should work closely with the county's Planning Department for land use permitting.
- d. Provide leasing-for or sell real estate at market rate with zero-interest loans to verified Social Equity Applicants.
- e. Reduce the minimum distance requirement for buffer zones to a number supported by empirical data, thereby increasing the supply of available real estate to equity entrepreneurs and successively reducing the market price of real estate in the cannabis industry.
- f. Utilize trends in areas with disproportionate cannabis arrest rates to define, identify, and prioritize which populations and communities were disproportionately impacted by the War on Drugs to be admitted to the county's Social Equity Program.
- g. Waive applicable permitting fees for qualified Social Equity Entrepreneurs, particularly the Conditional Use Permit and the Business Operating Permit.
- h. Establish a citizen's Cannabis Oversight and Advisory Committee to allow for the community to provide input and hold a discussion on cannabis industry related matters. One-third of this body should be comprised of cannabis social equity advocates.
- i. Institute a "Reparations Fund" with obligatory spending levels to support socioeconomically disadvantaged communities and address the county's role in propagating and funding punitive cannabis policies and practices.
- j. To be responsive to the changing policy and economic environment which is particular to the cannabis industry the Board of Supervisors should utilize a "Social Equity Manual" similar to Humboldt County and the City of Richmond in the development of its Social Equity Program.

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k. The Social Equity Program should include support services for individuals and families from disenfranchised communities. Support services include mental health counseling to learn how to heal from the trauma inflicted by the War on Drugs. Applicants who are accepted in the Social Equity Program's educational program should be supported by having their time compensated as well as being provided transportation support to attend the Social Equity Program.

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[1] Weller, Christian E. "The Benefits of Progressive Taxation in Economic Development." *Review of Radical Political Economics* 39, no. 3 (September 2007): 368–76.  
<https://doi.org/10.1177/0486613407305286>.

[2] Under the END, the fifteen percent of cannabis tax revenues that can be used towards the City's costs of administering the END does not include the costs of the actual Planning and Oversight Commission, which include annual stipends for Commission members.

[3] Weller, Christian E. "The Benefits of Progressive Taxation in Economic Development." *Review of Radical Political Economics* 39, no. 3 (September 2007): 368–76.  
<https://doi.org/10.1177/0486613407305286>.

## **Appendix E: Legal Counsel Analysis of Social Equity Recommendations by St. Julian**

Andrea St. Julian, JD was subcontracted to examine preliminary findings to help refine draft recommendations. Specifically, ensuring that policy and program recommendations related to eligibility criteria are legally viable and aligned with state and local legislation, e.g. Proposition 209. This analysis was completed on a preliminary draft of recommendations that were amended when relevant based on the findings of this legal analysis and community needs-as defined by data form interviews, focus groups, community listening sessions and analysis of publicly available data.

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## CANNABIS SOCIAL EQUITY LEGAL MEMORANDUM

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**To:** Womxn's Work Consulting  
**From:** Andrea St. Julian, Attorney at Law  
**Date:** June 20, 2022  
**Subject:** Legal Aspects of the Use of Race as an Element of the San Diego County Cannabis Social Equity Program

### PRELIMINARY CONSIDERATIONS

#### A. The Roots of Cannabis Prohibition

The seeds of Cannabis prohibition were rooted in racism.<sup>1</sup> As the Womxn's Work San Diego County Social Equity Assessment (SEA) shows, these discriminatory seeds flowered in San Diego, causing African

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<sup>1</sup>See for example, Minority Cannabis Business Association, National Cannabis Equity Report 2022, p. 332 <https://mjbizdaily.com/wp-content/uploads/2022/02/National-Cannabis-Equity-Report-1.pdf>. This report quoted John Ehrlichman, White House Counsel to President Nixon, once stated, "We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did." Baum, D., Bernstein, J., Quilty, A., & Gurland, H. (2016, March 31). [Report]: *Legalize it all*, by Dan Baum. Harper's Magazine. <https://harpers.org/archive/2016/04/legalize-it-all/>.

Americans, Indigenous Americans and Latinx to suffer in a significantly disproportionate way from the war on cannabis.<sup>2</sup>

Despite the pointedly racial underpinning of the war on drugs and the harm this war has inflicted, there are cannabis social equity programs that fail to address race as part of the criteria for participation in a cannabis social equity program. This failure has led to meager results for such programs. In this regard, the use of non-race criteria in the social equity qualifications and definitions has not yielded diverse cannabis markets.<sup>3</sup>

The Minority Cannabis Business Association has found that:

Race-based solutions in state cannabis reform are critical to remedying the race-based harm of cannabis prohibition. Many states with social equity programs use alternative non-race criteria despite the disparate impact of cannabis laws and enforcement on Black, Latino, and Indigenous Americans. Despite social equity legislation citing the intent to create diversity within the industry, and specifically provide opportunities to impacted individuals

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<sup>2</sup>See SEA. See also <https://www.aclu.org/news/criminal-law-reform/a-tale-of-two-countries-racially-targeted-arrests-in-the-era-of-marijuana-reform>. (Visited June 20, 2022).

<sup>3</sup>Minority Cannabis Business Association, *MCBA National Cannabis Equity Report 2022*, p. 3, 32, <https://mjbizdaily.com/wp-content/uploads/2022/02/National-Cannabis-Equity-Report-1.pdf> (Visited June 20, 2022).

and communities, the data shows these efforts have been unsuccessful.<sup>4</sup>

Given the racial findings of the SEA and the disappointing results of those social equity programs that fail to appropriately account for race, this memorandum addresses the circumstances under which race can be used in the structuring eligibility for a cannabis social equity program.

## **B. The Use of Race in Cannabis Social Equity Programs**

At the outset, it must be noted that there are cannabis social equity programs that do use race as a component of the program eligibility process. The California Department of Cannabis Control<sup>5</sup> and the Governor's Office of Business and Economic Development<sup>6</sup> post online the local equity ordinances that have been enacted within California. Of the jurisdictions currently listed as having a social equity program, the following four refer in some manner to race.

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<sup>4</sup>MCBA *National Cannabis Equity Report 2022* at p. 3.

<sup>5</sup><https://static.business.ca.gov/wp-content/uploads/2021/12/Local-Equity-Ordinances-Model-Equity-Ordinances-12-2021.pdf> (Visited June 20, 2022).

<sup>6</sup><https://staic.business.ca.gov/wp-content/uploads/2021/12/Local-Equity-Ordinances-Model-Equity-Ordinances-12-2021.pdf> (Visited June 20, 2022).

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- Humboldt County lists as a qualification, “Any woman, person of color, or LGBTQ individual who has or worked in, or currently works in the cannabis industry in Humboldt County.”<sup>7</sup>
- The City of Dell Rio allows applicants to qualify if they are “. . .a member of an ethnic, racial or other disadvantaged community. . .”<sup>8</sup>
- Lake County allows applicants to qualify if they are “Any woman, person of color, or LGBTQ individual who has worked in, or currently works in the cannabis industry in Lake County.”<sup>9</sup>
- Mendocino County appears to consider “An individual from a historically oppressed group for inclusion in its social equity program.”<sup>10</sup>

The use of race-conscious criteria with respect to cannabis social equity programs is not limited to California local jurisdictions. Maryland, for

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<sup>7</sup><https://humboldt.gov/DocumentCenter/View/78911/Local-Equity-Program-Manual> p. 1 (Visited June 16, 2022).

<sup>8</sup><https://cityofriodell.ca.gov/sites/cityofriodell.ca.gov/files/LatestNews/Ord%20375-2019%20ESTABLISHING%20A%20CANNABIS%20LOCAL%20EQUITY%20PROGRAM%20RDCLEP.pdf> p. 3-4 (Visited on June 20, 2022) and citing Dell Rio Municipal Code § 3.45.040, subdivision (e)(vi).

<sup>9</sup><http://www.lakecountyca.gov/Assets/LclEquityManual.pdf> page 1 (Visited June 20, 2022)

<sup>10</sup><https://www.co.monterey.ca.us/home/showpublisheddocument/107506/637739538235500000> (Visited June 20, 2022)



example has established “a race and gender-conscious application process for medical cannabis growers and processor licenses.”<sup>11</sup> Another example is Vermont’s cannabis social equity program that states one of the criteria for inclusion in the program is that the applicant is “Black or Hispanic.”<sup>12</sup> Other examples include New York State<sup>13</sup> and Massachusetts.<sup>14</sup>

## EQUAL PROTECTION UNDER THE STATE AND FEDERAL CONSTITUTIONS

The Fourteenth Amendment of the United States Constitution contains the federal Equal Protection Clause. This clause prohibits a state from denying anyone within its jurisdiction the equal protection of the laws.<sup>15</sup> The California Constitution contains a similar equal protection requirement.<sup>16</sup>

Laws that distinguish between individuals based on, *inter alia*, personal characteristics, may be considered a “legislative classification.” A legislative classification satisfies equal protection of law requirements where persons

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<sup>11</sup>*MediGrow, LLC v. Natalie M. LaPrade Medical Cannabis Commission* (D. Md. 2020) 487 F.Supp.3d 364, 368.

<sup>12</sup><https://ccb.vermont.gov/social-equity>.

<sup>13</sup>[https://cannabis.ny.gov/system/files/documents/2022/02/cannabis-management-fact-sheet-social-equity\\_0\\_0.pdf](https://cannabis.ny.gov/system/files/documents/2022/02/cannabis-management-fact-sheet-social-equity_0_0.pdf)

<sup>14</sup><https://masscannabiscontrol.com/equity-programs/#eligibility>

<sup>15</sup>All U.S. Const. amend. XIV, § 1.

<sup>16</sup>Cal. Const., art. I, § 7, subd. (a.)

similarly situated with respect to the legitimate purpose of the law receive like treatment.<sup>17</sup>

When legislative classifications are challenged in court on the ground that they violate the equal protection clause, those classifications are generally presumed to be valid and may not be rejected by the courts unless they are palpably unreasonable.<sup>18</sup> This deference, however, does not extend to laws that employ what are called “suspect classifications,” such as race.<sup>19</sup> These suspect classifications are subjected to strict judicial scrutiny; i.e., they may be upheld only if they are shown to be necessary for furtherance of a compelling state interest and they address that interest through the least restrictive means available.<sup>20</sup>

Before embarking upon a program that utilizes racial classifications, a governmental entity must identify its purpose with some degree of specificity and must have convincing evidence that race-based remedial action is necessary. Absent a prior determination of necessity, supported by convincing evidence, the governmental entity will be unable to narrowly tailor the remedy, and a reviewing court will be unable to determine whether

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<sup>17</sup>*Connerly v. State Personnel Bd.*, 92 Cal.App.4th 16, 32 (2001); *Brown v. Merlo*, 8 Cal.3d 855, 861 (1973).

<sup>18</sup>*Asbury Hospital v. Cass County*, 326 U.S. 207, 215 (1945); *County of L.A. v. Southern Cal. Tel. Co.*, 32 Cal.2d 378, 392 (1948).

<sup>19</sup>*Richmond v. Croson Co.*, 488 U.S. 469, 505 (1989)

<sup>20</sup>*Bernal v. Fainter*, 467 U.S. 216, 219-220 (1984); *Weber v. City Council* 9 Cal.3d 950, 958 (1973); *Connerly v. State Personnel Bd.*, 92 Cal.App.4th 16, 33 (2001).

the race-based action is justified.<sup>21</sup> While in an appropriate case, statistical analysis may be valuable evidence, governmental entities do not have "license to create a patchwork of racial preferences based on statistical generalizations about any particular field of endeavor."<sup>22</sup> Where, however, the state or a political subdivision has intentionally discriminated, use of a race-conscious or race-specific remedy necessarily follows as the only, or at least the most likely, means of rectifying the resulting injury.<sup>23</sup>

A cannabis social equity program can run afoul of the federal equal protections clause if the race-based criteria for participation are not appropriately crafted. Indeed, one such Ohio program was found to be in violation of equal protection requirements.<sup>24</sup>

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<sup>21</sup>*Connerly*, 92 Cal.App.4th at 36-37 citing *Shaw*, 517 U.S. at 910 and *Wygant*, 476 U.S. at 277-278.

<sup>22</sup>*Connerly*, 92 Cal.App.4th at 38 citing *Richmond*, 488 U.S. at 499 and stating “. . . statistical anomalies, without more, do not give a governmental entity the legal authority to employ racial and gender classifications.” *Connerly*, 92 Cal.App.4th at 56. See also *Hi-Voltage Wire Works, Inc. v. City of San Jose*, 24 Cal.4th 537, 568 (2000) stating, “The City's disparity study, at best, creates only an inference of discrimination against MBE/WBE subcontractors by prime contractors; it does not establish intentional acts by the City.”

<sup>23</sup>*Hi-Voltage Wire Works, Inc.*, 24 Cal.4th at 568.

<sup>24</sup>See *PharmaCann Ohio v. Ohio Dep't of Commerce*, 17-CV-10962 (Ohio Common Pleas Nov. 15, 2018) See also, <https://my.vanderbilt.edu/marijuanalaw/files/2018/11/Pharmacann-Ohio-v.-Ohio-Dept-Commerce-Summary-Judgment-Ruling.pdf>. (Visited June 20, 2022)

Despite the rigors of a strict scrutiny analysis, governmental entities remain under a duty to eliminate the vestiges of segregation and discrimination.<sup>25</sup> United States Supreme Court justices agree that governmental entities may use race neutral methods to foster equal opportunity and, in some instances, race specific remedies may be employed. Thus, under equal protection, race-based governmental programs are not per se invalid.<sup>26</sup> "A State's interest in remedying the effects of past or present racial discrimination may in the proper case justify a government's use of racial distinctions."<sup>27</sup> However, to be constitutionally valid, they must withstand the stringent test of strict judicial scrutiny.<sup>28</sup>

## PROPOSITION 209

### A. Generally

In 1996, California voters passed Proposition 209.<sup>29</sup> Thus, the California Constitution was amended to include Cal. Const. art I, § 31 which states in pertinent part:

Sec. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or

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<sup>25</sup>*Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 277 (1986); *Connerly* 92 Cal.App.4th at 46.

<sup>26</sup>*Connerly*, 92 Cal.App.4th at 34.

<sup>27</sup>*Shaw v. Hunt*, 517 U.S. 899, 909 (maj.opn.) (1996); *Connerly*, 92 Cal.App.4th at 37.

<sup>28</sup>*Connerly*, 92 Cal.App.4th at 34.

<sup>29</sup>*Hi-Voltage Wire Works, Inc.*, 24 Cal.4th at, 559; *American Civil Rights Foundation v. Berkeley Unified School Dist.*, 172 Cal.App.4th 207, 211 (2009).

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group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

\* \* \*

(f) For the purposes of this section, "State" shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State. . . .<sup>30</sup>

As a result of Proposition 209, racial classification laws must not only comply with constitutional equal protection requirements, but also with the restrictions imposed by the Proposition. The limitations imposed by Proposition 209 are fairly clear in that they (1) prohibit discrimination or preferential treatment, based, *inter alia*, on race (2) in the operation of public employment, public education, or public contracting. Thus, the language of Proposition 209 reveals that the use of race in discriminatory or preferential treatment is not prohibited when the issue at hand does not come within the categories of public employment, public education, or public contracting. Further, the use of race is not prohibited where the result its use is neither discriminatory nor preferential.

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<sup>30</sup>Cal. Const., art. I, § 31

*American Civil Rights Foundation v. Berkeley Unified School Dist.*<sup>31</sup> is instructive as to the limits of Proposition 209. In that case, the plaintiff brought suit against the Berkeley Unified School District claiming that the District's process for achieving social diversity within its schools violated Proposition 209. In assigning children to a particular school, the District did not look at the race of a particular child. Rather, the school considered a variety of factors one of which was the racial composition of the neighborhood in which the child resided. The *American* Court found that “. . .educators who include a general recognition of the demographics of neighborhoods in student assignments, without classifying a student by his or her race, do not ‘discriminate against, nor grant preferential treatment to, any individual or group on the basis of race.’”<sup>32</sup> In making this determination, the Court closely examined the language of the relevant constitutional provision and noted that it applied only to preferential or discriminatory treatment of either an individual or a group. In so examining, the *American* Court stated:

Plaintiff . . . argues that section 31 prohibits the School District from "using race" in any fashion, even when classifying neighborhoods and not individuals. The argument is contrary to the plain language of section 31, which provides that the state "*shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race.*" (Italics added.) Section 31 does not say that the state shall not consider race for any and all purposes. The

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<sup>31</sup>*American Civil Rights Foundation v. Berkeley Unified School Dist.* 172 Cal.App.4th 207, 211 (2009)

<sup>32</sup>*American Civil Rights Foundation*, 172 Cal.App.4th 207 at 211.

constitutional provision prohibits unequal treatment of particular persons and groups of persons; it does not prohibit the collection and consideration of community-wide demographic factors.<sup>33</sup>

The *American* Court further found that:

. . .[S]ection 31 prohibits using the race of an individual or group in order to give preference to, or to discriminate against, that individual or group. Here, the School District does not use the race of a student or student group to give preference to that student or student group. Instead, the School District reviews the racial composition of a neighborhood (which includes multiple races) to assess the neighborhood's level of social diversity and, based on that diversity rating, assigns students to various schools and programs. While the race of an individual student may be included within this composite diversity rating (along with the race of all students in the neighborhood), any preference given to the student is not based on the student's race. White and African-American students from the same neighborhood receive the same diversity rating and the same treatment.<sup>34</sup>

The *American* Court's close scrutiny of the language of Proposition 209 invites even closer scrutiny. Proposition 209's application is limited to

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<sup>33</sup>*American Civil Rights Foundation*, 172 Cal.App.4th at 218.

<sup>34</sup>*American Civil Rights Foundation*, 172 Cal.App.4th 218.

discriminatory or preferential treatment “. . . in the operation of public employment, public education, or public contracting.” At least one legal scholar has questioned whether the language of Proposition 209 forbids the issuance of business permits by California cities using race-conscious criteria because business licenses are not considered public employment, education, or contracting.<sup>35</sup>

## **B. Indigenous American Nations**

Indigenous American tribes and their members have additional protections against the exaggerated use of Proposition 209 that are not readily apparent from the language of the Proposition. An opinion of the California Attorney General reveals the scope of these additional protections.<sup>36</sup>

In 2010, the California Department of Transportation asked the California Attorney General to provide an opinion on whether Cal. Const., art. I, § 31 (Proposition 209) prevented it from entering in a contract with a Native American tribe that required hiring preferences for Native American workers as established by Tribal Employment Rights Ordinances (TERO).<sup>37</sup> The Attorney General concluded that this explicit designation of hiring preferences did not violate Proposition 209. A review of the basis for this conclusion is instructive.

Federally recognized Indian tribes occupy a unique position in the United States, retaining many features of sovereignty with respect to their

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<sup>35</sup>See Erwin Chemerinsky, *Guidelines for Affirmative Action Programs After Proposition 209*, 24-FEB L.A. Law. 16, (2002).

<sup>36</sup>93 Ops.Cal.Atty.Gen. 19, (2010).

<sup>37</sup>93 Ops.Cal.Atty.Gen. 19 at p. 1.



tribe members and tribal land. And, as the United States Supreme Court has often observed, the regulation of Indian affairs is the province of the federal government.<sup>38</sup> Of similar importance is that membership in a federally recognized Indian tribe is a political classification rather than a racial or ethnic classification.<sup>39</sup>

Because of the sovereignty of Indigenous American Tribes, the attorney general concluded that the contract into which the Department of Transportation sought to engage was a “government-to-government” agreement.<sup>40</sup> The attorney general further opined that because membership in a Native American Tribe is political and not based merely on racial ancestry then the hiring preferences included in the relevant agreement did not run afoul of the Proposition 209.<sup>41</sup>

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<sup>38</sup>93 Ops.Cal.Atty.Gen. 19 at p. 3.

<sup>39</sup>93 Ops.Cal.Atty.Gen. 19 at p 5.

<sup>40</sup>93 Ops.Cal.Atty.Gen. 19 at 1, 6 citing 25 U.S.C. § 2710(d)(3)(A) and Gov. Code § 12012.5(g) (recognizing government-to-government relationship as basis for tribal-state gaming compacts); Stats. 2004, ch. 905, § 1(b)(3) ("In recognition of California Native American tribal sovereignty and the unique relationship between California local governments and California tribal governments, it is the intent of the Legislature, in enacting this act, to ... (3) Establish government-to-government consultations ....") and Pen. Code § 830.8 (recognizing peace-officer powers of Washoe Tribe law enforcement officers).

<sup>41</sup>93 Ops.Cal.Atty.Gen. 19 at 7 citing *Morton v. Mancari*, 417 U.S. 535, 551-552 (1974) and Eugene Volokh, *The California Civil Rights Initiative: An Interpretive Guide*, 44 UCLA L. Rev. 1335, 1358 -1359 (1997).

## CONCLUSION

Race-conscious legislation is permissible under the State and federal Equal Protection Clauses as long as that legislation meets the test for strict judicial scrutiny. States throughout the country as well as jurisdictions within California have enacted race-conscious social equity programs by rigorously meeting the requirements of strict scrutiny. If San Diego County proceeds with the implementation of a race-conscious social equity program as recommended by the SEA, it would do well to carefully craft the ordinance language, particularly with respect to the eligibility of participants so as to meet the requirements of strict judicial scrutiny.

Contrary to common assumption, Proposition 209 is not a wide-ranging provision banning the use of race in all circumstances. Rather, its prohibitions are limited to “. . .the operation of public employment, public education, or public contracting.” To the extent that a cannabis social equity program, or portions thereof, can be created that do not involve the operation of public employment, education or contracting, it may be outside the purview of Proposition 209. Particular consideration should be given to whether a business license can be considered employment, education or contracting.

The sovereignty of Indigenous American tribes and the political designation of individuals as tribal members has enormous potential to shape the contours of a cannabis social equity program with respect to local tribes and their members. Indigenous Nations, contracting directly with the County on behalf of its members, may be able to avoid the application of Proposition 209 altogether, thereby allowing cannabis social equity benefits that are specifically available for the Nation's members. Legislation to support the ability of Indigenous American Tribes to engage in such contracting would be appropriate.

## Womxn's Work

### SEA Legal Review – Race

The draft of the SEA on which this analysis was based contains broad direction regarding the direction of a cannabis social equity program. Consequently, this memorandum can only provide a broad discussion of applicable legal principles. As stressed throughout this memorandum, the creation of a social equity program and the ordinance to support it must be carefully crafted in a thoughtful manner by individuals with legal expertise. In order to support this legislation, additional research and legal consultation must be engaged to ensure that each of the specific provisions of the cannabis social equity program are legally sound.

# **Appendix F: Legal Counsel Analysis of Social Equity Recommendations by Anthony Law Group**

Anthony Law Group was subcontracted to examine preliminary findings to help refine draft recommendations. Specifically, ensuring that policy and program recommendations are legally viable and aligned with state and local legislation, e.g. federal, state and local cannabis policy. This analysis was completed on a preliminary draft of recommendations received on June 15, 2022. Recommendations were amended when relevant based on the findings of this legal analysis and community needs-as defined by data form interviews, focus groups, community listening sessions and analysis of publicly available data.

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# ANTHONY LAW GROUP, PC

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Oakland, CA 94607  
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## CLIENT LEGAL AND POLICY FEEDBACK MEMORANDUM

Date: 6/22/22

To: Womxn's Work Consulting

Re: San Diego County Social Equity Assessment 77 Draft Recommendations (as received 6/15/22) Compliance with Land Use Laws and State Cannabis Laws and Related Laws Only. *(Does not address compliance with constitutional equal protection analysis, or other race-related, "suspect class," or affirmative action laws.)*

Of the 77 draft recommendations in the 17 categories below, drawn from the draft report dated 6/15/22, only the ones **highlighted in bold** have substantive material legal responses, the majority of them are listed only for completeness and to note that neither cannabis nor land use laws are not implicated by the recommendation.

A. Feedback to Summary Table: Stakeholder Engagement Recommendations<sup>191</sup>

The five recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

B. Feedback to Summary Table: Data Collection Recommendations<sup>192</sup>

The seven recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

C. Feedback to Summary Table: Public Awareness and Education Recommendations<sup>193</sup>

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<sup>191</sup>Refers to Table 6, p.122.

<sup>192</sup>Refers to Table 7, p.125. "Provide data access" has been added to the final report.

<sup>193</sup>Refers to Table 8, p.129.



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The five recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## **D. Feedback to Summary Table: Supporting Indigenous Sovereignty Recommendations**

### **a. Feedback to Recommendation 1: *Give Land Back***<sup>194</sup>

- *Partnering with tribal leadership, explore existing and previous land return efforts and learn from best practices*
- *Access to land may, at their discretion, increase opportunities for tribes to participate in the legal adult-use recreational cannabis industry*

This bluntly-phrased recommendation ultimately has obvious land use law implications. However, the detailed description presents a more nuanced recommendation that has political and policy implications that would precede and ultimately define an appropriate legal approach. ALG, PC recommends rephrasing Recommendation 1 as “Explore Land Rematriation to Expand Indigenous Commercial Cannabis Opportunities.”

The other four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## **E. Feedback to Summary Table: Expungement Recommendations**<sup>195</sup>

The three recommendations in this section do not offend state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## **F. Feedback to Summary Table: Enforcement Recommendations**<sup>196</sup>

- ### **a. Feedback to Recommendation 4: *Sheriff/law enforcement should not administer or enforce licensing, permitting, and program components***

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<sup>194</sup>Refers to Table 9, p.133.

<sup>195</sup>Refers to Table 10, p. 135. “Expand expungement support” has been added to the final report.

<sup>196</sup>Refers to Table 11, p. 138.



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In transitioning to a civil/civilian—not law enforcement—model of regulation, ensure that due process is provided for all permittees/licensees, property owners, and other impacted parties whether or not permitted and licensed. Recently, civil code enforcement mechanisms have been contemplated in both state and local law that imposed huge money penalties—sometimes worth as much as or more than the business or property itself—without a detailed notice of violation, or order to abate with adequate opportunity to do so, and a fair hearing before a neutral independent hearing officer before imposition of penalty. Such enforcement mechanisms are unconstitutional under both the U.S. Constitution (both Amendments V and XIV) and the California Constitution (Article I, Section 7(a)). Further, they are an invitation to a War On Drugs 2.0 with predictably racial differential impacts. Possibly the above concern is best phrased as a separate recommendation in this same section.

The other four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## G. Feedback to Summary Table: Eligibility Recommendations<sup>197</sup>

The three recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## H. Feedback to Summary Table: [No Title] Permitting Process Recommendations<sup>198</sup>

The five recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

## I. Feedback to Summary Table: Access to Capital Recommendations<sup>199</sup>

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<sup>197</sup>Refers to Table 12, p.142. The tiered structure was introduced in the current draft, but none of the criteria have changed.

<sup>198</sup>Refers to Table 13, p. 148.

<sup>199</sup>Refers to Table 14, p. 150.



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**a. Feedback to Recommendation 4: Provide County owned land and/or buildings for low to no cost for social equity cannabis businesses**

Historically and currently, given that adult use cannabis activity is illegal under federal law—and does not enjoy the federal budgetary enforcement ban that medical cannabis use enjoys, and has enjoyed continuously since March 2014, due to the Rohrabacher-Farr amendment—all cannabis properties are subject to federal civil property forfeiture. This puts all cannabis properties at risk of seizure by the federal government even without criminal convictions or even charges. This was a favorite tactic of federal law enforcement in deterring violations of federal law during the Obama administration. This risk has historically deterred local governments from offering their properties for such uses ever since the early 2000s when the federal government pursued forfeiture of a City of West Hollywood property. *While not intended as legal advice to the County of San Diego which is well and ably represented by learned county counsel, this memorandum does intend to inform the Client of possible legal implications of these recommendations to the County.*

The other four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**J. Feedback to Summary Table: Technical Assistance Recommendations<sup>200</sup>**

**a. Feedback to Recommendation 3: Build relationships between SE-licensees and landlords**

As noted in the previous section, cannabis tenants are inherently problematic for landlords under federal law. Any relationship-building performed as part of CBO-provided or other technical assistance should include a caution that the landlord should of course consult their own professional advisors. Presumably the County program will require a knowing acknowledgment from all property owners/landlords that they are aware of the use and knowingly consent to it.

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<sup>200</sup>Refers to Table 15, p. 154.





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**b. Feedback to Recommendation 4: Provide training to SEE applicants and program participants and ensure SEE applicants have consultants for services in the following technical assistance areas:**

- **Real Estate**
- **Law (e.g., contracts, employment law, real estate law, liability, incorporation, etc.)...**

This recommendation implies that such consultants are themselves well-versed in the applicable state law—and in any federal law implications that will or might impact the SEE applicants and program participants and those who do business with them, especially as regards real estate as discussed in the two sections above.

The other three recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**K. Feedback to Summary Table: Taxation Recommendations**<sup>201</sup>

The four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**L. Feedback to Summary Table: [No Title] Land Use and Zoning Recommendations**<sup>202</sup>

**a. Feedback to Recommendation 1: Give land back**

This bluntly-phrased recommendation ultimately has obvious land use law implications. However, the detailed description presents a more nuanced recommendation that has political and policy implications that would precede and ultimately define an appropriate legal approach. ALG, PC recommends rephrasing Recommendation 1 as “Explore Land Remediation to Expand Indigenous Commercial Cannabis Opportunities.”

**b. Feedback to Recommendation 3: Allow for multi-use zoning**

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<sup>201</sup>Refers to Table 16, p. 156.

<sup>202</sup>Refers to Table 17, p. 159.



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While cannabis cultivation/manufacturing/distribution/retail mixed use zoning is synergistic and beneficial, it should be noted that industrial-residential/live-work mixed use has not been a happy combination in Oakland and should be avoided.

**c. Feedback to Recommendation 4: Make County land available to social equity entrepreneurs**

Historically and currently, given that adult use cannabis activity is illegal under federal law—and does not enjoy the federal budgetary enforcement ban that medical cannabis use enjoys, and has enjoyed continuously since March 2014, due to the Rohrabacher-Farr amendment—all cannabis properties are subject to federal civil property forfeiture. This puts all cannabis properties at risk of seizure by the federal government even without criminal convictions or even charges. This was a favorite tactic of federal law enforcement in deterring violations of federal law during the Obama administration. This risk has historically deterred local governments from offering their properties for such uses ever since the early 2000s when the federal government pursued forfeiture of a City of West Hollywood property. *While not intended as legal advice to the County of San Diego which is well and ably represented by learned county counsel, this memorandum does intend to inform the Client of possible legal implications of these recommendations to the County.*

**d. Feedback to Recommendation 5: County creates a cannabis campus that is completely vertically integrated**

See feedback immediately above.

**M. Feedback to Summary Table: [No Title] Community Reinvestment Recommendations**<sup>203</sup>

**a. Feedback to Recommendation 1: Establish community reinvestment initiatives that promote access to housing, restorative justice, mental and maternal health and direct reparations for disproportionately impacted communities.**

Community reinvestment initiatives that promote access to housing face significant market and policy challenges. While not a legal issue *per se*, such initiatives are well advised to join forces with nonprofit NGOs specializing in the development and promotion of housing access.

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<sup>203</sup>Refers to Table 18, p. 162.



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**b. Feedback to Recommendation 2: Establish initiatives to improve access to housing for disproportionately impacted communities**

See feedback to recommendation immediately above.

The other four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**N. Feedback to Summary Table: [No Title] Workforce Development Recommendations**<sup>204</sup>

The eight recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**O. Feedback to Summary Table: [No Title] Health and Wellness Recommendations**<sup>205</sup>

The three recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**P. Feedback to Summary Table: [No Title] Youth Empowerment Recommendations**<sup>206</sup>

The four recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

**Q. Feedback to Summary Table: Sustainable Funding Recommendations**<sup>207</sup>

The five recommendations in this section do not implicate state cannabis laws which allow wide latitude and discretion to local government to regulate (or ban) commercial cannabis activity as it sees fit. Nor are there any conflicts with land use law.

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<sup>204</sup>Refers to Table 19, p. 165.

<sup>205</sup>Refers to Table 20, p. 168.

<sup>206</sup>Refers to Table 21, p. 170.

<sup>207</sup>Refers to Table 22, p. 172.



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# Appendix G: Community Planning and Sponsor Group Chairperson List<sup>208</sup>

The County of San Diego provided a contact list for existing Community Planning Groups throughout the County.

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<sup>208</sup>County of San Diego, Planning & Development Services. "Community Planning and Sponsor Group Chairperson List." Accessed June 22, 2022.  
[https://www.sandiegocounty.gov/content/dam/sdc/pds/Groups/Chair\\_Resources/Community-Groups-Chairperson-List.pdf](https://www.sandiegocounty.gov/content/dam/sdc/pds/Groups/Chair_Resources/Community-Groups-Chairperson-List.pdf).



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
CHAIRPERSON LIST**

<b>Group Name:</b>	<b>Bonsall Community Sponsor Group</b>	
<b>Address:</b>	2121 Montiel Road, San Marcos, CA 92069	
<b>Meeting Date:</b>	1 <sup>st</sup> Tuesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Steve Norris	stevenorris.bsg@gmail.com	760-801-6242

<b>Group Name:</b>	<b>Borrego Springs Community Sponsor Group</b>	
<b>Address:</b>	PO Box 1371, Borrego Springs, CA 92004-1371	
<b>Meeting Date:</b>	1 <sup>st</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Rebecca Falk	rebalk7@gmail.com	760-331-7526

<b>Group Name:</b>	<b>Boulevard Community Planning Group</b>	
<b>Address:</b>	PO Box 1272, Boulevard, CA 91905	
<b>Meeting Date:</b>	1 <sup>st</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Donna Tisdale	tisdale.donna@gmail.com	619-766-4170

<b>Group Name:</b>	<b>Alpine Community Planning Group</b>	
<b>Address:</b>	PO Box 1419, Alpine, CA 91903-1419	
<b>Meeting Date:</b>	4 <sup>th</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Travis Lyon	travislyonacpg@gmail.com	619-952-8607

<b>Group Name:</b>	<b>Campo/Lake Morena Community Planning Group</b>	
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**County of San Diego, Planning & Development Services**  
**COMMUNITY PLANNING AND SPONSOR GROUP**  
**CHAIRPERSON LIST**

<b>Address:</b>	28736 Highway 94, Unit #1, Campo, CA 91906	
<b>Meeting Date:</b>	4 <sup>th</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Billie Jo Jannen	campoplanninggroup@nym.hush.com	619-415-6298

<b>Group Name:</b>	<b>Crest/Dehesa/Granite Hills/Harbison Canyon Community Planning Group</b>	
<b>Address:</b>	4815 Dehesa Road, El Cajon, CA 92019-2927	
<b>Meeting Date:</b>	2 <sup>nd</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Waldon Riggs	wrplanning@gmail.com	619-442-4612

<b>Group Name:</b>	<b>Cuyamaca Community Sponsor Group</b>	
<b>Address:</b>	5510 Overland Ave, Suite 310, San Diego, CA 92123	
<b>Meeting Date:</b>	As Called	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Jessica Turner	jessica.turner@sdcounty.ca.gov	858-495-5336

<b>Group Name:</b>	<b>Fallbrook Community Planning Group</b>	
<b>Address:</b>	PO Box 1419, Fallbrook, CA 92088	
<b>Meeting Date:</b>	3 <sup>rd</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Eileen Delaney	eileen.fallbrook@gmail.com	760-518-8888

<b>Group Name:</b>	<b>Hidden Meadows Community Sponsor Group</b>	
<b>Address:</b>	555 West Country Club Drive, #254, Escondido, CA 92026	



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
 CHAIRPERSON LIST**

<b>Meeting Date:</b>	4 <sup>th</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
James Chagala	jchagala@hotmail.com	760-751-2691

<b>Group Name:</b>	<b>Jacumba Community Sponsor Group</b>	
<b>Address:</b>	PO Box 792, Pine Valley, CA 91962	
<b>Meeting Date:</b>	2 <sup>nd</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Cherry Diefenbach	csdiefenbach@sbcglobal.net	619-743-5224

<b>Group Name:</b>	<b>Descanso Community Planning Group</b>	
<b>Address:</b>	PO Box 38, Descanso, CA 91916	
<b>Meeting Date:</b>	3 <sup>rd</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Kerry Forrest	descansocpg@gmail.com	619-445-6343

<b>Group Name:</b>	<b>Jamul/Dulzura Community Planning Group</b>	
<b>Address:</b>	PO Box 613, Jamul, CA 91935	
<b>Meeting Date:</b>	2 <sup>nd</sup> and 4 <sup>th</sup> Tuesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Preston Brown	brown.preston@gmail.com	619-871-0165

<b>Group Name:</b>	<b>Julian Community Planning Group</b>	
<b>Address:</b>	PO Box 1497, Julian, CA 92036-1497	





County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
 CHAIRPERSON LIST**

<b>Meeting Date:</b>	2 <sup>nd</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Patrick Brown	patrickeng@sbcglobal.net	760-765-1343
<b>Also include:</b>	<b>Email:</b>	
Kiki Skagen Munshi	kiki@skagenranch.com	

<b>Group Name:</b>	<b>Lakeside Community Planning Group</b>	
<b>Address:</b>	PO Box 389, Lakeside, CA 92040	
<b>Website:</b>	<a href="https://lcpwg.weebly.com">https://lcpwg.weebly.com</a>	
<b>Meeting Date:</b>	1 <sup>st</sup> Wednesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Carol Hake	lakesidecpg@gmail.com	619-922-4253

<b>Group Name:</b>	<b>Pala/Pauma Community Sponsor Group</b>	
<b>Address:</b>	5510 Overland Ave, Suite 310, San Diego, CA 92123	
<b>Meeting Date:</b>	1 <sup>st</sup> Tuesday of the Month	
<b>Contact:</b>	<b>Email:</b>	<b>Phone:</b>
Jessica Turner	jessica.turner@sdcounty.ca.gov	858-495-5336

<b>Group Name:</b>	<b>Palomar Mountain Community Sponsor Group</b>	
<b>Address:</b>	PO Box 215, Palomar Mountain, CA 92060	
<b>Meeting Date:</b>	3 <sup>rd</sup> Thursday of the Month	



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
 CHAIRPERSON LIST**

Chair:	Email:	Phone:
Robert Carlyle	rcarlyle@outlook.com	760-742-1891

<b>Group Name:</b>	<b>Pine Valley Community Planning Group</b>	
<b>Address:</b>	PO Box 67, Pine Valley, CA 91962	
<b>Meeting Date:</b>	2 <sup>nd</sup> Tuesday of the Month	
Chair:	Email:	Phone:
Vern Denham	pinevalleyplanninggroup@gmail.com	619-473-8579

<b>Group Name:</b>	<b>Potrero Community Planning Group</b>	
<b>Address:</b>	PO Box 150, Potrero, CA 91963	
<b>Meeting Date:</b>	2 <sup>nd</sup> Thursday of the Month	
Chair:	Email:	Phone:
Bob Uribe	rduribej@gmail.com	619-884-0832
<b>Also include:</b>	<b>Email:</b>	
Jan Hedlun	janwrites2013@yahoo.com	

<b>Group Name:</b>	<b>Rainbow Community Planning Group</b>	
<b>Address:</b>	1156 Rice Canyon Road, Rainbow, CA 92028	
<b>Meeting Date:</b>	3 <sup>rd</sup> Wednesday of the Month	
Chair:	Email:	Phone:
Paul Georgantas	georgantas@aol.com	760-525-8958

<b>Group Name:</b>	<b>Ramona Community Planning Group</b>	
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**County of San Diego, Planning & Development Services**  
**COMMUNITY PLANNING AND SPONSOR GROUP**  
**CHAIRPERSON LIST**

<b>Address:</b>	17532 Highway 67, Ramona, CA 92065	
<b>Meeting Date:</b>	1 <sup>st</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Robin Joy Maxson	robinjoymaxson@gmail.com	760-705-7435
<b>Also include:</b>	<b>Email:</b>	
Kristi Mansolf	kmansolf@gmail.com	
<b>Address:</b>	15873 Highway 67, Ramona, CA 92065	

<b>Group Name:</b>	<b>San Dieguito Community Planning Group</b>	
<b>Address:</b>	PO Box 2789, Rancho Santa Fe, CA 92067	
<b>Meeting Date:</b>	2 <sup>nd</sup> Thursday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Doug Dill	theddills@att.net	760-420-7909

<b>Group Name:</b>	<b>Spring Valley Community Planning Group</b>	
<b>Address:</b>	PO Box 1637, Spring Valley, CA 91979	
<b>Meeting Date:</b>	2 <sup>nd</sup> and 4 <sup>th</sup> Tuesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Tim Snyder	tsnydersvcpg@gmail.com	619-607-0492

<b>Group Name:</b>	<b>Sweetwater Community Planning Group</b>	
<b>Address:</b>	PO Box 460, Bonita, CA 91908-0460	
<b>Meeting Date:</b>	1 <sup>st</sup> Tuesday of the Month	
<b>Co-Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Harriet Taylor	harrietgtaylor1@gmail.com	619-977-1317



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
 CHAIRPERSON LIST**

Co-Chair:	Email:	Phone:
Steve Stonehouse	stephen.stonehouse@cox.net	619-267-1805

<b>Group Name:</b>	<b>Tecate Community Sponsor Group</b>	
<b>Address:</b>	5510 Overland Ave, Suite 310, San Diego, CA 92123	
<b>Meeting Date:</b>	1 <sup>st</sup> Monday of the Quarter, As Called	
<b>Contact:</b>	<b>Email:</b>	<b>Phone:</b>
Jessica Turner	jessica.turner@sdcounty.ca.gov	858-495-5336

<b>Group Name:</b>	<b>Twin Oaks Community Sponsor Group</b>	
<b>Address:</b>	1900 Esplendido Ave., Vista, CA 92084	
<b>Meeting Date:</b>	3 <sup>rd</sup> Wednesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Sandra Farrell	tovcsg.chair@gmail.com	760-415-3349
<b>Also include:</b>	<b>Email:</b>	
Karen Binns	royalviewranch@aol.com	

<b>Group Name:</b>	<b>Valley Center Community Planning Group</b>	
<b>Address:</b>	PO Box 127, Valley Center, CA 92082-0127	
<b>Meeting Date:</b>	2 <sup>nd</sup> Monday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Delores Harmes	dee.valleycenter@gmail.com	619-318-8882

<b>Group Name:</b>	<b>Valle De Oro Community Planning Group</b>	
<b>Address:</b>	3755 Avocado Blvd., #187, La Mesa, CA 91941	



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING AND SPONSOR GROUP  
CHAIRPERSON LIST**

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<b>Meeting Date:</b>	1 <sup>st</sup> Tuesday of the Month	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Oday Yousif	odayyousif@gmail.com	619-403-0889
<b>Group Name:</b>	<b>Warner Springs Community Sponsor Group</b>	
<b>Address:</b>	TBA	
<b>Meeting Date:</b>	TBA	
<b>Chair:</b>	<b>Email:</b>	<b>Phone:</b>
Jessica Turner	jessica.turner@sdcounty.ca.gov	858-495-5336

## **Appendix H: Policy Brief**

The following policy brief summarizes the assessment and recommendations for easy distribution to community members, community organizers, equity advocates and other stakeholders that should inform the implementation of this assessment's recommendations.

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## Thesis

To begin to repair impacts of the War on Drugs and to support gainful opportunities in the legal cannabis industry for those who have been most impacted by the War on Drugs, the County of San Diego should establish a Social Equity Entrepreneurs (SEE) program that decriminalizes cannabis and strengthens community ownership in both policy and practice.

## Background: the Problem

San Diego County has high and disparate cannabis prohibition enforcement rates. Based on data publicly available from the California Department of Justice (1980-2016), San Diego county has a per capita drug related arrest rate higher than the state's per capita drug related arrest rate. Within the county, different communities have received the brunt of cannabis enforcement. For example, despite having similar cannabis usage rates to white county residents, Black, Latine, Pacific Islander and Native American/Indigenous populations in the county have experienced disproportionately high arrest rates compared to their white counterparts.

Proposition 64 establishes a goal to transition people into the regulated adult-use cannabis market, making social equity programs necessary. The Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) (Proposition 64), approved in 2016, calls for cannabis regulation that “reduces barriers to entry into the legal, regulated market.” There are many barriers to entry into the regulated cannabis market. For example, the County of San Diego license fee is currently \$49,460 for medical cannabis. Additionally, brick-and-mortar retail or facilities and equipment for growing, manufacturing, warehousing and distribution can cost tens or hundreds of thousands of dollars. These barriers are even higher for communities that have been disproportionately impacted by the War on Drugs, as histories of incarceration are associated with more limited access to capital. Furthermore, Black, Latiné and indigenous permittees with criminal records are more likely to be viewed as in need of surveillance, institutionalization, and unfreedom. Additionally, trauma-associated with criminalization and the impacts of incarceration on family and community cohesion-presents barriers to accruing capacities and expertise levels for entrepreneurial success, emotional and psychological wellness, family and relational cohesion, mentality shaped by survival, and many other possible dynamics that impact the ability of a social equity entrepreneur to navigate work-life balance in personal, family, and community contexts, as well as the pressure and attention coming from business leadership and the scrutiny anticipated on a government support program.

The County of San Diego established a mandate for community reinvestment. In January 2021 the Board of Supervisors directed staff to develop a Socially Equitable Cannabis Program. The County's Request for Proposals (RFP) for this Social Equity Assessment explicitly expands the socially equitable cannabis program beyond diversifying actors in the



existing cannabis industry: “The Socially Equitable Cannabis Program shall not be limited to providing equitable business ownership, operation, or employment opportunities within the cannabis industry. Rather, it shall also address and repair the array of economic, health and well-being, overall quality of life, and legal ramifications resulting from prior cannabis criminalization and its impacts at the individual, familial/generational, and community level, over time.” This vision for the County of San Diego’s Socially Equitable Cannabis Program orients the County of San Diego towards the community-wide reparations that are critical to promoting social equity.

## Key Concepts

### Social Equity

*Social equity in the legal adult-use cannabis industry is a policy orientation focused on just (meaning fair and equitable) outcomes for those who have been impacted by unjust systems; the war on drugs has caused harm in targeted communities, and social equity policies and programs identify that harm, and proactively implement targeted interventions to repair and heal.*

### Indigenous Sovereignty

*Respect for Indigenous nations in their ancestral homelands. Federal recognition establishes government-to-government relationships between the tribes, cities, County, State, and federal governments. Sovereign indigenous lands and sovereign indigenous people have been historically reduced in acreage and population by about 97% locally and nationally in the US settler colonial history. Supporting Indigenous sovereignty is a high priority of this study.*

### Community Ownership

*The people and communities most impacted by the War on Drugs and cannabis criminalization are the communities who should lead all aspects of social equity work, including designing the program, selecting beneficiaries, communicating about the program, conducting research and evaluation, and stewarding its growth and success over time. Social equity efforts are at risk of tokenism and rapid degradation if a serious community ownership threshold is not at the center.*

## Talking Points



- Legalizing cannabis is overwhelmingly popular among San Diego County voters. The potential benefits include advances in natural medicine, relief from mass incarceration epidemic, safer communities, and economic opportunity.
- Changing illicit cannabis business over to legal cannabis is not only an issue of enforcement. Cracking down against illicit cannabis can run counter to decriminalization and social equity if search and seizure penalties follow established racially disparate War on Drugs patterns. Industry regulation and taxation that allows competitive pricing for legal cannabis relative to illicit may help increase the legal market share, which would increase tax revenue to the County and State.
- People and communities impacted by the War on Drugs have been frozen out of the economic boon of legal cannabis. This makes racial and economic disparities worse, even as we try to rectify the failed war on drugs.
- Social equity programs center those who have been most impacted by the war on drugs and cannabis criminalization, but there are different views on whether this means including a small number of eligible individuals in the existing businesses, or improving quality of life and life outcomes for entire impacted communities through deeper reinvestments. Inclusion programs are less likely to make meaningful equitable changes.
- Social equity entrepreneurs in legal cannabis will likely need a range of supports regarding personal and familial well being, regarding advocacy protecting them from further criminalization, bias, and exploitation, and regarding professional development within the highly regulated industry. The SEE program must leverage and coordinate these supports prior to implementation.
- The SEE will need significant support over a longer period of time. Eligibility criteria and program benefits should be phased in over time and studied carefully through a community-driven and community-owned evaluation and implementation process.

## Policy Idea

Justice in the 4/20 industry means addressing the disparate impacts of the War on Drugs that Black, Indigenous and people of color and low-income communities disproportionately felt. The SEE program can accomplish this by placing disproportionately impacted communities in the driver seat of policy implementation and evaluation, supporting these disproportionately impacted communities as people overall and as entrepreneurs through community reinvestment and technical assistance, and creating a cannabis industry where social equity entrepreneurs can thrive through policy regulations that focus economic opportunity on social equity entrepreneurs and lower barriers that they disproportionately face.



**Recommendation #1: Prioritize those individuals and communities that have been most impacted by the war on drugs and cannabis criminalization.** It is not equitable when impacted people are not central to decision-making and speaking for themselves.

**Recommendation #2: End Cannabis Criminalization:** The War on Drugs and cannabis criminalization have failed to lessen illegal drug use and have failed to make our communities safer. Social equity in the cannabis industry provides the opportunity to focus on alternatives to incarceration, like expungement, jail diversion, and restorative justice, and to educate people about the deeper roots and impacts of stigmatization. Cannabis criminalization has been a major driver of racially inequitable values and systems in the U.S.

**Recommendation #3: Community Ownership:** Convene and support one or more community collaboratives that are comprised of at least 50% social equity eligible participant; these collaboratives will oversee permit selection, an anti-stigma campaign, micro-finance, research and reporting, decarceration and expungement, community reinvestment, and more.

**Recommendation #4: Community Reinvestment:** Use cannabis tax revenue to support assistance to social equity entrepreneurs, and leverage additional County programs, funds, and grant writing assistance to expand supports to impacted communities more broadly.

**Recommendation #5: Holistic support for Social Equity Entrepreneurs:** Social Equity Entrepreneurs (SEE) have been most impacted by the War on Drugs and cannabis criminalization, and will likely bring to the County's program a range of personal and professional needs that should proactively be supported. Professionally, knowledge of cannabis, business management, heavy regulated industry, financing lots of capital, and navigating complex community dynamics are all important. Personally, employment, income, former/current incarceration, family support, health and wellness, housing, education, and many more may be high priorities for SEE.

**Recommendation #6: Cannabis industry of, by, and for social equity: thriving industry, gainful opportunities.** Permits should go to social equity businesses only, and smaller local operations should be encouraged by regulatory design, including lower taxes on cultivation and manufacturing compared to retail and business-sale, lower taxes on social equity licensees, and higher taxes on sale of business to large and non-local entities.

**Recommendation #7: Commit to the Process:** Social equity is not one-and-done, and program features like eligibility requirements and benefits should be phased in over time with careful attention to community-led research and evaluation. All participants, contributors, supporters, and leaders must commit to building and strengthening social equity efforts and outcomes. The County of San Diego should facilitate social equity leadership.

## Next Steps

### The County of San Diego:

Prepare for an urgent and long-term commitment to improving equity in the regulated cannabis industry. With existing medical cannabis operators being grandfathered in and board letters being approved that defined the equity program without reference to any comprehensive analysis, the Board of Supervisor should approve the recommendations of the equity assessment to ensure local equity entrepreneurs have a real opportunity to benefit from the market. These recommendations should supersede existing policy decisions made without analysis of relevant data. Additionally, the County of San Diego should begin the grant and contracting process that will resource the community-based organizations necessary to implement this program.

### Local Social Equity Advocates:

Advocate for the County Board of Supervisors to adopt these recommendations. Share key findings with community members and continue conversations about equity. Encourage community members to engage in Board of Supervisor meetings to react to the assessment findings and program recommendations.

Take ownership of and sustain engagement in promoting equity in the regulated cannabis industry. Engage in community collaboratives and encourage members of disproportionately impacted and program eligible communities to participate in the community collaborative. Encourage local community based organizations with history engaging disproportionately impacted and program eligible communities to apply to implement recommendations. Community ownership and centering disproportionately impacted communities are key to the success of this program.

**Figure 53. Key Facts of County of San Diego Social Equity Assessment**

<b>Key Facts</b>
<ul style="list-style-type: none"> <li>• According to this assessment's analysis of data on cannabis-related arrest in San Diego county, Black San Diegans are arrested at a rate that is 5 times the white arrest rate; Pacific Islander San Diegans are arrested at a rate that is 3 times the white arrest rate; Latiné San Diegans are arrested at a rate that is 2 times the white arrest rate; Indigenous San Diegans are arrested at a rate that is 30% higher than the arrest rate for white San Diegans.</li> </ul>

- In 2020, sales in California's regulated cannabis market reached \$4.4 billion.<sup>209</sup>
- The County of San Diego's Fiscal Analysis projects \$4.2 million in cannabis tax revenue.<sup>210</sup>
- While adult cannabis use remains illegal federally, its use and sale is legal in the state of California. Yet, within San Diego county there are still 8 cities that do not permit any commercial cannabis sale and 3 that only permit the sale of medical-only cannabis.<sup>211</sup> This complex landscape of legality creates barriers to the operation of legal cannabis, but also creates opportunity for social equity applicants of unincorporated areas near cities that do not permit sale of recreational use cannabis.
- On January 27, 2021 the County of San Diego's Board of Supervisors approved a board letter that directed the establishment of a Social Equity Program to "help rectify the injustices caused by the War on Drugs."<sup>212</sup>
- Setting up a "brick and mortar" cannabis retail shop can cost anywhere between \$500k and a million dollars.
- In California, there are twelve equity programs established in eight cities and five counties have established equity programs.<sup>213,214,215</sup> (San Francisco city and county have a joint program.) In 2021, existing cannabis equity programs were granted \$14,453,000.<sup>216</sup>

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<sup>209</sup>Schroyer, John, Andrew Long, and Data Reporter. "Cannabis Sales Records Smashed or Set in 2020, and Insiders Expect the Gains to Continue." *MJBizDaily* (blog), January 22, 2021. <https://mjbizdaily.com/cannabis-sales-records-smashed-or-set-in-2020-and-insiders-expect-the-gains-to-continue/>.

<sup>210</sup>HdL. "Fiscal Revenue Analysis of the Commercial Cannabis Industry Prepared for the County of San Diego," April 27, 2022.

<sup>211</sup>Martinez, Johnny, Sofia Rodriguez, Amanda Bouderault, Samantha Hoover, Riley McLaughlin, Liz Yocom, Miguel de Jesus, Roger Herzler, and Judith Opdahl. "Economic Impact of Cannabis in San Diego County 2021." California State University San Marcos. Accessed June 16, 2022. <https://www.csusm.edu/coba/obrc/reports/cannabisindustry/reports/cannabisreport2021.pdf>.

<sup>212</sup>"Socially Equitable Cannabis Program." Accessed June 24, 2022. <https://www.sandiegocounty.gov/content/sdc/pds/Cannabis.html>.

<sup>213</sup>California, State of. "California Cannabis Equity Grants Program Provides \$15 Million in Grant Funding for Local Jurisdictions | California Governor's Office of Business and Economic Development." Accessed June 24, 2022. <https://business.ca.gov/california-cannabis-equity-grants-program-provides-15-million-in-grant-funding-for-local-jurisdictions/>.

<sup>214</sup>McDowell, Yvette, Mindy Galloway, Kika Keith, and Deanna Garcia. "2021 DISE ACCOUNTABILITY REPORT," n.d., 40.

<sup>215</sup>Cannabis Business Times. "California Awards \$35 Million in Cannabis Equity Grants." Accessed June 24, 2022. <https://www.cannabisbusinesstimes.com/article/california-awards-35-million-in-cannabis-equity-grants/>.

<sup>216</sup>California, State of. "California Cannabis Equity Grants Program Provides \$15 Million in Grant Funding for Local Jurisdictions | California Governor's Office of Business and Economic Development." Accessed June 24, 2022. <https://business.ca.gov/california-cannabis-equity-grants-program-provides-15-million-in-grant-funding-for-local-jurisdictions/>.

- Over 35,000 cases were recommended by the state for expungement. After review by the County Superior Court, only 26,000 were expunged or reduced (1,000 misdemeanors expunged, 25,000 felonies reduced to misdemeanors).<sup>217</sup> Building off the County's proactive success, the County should assess which cases were denied and share these findings with the public. Moreover, the County should consider more non-sex related cannabis arrests for expungement, including those recommended by the state.

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<sup>217</sup> Los Angeles Times. "California Was Supposed to Clear Cannabis Convictions. Tens of Thousands Are Still Languishing," January 13, 2022.  
<https://www.latimes.com/california/story/2022-01-13/california-was-supposed-to-clear-weed-convictions-tens-of-thousands-are-still-languishing>.

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