

City & County of San Francisco
Cannabis Equity Report

Office of Cannabis, Human Rights Commission & Controller's Office

November 1, 2017

To the Board of Supervisors:

On September 5, 2017, Ordinance No. 170859 unanimously passed, creating the Office of Cannabis and requesting that the Office of Cannabis, the Human Rights Commission, and the Controller's Office deliver to them and the Mayor no later than November 1, 2017, a report analyzing available data related to disparities in the cannabis industry, and providing recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry, (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense.

As detailed in this report, the War on Drugs, has had disastrous impacts in San Francisco. In this city and in cities across the nation, these effects of decades of discriminatory drug policies have been shouldered by that have been made more vulnerable. As the City considers our regulatory structure for commercial cannabis activity, we have a responsibility to ensure that the policies we create undo the racist policies of our past.

In developing this report, we were inspired by the opportunity to participate in crafting programs that foster equitable access to and industry – programs that seek to reflect and uplift our communities. It is our hope that this report and its recommendations help inform a final equity program that is robust and guided by a cohesive, results-oriented strategy.

A successful program will ensure we see a more inclusive and diverse industry through ownership and workforce, an expansion of educational opportunities, an end to policies that continue to burden our communities that have been disproportionately impacted by the War on Drugs, and investment in communities that are disenfranchised because of the consequences of drug policies.

There is much work to do, and as we continue to push for the elimination of discriminatory institutional and structural policies and practices against activates now legal under Proposition 64, we look forward to receiving additional input and guidance from our policymakers and communities.

This report is submitted with gratitude to the many contributors, including Office of the Controller, the Human Rights Commission Director and staff, Dr. William Armaline, Director of the Human Rights Program and an Associate Professor in the Department of Sociology and Interdisciplinary Social Sciences [SISS] at San José State University, Dr. Mike Males, Senior Research Fellow at the Center on Juvenile and Criminal Justice. The report was further advised by the work of the San Francisco Cannabis State Legalization Taskforce, Human Rights Commission staff convening of stakeholders, the feedback of experts and the community during the October 21, 2017 District 10 Cannabis Forum, the San Francisco Chapter of the California Growers Association, and numerous City departments.

We are grateful for your partnerships and look forward to partnering with you, San Francisco's policymakers, the community, and other impacted stakeholders as the City moves forward with development a thoughtful and impactful Cannabis Equity Program.

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I. Executive Summary

The case for equity is clear. For decades, the War on Drugs has had consequential impacts on communities of color in San Francisco. The impacts of this disproportionality are acutely felt today: poverty, education gaps, and criminal records are the vestiges of explicitly and implicitly racist drug enforcement policies.

The City's challenge today is also our opportunity. As we move towards embracing a new industry, we must take the opportunity to harness its potential to begin to restore historic inequities. Some cities have already created industry-specific equity programs, but San Francisco should develop and implement a program that makes sense for the residents of our City, balancing our priorities and reflecting our values.

This report was drafted by the staff of the Office of Cannabis, Human Rights Commission, and Controller's Office, with assistance from numerous City and community partners. It examines the local, state and national history of cannabis regulation, the War on Drugs, and its impact on our communities. It reviews known characteristics of the City's existing cannabis industry and discusses barriers to entry into the industry. This report also looks at other jurisdictions' equity programs for lessons learned. Finally, the report makes recommendations meant to inform the creation of San Francisco's Cannabis Equity Program. Outlined below are key findings and highlights across the various sections within the report, and a summary of the final recommendations.

Equity Analysis

- San Francisco has always been on the forefront of cannabis legalization.
- African Americans in San Francisco have endured disproportionately higher felony drug arrests and crackdowns.
- More recent decriminalization efforts helped to narrow those gaps, but people of color still interact with the justice system at a rate far higher than white San Franciscans.
- Significant social hurdles result from disproportionate arrest and incarceration rates.
- Although local data is incomplete at best and misleading at worst, it reveals a strong correlation between poverty and cannabis arrests.
- Taken together, this paints a troubling picture of the War on Drugs' impact on communities of color, even in a progressive city like San Francisco.
- Data suggests that San Francisco's cannabis industry (and the national industry) skews disproportionately white and male.

Barriers to Entry

- Financial and real estate barriers present major equity hurdles to individuals seeking to enter the regulated cannabis industry.
- Other barriers include the soft skills of entrepreneurship, compliance, and legal complexity.
- While Prop. 64 clears the way for people convicted of cannabis crimes to enter the industry, a past criminal history can still present significant challenges, like accessing financing or signing a lease.
- Where the City allows cannabis businesses to operate will have important impacts on whether we can grow the industry equitably.

Cannabis Equity Programs Analysis

- Oakland and Los Angeles both have real or proposed equity programs that may serve as a good model for San Francisco.
- Both cities aim to help people either arrested for cannabis or residents of high-enforcement neighborhoods, and offer a suite of fee waivers, technical assistance, and subsidized loans to equity applicants.
- Other cities and states also put in place policies to try to correct for historical imbalances.
- San Francisco should select the policy components that make the most sense for our city.

Findings & Recommendations

The Office of Cannabis and supporting agencies chose to present a series of findings and recommendations to guide the Mayor and Board of Supervisors as they legislate an equity program. The following policy areas of focus represent this report's core recommendations:

1. **Eligibility:** inform eligibility criteria with data, set tiered eligibility criteria to allow most affected groups to receive higher-value benefits, while extending some benefits to a wider range of applicants impacted by the War on Drugs.
2. **Permitting:** prioritize and assist Equity Applicants during the permitting process, and establish an incubator program to incentivize partnerships between Equity Applicants and other cannabis operators.
3. **Community Reinvestment:** direct new potential funding from local cannabis taxes or the state toward programming for communities impacted by the War on Drugs. Businesses should also be required to describe how their business will provide community benefits.
4. **Workforce Development:** promote equitable employment opportunities at all cannabis businesses, especially for formerly-incarcerated individuals and those living in neighborhoods impacted by the War on Drugs. Expand First Source and Local Hire to cover the cannabis industry.
5. **Financial & Capital Access:** take an active advocacy role to open up banking services, particularly through state and local credit unions, for the cannabis industry.
6. **Technical Assistance:** direct Equity Operators to existing technical assistance resources in the City, and create new technical resources within the Office of Cannabis. Facilitate partnerships with other existing Operators and non-profits to help overcome technical barriers.
7. **Criminal History:** hold streamlined expungement events for citizens convicted of eligible cannabis offenses.
8. **Stakeholder Engagement:** create culturally sensitive and district-specific outreach, and extend Task Force membership to include representatives from communities with high concentrations of individuals eligible for Equity status.
9. **Public Awareness & Education:** deploy an outreach campaign for the Equity Program.
10. **Data Collection & Accountability:** gather data on General and Equity Applicants on a regular basis to analyze the outcomes of the Equity Program, and use this data to refine the program. Enforce compliance of commitments made by applicants.
11. **Modification & Course Correction:** permitting in phases and communicating with stakeholder groups will allow for steady improvement of the regulatory structure.
12. **Land Use & Zoning:** create land use controls that mitigate overconcentration in disenfranchised neighborhoods.

II. Introduction

Mayor Lee has designated San Francisco's vision to be a safe, vibrant city of shared prosperity. Guided by the Human Rights Commission, the City incorporates strategies and programs that address the challenges resulting from prejudice, intolerance, bigotry, and discrimination. The City undertakes these challenges with the knowledge that the cumulative impact of systemic discrimination has depressed prosperity for us collectively.

In 1964, the stroke of a pen ended legal discrimination in the United States. However, as our country and our city has learned, the deletion of explicitly racist words, amendments to explicitly racist laws, and the terming out of explicitly racist policymakers were insufficient to address centuries of racialized outcomes. In the United States and in San Francisco, the legacy of those discriminatory laws remains: communities of color are still disproportionately incarcerated, unemployed, and impoverished.

The San Francisco Human Rights Commission has developed an equity framework, known as Engineering for Equity, for all City and County of San Francisco departments, including the Office of Cannabis, to provide the tools and strategies essential to making our government services more equitable for all. The equity framework helps city departments create and uphold transformational systems and approach actual and/or perceived limitations with innovation. It reflects the belief that city government can support resilient people and, in partnership with communities, can help develop foundations that uplift all.

This framework builds on shared definitions, developed in the interest of creating alignment across City departments working to ensure that all people are seen and heard fairly. Accordingly, this report adopts the Human Rights Commission's definitions for equity and community:

- **Equity:** Full and equal access to opportunities, power and resources, whereby all people may thrive and prosper regardless of demographics.
- **Community:** Stakeholders across San Francisco's diverse neighborhoods who are either benefited or burdened by public policies.

The legalization of adult-use cannabis presents an urgent opportunity to learn from the past and create accountable mechanisms to achieve shared prosperity. In anticipation of this, on September 5, 2017, the Board of Supervisors unanimously passed Ordinance No. 170859, creating the Office of Cannabis and requesting that the Office of Cannabis, the Human Rights Commission, and the Controller's Office deliver to them and the Mayor no later than November 1, 2017, a report analyzing available data related to disparities in the cannabis industry, and providing recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry, (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense.

As detailed in this report, the War on Drugs, has had disastrous impacts in San Francisco. In this city and in cities across the nation, these effects, including the creation of generational poverty, loss of property, community degradation, and loss of educational and employment opportunities, have been disproportionately shouldered by the poor and people of color, specifically African American and Latinx populations.

If the City is serious about improving the quality of life in San Francisco and helping those who have been disproportionately burdened by public policies like the War on Drugs, it must address systemic barriers and understand the role that policies, practices, and procedures play in creating the current health, safety, economic mobility and community environment circumstances. We must remember the part these factors play in developing an equitable, inclusive and diverse city.

San Francisco is currently considering a proposed regulatory structure for local commercial cannabis activity beginning in 2018. The Commercial Cannabis Regulations Ordinance contemplates the creation of an Equity Program and makes clear that applications for adult-use commercial cannabis activity will not be made available until the City establishes a program designed to foster equitable access to participation in the cannabis industry, including access to workforce and ownership opportunities.

It is our hope that this report and its recommendations help inform the development of a robust equity program that ensures a cohesive, results-oriented strategy. A successful program will strengthen equitable access to the cannabis industry workforce, encourage entrepreneurship, and expand educational opportunities. It will help eliminate discriminatory institutional and structural policies and practices and strive to curtail the stigma against activities now legal under Proposition 64. This will require relevant departments to consider the impact of their services and develop transformational approaches that cut across multiple institutions, to disrupt institutional culture, and shift values and political will to create equity.

III. Equity Analysis

Methodology

This Equity Analysis section first examines the history of drug enforcement policies in the United States and in California, which informs this overall equity analysis. This section also examines arrest rates in San Francisco, starting with a broad view of all drug arrests and narrowing to cannabis arrests. It uses census data and arrests data to highlight which populations in San Francisco have experienced disproportionate levels of cannabis arrests. From there, it defines the size and scope of low-income communities in San Francisco, and geospatially cross-references cannabis arrests with low-income census tracts. The overlap provides some insight into the correlation between cannabis law enforcement and income status, highlighting which local communities have likely been economically disadvantaged by cannabis law enforcement. Finally, this analysis looks into the demographics of the existing legal cannabis industry, from a national perspective and a local one, exhibiting which populations have begun to economically benefit from gradual cannabis decriminalization.

Historical & Legislative Context of Cannabis Policies

United States Drug and Cannabis Policy

Food and drug regulation began in the United States with the Federal Food and Drug Act of 1906. The law permitted the U.S. Department of Agriculture's Bureau of Chemistry to test, regulate, and standardize commercial substances.¹ Between 1906 and 1942, the federal government primarily regulated narcotics through taxation, with the exception of opium and cocaine. The Opium Exclusion Act of 1909 limited opium imports, partially over legitimate concerns regarding the drug's level of addiction and health effects. However, its passage was contemporaneously supported by xenophobic fears of East Asian immigrants, foreshadowing the federal government's racialization of drug policy throughout much of the 20th century.² The Harrison Act of 1914 created a prescription registry and imposed a special tax on narcotics imports.

In 1927, Congress reorganized the drug regulatory structure by establishing the Food, Drug, and Insecticide Administration, which was shortened to the Food and Drug Administration in 1930. 1930 brought further administrative and bureaucratic changes, including the transfer of powers from existing agencies to the newly created Bureau of Narcotics.³ The Bureau of Narcotics was given broad jurisdiction over controlling narcotics, and its first commissioner, Harry J. Anslinger, pushed cannabis regulations further towards criminalization and as an outlet for discrimination and marginalization.⁴

Throughout his tenure as Narcotics Commissioner, Anslinger gave speeches across the United States, portraying cannabis as, "a scourge on society, ruining the moral fabric of America..."⁵ Anslinger often implicated Mexicans, Mexican-Americans, and African Americans as drug users, even stating explicitly that Mexico was responsible for introducing cannabis to the United States.⁶ In *Marijuana: A Short History*, John Hudak connects the racialization of cannabis policy to wider geopolitical events at the

¹ Hudak, John. *Marijuana: A Short History*. Washington, D.C.: Brookings Institution Press, 2016, 32.

² *Ibid.*, 34.

³ *Ibid.*, 35.

⁴ *Ibid.*, 35-36.

⁵ *Ibid.*, 36.

⁶ Anslinger, Harry. *Marijuana, Assassin of Youth*. *The American Magazine*, 124, no. 1 (1937).

time. After the Mexican-American War (1846-1848) and continuing into the early 20th century, America received an influx of Mexican immigrants, which further exacerbated existing racial tensions. Hudak writes, “As Americans sought a pretext to vilify this new immigrant community, they found an ideal culprit in marijuana...fear and anti-immigrant sentiment prompted state-level bans on cannabis...”⁷

Anslinger conducted public opinion campaigns to support the criminalization of cannabis at the state and federal levels. By the time Congress passed the Uniform State Narcotic Act in 1932, urging states to unify narcotics laws and implement criminal punishments, 29 states had already criminalized the use of cannabis.⁸ The Marihuana Tax Act of 1937 levied a tax on every group involved with producing, distributing, selling and purchasing cannabis, including importers, growers, sellers, prescribers, physicians, veterinarians, patients, and other consumers. Failing to pay any of these taxes resulted in heavy fines and jail time.⁹

Despite facing some objections against implementing harsh punishments for cannabis offenses, Anslinger and Congress continued to criminalize cannabis in stricter terms.¹⁰ The Boggs Act of 1951 created mandatory minimum sentences for those convicted of drug-related offenses. These sentences were soon increased with the Narcotics Control Act of 1956.¹¹

The counterculture movements of the 1960s pushed back against social norms and government actions and policies that were perceived as unjust.¹² Cannabis took on a visible role within some of these countercultures, as well as within the music industry and media. Cannabis use increased among American youth, and the United States government, perceiving itself as under siege, responded again with increased criminalization.¹³

Presidential administrations from the 1950s onward frequently pushed the criminalization of cannabis alongside urgent social narratives. President Eisenhower’s Interdepartmental Committee on Narcotics published a report in 1956 that detailed the harms of cannabis on youth and communities, without scientifically evaluating the impacts of cannabis usage.¹⁴ One exception was President Kennedy’s Advisory Committee on Narcotic and Drug Abuse, established with Executive Order 11076 in 1963, which found that drugs were not grouped together legally based on the risk of addiction or level of health effects, and even stated that mandatory minimums should be reconsidered.¹⁵ However, Kennedy was assassinated shortly thereafter, and his successor, President Johnson, did not take action on many of the Committee’s findings. .

Despite this, Lyndon B. Johnson had a relatively nuanced stance on drug usage, distinguishing between dealers and users and recognizing the public health and safety need for treatment. However, Richard Nixon’s election in 1968 redirected the government’s focus back to criminalization and punishment.¹⁶ After Congress passed the Controlled Substances Act in 1970, President Nixon formally declared a “War

⁷ Hudak, John. *Marijuana: A Short History*, 38.

⁸ *Ibid.*, 37.

⁹ *Ibid.*

¹⁰ *Ibid.*, 38-39.

¹¹ *Ibid.*, 39.

¹² *Ibid.*, 41-42.

¹³ *Ibid.*, 42.

¹⁴ *Ibid.*, 43-44.

¹⁵ *Ibid.*, 46.

¹⁶ *Ibid.*, 48.

on Drugs”.¹⁷ Nixon, however, had been focused on this war for years, as a part of his “Southern Strategy,” which sought to marginalize vulnerable populations, especially minorities.¹⁸ In fact, Nixon’s adviser, John Ehrlichman, was recorded in a 1981 interview with Lee Atwater, saying:

*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.*¹⁹

The events and actions that led to Nixon’s formal War on Drugs proclamation include a 1969 speech to Congress, in which Nixon declared cannabis a national threat; the Supreme Court case *Leary v. United States*; Operation Intercept, a military operation that seized contraband at the U.S.-Mexico border; and the 1969 Bipartisanship Leadership Meeting on Narcotics and Dangerous Drugs.²⁰

The 1970 Controlled Substances Act is crucial because it formalized drug schedules, which categorized drugs into legal groups for sentencing and other purposes.²¹ However, Congress, not the scientific or medical community, sorted drugs into schedules, placing cannabis in Schedule I alongside drugs with much higher levels of addiction and health effects.²² The law expanded the government’s powers for regulating drugs and gave Nixon the foundation for his upcoming War on Drugs.²³ Nixon’s final substantial action in the War on Drugs was his proposal to Congress to reorganize the government agencies that regulate drugs and narcotics, the “Reorganization Plan 2 of 1973”.²⁴ Congress approved and the Drug Enforcement Administration (DEA) was created within the Department of Justice. The DEA consolidated functions and jurisdictions and has consistently received significant increases in funding and employees since its creation.²⁵

President Ford continued Nixon’s tough rhetoric, expanding the United States’ involvement in drug operations internationally. At the same time, Ford supported treatment and prevention, later revealing that drug addiction was a personal issue to his family. Like President Ford before him, Carter worked to stem international drug trafficking while attempting to reform aspects of drug policy at home. In his 1977 “Drug Abuse Message to the Congress,” Carter laid out his vision to increase funding for research,

17 Nixon, Richard. “Special Message to the Congress on Drug Abuse Prevention and Control, June 17, 1971.” The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/?pid=3048>.

18 Hudak, John. *Marijuana: A Short History*, 50.

19 13th. Directed by A. DuVernay. Produced by H. Barish and S. Averick. United States: Netflix, 2016.

20 Hudak, John. *Marijuana: A Short History*, 51-52; Nixon, Richard. “Special Message to the Congress on the Control of Narcotics and Dangerous Drugs, July 14, 1969.” The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/?pid=2126>.

21 The Diversion Control Division. “Title 21 United States Code (USC) Controlled Substances Act.” U.S. Department of Justice. Accessed October 30, 2017. <https://www.deadiversion.usdoj.gov/21cfr/21usc/811.htm>.

22 Hudak, John. *Marijuana: A Short History*, 54.

23 *Ibid.*, 55.

24 Nixon, Richard. “Message to the Congress Transmitting Reorganization Plan 2 of 1973: Establishing the Drug Enforcement Administration, March 28, 1973.” The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/index.php?pid=4159>.

25 The Drug Enforcement Agency. “DEA Staffing & Budget.” DEA.gov. Accessed October 30, 2017. <https://www.dea.gov/pr/staffing.shtml>.

create federal prevention and treatment programs, and shift the government's regulatory focus to drugs with more severe health consequences. Carter's proposals were never realized.²⁶

Like Nixon, Reagan incorporated drug policy into his broader political strategy. He continued to expand the United States' drug involvement efforts internationally while enhancing penalties and reducing defenses for the accused domestically.²⁷ Finally, Reagan expanded education and treatment programs, enlisting the help of First Lady Nancy Reagan. With Executive Order No. 12368, Reagan created the Drug Abuse Policy Office.²⁸ The Office quickly won a series of legislative successes, including the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Anti-Drug Abuse Act of 1988.²⁹ All of these laws enhanced criminal punishments for drug-related offenses. The 1986 law expanded the crimes to which mandatory minimums applied, and the 1988 law enhanced these minimums.³⁰ In 1989, President H.W. Bush created the Office of National Drug Control Policy, replacing Reagan's Drug Abuse Policy Office. The director of this office is referred to as the "Drug Czar", whose influence in U.S. drug policy continues to this day.³¹

The 1988 law also increased funding for education programs, and redirected funds in other programs towards drug-related programs. Researchers have evaluated the effectiveness of drug education programs, and found limited, if any, effects on curbing drug use among American youth.³²

President Bill Clinton incorporated kinder rhetoric when speaking about drug use, although his policies continued to intensify criminal punishments for cannabis.³³ For instance, the Violent Crime Control and Law Enforcement Act of 1994 intensified criminalization, introducing the "three strikes" provision for traffickers, and increased funding for prisons and local law enforcement.³⁴ After the 1994 law, arrests for cannabis users increased significantly. In 1991, there were around 327,000 arrests for cannabis-related offenses. By 2000, there were over 700,000.³⁵ Meanwhile, states began legalizing medical cannabis; some states authorized medical cannabis on the day Clinton was reelected to office.³⁶

Public opinion about cannabis reversed became increasingly positive in the 1990s and 2000s,³⁷ a trend that has continued to the present. In 2000, 31% of Americans supported the legalization of cannabis. By

26 John Hudak. *Marijuana: A Short History*, 67-70; Carter, Jimmy. "Drug Abuse Message to the Congress, August 2, 1977." The American Presidency Project. Accessed October 30, 2017.

<http://www.presidency.ucsb.edu/ws/?pid=7908>.

27 Hudak, John. *Marijuana: A Short History*, 73.

28 Reagan, Ronald. "Executive Order 12368: Drug Abuse Policy Functions, June 24, 1982." The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/index.php?pid=42672>.

29 Hudak, John. *Marijuana: A Short History*, 76.

30 Ibid.

31 Ibid.

32 Engs, Ruth C., and Fors, Stuart W. "Drug Abuse Hysteria: The Challenge of Keeping Perspective." *Journal of School Health* 58, no. 1 (1988): 26-28.

33 Hudak, John. *Marijuana: A Short History*, 81-82.

34 Ibid., 82-83.

35 King, R., and M. Mauer. "The War on Marijuana: The Transformation of the War on Drugs in the 1990's." *The Harm Reduction Journal* 3, no. 6 (2006).

36 Hudak, John. *Marijuana: A Short History*, 83.

37 Pew Research Center. "In Debate over Legalizing Marijuana, Disagreement over Drug's Dangers." Accessed October 29, 2017. <http://www.people-press.org/2015/04/14/in-debate-over-legalizing-marijuana-disagreement-over-drugs-dangers/2/>.

2013, nearly 58% of those polled supported legalization.³⁸ Much of this shift in public opinion is attributed to generational acceptance and an increase in the number of individuals who have tried or used cannabis.³⁹

While campaigning for President, George W. Bush conveyed his support for allowing states to determine their own cannabis policies. During a campaign event in Seattle, Bush stated, “I believe each state can choose that decision as they so choose”.⁴⁰ Despite this initial stance, President Bush’s drug policies closely resembled those of his predecessors, focusing on international trafficking, law enforcement and treatment.⁴¹ What’s more, the Bush Administration frequently conducted raids on medical cannabis dispensaries, including dispensaries that functioned legally under state law.⁴²

President Obama voiced support for the concept of medical cannabis, and promised a Justice Department Policy that would allow dispensaries to operate unimpeded. In a formal memo to United States Attorneys in 2009, Attorney General Holder wrote that the Obama Administration would end raids on cannabis distributors. It states that “...the prosecution of significant traffickers of illegal drugs, including marijuana...continues to be a core priority...pursuit of these priorities should not focus federal resources in your states on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”⁴³ Holder did, however, oppose adult-use cannabis. His position became public in response to a 2010 California ballot initiative, which would have legalized adult-use cannabis in California, but failed to win a majority vote⁴⁴

Then, in 2011, the Justice Department announced a crackdown on medical cannabis dispensaries across the United States. In a memo released on June 29, 2011, Deputy Attorney General James Cole communicated that the Justice Department would prosecute persons involved in producing, distributing, and selling cannabis, “regardless of state law”.⁴⁵ Shortly afterwards, California’s four U.S. Attorneys proceeded to announce criminal charges against cannabis dispensaries and threaten landlords with property seizure (See “California Cannabis Policy,” below).

Like George W. Bush before him, Donald Trump vowed to leave medical cannabis policy to individual states while campaigning. As President, however, Trump nominated then-Senator Jeff Sessions for

38 Swift, Art. “For the First Time, Americans Favor Legalizing Marijuana.” Gallup. Accessed October 30, 2017. <http://news.gallup.com/poll/165539/first-time-americans-favor-legalizing-marijuana.aspx>.

39 Hudak, John. Marijuana: A Short History, 91-92.

40Hsu, Spencer. “Bush: Marijuana Laws Up to States; But GOP Candidate Says Congress Can Block D.C. Measure.” The Washington Post, October 22, 1999. Accessed October 30, 2017. <http://news.gallup.com/poll/165539/first-time-americans-favor-legalizing-marijuana.aspx>.

41 Marquis, Christopher. “Bush’s \$19 Billion Antidrug Plan Focuses on Law Enforcement and Treatment.” The New York Times, February 13, 2002. Accessed October 30, 2017. <http://www.nytimes.com/2002/02/13/us/bush-s-19-billion-antidrug-plan-focuses-on-law-enforcement-and-treatment.html?ref=topics>.

42 Johnston, David and Lewis, Neil. “Obama Administration to Stop Raids on Medical Marijuana Dispenseries.” The New York Times, March 18, 2009. Accessed October 30, 2017.

<http://www.nytimes.com/2009/03/19/us/19holder.html>; Taylor, Stuart. “Marijuana Policy and Presidential Leadership: How to Avoid a Federal-State Train Wreck.” The Brookings Institution, April 11, 2013. Accessed October 30, 2017. <https://www.brookings.edu/research/marijuana-policy-and-presidential-leadership-how-to-avoid-a-federal-state-train-wreck/>.

43 Taylor, Stuart. “Marijuana Policy and Presidential Leadership: How to Avoid a Federal-State Train Wreck,” 20.

44 Ibid., 21.

45 Ibid., 22.

Attorney General of the United States,⁴⁶ an opponent of medical cannabis and any effort to decriminalize cannabis or to reduce criminal punishments. At a Senate drug hearing in April 2016, Sessions stated:

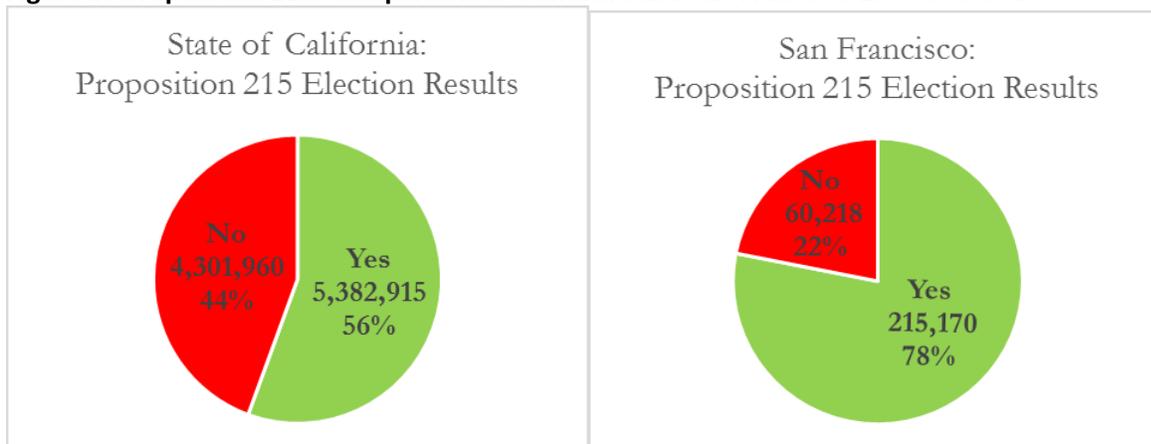
...we need grown-ups in charge in Washington to say marijuana is not the kind of thing that ought to be legalized, it ought not to be minimized, that it's in fact a very real danger...this drug is dangerous, you cannot play with it, it is not funny, it's not something to laugh about...and to send that message with clarity that good people don't smoke marijuana.⁴⁷

Attorney General Sessions' stance on cannabis is reminiscent of Anslinger's statements, which rejected cannabis on moral grounds without acknowledging its similarities to legal substances such as tobacco and alcohol.

California Cannabis Policy

In 1996, California passed Proposition 215, the Compassionate Use Act, with 56% of the votes statewide, and 78% in San Francisco as illustrated in Figure 1 below.

Figure 1. Proposition 215: Comparison of California and San Francisco Election Results



In doing so, California became the first state in America to legalize cannabis for medical use. The Compassionate Care Act allowed patients and qualified caregivers to cultivate and possess cannabis for personal use, however it did not provide a regulatory structure.⁴⁸ To clarify the Compassionate Use Act, the State Legislature passed Senate Bill 420 in 2003. This bill also provided for the creation of an identification program for qualified patients.⁴⁹

In addition to legalizing medical cannabis, California voters propelled the state's drug policy away from criminalization and harsh punishments. In 2000, voters approved the Substance Abuse and Crime

46 Ingraham, Christopher. "Trump's Pick for Attorney General: 'Good People Don't Smoke Marijuana'" The Washington Post, November 18, 2016. Accessed October 30, 2017.

https://www.washingtonpost.com/news/wonk/wp/2016/11/18/trumps-pick-for-attorney-general-good-people-dont-smoke-marijuana/?utm_term=.854263e133ee.

47Ibid.

48 "Uniform Controlled Substances Act." California Legislative Information. Accessed October 28, 2017.

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC.

49 "Bill Number: SB 420, Bill Text." California Legislative Information. Accessed October 28, 2017.

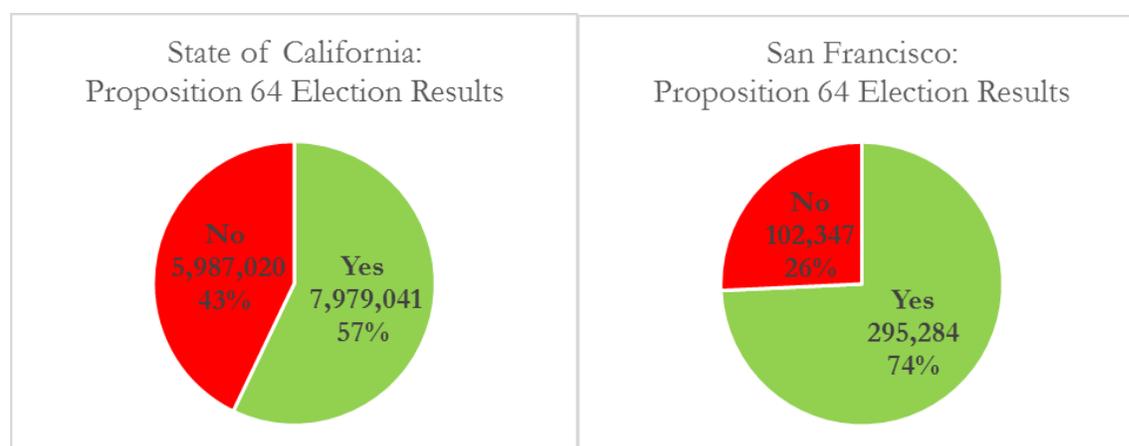
ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0401-0450/sb_420_bill_20031012_chaptered.html.

Prevention Act, directing the state to offer eligible offenders treatment rather than jail-time for drug possession and drug use.⁵⁰

Between 2003 and 2015, the commercial cannabis industry grew with few rules and regulations. It wasn't until 2015 and the passage of the Medical Marijuana Regulation and Safety Act that California established a legal framework to regulate and monitor cannabis dispensaries.⁵¹ Originally set to take effect on January 1, 2016, the Medical Marijuana Regulation and Safety Act was amended via the Medical Cannabis Regulation and Safety Act in June 2016. This updated piece of legislation aimed to incorporate stronger environmental protection policies within a comprehensive licensing system.⁵²

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act, legalizing the distribution, sale, and possession of cannabis.⁵³ Proposition 64 passed with 57% of the vote statewide and 74% of the vote in San Francisco, as illustrated in Figure 2 below.

Figure 2. Proposition 64: Comparison of California and San Francisco Election Results



The Adult Use of Marijuana Act (AUMA) of 2016 was modeled on the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015. In 2017 California sought to create one regulatory system for both medical and adult-use use. Therefore, this last June, Governor Jerry Brown signed the Medicinal and Adult Use Cannabis Regulation and Safety Act into law, reconciling the differences between AUMA and MMRSA, and taking a crucial step towards developing a regulatory framework to facilitate a legal, for-profit cannabis sector for both medicinal and adult-use.⁵⁴

50 "The Substance Abuse & Crime Prevention Act of 2000." County of Santa Clara's Public Defender Office, March 13, 2013. Accessed October 28, 2017. <https://www.sccgov.org/sites/pdo/Pages/SACPA.aspx>.

51 "AB-243, Medical Marijuana." California Legislative Information. Accessed October 30, 2017. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB243.

52 "SB-643, Medical Marijuana." California Legislative Information. Accessed October 29, 2017. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB643.

53 "AB-64, Cannabis: Licensure and Regulation." California Legislative Information. Accessed October 29, 2017. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB64.

54 "SB-94 Cannabis: Medicinal and Adult Use." California Legislative Information. Accessed October 30, 2017. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB94; "State and Local Cannabis regulations under the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA)." The Sonoma County Bar Association. Accessed October 30, 2017. <http://www.sonomacountybar.org/wp-content/uploads/2017/09/12-12-17-Cannabis-Regulation-Safety-Act.pdf>.

San Francisco Cannabis Policy

Prior to the passage of the statewide Compassionate Use Act, San Francisco voters passed Proposition P, Hemp Medication, in 1991. The proposition asked whether San Francisco would recommend that the State of California and the California Medical Association restore “hemp medical preparations” to California’s official list of medicines.⁵⁵ There were three paid arguments on the ballot in favor of Proposition P, which provided quotes from physicians and cited scientific institutions in arguing for cannabis’ medical benefits.⁵⁶ Voters approved the proposition with nearly 80% of the vote.⁵⁷

In 1999, San Francisco’s Health Commission adopted Resolution No. 29-99, “Supporting the Development and Implementation of a Voluntary Medical Cannabis Identification Card Program.”⁵⁸ This resolution supported the development of an identification card program for medical cannabis for individuals who qualified under the Compassionate Use Act as patients or primary caregivers. In 2000, the Board of Supervisors formally created San Francisco’s current identification program for medical cannabis.⁵⁹

In 2002, the Board of Supervisors placed Proposition S, titled “Medical Marijuana,” on the ballot. The proposition was a declaration of policy, directing the Mayor, Board of Supervisors, District Attorney, City Attorney, and Department of Public Health to explore the possibility of creating a program to grow and distribute medical marijuana.⁶⁰ Proposition S passed with approximately 62% of the vote.⁶¹

In March 2005, the Board of Supervisors passed Ordinance No. 64-05, “Zoning – Interim Moratorium on Medical Cannabis Dispensaries”.⁶² The ordinance expressed concern over the significant increase in the number of individuals enrolled in the city’s voluntary medical cannabis identification program, stating “In 2002, there were approximately 2,200 individuals registered...and there are now over 5,000 or 7,000 individuals enrolled”.⁶³ The ordinance acknowledged that there were no mechanisms to regulate or monitor medical cannabis dispensaries and therefore imposed a moratorium on new medical clubs and dispensaries. On November 22, 2005, the Board of Supervisors unanimously passed Article 33 of the San

55 Office of the Registrar of Voters. San Francisco Voter Information Pamphlet and Sample Ballot. PDF. The San Francisco Public Library, 1991. Accessed October 29, 2017.

https://sfpl.org/pdf/main/gic/elections/November5_1991short.pdf.

56 Ibid., 146.

57 “San Francisco Ballot Propositions Database.” The San Francisco Public Library. Accessed October 29, 2017.

<https://sfpl.org/index.php?pg=2000027201&PropTitle=&Description=&PropLetter=p&Month=&Year=1991&submit=Search>.

58 The San Francisco Health Commission. Minutes of the Health Commission Meeting. The San Francisco Department of Public Health, 2000. Accessed October 29, 2017.

<https://www.sfdph.org/dph/files/hc/HCMins/HCMIn2000/HCMIn07182000.htm>.

59 Ibid.

60 The Department of Elections. Voter Guide: November 5, 2002. PDF. The City and County of San Francisco, 2002. https://sfpl.org/pdf/main/gic/elections/November5_2002.pdf.

61 “San Francisco Ballot Propositions Database.” The San Francisco Public Library.

62 The San Francisco Board of Supervisors. Ordinance No. 64-05: Zoning - Interim Moratorium on Medical Cannabis Dispensaries. PDF. The City of San Francisco, 2005. Accessed October 30, 2017.

⁶³ Ibid.

Francisco Health Code, which provided codes, rules, regulations, and operating procedures for medical cannabis dispensaries.⁶⁴

Despite the city's 2005 moratorium on cannabis dispensaries, San Francisco and its Board of Supervisors continued to support cannabis for medicinal purposes as a whole. In 2007, the Board of Supervisors passed Resolution No. 307-07, "acknowledging [the] importance of safe and legal access to medical cannabis in San Francisco."⁶⁵ The resolution further urged the U.S. Attorney's Office in San Francisco to cease from investigating and prosecuting medical cannabis providers, caregivers and patients.

On October 7, 2011, California's four United States Attorneys announced law enforcement efforts against illegal operations within the for-profit cannabis industry.⁶⁶ Melinda Haag, the U.S. Attorney General for Northern California at the time, threatened landlords of cannabis dispensaries located near schools with property seizure.⁶⁷

Anticipating the decriminalization of adult-use cannabis for adults, the San Francisco Board of Supervisors created the Cannabis State Legalization Task Force in 2015.⁶⁸ The task force is comprised of a range of stakeholders, from representatives of the Department of Public Health, to industry members, and community residents. The task force hosts public meetings to discuss issues related to the regulation of adult-use cannabis activity in an effort to advise the City's policymakers on the legalization of adult-use cannabis. To date, the task force has created over 200 recommendations for consideration.

San Francisco's "Budget and Appropriation Ordinance" for the Fiscal Year 2017-2018 established the Office of Cannabis to coordinate city departments and state agencies for the regulation of commercial cannabis activity in 2018.⁶⁹

Arrest Rates in San Francisco

To better understand which individuals and communities have been disproportionately impacted by War on Drugs enforcement policies, this section takes available data sets and reviews arrests rates by race, ethnicity, and geographic location in the City and County of San Francisco. The arrest analysis relies

64 The San Francisco Department of Public Health. Article 33: Medical Cannabis Act. PDF. The City and County of San Francisco. Accessed October 30, 2017. https://www.sfdph.org/dph/files/EHSdocs/MedCannabis/MCD-Article_33.pdf.

65 The San Francisco Board of Supervisors. Resolution No. 307-07: Condemning Prosecution of Medical Marijuana by the Federal Government. PDF. The City of San Francisco, 2007. Accessed October 30, 2017. <http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0307-07.pdf>.

66 "California's Top Federal Law Enforcement Officials Announce Enforcement Actions against State's Widespread and Illegal Marijuana Industry." The United States Attorney's Office, October 7, 2011. Accessed October 30, 2017. <https://www.justice.gov/archive/usao/cac/Pressroom/2011/144a.html>.

67 United States Attorney, Northern District of California. Re: Marijuana Dispensary at REDACTED City and County of San Francisco APN: REDACTED. PDF. KQED. Accessed October 30, 2017. <http://ww2.kqed.org/news/wp-content/uploads/sites/10/2011/10/US-Attorney-marijuana-letter.pdf>.

68 "Knowledge Sharing & Collaboration: Cannabis State Legislation Task Force." The San Francisco Department of Public Health, 2015. Accessed October 29, 2017. <https://www.sfdph.org/dph/comupg/knowlcol/csl/default.asp>.

69 Office of the Controller. Budget and Appropriation Ordinance 145-16. PDF. The City and County of San Francisco. Accessed October 29, 2017. <http://sfcontroller.org/sites/default/files/Documents/Budget/FY17%20%26%20FY18%20AAO%20FINAL%20Budget%20with%20tails.pdf>.

on data provided by San Francisco Police (SFPD) and Sheriff's Department (SFSO), and features comparable statewide statistics, published by the California Criminal Justice Statistics Center and posted on the Attorney General's Open Justice site (DOJ, 2017).

A broader analysis of all drug arrests was conducted largely by the Center on Juvenile and Criminal Justice (CJCJ), which has issued a series of reports detailing a pattern of racially discriminatory arrest practices in San Francisco, particularly for drug offenses.⁷⁰ The analysis begins with CJCJ's review of all drug arrests in San Francisco from 1977 to 2016, with a strong focus on felony arrests, (which include manufacture, sale, and large-quantity drug possession). This report then analyzes San Francisco's cannabis arrests from 1990-2016. The cannabis arrests captured in the data set include felony charges and custodial misdemeanors and infractions.⁷¹ Misdemeanors primarily involve low-quantity possession, though possession of less than an ounce was downgraded to an infraction in 2011.

SFPD and SFSO data have several deficiencies in how race and ethnicity are treated. Most crucially, Hispanic/Latino ethnicity is posited as a type of racial identity in the data, erasing the nuance of race/ethnicity within the Latino community. Hispanic coded arrests also only represented less than 1% of arrests from 1990-2016, a level that is highly inconsistent with available conviction data for that time period. In other words, it is likely Latino arrests are distributed amongst "White" and other racial categories, which may undermine the validity of arrest rates across racial categories.

In response to the lack of data on adult Hispanic/Latino cannabis arrests, CJCJ supplemented their analysis with statistics from the San Francisco Juvenile Probation Department (SFJPD) (2017) which more accurately reflect how drug arrests differ by race and ethnicity amongst juveniles. Furthermore, the analysis of cannabis arrests is confined to examining African American cannabis arrests percentages relative to their percentage of the population, rather than in comparison to the arrest rates of other racial groups. To compare drug arrests across populations, CJCJ calculated arrest rates by dividing totals by state Department of Finance populations for each age group, gender, and race.

Drug Arrests Analysis, 1977-2016

CJCJ's study of drug arrest data for felony charges found significant fluctuations in the City's drug law enforcement, primarily involving African American arrest rates. Their key findings included:

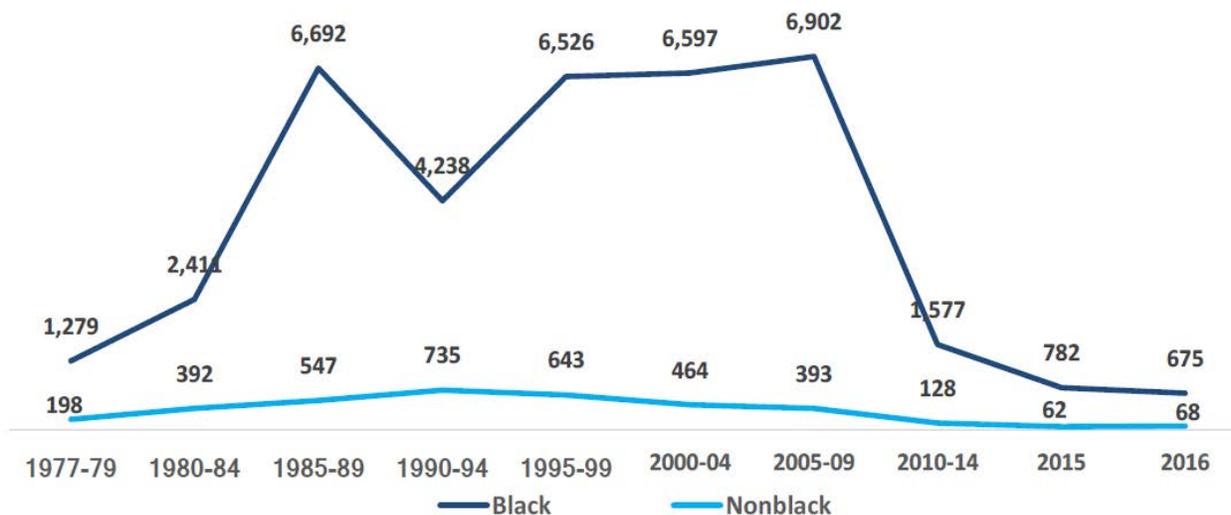
- From 1980 to the mid-1990s, San Francisco's racial patterns in enforcement of drug laws roughly resembled those statewide. Still, African Americans in San Francisco were 4 to 5 times more likely to be arrested for drug felonies prior to the mid-1990s than their proportion of the total population would predict.
- From 1995-2009, San Francisco experienced an explosion in drug felony arrests of African Americans that did not occur elsewhere in the state, nor for other racial categories in San Francisco.
- From 2008 - 2016, the City's decline in drug arrests for all races was larger than occurred statewide.
- From 2010 - 2016, drug arrests fell sharply for all races in San Francisco from 2010 through 2016. In 2008, a number equal to 8.7% of San Francisco's African American population was arrested for drug felonies. In 2016, the number had dropped to 0.7%.

70 See Appendix A. Center on Juvenile and Criminal Justice Drug Arrests Report, 2017.

71 See Appendix B. Full List of Cannabis Specific Statutes Reviewed.

- From their 2008 peak, drug felony rates fell 92% among African Americans and by 84% among non-black races in the City (DOJ, 2017). These declines were much larger than occurred elsewhere in California (79% for African Americans, 68% for other races).

Figure 3. San Francisco felony drug arrests by race, per 100,000 population, annual averages (1977-2016)



Source: CJJ (2017)

- While some of the decline in felony arrests is due to recent state reforms to reclassify many felony drug offenses as misdemeanors, misdemeanor drug arrests also fell by 90% in San Francisco from 2008 to 2015, also a much larger decline than statewide.
- Racial disparities in 2016 have narrowed from the peak year, 2008, when African Americans in San Francisco were 19.2 times more likely than non-black San Franciscans, and 4.5 times more likely than African Americans elsewhere in California, to be arrested for a drug felony.
- Even at today's much lower levels, however, large racial disparities persist. In 2016, African Americans in San Francisco experienced felony drug arrest rates 10 times higher than San Franciscans of other races, and 2.4 times higher than African Americans elsewhere in California.
- Among youth (a very small sample), Latinos are now twice as likely as African Americans, five times more likely than whites, and nearly 10 times more likely than Asians to be arrested for a drug felony.

Figure 4. Juvenile felony drug arrests per 100,000 population age 10-17, San Francisco vs. rest of California, 2009 vs. 2016

	MALE				FEMALE			
	African American	White	Hispanic	Asian	African American	White	Hispanic	Asian
2009								
Felony Drug Arrest Rate								
San Francisco	2,531.6	237.9	915.1	92.7	2,419.4	69.3	20.8	38.4
California (excluding SF)	486.6	200.6	211.0	120.8	48.1	61.9	29.9	19.4
Ratio, SF drug felony rate vs. CA	5.2	1.2	4.3	0.8	50.3	1.1	0.7	2.0
2016								
Felony Drug Arrest Rate								
San Francisco	76.8	19.4	63.4	25.6	-	-	62.3	-
California (excluding SF)	90.4	38.1	66.9	29.5	11.2	12.2	10.9	4.2
Ratio, SF drug felony rate vs. CA	0.8	0.5	0.9	0.9	-	-	5.7	-

Source: CJ CJ (2017)

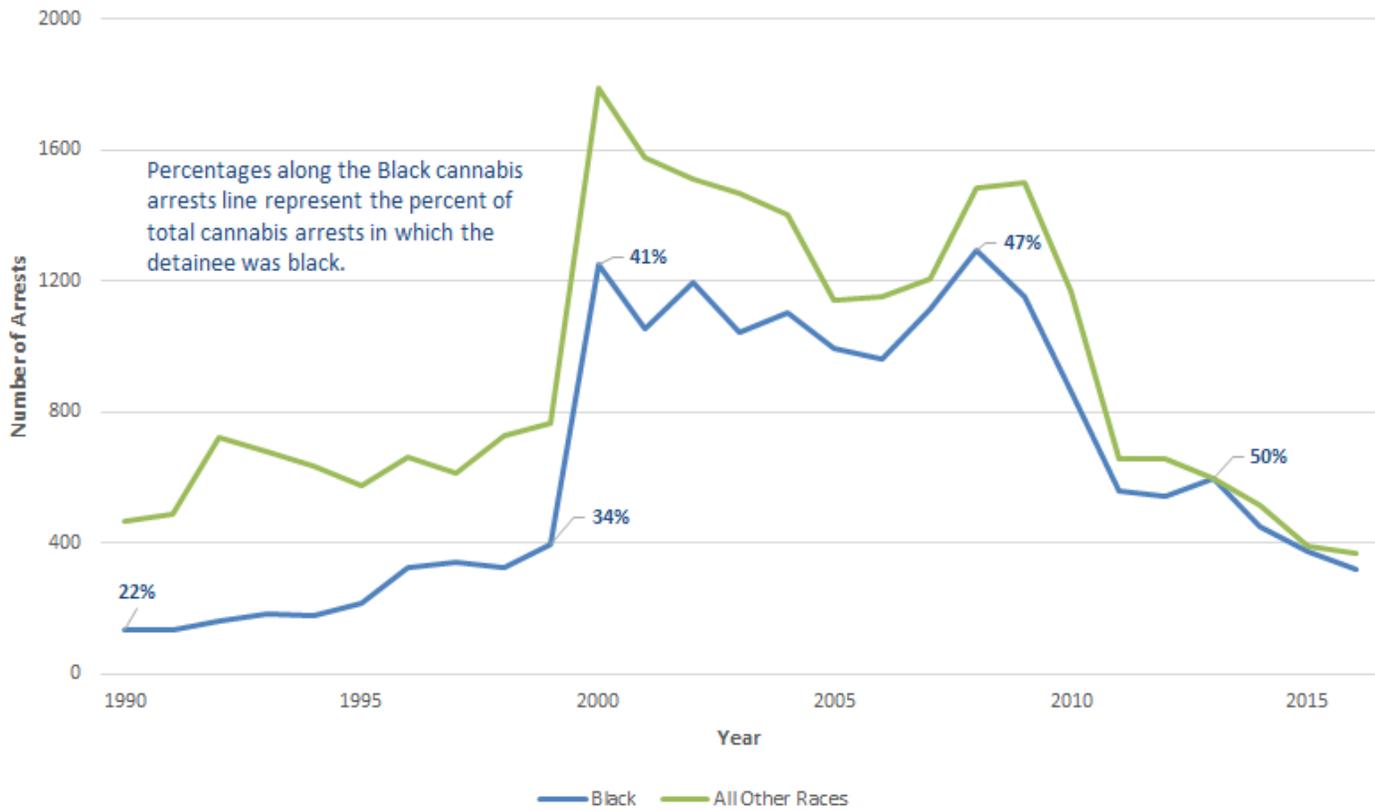
- African American girls and young women were until recently targeted for criminal law enforcement at much higher rates in San Francisco in comparison to all other demographic groups in the City. In 2007 (the peak year for youth drug arrests), San Francisco's African American female youth accounted for 40% of the felony drug arrests of African American female youths in California and had arrest rates 50 times higher than their counterparts in other counties. In 2014-2016, only one African American female youth was arrested in San Francisco for a drug felony.
- In 2007, 125 of the City's 265 youth drug felony arrestees were Latinos, 112 were African Americans, and 12 were Asians. In 2016, seven were Latinos, one was African American, two were Asians, and none were White.
- Racial patterns in drug arrests do not match racial patterns in drug abuse. Of the 816 people who died from abusing illicit drugs in San Francisco during the five-year, 2011-2015 period, 55% were non-Latino Whites, 22% were African Americans, 10% were Latinos, and 9% were Asians. In contrast, 43% of the city's 6,587 drug felony arrests during

Cannabis Arrests, 1990-2016

Patterns similar to those found in CJ CJ's analysis are apparent when specifically examining cannabis-related felony and custodial misdemeanor arrests. As demonstrated in Figure 5 below, from 1990-2016, Black⁷² individuals represent an increasingly larger percentage of total cannabis-related arrests in San Francisco. Though Latino arrests were not discernible from the data set, Asian cannabis arrests reflected only 1% of the total arrests from 1990 to 2016.

Figure 5. San Francisco Cannabis Arrests for Black Individuals vs. All Other Races (1990-2016)

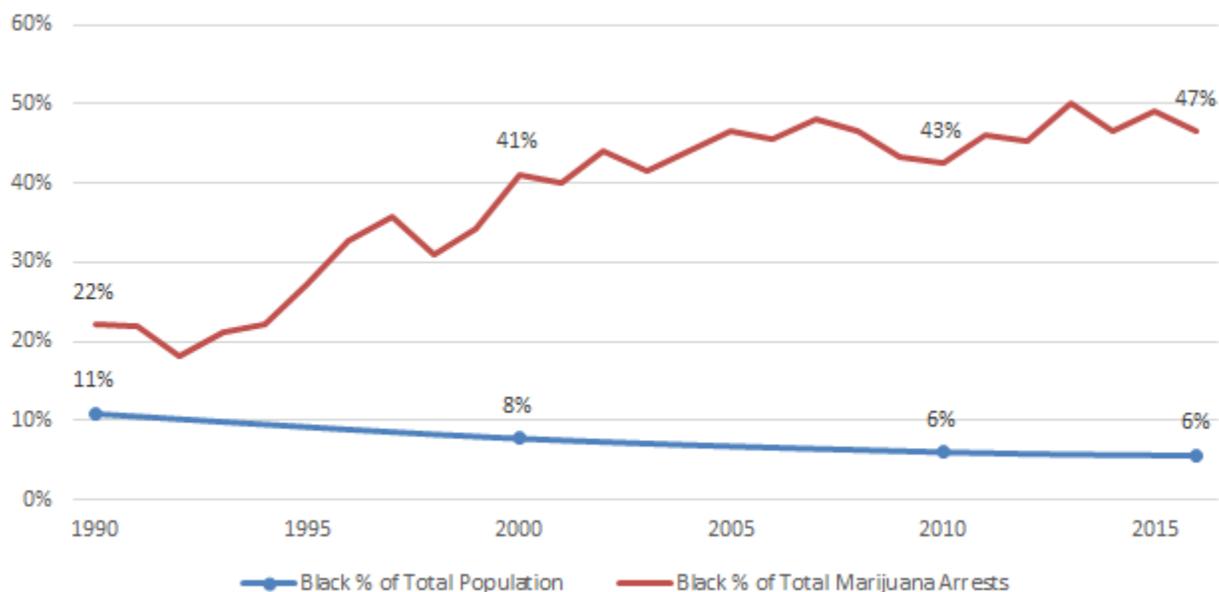
⁷² Arrests are racially coded in the data as "B" for Black or African American in the SFSO cannabis arrests data set, meaning individuals from the African diaspora may also be reflected in the data. This section of the analysis addresses the Black population in San Francisco with an understanding that an overwhelming majority of Black arrests likely involve African Americans.



Source: SFSO arrest data (1990-2016)

The jump in total arrests in 2000 was accompanied by a jump in the disproportionality of Black arrests. Arrests increased by 160% between 1999 and 2000, from 1164 to 3042. The percent of arrests featuring Black detainees went up from 34% to 41% of all arrests, a 20% increase. Despite the high percentage of Black cannabis arrests, Black San Franciscans comprised 7.8% of San Francisco's population in 2000. Even as the number of total arrests drastically falls around 2011, after the downgrading of misdemeanor cannabis possession to an infraction, Black cannabis arrests as a percentage of total arrests hovers around 50%. As Figure 6 shows, Black people only represented 6% of San Francisco's population in 2010.

Figure 6. Percent of Black Cannabis Arrests Compared to Black Population in San Francisco (1990-2016)

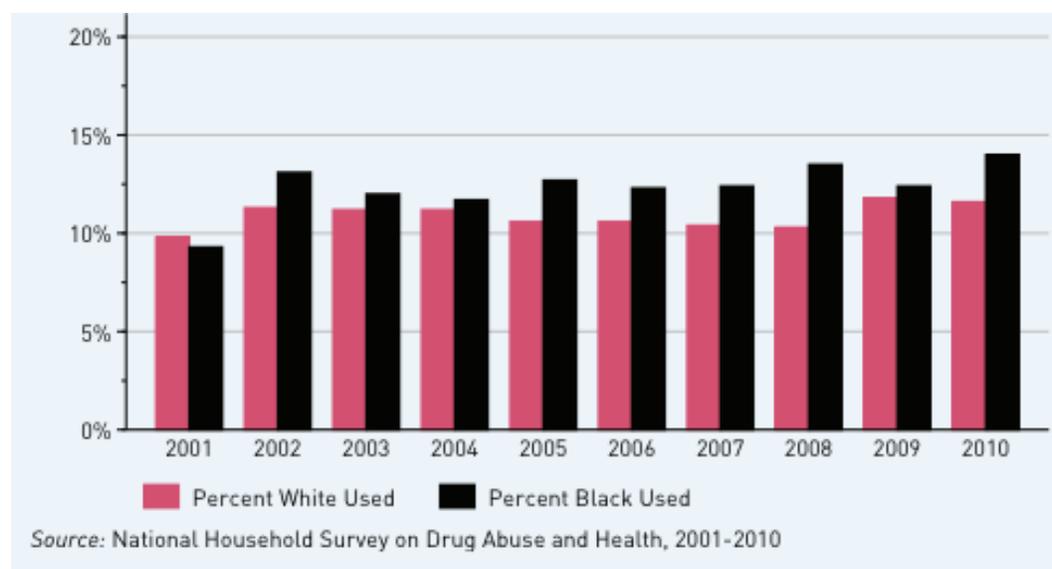


SOURCE: SFSO Arrests Data (1990-2016), U.S. Census (1990,2000,2010), American Community Survey (2016)

Identifying Disadvantaged Communities

As indicated by the racial disparities in San Francisco arrest and booking rates, the War on Drugs has produced disparate arrest rates across racial groups. And while rates of drug use and sale are commensurate across racial lines (see Figure 7), Black and Latino communities interact with the criminal justice system, including via arrests, bookings, and incarceration, at a rate far higher than their White counterparts.

Figure 7. Cannabis Use by Race (2001-2010)



There is a clear relationship between race, the criminal justice system, and economic opportunity, both in San Francisco and nationally. An Obama White House Report, *Economic Perspectives on Incarceration and the Criminal Justice System*,⁷³ uses economic analysis to understand the costs, benefits, and consequences of criminal justice policies. Notably, the report points out that having a criminal record in the U.S. makes it more difficult to find employment and those who have been incarcerated earn 10 to 40 percent less than similar workers without a history of incarceration.⁷⁴ The report also estimates that rates of parental incarceration are 2 to 7 times higher for Black and Hispanic children than White children, and parental incarceration is a strong risk factor for a number of adverse outcomes, including but not limited to mental health problems, school dropout, and unemployment. Finally, the report concludes that consequences of interactions with the criminal justice system can include not only negative impacts on employment, but also health, debt, transportation, housing, and food security, and

⁷³https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf

⁷⁴ Executive Summary, page 5: "Recent job application experiments find that applicants with criminal records were 50 percent less likely to receive an interview request or job offer, relative to identical applicants with no criminal record, and these disparities were larger for Black applicants."

on a national level, these impacts are “disproportionately borne by Black and Hispanic men, poor individuals, and individuals with high rates of mental illness and substance abuse.”⁷⁵

Overall, the White House report makes clear that interactions with the criminal justice system, including through enforcement of cannabis-related activity, can have negative and consequential economic impacts on the arrestee and their immediate family.

Identifying San Francisco’s Disadvantaged Community

San Francisco’s data on arrest rates by location is inadequate for the purposes of mapping arrest rates by geographic locations over an extensive period of time, and therefore understanding long-term impacts of over-policing in certain communities (i.e. prior to 2010). However, this analysis utilizes available location data of cannabis arrest (occurring between January 2010 - October 2017), for the purposes of understanding where high arrest rates overlap with economically disadvantaged communities (see Figure 9 on the following page).

For 2017, California Department of Housing and Community Development defines San Francisco’s extremely low-, very low- and low-income levels as a household annual income at or below 80% of the Area Median Income for a 4-person household, \$115,300.⁷⁶ AMI may be broken down into more exact figures by household size (see Figure 8). However, this analysis considers a low-income household to be any household with a total income less than 80% of San Francisco’s AMI, which is \$92,240. Figure 8 below shows the current areas of the City with the highest percentage of low income populations.

Figure 8. 2017 San Francisco Income Thresholds by Area Median Income (AMI)

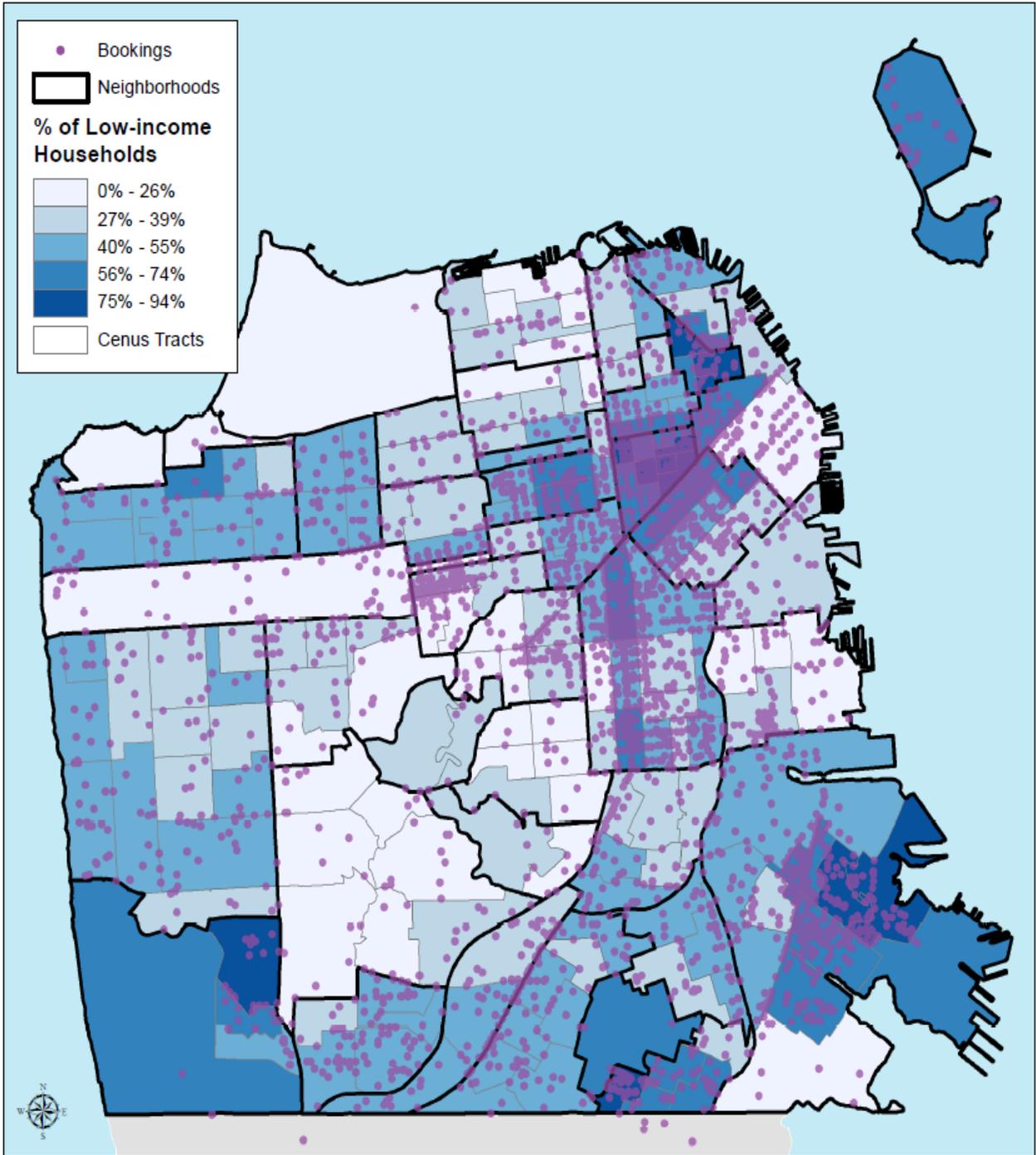
Number of Persons in Household		1	2	3	4	5	6	7	8
San Francisco 4-Person AMI: \$115,300	Extremely Low	\$27,650	\$31,600	\$35,550	\$39,500	\$42,700	\$45,850	\$49,000	\$52,150
	Very Low Income	\$46,100	\$52,650	\$59,250	\$65,800	\$71,100	\$76,350	\$81,600	\$86,900
	Low Income	\$73,750	\$84,300	\$94,850	\$105,350	\$113,800	\$122,250	\$130,650	\$139,100

Figure 9. Concentration of Low-Income Households at or Below 80% of Median Income by San Francisco Census Tract with Cannabis Bookings by Arrest Location (2010-2017)

⁷⁵ Conclusion,

https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf

⁷⁶ CA HCD Income Limits for 2017, <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/inc2k17.pdf>



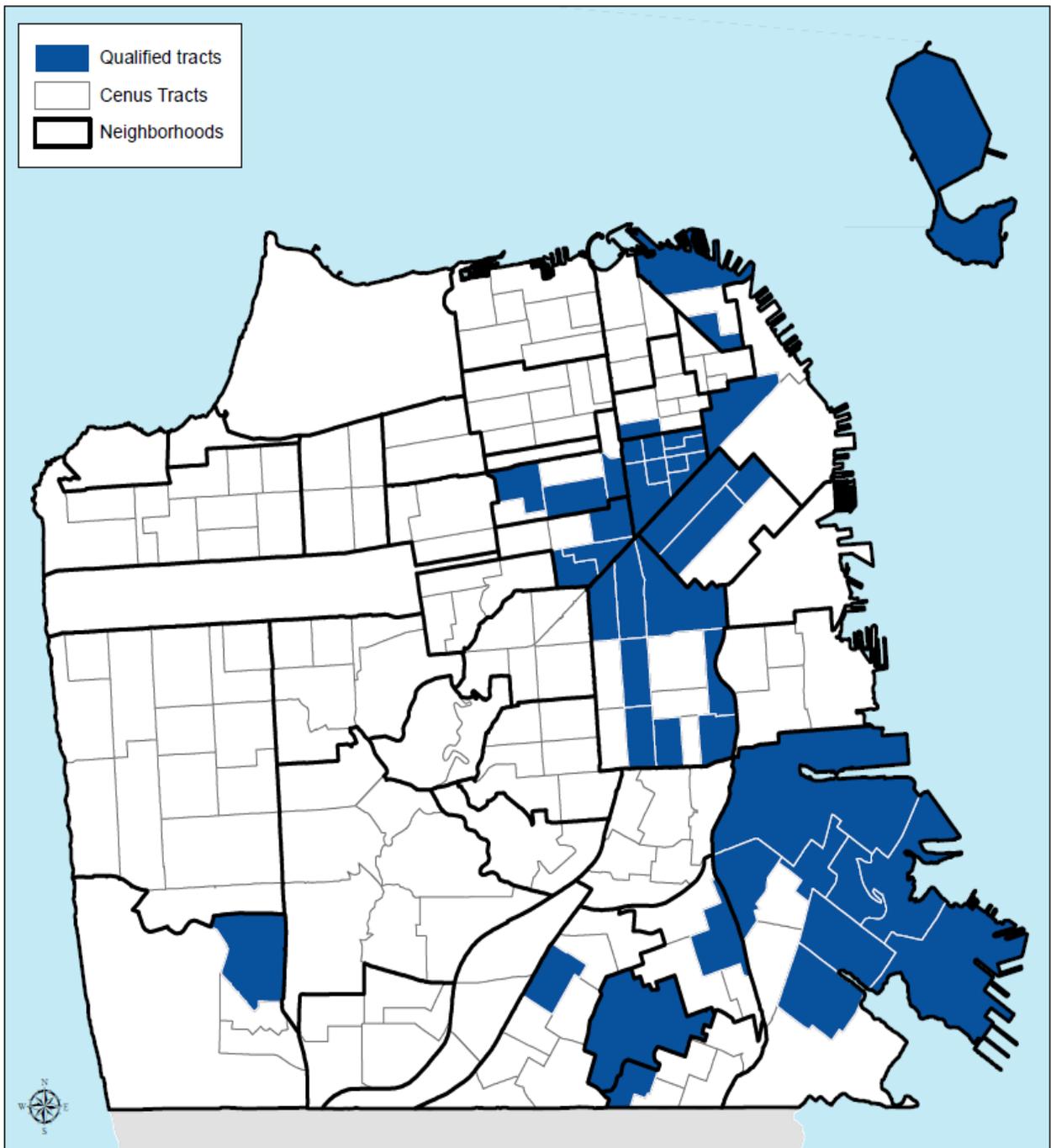
Source: Mayor's Office of Housing and Community Development (2017)

To further understand which communities within the City have experienced a disproportionately high number of arrests and potential economic disadvantage as a result, the map in Figure 10 is further refined to show census tracts with both a high number of low income households (defined as <80% AMI) and a significant number of cannabis related arrests. The median percentage of low-income households across San Francisco census tracts is 40.2% according to census data. Additionally, the median number of bookings per 100 people across census tracts for 2010-2016 was 0.43. Therefore, the map in Figure 10 highlights all census tracts that meet the following two criteria:

- A percentage of low-income households higher than the median value of 40.2%
- Bookings per 100 persons in the 70th percentile, or rather greater than 0.83

Of 197 possible census tracts, 43 met both criteria and are represented in blue in Figure 10 below.

Figure 10. Tracts with low income population (<80% AMI) above median percentage and bookings per 100 persons above 70th percentile



Source: Mayor's Office of Community Housing and Development (2017)

Figure 11. Qualified Tracts by Neighborhood, Unemployment Rate, Race Composition, and Cannabis Arrests

Neighborhood	Census Tract	Low-income Households (%)	Unemployment Rate (%)	Racial/ Ethnic Minority (%)	Cannabis Arrests per 100 Persons (2010-2017)
Bayview Hunters Point	9809	42.6%	15.8%	56.8%	39.11
	612	62.2%	15.3%	90.0%	7.29
	232	64.0%	14.8%	92.9%	4.75
	231.03	90.7%	17.7%	96.9%	3.35
	234	68.5%	14.9%	97.4%	2.18
	9806	58.3%	20.5%	88.9%	1.85
	231.02	76.0%	18.5%	94.7%	1.44
	230.01	53.6%	10.8%	93.1%	1.02
Excelsior	260.01	53.9%	7.2%	89.6%	1.01
South Beach	117	68.5%	9.9%	67.6%	5.87
Hayes Valley	162	47.7%	3.0%	38.2%	1.57
	168.02	42.8%	6.0%	43.3%	1.13
	168.01	40.6%	6.9%	38.6%	1.07
Lakeshore	332.01	75.5%	24.5%	56.8%	1.64
McLaren Park	9805.01	70.0%	23.6%	93.0%	1.14
Mission	177	41.1%	9.4%	58.8%	9.30
	201	66.2%	11.3%	71.6%	8.51
	209	59.6%	6.1%	64.1%	2.41
	228.02	54.7%	2.8%	66.0%	2.25
	208	48.5%	7.2%	67.5%	2.05
	229.03	41.3%	5.0%	67.2%	1.35

Neighborhood	Census Tract	Low-income Households (%)	Unemployment Rate (%)	Racial/ Ethnic Minority (%)	Cannabis Arrests per 100 Persons (2010-2017)
Nob Hill	229.01	47.5%	12.7%	74.2%	0.99
	202	49.2%	9.8%	46.6%	0.88
	120	70.4%	5.6%	56.9%	3.20
North Beach	106	64.3%	7.8%	66.3%	2.30
	101	51.1%	5.1%	52.9%	0.97
Portola	257.02	51.8%	5.8%	93.1%	0.94
South of Market	176.01	69.6%	4.6%	72.4%	19.41
	178.02	48.6%	7.3%	59.7%	2.71
	178.01	73.9%	6.7%	72.3%	1.67
	125.01	92.2%	7.1%	73.6%	29.18
	124.02	64.0%	5.3%	60.9%	10.97
	123.01	94.4%	5.0%	69.2%	7.41
Tenderloin	124.01	86.1%	9.1%	72.1%	7.21
	125.02	92.1%	14.1%	85.0%	6.17
	122.02	78.4%	11.8%	64.6%	3.10
	122.01	71.0%	6.5%	63.3%	2.35
	123.02	66.7%	7.2%	61.1%	2.31
Treasure Island	179.02	68.1%	13.3%	71.9%	1.16
Visitacion Valley	605.02	82.2%	22.2%	96.6%	2.31
Western Addition	161	71.7%	10.1%	79.6%	1.71
	158.01	46.6%	12.8%	65.0%	1.35
	160	54.5%	4.9%	51.8%	0.98

Source: American Community Survey (2016), SFSO Arrest Data (2010-2017), DataSF (2017)

As Figures 10 and 11 show, more than half of the qualified census tracts fall in Bayview Hunters Point, the Mission, and the Tenderloin combined. These neighborhoods also all feature census tracts with significant rates of unemployment and some of the highest rates of cannabis arrests. It should be noted that this analysis does not establish direct correlation between cannabis arrest and low-income households. For instance, the high number of students residing in Lakeshore may be a driving factor behind the lower income levels present in census tract 332.01, rather than the high cannabis arrest rates. However, given the existing literature on the relationship between economic opportunity and the War on Drugs, the tracts identified above are the places where that relationship is most likely to have had an adverse economic impact.

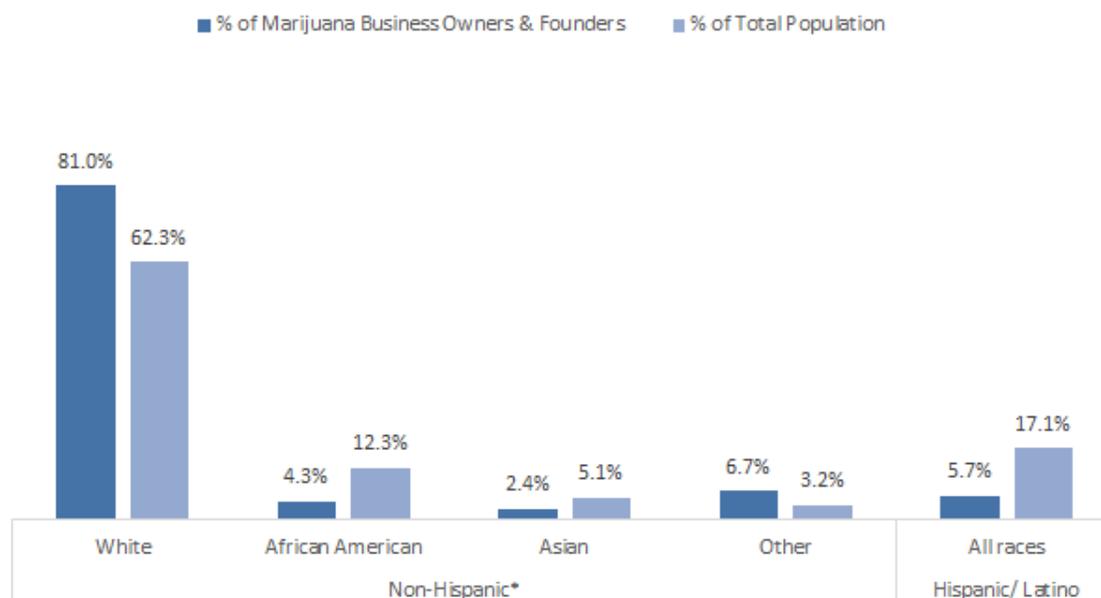
Existing Cannabis Industry Data

Given the infancy of the legal cannabis market and the continued illicit nature of the industry in a federal context, there is a dearth of quality demographic data on cannabis industry professionals. The existing industry, as discussed in this section, relies on small sample surveys, which limits confidence in how these numbers can be applied to larger populations. However, these surveys are our best look into this emerging industry.

National Industry

Marijuana Business Daily conducted an anonymous online poll of 567 self-identified cannabis industry business owners and executives, shedding some light on the composition of the national market.⁷⁷ Ethnicity was not treated distinct from race in the Marijuana Business Daily survey, instead requiring Latino respondents to choose between responding to the survey with their race or their ethnicity, not both. It should be noted that this has implications for the data's accuracy. Still, according to the survey, 19% of respondents were racial/ethnic minorities, though racial/ethnic minorities comprise 38.7% of the national population. Under representation affects non-Hispanic African Americans and Asians as well as Hispanic/Latino communities. Non-Hispanic African Americans and Latinos face the highest level of disproportionality, each owning only a third of the market that their share of the national population would imply.

Figure 12. Survey of Race & Ethnicity in the National Cannabis Industry



**Note: The chart above assumes all survey respondents that did not identify as Hispanic/ Latino are non-Hispanic, however this may not be the case given respondents were not given the option to identify both their race and ethnicity.*

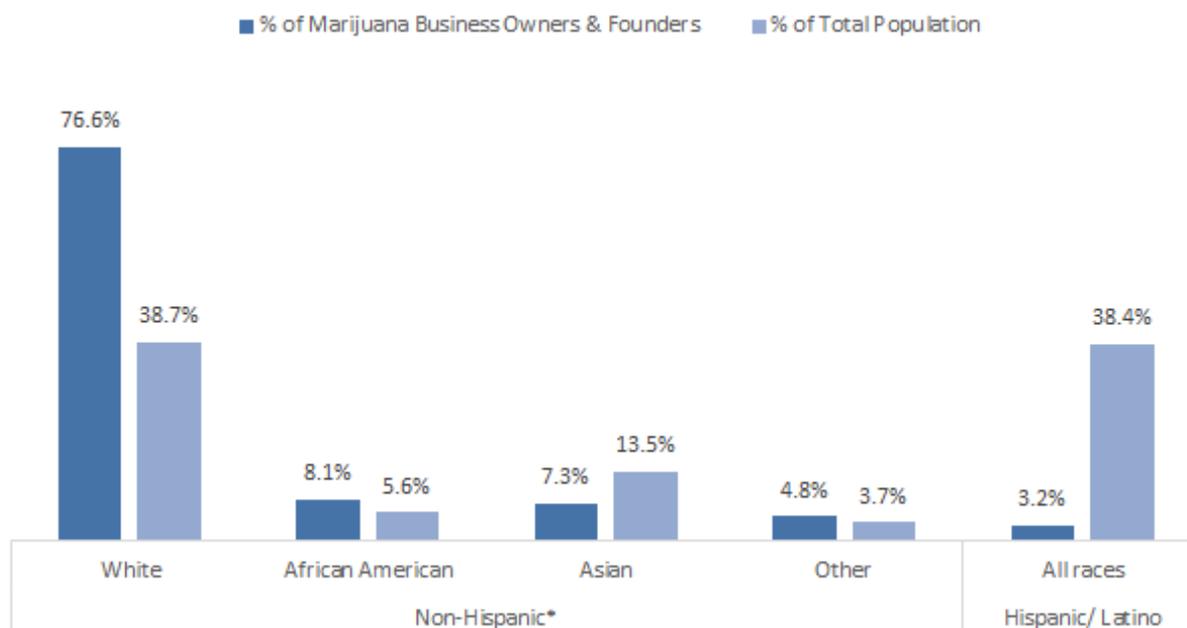
Source: Marijuana Business Daily (2017), American Community Survey (2016)

⁷⁷ Marijuana Business Daily (<https://mjbizdaily.com/women-minorities-marijuana-industry/>)

California Industry

Almost a third of respondents to the Marijuana Business Daily survey reported that their business headquarters were in California. This is reflective of California's share of the national market, in which California accounted for 27% of 2016 legal market sales.⁷⁸ The state also boasts the highest percentage of minority-owned cannabis businesses, according to the survey. Over 23% of California respondents were racial minorities. In comparison to the state's total population, which is 61% comprised of racial/ethnic minorities, there is still significant under representation in the industry.

Figure 13. Survey of Race & Ethnicity in the California Cannabis Industry



**Note: The chart above assumes all survey respondents that did not identify as Hispanic/Latino are non-Hispanic, however this may not be the case given respondents were not given the option to identify both their race and ethnicity.*

Source: Marijuana Business Daily (2017), American Community Survey (2016)

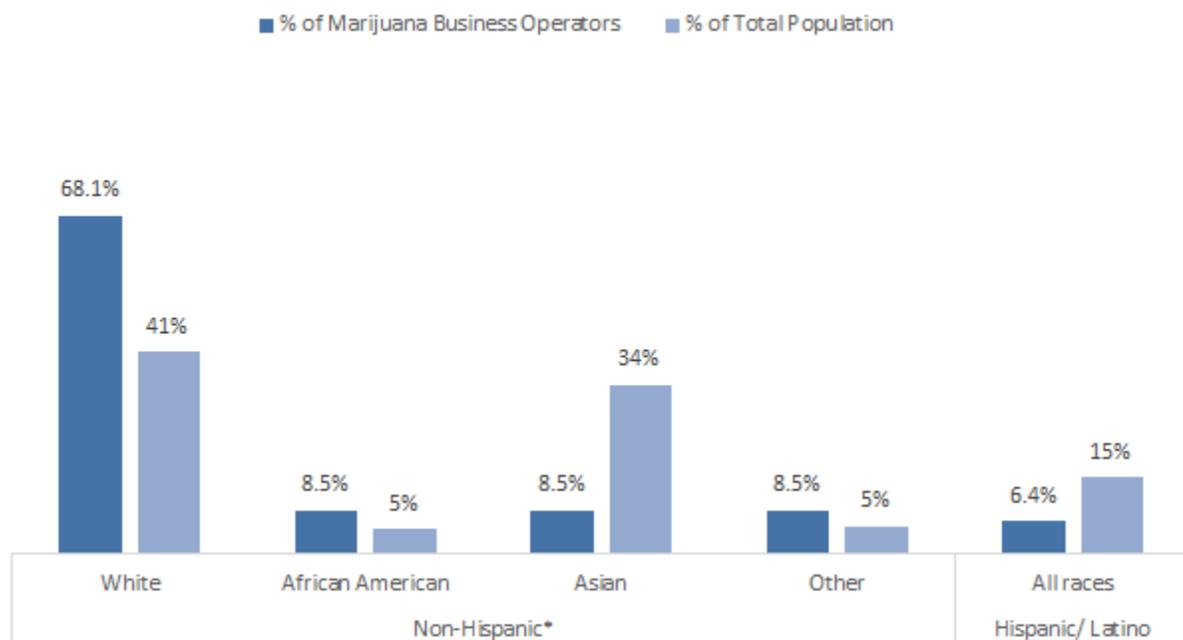
San Francisco Industry

A small 77-person survey conducted by the San Francisco chapter of the California Growers Association found more diversity in the cannabis industry on a local level than within the nation and the state. Respondents were able to self-identify their race/ethnicity in a free form field. Figure 14 shows that 66% of respondents currently operate a cannabis business in the City, and of them, 32% identified as a racial or ethnic minority. This is a higher percentage than the state's industry as reflected by the Marijuana Business Daily Survey, meaning the San Francisco market may be a heavy influence on the level of diversity in California's cannabis industry. Still, racial and ethnic minorities are 58% of San Francisco's total population (ACS 2016), 26 percentage points higher than the percentage of racial and ethnic minority business operators in the survey. The Asian community is especially underrepresented in the local market, representing 34% of the San Francisco population but only 8.5% of cannabis business

⁷⁸ SF Weekly -- <http://www.sfweekly.com/news/california-leads-nation-in-legal-marijuana-sales/>

operators. Additionally, 31% of marijuana business operators responding to the survey were female, a figure well below parity.

Figure 14. Survey of Race & Ethnicity in the San Francisco Cannabis Industry



**Note: The chart above assumes all survey respondents that did not identify as Hispanic/Latino are non-Hispanic, however this may not be the case. Source: CA Growers Association - San Francisco Chapter (2017), American Community Survey (2016)*

IV. Barriers to Entry

Key Barriers to Entry into the Adult-Use Cannabis Market

This section provides an overview of factors or barriers that can make entry into the adult-use cannabis market difficult. The barriers to entry identified in Figure 15 are not an exhaustive list, but rather a list of key factors that may be particularly difficult to overcome for communities that have been disproportionately impacted by cannabis drug enforcement. Equity program components should be designed to mitigate these barriers.

Category	Barrier
Financial	Access to Capital or Financing
	Access to Real Estate
	Licensing and Regulatory Fees
Technical	Business Ownership
	Legal and Regulatory
	Tax
	Awareness of Equity Programs
Criminal	Background Checks
Other	Geography
	Distrust in Government

Financial Barriers

All new businesses face financial requisites to enter a new market. Access to capital or business financing is necessary to purchase the equipment and labor to get any business up and running. For individuals disproportionately targeted for drug enforcement and consequently, disadvantaged socio-economically during the last decades of cannabis prohibition, these financial barriers can be particularly difficult to overcome.

Access to Capital or Financing

Even post-decriminalization of marijuana offenses in California, the Drug Policy Alliance and the ACLU found that the cost of marijuana-related infractions “can be a substantial burden for young and low-income people” and was “particularly acute for black people and young men and boys.” The cumulative effect of economically-disadvantaged neighborhoods that have been disproportionately targeted with enforcement (often with punitive monetary fines) means that many individuals do not have the personal capital to invest in a new business.

Additionally, these individuals are less likely to be able to secure traditional business financing or even open traditional checking accounts associated with their business. As major banks are federally regulated and cannabis remains illegal at the federal level, most banks refuse to offer services to cannabis businesses. Without the initial capital to launch a business venture or to sustain operating costs until profits are realized, these individuals are rendered unable to enter the adult-use cannabis market.

Access to Real Estate

Closely related to financing, but of acute concern in San Francisco, is access to real estate. New businesses need a location from which to operate, and San Francisco has an extremely competitive real estate market with some of the highest rents and lowest vacancy rates for commercial and retail properties. Economically-disadvantaged individuals may find San Francisco real estate to be prohibitively expensive, and cannabis entrepreneurs may find banks unwilling to extend loans.

Licensing and Regulatory Fees

Cannabis businesses intending to operate in San Francisco will be required to obtain a license and pay any applicable fees to legally operate a business. In addition to fees for the license itself, these fees may include regulatory costs (e.g., building inspection, security requirements) as well as license renewal fees to continue operations. Costly licenses combined with complex regulatory requirements disproportionately disadvantage lower-income individuals.

Technical Barriers

Technical barriers to entry include aspects of business planning, ownership expertise, and operational practices that are typically knowledge-based barriers.

Business Ownership

Individuals starting a new business may lack the technical knowledge related to business plan creation, accounting, or sales forecasting that are beneficial to any new venture. While these business practices are not unique to cannabis, disadvantaged individuals will have a harder time paying for business classes, technical consultants, and/or contracting out specialized work.

Cannabis-based businesses face an additional technical knowledge gap of learning industry-specific best practices in an industry that has been historically secretive and underground, including cultivation techniques and manufacturing processes used in specialized products that are compliant with San Francisco regulations.

Legal and Regulatory

Compliance with the legal and regulatory requirements surrounding an adult-use cannabis business is an unpredictable barrier to entry given the current unestablished regulatory framework. Cannabis businesses will require a license to operate from both the State of California and the City and County of San Francisco. San Francisco's licensing process and conditions for operation are not yet established and could be relatively complex to navigate, especially for first-time entrepreneurs. These barriers are more difficult to navigate for lower-income individuals who may not be used to working in this environment and/or unable to afford specialized consulting or legal assistance.

Tax

Cannabis businesses will be subject to traditional state and local business taxes that often require some amount of expertise to ensure proper compliance. Further complicating matters is that cannabis businesses will be subject to a state and local tax system that has not yet been fully established. Without a clear picture of the tax regime, entrepreneurs are unable to estimate their tax burden even if they could accurately forecast all other costs. In this atmosphere, well-funded businesses that can build in a financial contingency for unforeseen tax liability will have an advantage over less economically-advantaged ventures.

Awareness of Equity Programs

If established, an equity program can help mitigate the other barriers to entry presented in this section. A program is only helpful, however, if cities and states conduct the necessary stakeholder outreach such that potentially eligible persons are aware of the program and its benefits as early as possible.

The equity component of licensing becomes particularly important when the total number of cannabis businesses are capped at a certain number, given that well-resourced operators will be able to move toward licensing faster. In a capped licensing framework, there is increased urgency to ensure that potentially-eligible applicants are educated on the equity program before applications are accepted, so that they are not crowded out of a finite number of licenses.

Criminal Barriers

California's Proposition 64 states that applicants cannot be denied a cannabis business license solely because of a prior drug conviction. It is important to recognize, however, that a state license is not the only barrier to entry that can be related to a drug conviction. A criminal record can limit an individual's ability to gain employment, apply for government assistance, or even obtain a loan. In the case of individuals convicted of a drug offense, these cumulative effects coupled with fines, court costs, incarceration, and other subsequent disadvantages can be insurmountable.

Background Checks

While Proposition 64 states that drug offenses will not bar an individual from licensure, other entities that an entrepreneur may encounter can still utilize background checks. For example, a bank can utilize a background check as part of evaluating a loan application. Proposition 64 does not require expungement of previous cannabis convictions from individual's criminal records, meaning that a criminal record can still pose a barrier to entry for many applicants.

Other Barriers

Geography

Geography can pose as a barrier to entry when allowable zones for cannabis businesses are too far from potential entrepreneurs. While San Francisco's recreational cannabis regulations are not yet established, many cities restrict where these businesses can exist through zoning. Geography will be an important consideration to balance in eventual regulation: on one hand, neighborhoods that have been disproportionately impacted by the War on Drugs should have access to the business opportunities provided by this new market; on the other, there are unknown and potentially negative impacts (such as health impacts) of these businesses on the surrounding neighborhood, and they should not be concentrated in areas already reeling from disproportionate drug enforcement.

Distrust in Government

An important barrier to entry to address is the perception of the current climate surrounding cannabis and legalization. While some individuals may feel encouraged that legalization of commercial and recreational marijuana may mitigate historically racist drug enforcement, others may wonder why a cannabis conviction will stay on an individual's criminal record or how the state will handle federal requests for information about cannabis business operators. The current ambiguity around what is legal at the local, state, and federal levels may create a barrier to entry among populations that do not trust the government to act in their best interest.

As discussed in the *Equity Analysis* section of this report, arrest and conviction of cannabis offenses have disproportionately affected communities of color, despite studies showing relatively similar rates of use of cannabis between racial groups. In this context, trust between these communities and the police or government has been low. These communities may be particularly wary of establishing a registered business in an industry in which they have been historically targeted for criminal enforcement.

V. Cannabis Equity Program Benchmarking

Overview of Peer Jurisdictions' Efforts in Equity in Adult-Use Cannabis Implementation

Since the legalization of medical and adult-use cannabis in several states across the country, many cities and states have recognized the inequities imposed by the War on Drugs and implemented programs to achieve equity goals and mitigate barriers to entry into this emerging market.

This section provides a broad overview of equity frameworks in other jurisdictions that are already experimenting with or implementing equity programming in adult-use cannabis. For a summary overview of equity program components and associated mitigated barriers to entry discussed in the previous section, see Appendix C.

To synthesize various possible equity programmatic elements as well as key considerations and lessons learned, the Controller's Officer researched local and state adult-use cannabis programs and conducted telephone interviews with the following peer jurisdictions:

- Oakland, CA
- Los Angeles, CA
- Denver, CO
- Massachusetts

California state law regarding cannabis delegates much autonomy to localities over licensure and regulation of cannabis operations. Oakland is the only city in the country to currently have an implemented cannabis equity program. Los Angeles presented a Cannabis Social Equity Analysis to its City Council in October 2017, detailing recommended criteria for equity programming. As the only California peers experimenting with equity frameworks, both are profiled in detail in the figures below.

Massachusetts is also considering equity concepts, but operates on a very different licensing system than California as the state retains more control over licensure and regulation. Denver does not have an established equity program, but has been licensing adult-use cannabis since 2014⁷⁹ and is an important comparison as it was the first major city to legalize adult-use of cannabis. Finally, a number of states have recently experimented with equity concepts for either medical or adult-use cannabis, which are also summarized at the end of this section.

⁷⁹ The Denver Collaborative Approach: Leading the way in municipal marijuana management (2017 Annual Report).

Oakland

The City of Oakland's Equity Assistance Program was established by city ordinance and is among the most well-developed programs focused on cannabis equity in the nation. Although it currently only applies to medical dispensary permits, Oakland intends to open the program to adult-use applicants as the state begins to issue adult-use permits in 2018. The program utilizes residency, geographical area, and income conditions to qualify for eligibility in the program as shown in Figure 16 below.

Figure 16. Eligibility Requirements for Oakland's Cannabis Equity Program	
Must be:	
(1) an Oakland resident,	
AND	
(2) earn 80% or less of Oakland average median income (<\$52,650),	
AND	
(a) have lived within 21 high-enforcement police beats for 10 of last 20 years.	OR
(b) have been arrested and convicted of a cannabis crime in Oakland after 1996.	

Oakland's equity program intends to address financial barriers to entry through a no-interest loan program offered to qualified equity applicants. The funding for this loan program will be made up of local tax revenue from cannabis businesses, but loans will not begin to be distributed until the loan fund reaches a threshold amount of \$3.4 million. Until that time, the permitting of cannabis businesses has been restricted such that permits must be issued to equity and general applicants at a 1:1 ratio – if one equity applicant is permitted, one general applicant can be permitted. After this initial phase, permits will be issued on a first-come, first-served basis, but equity applicants will be eligible for additional benefits (see Figure 17), including technical assistance and fee waivers.

Figure 17. Oakland Cannabis Equity Assistance Program Benefits	
Benefit	Details
Incubator Program	During the initial (restricted) permitting phase, non-equity applicants can receive priority permit issuance for providing an equity applicant with real estate or free rent for three years.
Business Technical Assistance	Oakland has partnered with local consultants and nonprofits to provide both business technical assistance, such as business plan workshops.
Industry Technical Assistance	Oakland has also partnered with local organizations to provide cannabis-specific assistance, such as cultivator permit compliance classes.
Zero-Interest Loans	Equity applicants can receive zero-interest startup loans to cover the costs of establishing a cannabis business.
Fee Waivers	Equity applicants are not assessed a fee for Oakland City permitting.

Oakland has been accepting applications under this equity framework since the end of May 2017 (see Figure 18). It has been tracking data regarding general and equity applicants, and currently have 216 completed applications with a ratio of 106 general applicants to 110 equity applicants. In addition, 27 applicants applied as an incubator with 17 more expressing interest in becoming an incubator.⁸⁰

Figure 18. Oakland Applicant Data (May 2017 – Sept 2017)	
Applicant Category	Completed Applications
General Applications (non-equity)	106
Equity Applications (based on residency)	85
Equity Applications (based on conviction)	25
Total Complete Applications	216

As the only major city to have an implemented equity program, Oakland is instructive in what it implemented in its equity program and what it is seeing during the early stages of permitting. Figure 19 below is a summary of Oakland's key components of its equity programming and a brief discussion of key considerations and lessons learned. Green bullets represent potentially advantageous factors, while red bullets indicate potential challenges.

Figure 19. Oakland Equity Assistance Program Considerations	
Equity Component	Key Considerations
Eligibility Criteria	<ul style="list-style-type: none"> ● The program is targeted to high-cannabis-enforcement zones or cannabis convictions, which clearly defines the eligible population. ● Only Oakland residents are eligible, which does not account for recent years of displacement of low-income individuals. ● Convictions only include those within Oakland, which does not include Oakland residents convicted anywhere outside the city.
One-for-One Permitting Framework	<ul style="list-style-type: none"> ● Ensures a mandatory level of participation by eligible applicants while other program components are established. ● Guards against equity applicants being crowded out of limited number of permits by more well-resourced competitors. ● Potential for artificial bottleneck if there are insufficient equity applicants (current data from Oakland does not show this to be the case). ● Oakland caps dispensary permits at eight annually. This means that while half of new dispensaries will be from equity applicants, the discrete number of permits is low (four). ● There is potential for market distortion given the cap on distribution points (dispensaries) with no cap on cultivation or manufacture facilities.
Incubator Program	<ul style="list-style-type: none"> ● Allows general applicants to receive a benefit for providing benefits to equity applicants, which supports Oakland's equity goals at no cost to the city. ● Only applies to real estate; other potential benefits, like money, technical assistance, or equipment are not included. ● The program provides a benefit to well-resourced applicants who have the space and/or

⁸⁰ Per interview with City of Oakland.

Figure 19. Oakland Equity Assistance Program Considerations	
Equity Component	Key Considerations
	capital to provide benefits to equity applicants. Small- and medium-sized operators are relatively disadvantaged against larger competitors who can afford this benefit.
Business Technical Assistance	<ul style="list-style-type: none"> ● Use of contracted organizations allows Oakland to minimize city staff while leveraging local industry expertise. ● Contracting requires up-front funding before adult use tax revenue is collected.
Zero-Interest Loans	<ul style="list-style-type: none"> ● Provides significant benefit to equity applicants who would otherwise be unable to afford – or even obtain – a private business loan. ● The program is dependent upon tax revenue generated by permits to build up enough initial capital to begin issuing funds, but funding streams are potentially limited by the dispensary cap and the one-for-one permitting framework.

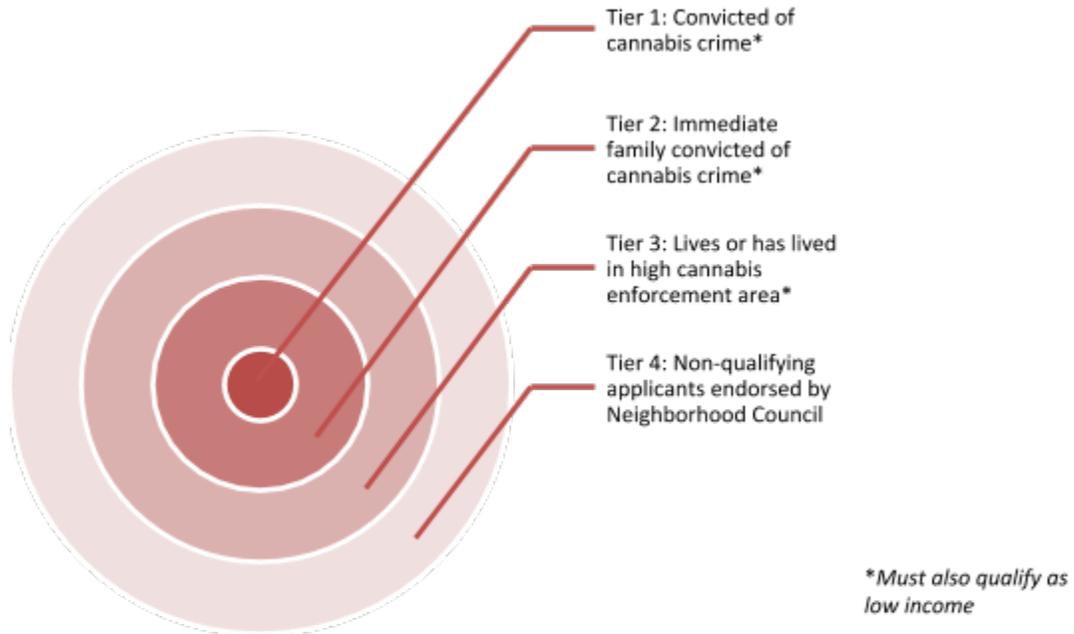
Los Angeles

Los Angeles' equity program has not yet been established in city ordinance, but an in-depth equity report was delivered to the City Council in October with recommendations that provide guidance on a potential program framework. The report provided options for both program eligibility and services that will be offered to qualifying applicants. While many options were presented, the city ordinance has not yet been passed, so it is currently unknown what exact components will be implemented. As commercial permit applications will be available starting in December 2017, Los Angeles anticipates that its equity program will be implemented as early as spring 2018.

Los Angeles has proposed having two windows for applicants. The first window will permit already-established medical cannabis dispensaries that have been compliant with city regulations. The second window will permit operations on a one-for-one basis: one permit for a general applicant for every permit for a qualified equity applicant (50% general and 50% equity permits). This one-for-one framework is recommended to continue for the life of the equity program, which is currently undetermined.

Los Angeles' Cannabis Social Equity Analysis also proposes a tiered framework (see Figure 20) of eligibility based on the direct and indirect impacts of cannabis law enforcement in an effort to make its equity program as inclusive as possible. Individuals who have been arrested for a cannabis crime (in California) are prioritized, followed by immediate family, then neighborhoods impacted by high enforcement levels, and finally neighborhood-endorsed applicants who are not otherwise qualified but provide a benefit (space, or assistance and capital) to a qualified applicant.

Figure 20. Los Angeles Equity Program Recommended Eligibility Tiers



Each tier of eligibility comes with a different suite of benefits or programming offered to the applicant as detailed in Figure 21 below. A Tier 1 applicant is offered access to all programming, including two benefits not offered to any other group: (i) a City-operated no-interest or low-interest loan program and (ii) an incubator/industry partnership program. Tiers 2 through 4 offer a proportionally reduced set of benefits.

Figure 21. Los Angeles Equity Program Recommended Benefits by Tier							
		Recommended Benefits					
Tier	Eligibility Criteria	Priority Processing	Permitting Assistance	Business Training	Fee Waivers	Loan Program	Incubator/ Partnership Program
Tier 1	Low-income resident of LA with a prior cannabis conviction in CA.	✓	✓	✓	✓	✓	✓
Tier 2	Low-income resident of LA with immediate family member convicted of a cannabis-related crime in CA.	✓	✓	✓	✓		
Tier 3	Low-income resident of LA who lives or has lived in eligible districts.	✓	✓	✓	*		
Tier 4	Non-qualifying applicants who are endorsed by a Neighborhood Council.	✓	✓	✓			

**Eligible for fee deferral*

Figure 22 provides details regarding proposed benefits offered to equity applicants.

Figure 22. Los Angeles Recommended Cannabis Equity Program Benefits	
Benefit	Details
Waived Fees	Permitting and inspection fees for qualifying applicants are waived.
No- or Low-Interest Loans	City-managed loan fund offering no or low-interest loans to eligible applicants.
Incubator/Industry Partnership (Type 1)	General applicants can provide space or capital to eligible applicant to be eligible for a tax rebate and potential qualification as Tier 4 equity applicant. Equity permittees would also receive tax rebate.
Incubator/Industry Partnership (Type 2)	Landlords with currently unpermitted cannabis operations (which is punishable by punitive fines) can receive fine waivers if they provide space to equity applicants.
Technical Assistance	Assistance with navigation of City permitting requirements and compliance.
City Property	City-owned property not eligible for affordable housing may be made available for free or reduced rent to equity applicants.
Conditional Approval	Equity applicants may be eligible for conditional approval of a permit without securing real estate for their operation.

In addition to equity program components for which only eligible permittees qualify, the Los Angeles report also recommends several general conditions or programs, such as workforce commitments and diversity plans from new permittees, community reinvestment, education programs, and expungement events in highly-impacted communities, which are further detailed in Figure 23 below.

Figure 23. Los Angeles Recommended General Equity Components	
Benefit	Details
Streamlining	A streamlined permitting structure and a suite of development standards will reduce operational downtime spent in application review, which disproportionately impacts low-income applicants.
Phased Permitting	After already-existing medical businesses are permitted (grandfathered), equity and general applicants will be permitted on a 1-for-1 basis (50% permits to equity applicants).
Education & Outreach	Outreach and educational programs targeted to potential applicants to spread awareness of the equity program.
Community Reinvestment	Reinvestment fund and programming earmarked for communities disproportionately affected by cannabis enforcement.
Expungement	Expungement events held in disproportionately affected communities to help with criminal expungement.
Workforce	All businesses (not just equity) must commit to 50% eligible workforce (low-income or impacted) and submit a diversity plan.

While the Cannabis Social Equity Analysis made the above equity programming recommendations, there has been no establishment of this program in legislation yet. As such, which combination of components are included the final program remains to be seen, and there is no programmatic data currently available. Nonetheless, for the purpose of this report, Figure 24 includes a summary of these recommended equity programming components and a brief discussion of its key implementation considerations.

Figure 24. Los Angeles Equity Program Considerations	
Equity Component	Key Consideration
Eligibility Tiers	<ul style="list-style-type: none"> ● LA's eligibility framework provides a progressive level of benefits depending on an applicant's direct or indirect impacts from cannabis enforcement. ● Conviction-based eligibility includes a conviction anywhere in California, in recognition that disproportionate arrests and convictions happen in many places throughout the state and should not be limited to Los Angeles. ● As the program is not yet established, which benefits are approved in the final program are unknown. If certain program elements are not approved, it may arbitrarily impact what each eligibility tier qualifies for.
Community Reinvestment	<ul style="list-style-type: none"> ● Recommendations include the use of adult use revenue for community reinvestment programs. These programs have the potential to improve opportunity in neighborhoods most disproportionately impacted by the War on Drugs.
Conditional Approval	<ul style="list-style-type: none"> ● This allows applicants who have not yet secured real estate to avoid non-operational downtime while their permit application is under review. This offers flexibility to applicants who do not have the resources to carry the cost of commercial rents while they are not operating business.
Community Outreach & Education	<ul style="list-style-type: none"> ● These programs can educate potentially eligible individuals about equity programming. These can be targeted to neighborhoods and communities that were highly impacted by the War on Drugs.
Expungement Events	<ul style="list-style-type: none"> ● Criminal records expungement can be held in communities that were highly impacted by the War on Drugs. Expungement can mitigate other financial barriers such as denial of business loans based on conviction history.
Type-2 Incubators	<ul style="list-style-type: none"> ● To incentivize unpermitted operators to enter the legal market, landlords can receive waivers from significant punitive fines for illegal operations on their property if they offer free space or rent to eligible equity applicants.
City Property	<ul style="list-style-type: none"> ● It is recommended that LA consider city-owned property that is not eligible for affordable housing as potential space for eligible applicants to operate for free or reduced rent. ● This may not be feasible in San Francisco, which faces a similar affordable real estate crunch in a much smaller geographical footprint than LA. There are also legal implications to this policy that must be considered.

Massachusetts

Massachusetts approved adult-use cannabis on the November 2016 ballot and has not yet finalized its state licensing framework; although it anticipates issuing licenses in the summer of 2018. In contrast to California, local jurisdictions in Massachusetts are limited to zoning control over cannabis businesses while the state retains control over almost all licensing conditions and regulations. The primary equity provisions are currently comprised of language that was inserted into state legislation, requiring that certain equity provisions be included in the eventual state regulation. These are summarized in Figure 25 below.

Figure 25. Required Equity Provisions in Massachusetts State Law

Provision	Details
Agency Representation and Legislative Mandates	<ul style="list-style-type: none"> ● The Cannabis Control Commission must include a certain number of commissioners and advisory board members with backgrounds or experience in social justice and minority business ownership. ● The Commission must adopt rules to promote participation in the cannabis industry by people from communities that have been disproportionately harmed by cannabis prohibition and enforcement. ● A subcommittee of the Advisory Board will develop recommendations on women, minority, and veteran-owned businesses, and local agriculture and growing cooperatives.
Criminal Record	<ul style="list-style-type: none"> ● People with past cannabis possession charges are eligible to have their records sealed and there will be an awareness campaign to inform the public. ● Past cannabis offenses will not disqualify an individual from working or owning a cannabis business (except sale to a minor).
Priority Licensing	Priority licensing for applicants that promote economic empowerment in communities disproportionately impacted by cannabis arrest and incarceration.
Spending Priorities	Fees and revenue will go to a fund used for restorative justice, jail diversion, workforce development, industry technical assistance, and mentoring services.
Variable Co-op Fees	Cultivator license fees for cooperatives (co-ops) will be commensurate with cultivation size to ensure small farmers' access to licenses.
Data Collection and Study	<ul style="list-style-type: none"> ● Data collection that tracks diversity in the industry is required. ● The Cannabis Control Commission must report annually on data collected and research any evidence of discrimination or barriers to entry. ● Additional licensing rules will be promulgated if evidence of discrimination or barriers to entry is found.

The Massachusetts Cannabis Control Commission is also doing statewide listening sessions with the public to solicit comments and concerns about the eventual regulatory framework. Equity-focused organizations and interested lawmakers have spoken at these sessions to encourage the Commission to implement equity programming and frameworks.

Denver

The first retail sales of adult-use cannabis in the United States began in Denver on January 1, 2014. Denver accounts for 40% of the state of Colorado’s cannabis retailers and reached \$288.3 million in sales in 2016.⁸¹ Although Denver does not have an equity program that explicitly promotes equitable ownership and employment in the cannabis industry, it nevertheless can provide important insights as a city that is much farther ahead in the permitting framework than San Francisco.

Denver regulates the number of permits, manner (i.e., the sales conditions), zoning, and hours of adult-use cannabis. When adult-use cannabis became legal, Denver allowed all existing medical cannabis businesses to apply for a permit if they were permitted by July 2014. In 2016, Denver capped the number of adult use permits to existing and pending applications. As of January 1, 2017, the City of Denver has issued 429 adult-use permits and 684 medical permits across 484 unique locations.⁸²

Denver requires that permit applicants submit a Community Engagement Plan, which details commitments from the business to provide a positive impact in the community. The engagement plan is not specific to equity, but could include an equity component if the business owner so chose. Plans often focus on charitable efforts like food drives, street clean up, or community gardens. The permitting authority in Denver has no enforcement authority to compel accountability to its community engagement plan.

As Denver is multiple years into permitting, they are experiencing secondary impacts of permitting that should be considered by other cities who are just beginning. Figure 26 below summarizes Denver’s key lessons learned in permitting cannabis businesses for the past three years that should be considered in San Francisco’s implementation of adult-use cannabis and its equity program.

Figure 26. Denver Adult-Use Permitting Lessons Learned	
Type	Lesson Learned
Accountability	While Denver requires community engagement plans, it has no enforcement authority to hold permittees accountable to execute the plans.
Financial	It is important to understand how much revenue a city will expect to see and how it can be used, if restricted. Cities must plan for how funds can and cannot be used.
Data	Data collection should be built into the system from the beginning, baselines established early, and efforts should be made to collect data along the entire permitting process. Before and after data is critical to understand the economic impact of the cannabis industry.
Education and Awareness	The public should be educated about what is allowed and what is not in the cannabis industry. Youth and public education should be built into the program from the start and be robust. Cities should try to understand who is not participating in the legal market and make

⁸¹ The Denver Collaborative Approach: Leading the way in municipal marijuana management (2017 Annual Report).

⁸² Ibid.

	robust efforts to engage this community.
Social Use	Consumption in private and members-only lounges, which do not sell cannabis but allow its use, is an issue that surfaces with legal cannabis, and how a city wants to permit these establishments should be considered.

Other State Equity Programs

Other states that have licensed medical cannabis have considered or implemented provisions to promote equitable participation in the industry. These equity components are summarized in Figure 27 below.

Figure 27. Summary of Equity Components for Medical Cannabis in Other States	
State	Equity Component
Florida	Once the state's medical cannabis patient registry reaches 250,000, three more cultivation licenses will be issued, one of which will be designated for the Florida Black Farmers and Agriculturists Association.
Maryland	Maryland initially issued 15 cultivation licenses but was sued when none were issued to minority-owned applicants. The State Assembly considered but did not act upon a bill that would have allowed seven additional cultivation licenses in the state, all designated for minority-owned companies.
Ohio	State law requires that 15% of licenses go to businesses owned by four identified minority groups.
Pennsylvania	Cultivation and dispensary applicants must submit diversity plans that include how they promote racial equity through ownership, employment, and contracting. The state must also help minority groups learn how to apply for licenses.
West Virginia	State law requires that regulators encourage minority-owned businesses to apply for growing licenses.

VI. Findings and Recommendations

The following section seeks to provide recommendations⁸³ regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense. Specifically, this section provides key findings informed by this report's *Equity Analysis, Barriers to Entry, and Equity Program Benchmarking* sections. The recommendations incorporated are meant to inform policymakers as the City embarks on developing an Equity Program.

Green bullets represent potentially advantageous factors, red bullets indicate potential challenges, and black bullets represent neutral considerations.

Finding 1: Eligibility factors should be focused on specific populations, namely, those that have been disproportionately impacted by cannabis prohibition during the War on Drugs, and criteria should be supported by data.	
ELIGIBILITY	<p><u>Recommendation:</u></p> <p>The City's Equity Program should set specific criteria that define the population served. Criteria should be data driven to ensure the City meets its goal to prioritize individuals who have been previously arrested and convicted of cannabis-related offenses, or disproportionately impacted by the War on Drugs.</p> <p>Based on data analysis in this report, the City should consider including the following eligibility criteria:</p> <ol style="list-style-type: none"> 1) Conviction history associated with cannabis related offense(s);⁸⁴ 2) Immediate family member with a conviction history associated with cannabis related offense(s); 3) Low Income Status;⁸⁵
	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Limiting the eligible group allows an affected group to receive higher-value benefits. ● Rationale for eligibility criteria must be clear and justifiable, preferably with data, to minimize confusion among groups not included. ● Eligibility should, at a minimum, require a cannabis-related arrest and conviction, and should be consistent with the State's conviction history guidelines. ● The City will have to decide on whether it should limit convictions to within the City, the Bay Area, the state of California, or anywhere in the United States.

⁸³ These recommendations should be subject to City Attorney review prior to implementation.

⁸⁴ The City should consider making the following serious criminal convictions not eligible: offenses that include violent felony conviction(s); serious felony conviction(s); felony conviction(s) with drug trafficking enhancements; felony conviction(s) for hiring; employing or using a minor to transport, carry, sell, give away, prepare for sale, or peddle any controlled substance to a minor; or sell, offer to sell, furnish, offer to furnish, administer, or give away a controlled substance to a minor.

⁸⁵ Low income is defined as at or below 80% San Francisco's area median income as defined by California Department of Housing and Community Development.

<p>4) Residency Requirement; 5) Ownership Requirements; and if appropriate 6) Geographic Location⁸⁶</p>	
<p><u>Recommendation:</u> <i>Eligibility Tiers</i></p> <p>The City should create a tiered structure to provide proportional benefits necessary for each tier's success.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Tiered eligibility can offer progressively more valuable services to the most-impacted (directly and indirectly) individuals and mitigate bottlenecks in one-to-one licensing frameworks. ● Ensures that applicants with a cannabis conviction history directly benefit from the program. ● Ensures limited resources can be targeted most effectively. ● Conviction-based eligibility could include convictions within the state, recognizing the impacts of convictions on an individual, regardless of location of arrest/conviction. ● More complex eligibility criteria require increased program administration resources.
<p><u>Recommendation:</u> <i>Ownership</i></p> <p>The City should consider requiring ownership structures of equity applicant operators to reflect a certain percentage. This structure should set a baseline that ensures applicants realize benefits from ownership, including decision making power, but be flexible enough to allow for a variety of ownership structures.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Requiring a percentage of ownership and/or control ensures equity operators are realizing the financial benefits of their operations. ● Los Angeles suggested 51%+, however, requiring 51%+ ownership may have an unintended impact of lessening outside investor interest and, therefore, may prove to be a capital barrier for equity applicants.
<p><u>Recommendation:</u> <i>Residency</i></p> <p>The City should consider creating a residency requirement to ensure that current and</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Because of the size of San Francisco's market, and in the interest of ensuring a

⁸⁶ The disadvantaged populations identified in the *III. Equity Analysis* section of this report may serve as an appropriate metric for identifying workforce populations, however, if there is an interest in determining which communities have been disproportionately impacted by the War on Drugs over a sustained period of time, we would recommend further analysis.

	<p>former San Francisco residents who have experienced over policing and have difficulty accessing living wage jobs are the first to benefit from this program.</p>	<p>tempered rollout of new activity, prioritizing residency will allow current and former residents to benefit first from this opportunity.</p> <ul style="list-style-type: none"> • Los Angeles requires residency for no less than 5 accumulative years, with no less than 70% meeting this requirements, and Oakland requires residency for no less than 10 years.
<p>Finding 2: Adult-use cannabis permitting should ensure that equity applicants have sufficient opportunity to take advantage of the program and are not crowded out by more well-resourced applicants. It should incentivize ongoing support for Equity applicants, if necessary.</p>		
PERMITTING	<p><u>Recommendation:</u> <i>Prioritization</i></p> <p>The City should consider a prioritized permit process to assist Equity Applicants.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • A faster approval process ensures applicants are not crowded out by more well-resourced applicants. • Permitting conditions could prevent well-resourced competitors from crowding out potential equity applicants. • Prioritization approaches need to be considered in the context of overall tiering and phasing strategies to ensure desired outcomes for equity applicants.
	<p><u>Recommendation:</u> <i>Phasing</i></p> <p>The City should consider permitting phases that layer frameworks in succession. The City should complete an analysis on each phase and this analysis should advise policy adjustments to the Equity Program framework, permitting process, and geographic distribution for the next phase.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • As currently proposed, in 2018, only 1) Equity Applicants, 2) existing operators, and 3) operators who were operating in compliance with the Compassionate Use Act but were forced to cease activities due to federal enforcement, are eligible to apply for permits. • Existing medical businesses should be permitted in initial permitting phase(s) to ensure continued access to medicinal cannabis for patients. • An overly complex program could delay permit issuance. • In a one-for-one model, there is potential for a bottleneck in licensing if insufficient numbers of equity-eligible individuals apply.
	<p><u>Recommendation:</u> <i>Ratios</i></p> <p>The City should, at a minimum, mandate a</p>	<p><u>Considerations:</u></p>

<p>requisite number/percentage of equity applicants to new applicants during permitting phases.</p>	<ul style="list-style-type: none"> • As currently proposed, new general applicants are not eligible for permits in 2018, with the exception of businesses that were previously shut down through federal enforcement. As such, only Equity Applicants will be eligible for new permits in year one. • Both Oakland and Los Angeles have implemented or proposed a one-for-one licensing framework during the initial permitting phase that ensures 50% equity applicant participation to every new business.
<p><u>Recommendation:</u> <i>Provisional Approval</i></p> <p>For Equity Applicants, the City should allow for provisional approval of a permit prior to the applicant securing real estate for their operation.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • Provisional approval of a permittee could help the applicant overcome potential financial barriers to entry by providing investors with more certainty to back that applicant and incentivize investors to provide adequate capital for a physical location.
<p><u>Recommendation:</u> <i>CB3P for Retail Applicants</i></p> <p>The City should consider extending the Community Business Priority Processing Program to Equity Applicants, specifically retail applicants, to allow for a fast tracked and streamlined Conditional Use review process.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • The CB3P program would provide applicants with time savings and more clear timelines.
<p><u>Recommendation:</u> <i>Amnesty Program</i></p> <p>The City should consider developing pathways, such as an amnesty program, to encourage existing nonconforming businesses - many of which are small operators who may qualify as Equity Applicants - to transition to the legal market in 2018.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • Ensuring continued operation could mean the operator faces fewer barriers to enter the regulated market.
<p>Finding 3: Incubator programs are designed to incentivize partnerships between entrepreneurs or established cannabis operators and equity applicants, helping to achieve equity goals at no cost to the City.</p>	
<p><u>Recommendation:</u> <i>Incubator Programs</i></p>	<p><u>Considerations:</u></p>

	<p>The City should considering including a flexible incubator program that allows Equity Applicants to partners with operators who wish to further the City’s equity goals. Such partnerships could include combinations of workforce, financial, capital, real estate, and technical assistance provided by non-equity applicants.</p>	<ul style="list-style-type: none"> ● Incubator options that allow employers and cannabis operators flexibility to determine appropriate program offering(s) can incentivize private sector investment in equity goals.(e.g., real estate and/or mentoring; landlords allowing cannabis businesses on their property) ● Accountability measures must be taken to ensure parties conform to agreements and equity outcomes are achieved. ● Equity incubators incentivize knowledge and resource sharing with Equity Applicants at no cost to the City. ● Oakland has faced criticism that requiring existing businesses to form incubators runs the risk of “hollowing out the middle,” where the market shifts toward one that consists only of large, well-funded businesses and equity businesses, a model that could ultimately crowd out equity businesses.
	<p><u>Recommendation:</u> <i>Incubator Program Priority Processing</i></p> <p>The City should consider extending priority processing to Incubator Program applicants.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Priority processing will allow the City and the incubated operator to realize the equity benefits faster. ● Non-equity existing operators that serve as “incubators” could be eligible to receive priority permit review and issuance. ● Prioritization approaches need to be considered in the context of overall tiering and phasing strategies to ensure desired outcomes for equity applicants.
	<p><u>Recommendation:</u> <i>Success Metrics</i></p> <p>Metrics should be incorporated into the Equity Program to ensure that operators are helping move Equity incubator operators towards success.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Operators could use Equity Applicants to enter the market in 2018, and provide them with no meaningful benefits.
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">UNITY REINVESTS</p>	<p>Finding 4: Adult-use cannabis revenues can be dedicated to community reinvestment programming that can help to addresses inequities in cannabis enforcement and lasting impacts to communities of the War on Drugs.</p>	

<p><u>Recommendation:</u> <i>Creation of a Community Reinvestment Fund</i></p> <p>The City should consider creating a Community Reinvestment Fund to allocate cannabis tax revenue and focusing investments on those communities disproportionately affected by cannabis enforcement. Programming may include restorative justice, jail diversion, and improving the health and wellbeing of communities that have been affected by the War on Drugs.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Community reinvestment offers neighborhood-wide and neighbor-directed benefits to those who were most disproportionately impacted by cannabis enforcement but are not participating directly in the cannabis economy. ● A cannabis tax has not yet been approved by San Francisco voters, and there is little information available on revenues and spending priorities. ● Cannabis tax revenues may be an inconsistent source of revenue until the market stabilizes, which could take a few years.
<p><u>Recommendation:</u> <i>Anti-Stigma Campaign</i></p> <p>The City should consider committing a portion of funding to build on the Department of Health’s awareness campaign to further acknowledge the impact of the War on Drugs and the stigma that remains in certain communities.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Reducing stigma could help operators better access capital, real estate, and technical assistance. ● Community awareness through this campaign can help calm fears that have been developed over decades of misinformation and scare tactics used during the War on Drugs. ● In developing a more regular lexicon to use for the regulated activity, City should avoid Drug War language including “crackdown,” and “Black market.”
<p><u>Recommendation:</u> <i>Funding for Community Reinvestment</i></p> <p>The Office of Cannabis should continue to coordinate with City partners, including the Office of Economic and Workforce Development and the Mayor’s Office, to continue advocacy for funding through the Governor’s Office of Business and Economic Development community reinvestment grants program.</p>	<p><u>Considerations</u></p> <ul style="list-style-type: none"> ● State funding can enhance and supplement the City’s ability to meet local equity goals.

	<p><u>Recommendation:</u> <i>Equity Plan</i></p> <p>The City should consider requiring applicants to submit, as part of their Community Benefit Agreement, an Equity Plan that describes how the applicant’s business supports the Equity goals of the City.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • This encourages business to think about Equity in the context of it being a community benefit in their surrounding neighborhood, and allows them to consider equity more broadly in the context of their business model.
	<p><u>Recommendation:</u> <i>Streamline Expungement Opportunities</i></p> <p>Community reinvestment programming should include streamlined expungement events held in neighborhoods that have been disproportionately-impacted by the War on Drugs.</p>	<p><u>Considerations</u></p> <ul style="list-style-type: none"> • Bringing events to communities enhances overall outreach for the equity program and reduces barriers to navigating the expungement process. • Such events should be done in coordination with the Public Defender’s Office, the Courts, and other relevant partners, and they should provide clients with an expedient expungement process.
WORKFORCE DEVELOPMENT	<p>Finding 5: All cannabis operators should promote equitable employment opportunities for those communities harmed by the War on Drugs. These opportunities should include hiring formerly-incarcerated individuals, hiring in targeted neighborhoods, and paying living wages.</p>	
	<p><u>Recommendations:</u> <i>Leverage Existing Programs</i></p> <p>The City should leverage eligible⁸⁷ existing workforce programs to provide pathways to employment in the legal cannabis industry for individuals engaged in street-level drug commerce.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • Length of program would need to be balanced, making sure participants are job ready while meeting their need to enter the workforce quickly. • Accelerated training programs, similar to the models that allow for flexible approaches to certification should be leveraged to expedite and prioritize employment opportunities for persons who meet the equity permit criteria. • Cannabis industry workforce program could be modeled after existing OEWD Reentry Services Program. • Leveraging existing programs offers people opportunities to build skills for other industries as well.

⁸⁷ The City should recognize that there are some community based organizations that rely on federal funding and may therefore be unable to provide services due to threat of federal enforcement.

<p><u>Recommendations:</u> <i>Expand Workforce Curriculum</i></p> <p>The City should consider expanding curriculum to support new workforce and/or entrepreneurship services for street level cannabis participants across industries.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● The City’s approach to curriculum development through GoSolarSF could be used as a model. ● This would require engagement and training of new CBOs, in basic workforce knowledge. ● There may be limited potential for program growth due to considerations and restrictions around co-mingling cannabis workforce funding with other sources. ● This approach would also take time and creating new programming can be costly. ● There is a potential lack of data related to industry workforce projections, making it difficult to scope program size and funding.
<p><u>Recommendations:</u> <i>Workforce Fairs</i></p> <p>The City should support a series of workforce fairs with partners including Invest in Neighborhoods, Small Business Commission and others to provide outreach, education, and ownership support.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Bringing events to the community can assist with outreach and help build trust with City agencies.
<p><u>Recommendation:</u> <i>Training Personnel with Industry Experience</i></p> <p>The City should consider hiring training personnel who are experienced in the industry transitioned from the unregulated market to regulated cannabis industry to ensure curriculum relevance and applicability.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Persons with experience in the unregulated and regulated cannabis market may be well positioned to advise individuals looking to join the regulated market. ● These positions could create additional workforce opportunities for persons impacted by the War on Drugs. ● Much of the City’s workforce training partners make independent personnel decisions. ● The need for official industry knowledge could be addressed via future RFP’s
<p><u>Recommendation:</u> <i>Incorporate Local Hire & Refine Requirements</i></p> <p>The City should incorporate local hire requirements, and should consider requiring or incentivizing employers to prioritize</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Given that not all persons who were disproportionately impacted by the War on Drugs are ready to start their own cannabis business, ensuring they have

	<p>applicants from then disadvantaged communities.⁸⁸</p>	<p>meaningful access to workforce opportunities in the Cannabis Industry is critical.</p> <ul style="list-style-type: none"> ● Refining Local Hire requirements to target specific areas of the City could allow us to see more persons from disenfranchised communities enter the workforce pipeline. ● The City would need to ensure people are hired for full time, fair wage jobs and not just used to obtain the permit. ● Cannabis businesses could be required through their CBA's to participate in First Source beyond entry-level positions, providing upwardly mobile career pathways in addition to incorporating mid-level placements. ● A large amount of resources and infrastructure is required by the City for enforcement/reporting, therefore, this would require a funding source as well as time to build the internal capacity. ● Local Hire and any requirements related to hiring from specific location may add technical human resource burdens to operators when the City should seek to reduce technical burdens.
<p>Finding 6: Existing City legislation can be leveraged to expand equitable employment opportunities.</p>		
	<p><u>Recommendations:</u> <i>Education on Fair Chance Ordinance</i></p> <p>The City should proactively educate all cannabis businesses on the provisions of San Francisco's Fair Chance Ordinance (FCO) that regulates the use of arrest and conviction records in employment decisions.⁸⁹</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Since the City has determined Prop 47 convictions are "low priority" this would help to ensure those convictions are not used to deny individuals meaningful employment.
	<p><u>Recommendation:</u> <i>Remove Cannabis Conviction Workforce Barriers</i></p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Adding this language to Article 49 of the

⁸⁸ As described in Section III, Subsection E. Disadvantaged Communities.

⁸⁹ See Appendix D. Existing Resources.

	<p>The City should look at legislating the removal of employment barriers based on cannabis-related convictions across all sectors.</p>	<p>Police Code (the Fair Chance Ordinance) would help ensure that conduct which is now legal under Proposition 64 does not continue to be a barrier to employment.</p>
FINANCIAL & CAPITAL ACCESS	Finding 7: Individuals and neighborhoods that have been disproportionately targeted for drug enforcement and consequently disadvantaged socio-economically may have a particularly difficult time overcoming financial barriers.	
	<p><u>Recommendation:</u> <i>Existing Operator Participation</i></p> <p>The City should incentivize operators that may receive a temporary permit to operate an adult-use business to contribute to the City’s equity goals. Any commitments made by operators should remain in place until the operator’s Article 16 Community Benefits Agreement is approved.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Proactive participation by existing operators will help the City move towards equity goals before mandates meant to further equity are implemented.
	<p><u>Recommendation:</u> <i>Access to Banking</i></p> <p>The San Francisco Treasurer and Tax Collector should continue to work closely with the State Treasurer to provide more opportunities for applicants to access banking services, and should play a brokering role with California credit unions to teach/partner with San Francisco based credit unions so that they may serve as a resource to San Francisco based operators.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Mitigates financial barriers
	<p><u>Recommendation:</u> <i>Consideration for Municipal Bank</i></p> <p>In line with File No. 170448, <i>Urging the Office of the Treasurer and Tax Collector to convene a Municipal Public Bank Task Force</i>, the City should continue to move forward expeditiously with the review of a municipal banking policy to ensure applicants have the opportunity to be provided equitable and transparent access to capital in the absence of federally regulated banks participation.</p>	<p><u>Considerations</u></p> <ul style="list-style-type: none"> ● Would create access to banking for the industry as a whole. ● Money generated from fees and interest could be used to subsidize loans to equity applicants.

<p><u>Recommendation:</u> <i>Fee Waivers</i></p> <p>The City should consider waiving application, permit, and inspection fees for some or all equity applicants in their first year to lower financial barriers of entry.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● There would be substantial cost associated with this on behalf of departments. ● “Fairness” for entrepreneurs from disenfranchised communities starting non- cannabis businesses and not receiving such a waiver may become a concern in the business community.
<p><u>Recommendation:</u> <i>Reducing Social Stigma</i></p> <p>Recognizing that equity permit holders might have limited access to social and financial capital, which could further be impacted by the social stigma associated with cannabis use and sales, the City should invest in a campaign to acknowledge the impact of the War on Drugs and the stigma and bias associated with both users and businesses.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● The City’s public information campaign could be used to address multiple issues, including facts about the health impacts of cannabis use as well as the racialized history of prohibition and enforcement.
<p><u>Recommendation:</u> <i>Loans</i></p> <p>The City should create a fund that could receive funds from Equity Incubator applicants, and use this fund to support Equity Operators.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● This fund can provide a source of revenue prior to the implementation of a cannabis specific tax. ● If needed, it could take time to find a qualified CBO that has no other federal conflicts to administer such a program or internal capacity and staffing would need to be developed.
<p><u>Recommendation:</u> <i>Setting Tax Rate</i>⁹⁰</p> <p>In order to address the barrier that well-funded businesses may be more capable of building in financial contingencies for things such as unforeseen tax liabilities, the City should consider tax policies that mitigate the tax burden on equity applicants.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Contemplating a tax rate that mitigates the tax burden on equity applicants ensures they remain competitive in a market that has better resourced operators. ● Higher tax rates can increase the effective price of cannabis causing some consumers to shift spending to other goods or buy their cannabis outside of the regulated market.

⁹⁰ See Appendix E Taxation: State Structure & Review of Other Jurisdictions’ Tax Structures

TECHNICAL ASSISTANCE	Finding 8: New cannabis businesses may face technical knowledge-based gaps around an industry that has been historically underground. Technical barriers can include aspects of cannabis development as well as business planning and operations. These barriers are more difficult to navigate for lower-income individuals who may not be used to working in regulated environments and/or unable to afford specialized consulting or technical assistance.	
	<p><u>Recommendation:</u> <i>Create a Simple & Transparent Application Process</i></p> <p>The City should create a permitting process that is simple, transparent, and employs technological solutions to help speed and make applicants aware of process from day one.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● A simple intake and application process will make it easier for the applicant to know if they are eligible for a permit, as well as be better informed of what the path towards becoming a permitted business may entail. ● To support this, a section for cannabis businesses can be added under Businesses Type in the Permit Locator of the San Francisco Business Portal.
	<p><u>Recommendation:</u> <i>Leverage Existing Resources</i></p> <p>The City should steer Equity Program participants in need of business, compliance, and industry-specific technical assistance and mentorship to the various eligible City entrepreneurship and workforce programs currently available, many of which are referred to in the “Existing Resources” section.⁹¹</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Leveraging of existing entrepreneurship and workforce programs minimizes up front cost and resource needs for the Office of Cannabis.
	<p><u>Recommendation:</u> <i>Matching Opportunities</i></p> <p>The City should create a program to match small operators, equity applicants, and interested landlords.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Leveraging existing relationships with the landlord community, educating them on the regulatory structure could create more real estate opportunities. ● Matching small operators, including equity applicants, creates potential incubator partnership opportunities, and where/when allowed, co-op partnership opportunities.
<p><u>Recommendation:</u> <i>Partner with Local Non-</i></p>	<p><u>Considerations:</u></p>	

⁹¹ See Appendix D, Existing Resources

	<p><i>Profits</i></p> <p>The City should also consider partnering with local consultants and non-profit organizations to provide cannabis specific business consulting, such as business plan workshops, and regulatory compliance assistance.</p>	<ul style="list-style-type: none"> ● Use of contracted organizations minimizes the need to hire additional city staff resources while leveraging local industry expertise. ● Contracting for technical expertise will require up-front funding before adult use tax revenue is available ● Many business-service-providing nonprofits are funded and/or chartered by the Federal government and will be unable to provide services - substantial time may be needed to develop new CBO partners to create programming in this space.
	<p><u>Recommendation:</u> <i>Staffing in the Office of Cannabis</i></p> <p>The Office of Cannabis should assign a staff member to serve as the primary program coordinator for the program.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● This staff member will coordinate with City departments, including the Human Rights Commission and the Office of Economic and Workforce Development. ● Applicants who meet Equity criteria will receive assistance from this person in completing their application and navigating City processes through coordinated efforts of this program coordinator and staff in the Office of Small Business.
	<p><u>Recommendation:</u> <i>Creation of Curriculum</i></p> <p>The City should encourage local academic institutions such as City College to expeditiously create cannabis specific workforce and entrepreneur training opportunities for San Francisco residents, particularly Equity Applicants, at free or reduced costs.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● The existing partnership between the City and City College is one that should ensure that San Francisco’s residents have access to impactful and meaningful curriculum.
CRI MI	<p>Finding 9: The War on Drugs has disproportionately affected communities of color. Despite Proposition 64, which allows applicants who have been convicted of drug offenses to be</p>	

	<p>eligible for a cannabis business license in California, a criminal history can limit an individual's ability to gain employment, apply for government assistance, and/or obtain a loan, thereby creating barriers to entry into the adult-use cannabis market.</p>	
	<p><u>Recommendation:</u> <i>Streamline Expungement Opportunities</i></p> <p>The City should ensure community reinvestment programming includes expungement events held in disproportionately-impacted neighborhoods.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Bringing events to communities enhances overall outreach for the equity program and reduces barriers to navigating the expungement process. ● Such events should be done in coordination with the Public Defender's Office, the Courts, and other relevant partners, and they should provide clients with an expedient expungement process.
	<p><u>Recommendation:</u> <i>Navigation to Clean Slate Program</i></p> <p>The application process within the Once the Office of Cannabis should serve as an additional entry point into the San Francisco Public Defender's Clean Slate Program.⁹²</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Expungement can mitigate some financial barriers to entry into adult-use cannabis.
<p>ST AK</p>	<p>Finding 10: Arrest and conviction of cannabis offenses has disproportionately affected communities of color, eroding trust between these communities and law</p>	

⁹² See Appendix D, Existing Resources.

<p>enforcement/government. These communities may be wary of formally entering an industry in which they have been historically targeted for criminal enforcement.</p>	
<p><u>Recommendation:</u> <i>Creation of Culturally Sensitive + District Specific Outreach</i></p> <p>The City, in consultation with each Supervisor, by creating district specific, culturally sensitive outreach.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Rebuilds trusts between equity communities and the government. ● Surfaces opinions regarding what is effective and not effective from various stakeholders. ● Inform regulators’ understanding about the unique operating environment for San Francisco cannabis entrepreneurs. ● This outreach increases the chances of program success by recognizing opportunities to proactively engage stakeholders in a familiar environment. ● Advisory boards or commission can add additional layers of bureaucracy. ● Upfront need of program resources to perform outreach and respond to questions from the public.
<p><u>Recommendation:</u> <i>Create Informal Relationships</i></p> <p>The City should create informal relationships (e.g., listening sessions) between regulating entities and a large stakeholder group that includes equity-eligible community members.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● The relationships may help to build trust in government. ● Creating relationships built on trust between regulatory authorities and the community is necessary for the success of the program and for effective regulation.
<p><u>Recommendation:</u> <i>Create Formal Relationships: Task Force Membership</i></p> <p>The City should create formal relationship between regulating entities and stakeholders that represent equity eligible communities. To that end, the City should consider amending the San Francisco Cannabis State Legalization Task Force membership to provide membership to representatives from neighborhoods and communities with high concentrations of eligible individuals. These representatives should have a cannabis related conviction history and/or should work with populations that have cannabis related conviction histories.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● The relationships may help to build trust in government. ● Creating relationship built on trust between regulatory authorities and the community is necessary for the success of the program and for effective regulation. ● Advisory boards or commission can add additional layers of bureaucracy and the more formal nature doesn’t always lend itself to relationship/trust building.

PUBLIC AWARENESS & EDUCATION	<p>Finding 11: An Equity Program is effective if cities and states conduct the necessary public outreach such that potentially eligible persons are aware of the program and its benefits as early as possible.</p>	
	<p><u>Recommendation:</u> <i>Program Education & Outreach</i></p> <p>The City should deploy outreach and educational campaigns that spread awareness of the Equity Program across the city but also target neighborhoods and communities with high concentrations of eligible individuals.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Mitigation of ambiguity around what is legal at the local, state, and federal levels. ● Allows for mitigation of not knowing what opportunities are available. ● Allows for mitigation of distrust between law enforcement and those communities disproportionately affected by cannabis arrests and convictions. ● This effort would require upfront resources to perform outreach and respond to questions from the public. ● The outreach should contemplate concern from the community about oversaturation of cannabis related information exposure to youth.
	<p><u>Recommendation:</u> <i>Culturally Sensitive Outreach</i></p> <p>Supervisors should participate in creating district specific community and culturally sensitive outreach strategies, to ensure robust, thorough and multicultural outreach and engagement throughout San Francisco.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Rebuilds trusts between equity communities and the government. ● Surfaces opinions regarding what is effective and not effective from various stakeholders. ● This outreach increases the chances of program success by recognizing opportunities to proactively engage stakeholders in a familiar environment. ● Upfront need of program resources to perform outreach and respond to questions from the public.
<p><u>Recommendation:</u> <i>Immediate Outreach</i></p> <p>Outreach to potential applicants should begin as soon as a program is established and prior to when Article 16 applications are accepted.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Immediate outreach ensures equity-eligible applicants are not crowded out. 	
DATA COLLE	<p>Finding 12: All peer jurisdictions who have implemented adult-use cannabis require data collection to understand the impact of the industry. Oakland and Los Angeles propose tracking data on general and equity applicants on a regular basis to measure the success of its</p>	

Equity Program.	
<p><u>Recommendation:</u></p> <p>The City should incorporate data collection requirements into the application and reporting processes to track that all components of an Equity Program and to measure its impact on the community.</p> <p>The City should consider incorporating the following data metrics into the application, permitting and permit renewal process:</p> <ul style="list-style-type: none"> ● Number of equity applicants to apply <ul style="list-style-type: none"> ▪ Types of drug related offenses (aggregate) ▪ Income status (aggregate) ▪ Race (aggregate) ▪ Ethnicity (aggregate) ▪ Gender (aggregate) ▪ Sexual identity (aggregate) ▪ San Francisco residency status ▪ Ownership structure ● Total percentage of ownership by and employment of San Francisco residents ● Workforce characteristics <ul style="list-style-type: none"> ▪ Total number of employees ▪ Number of local employees ▪ Percent of hours of local employees <ul style="list-style-type: none"> ○ Full time ○ Part time ▪ Percent of hours from employees placed through First Source ▪ Other factors that align with mandated or recommended workforce guidelines. <p>Further, to ensure we closely track policing associated with legalization, the City should track and report out on arrest rates, locations of arrests, gender, ethnicity, race, etc.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Data gathering components should be built into the Equity Program from the outset and baselines should be established early. ● Data should be collected along the entire licensing and monitoring process. ● Quality data (e.g., demographic data) is critical for establishing the case for pre- and post-adult use analyses. ● The source of data, particularly law enforcement data, could span various systems and agencies across the City, potentially adding risk to data reliability and accuracy and requiring coordination.
<p><u>Recommendation:</u> <i>Require Regular Reporting</i></p> <p>The City should require a follow-up report from appropriate agencies including the Office of</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> ● Status and outcome reports will be

	<p>Cannabis and Human Rights Commission. These reports should analyze the implementation and outcomes of the Equity Program, permitting, and geographic distribution and make programmatic recommendations for 2019.</p>	<p>critical for course correction and adjusting the Equity Program to meet community needs.</p>
<p>Finding 13: Without accountability mechanisms in place in an Equity Program, any equity commitments made by permit holders are unenforceable.</p>		
	<p>Recommendation: <i>Enforcement of CBAs</i></p> <p>The City should ensure that commitments (e.g., real estate by incubator applicants) made by permittees must be enforceable by making compliance with community benefits agreements a permit condition that when not followed, leads to a fine, permit suspension or ultimate revocation. The City should regularly audit community benefit agreements to ensure compliance.</p>	<p>Considerations:</p> <ul style="list-style-type: none"> ● Accountability mechanisms should be clearly identified during the licensing application phase. ● Equity outcomes could be tied to community benefit commitments. ● The auditing of CBA's will require significant staff time and resources.
<p>Finding 14: Course correction mechanisms in an Equity Program can mitigate unintended consequences and allow cities to remain flexible in an emerging adult-use cannabis industry.</p>		
<p>MODIFICATION & COURSE CORRECTION</p>	<p>Recommendation: <i>Course Correction</i></p> <p>The City should plan to mitigate unintended consequences (e.g., worsening of racial disparities in cannabis offenses) through policy implementation changes over time and course-correction mechanisms needed to further equity goals.</p> <p>Examples of course-correction mechanisms include but are not limited to the following:</p> <ul style="list-style-type: none"> ● Licensing in phases (e.g., equity balance initial phases before unrestricting licensing) ● Implementation of eligibility requirements in phases to ensure equity outcomes are being met ● The creation of formal relationships between regulatory agencies and a large stakeholder group ● Flexible incubator options or other incentives to allow for more established 	<p>Considerations:</p> <ul style="list-style-type: none"> ● Licensing in phases allows for time to learn and adjust before larger-scaled implementation. ● Formal relationships between regulatory agencies and a large stakeholder group can uncover key challenges and needed adjustments as well as build trust in an evolving regulatory environment. ● An evolving licensing and regulatory framework could cause confusion and/or mistrust amongst stakeholders. ● A formal stakeholder group can add bureaucracy and drown out smaller voices.

	<p>retailers to maximize their opportunities for participation in the Equity Program.</p> <ul style="list-style-type: none"> • The automatic expiration or reduction of provisions and the long-term direction for both governing bodies and revenues. 	
LANDUSE & ZONING	Finding 15: Geographic barriers for low income or disadvantaged individuals can exist if there is a restricted area of opportunity, and scarcity of available land can drive up real estate value.	
	<p><u>Recommendation:</u> <i>Equitable Distribution</i></p> <p>The City should consider land use controls that provide for more equitable distribution of cannabis storefront retail to mitigate overconcentration in disenfranchised neighborhoods</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • By reducing the eligible locations for businesses, scarcity creates further challenges for equity applicants.
	<p><u>Recommendation:</u> <i>Thoughtful Placement</i></p> <p>The City should consider the concentration of cannabis, tobacco and alcohol retailers when issuing land use approvals.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • Considering alcohol and tobacco outlet density is important to ensure any one neighborhood is not oversaturated with activity associated with potential health harms.
<p><u>Recommendation:</u> <i>Task Force Membership</i></p> <p>The City should amend the San Francisco Cannabis State Legalization Task Force membership to provide membership to representatives from disadvantaged communities⁹³ to ensure that issues related to overconcentration are addressed at the Task Force.</p>	<p><u>Considerations:</u></p> <ul style="list-style-type: none"> • Formal relationships between regulatory agencies and a large stakeholder group can uncover key challenges and needed adjustments as well as build trust in an evolving regulatory environment. • A formal stakeholder group can add bureaucracy and drown out smaller voices. 	

⁹³ As defined in Section III, Subsection E. Disadvantaged Communities.