



# POLICY BRIEF

## Criminalization of Cannabis Led to Inequities. Now State Revenues Seek to Address.

May 2021

The U.S. criminalization of cannabis (marijuana), starting with the [Comprehensive Drug Abuse Prevention and Control Act of 1970](#), has disproportionately impacted the poor and people of color with higher rates of arrests and incarceration. While the federal government still categorizes cannabis as a Schedule I drug with “no currently accepted medical use in treatment in the United States,” ([U.S. Drug Enforcement Administration](#)) [36](#) states have enacted laws allowing for the medical use of cannabis, and [17](#) states, including California, regulate cannabis for adult use. Numerous states, including California, have called on Congress to [change or otherwise clarify](#) the legality of cannabis under the Control Act. At the federal level, the [2018 Farm Bill excluded hemp from the definition of marijuana](#), and to date, the MORE Act, a bill to [legalize marijuana](#), has passed the [U.S. House](#) and was introduced in the [U.S. Senate](#).



Figure 1: Data from [CannaBusiness Law](#). Map created by Pamela Rasada, R.N., P.H.N.

State and local jurisdictions in California have moved toward decriminalizing cannabis and releasing people incarcerated for nonviolent crimes, including cannabis. In 2018, California’s [Proposition 64](#), [Proposition 47](#), and [AB 1793](#) not only [legalized marijuana but also allowed for resentencing and expungement of criminal records](#) for cannabis-related crimes. Locally, [144 out of 482](#) California cities allow any kind of cannabis business, and [31](#) of the state’s 58 counties permit cannabis retail, manufacture, and/or cultivation businesses in unincorporated areas. (See Figure 1) This policy brief provides an overview of the impacts criminalization has had on Californians, including state and local budgets, and what California has done to redress some of the inequities caused by the criminalization of cannabis.

## The Criminalization of Cannabis Has Had Disparate Impact on Nonwhite People

Given [equal rates](#) of cannabis use, nonwhite people experience arrest and incarceration inequities. One national study concluded: [“On average, a Black person is 3.64 times more likely to be arrested for marijuana possession than a white person, even though Black and white people use marijuana at similar rates.”](#) Despite the legalization of cannabis in the state, this trend is also reflected in California, where Black people continue to be overrepresented in felony and misdemeanor marijuana arrests by roughly three (felony) and two times (misdemeanor) their representation in the population. According to [California Department of Justice data](#), Hispanic people in California are also overrepresented in misdemeanor and felony marijuana arrests compared to their representation in the population (See Table 1). Marijuana arrest rates tend to be highest in [marijuana-producing California counties](#) such as Mendocino, where the arrest rate for Black people was nearly [10 times higher](#) than the arrest rate for white people in 2016. Notably, overall arrests for marijuana-related offenses have [decreased](#) after changes in California law from 70 per 100,000 in 1996 to 48 per 100,000 in 2016, and most counties are closing the Black/white gap in marijuana-related arrests.

Table 1: California Marijuana Arrests by Race/Ethnic Category, 2019\*

Race/Ethnic Category	Population**	Felony	%	Misdemeanor	%
White	36.5%	252	21.3%	837	22.2%
Hispanic	39.4%	493	41.7%	1,869	49.6%
Black	6.5%	263	22.3%	509	13.5%
Other	17.6%	173	14.6%	554	14.7%
Total	100.0%	1,181	100.0%	3,769	100.0%

\*Marijuana Arrests from [California Department of Justice](#)

\*\* U.S. Census [Quick Facts California](#) 2019

The [University of California Davis’ Center for Regional Change estimated](#) the cannabis/marijuana booking/arrest rates in four local jurisdictions’ law enforcement areas. Researchers found that a majority of the tracts in their study with the highest arrest/booking rates across jurisdictions were in areas considered severely disadvantaged, using the California Department of Water Resources definition for severely disadvantaged communities as having an annual median household income of less than 60% of the state median household income. Among the areas studied was the Los Angeles County Sherriff Department’s jurisdiction, where from 2012 to 2016 people who had been arrested for marijuana-related charges by the Los Angeles Police Department paid nearly [\\$8 million](#) in nonrefundable bond deposits, deepening the economic disadvantage in already impoverished areas of Los Angeles County.

Since [AB 109](#) became law in 2011 and [Proposition 47](#) was approved by voters in 2014, those convicted of marijuana-related charges will more often serve time in local jails instead of state prisons. As of June 2019, there were [46 offenders in custody in California State prisons](#) who have marijuana-related primary offenses. According to one [study](#), the number of people

convicted and *jailed* in California for marijuana-included charges has steadily decreased from 10,191 in 2010 to 6,537 in 2015. However, Black people continue to be overrepresented in jail for marijuana-only offenses (24%) in proportion to their representation in the population (6%). Latino and white people were underrepresented in comparison to their representation in the population. And, of the 21 counties reporting data, Los Angeles exhibited the most racial disparity in who was jailed for marijuana-only offenses, with Black people cited as, “grossly overrepresented. Only 8% of Los Angeles County residents are black, yet they make up 30% of people jailed for marijuana only offenses in the county.” ([New Frontier Data](#))

### California Policy Shifts Turn Cannabis from Cost to Revenue Source

Estimated costs of enforcing U.S. marijuana law prior to 2010 vary depending on the methods used to gather and analyze the data.<sup>1</sup> For example, two studies from the same author about different time periods suggest that the total spent by federal, state, and local governments nationwide to enforce cannabis laws was between [\\$7.7 billion](#) and [\\$13.7 billion](#) annually.<sup>2</sup> Ranging wildly also are California estimates from a low of [\\$204 million](#) to a high of [\\$1.87 billion](#) a year for enforcement of marijuana laws prior to major policy shifts in the state. In between these variations are [RAND](#) estimates that expenditures for California’s marijuana-related enforcement in 2009 could be roughly \$125 million to \$139 million for state-related costs (prison, parole, and courts) and roughly \$172 million to \$187 million for local costs (arrest and jail),<sup>3</sup> a total of \$297 million to \$326 million annually.

The State of California today budgets much less money for cannabis enforcement. Data received from the California Legislative Analyst’s Office suggest that California has budgeted in the range of \$50 million for cannabis enforcement activities of six departments, an amount funded by a combination of the Cannabis Control Fund, Cannabis Tax Fund, Waste Discharge Permit Fund, and General Fund as well as federal funds. This is likely a conservative estimate. Assuming the California Department of Corrections still houses the 46 inmates convicted on marijuana offenses described above that would add [\\$3.7 million](#) to the State of California’s costs, or in the range of \$53.7 million for state enforcement of cannabis law today. If we use RAND’s middle-ground estimates for past state expenditures that means California’s policy changes on cannabis have potentially saved the state \$71.3 million to \$85.3 million a year.

While information about all California counties’ and cities’ cannabis-related expenditures is unavailable, one [study](#) about local cannabis tax revenue and police budgets noted that all but one of the 28 cities that began collecting cannabis revenues since 2016 place their portions of

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<sup>1</sup> Estimates of criminal justice system processing draw on disparate data sources. These sources can include juvenile and/or adult, national, state, county, and disaggregate/aggregated data that are analyzed using varying cost parameters. The numbers presented here are not directly comparable but do offer ballpark figures for comparing magnitudes.

<sup>2</sup> The studies’ critic suggests the difference is because of the way costs was measured not only the difference in budget years.

<sup>3</sup> Precise probation numbers were unavailable.

the \$85.3 million in cannabis-related 2019-20 revenue in general funds. On average, 39% of their general funds are spent on policing. Coupled with the finding that many jurisdictions are seeking to direct cannabis revenue to law enforcement, research shows that since Proposition 64 passed: “Eight of the 28 saw their police budgets grow by at least 25%. Overall, the average shift in police budgets for these 28 cities was an increase of 19% over that three-year period. Ultimately, in just those cities, over \$455 million more in general fund dollars was spent on police in 2019-20 than was spent just three years earlier.” ([Keddy 2020](#)).

With California cannabis-related policy shifts has also come new tax revenue for California and local jurisdictions. [Proposition 64](#) introduced two new excise taxes on cannabis: [cultivation and retail price](#). This revenue resides in California’s Marijuana Tax Fund, where between \$25 million and \$52 million is legally mandated annually to research (a portion ending after 11 years), the highway patrol (ending after five years), and grants for communities disproportionately impacted by past drug laws (increase overtime to \$50 million in 2022). Remaining revenue is [distributed](#) to youth (60%), environment (20%), and safety and grant programs (20%). From 2018-20, the State collected [\\$1.3 billion](#) from these excise taxes.

Additional sales taxes and licensing fees are also now collected. About [\\$772 million](#) has been collected in State sales tax from 2018-20. Locally, for the 28 cities that were the first to pass recreational cannabis ordinances, budget projections for the 2019-20 budget year include over [\\$85 million](#) in cannabis revenue. State licensing fees are trickier to estimate because there are currently [three agencies](#) responsible for administering different aspects of cannabis licensing: [Cal Cannabis](#) (Cultivation), the [Bureau of Cannabis Control](#) (dispensary etc.), and the [Manufactured Cannabis Safety Branch](#) (manufacturing). We found no official numbers about licensing revenue, but Cal Cannabis publishes its [fees](#), which range from \$135 to \$8,655 for annual application fees and \$1,205 to \$77,905 for license and annual renewal fees. There were roughly [2,592](#) active cultivation licenses as of June 26, 2019. The three executive branch agencies are [slated](#) to become one as the Department of Cannabis Control on July 1, 2021. There are also local licensing fees and little data about them as such.

### California Moves to Redress Inequities

Research suggests the criminalization of cannabis disparately impacted nonwhite people and poor communities in California. As a way to redress inequities, [Proposition 64](#) earmarks between [\\$10 million to \\$50 million](#) in grants for services such as job placement assistance and substance use disorder treatment in communities impacted by the criminalization of cannabis. The [California Cannabis Equity Act of 2018](#) further seeks to support communities disproportionately impacted by cannabis criminalization by awarding funds to local jurisdictions to support loans or grants to qualified community members’ entry into and operation of legal cannabis businesses. Known as the [Cannabis Equity Grants Program](#), these grants are administered by the Governor’s Office of Business and Economic Development. The latest appropriation for this program is [\\$15 million](#), which builds on previous awards of \$40 million. In

2019, SB 595 was signed into [law](#) and created a program to defer or waive cannabis-related application, renewal, or licensing based on need. Announced in 2021 is a [bill](#) aimed at removing an appropriations limitation to SB 595 and adding a temporary tax credit for cannabis fees paid by a qualified payee.

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The California Research Bureau provides research and nonpartisan public policy analysis to the Governor's Office and Legislature.

The Office of California State Senator Steven Bradford requested this policy brief.

Authors:

Policy Brief: Tonya D. Lindsey, Ph.D., is a Senior Researcher at the California Research Bureau.

Significant Cannabis Law: John Cornelison is a Senior Research Librarian at the California Research Bureau.

For questions or comments: [crb@library.ca.gov](mailto:crb@library.ca.gov) or (916) 603-7217.

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## Appendix A – Significant California Cannabis Law\*

Year	Bill #	Title	Keywords
	Prop		
1996	215	<a href="#">Compassionate Use Act of 1996</a>	Medical Cannabis, Penalty Reduction, Cultivation
	SB		
1999	847	<a href="#">Marijuana Research Act of 1999</a>	Medical Cannabis, Research
	SB		
2003	420	<a href="#">Medical Marijuana</a>	Medical Cannabis, Regulations, ID Card
	SB		
2003	295	<a href="#">Marijuana Research Program</a>	Medical Cannabis, Research
	SB		
2010	1449	<a href="#">Marijuana: possession</a>	Cannabis Possession, Penalty Reduction
	AB		
2010	2650	<a href="#">Medical Marijuana</a>	Medical Cannabis, Marijuana Cooperatives, Regulation
	SB		
2011	420	<a href="#">Synthetic cannabinoid compounds</a>	Synthetic Cannabis, Penalty Reduction
	AB		
2011	2400	<a href="#">Medical Marijuana</a>	Medical Cannabis, Marijuana Cooperatives, Regulations
	AB		
2012	2284	<a href="#">Irrigation</a>	Illegal Cultivation, Irrigation
	AB		
2015	243	<a href="#">Medical Marijuana</a>	Medical Cannabis, Cultivation Regulations, Licensing
	AB		
2015	243	<a href="#">Medical Marijuana</a>	Medical Cannabis, Cultivation Regulations
	AB		
2015	258	<a href="#">Organ transplants: medical marijuana: qualified patients</a>	Medical Cannabis, Organ Transplants
	AB		
2015	266	<a href="#">Medical Marijuana Regulation and Safety Act</a>	Medical Cannabis, Transportation Regulations
	AB		
2015	730	<a href="#">Controlled Substances: Transportation</a>	Transportation Regulations
	SB		
2015	303	<a href="#">Controlled substances: destruction of seized Marijuana</a>	Illegal Cannabis, Destruction
	SB		
2015	643	<a href="#">Medical Marijuana</a>	Medical Cannabis, Regulation, Testing, Taxation
	SB		
2015	643	<a href="#">Medical Marijuana</a>	Medical Cannabis, Prescription Standards, Regulations
	AB		
2016	21	<a href="#">Medical Marijuana: Cultivation Licenses</a>	Medical Cannabis, Cultivation Licenses
	AB		
2016	2516	<a href="#">Medical cannabis: state cultivator license types: specialty cottage type</a>	Medical Cannabis, Cultivation Regulations

Year	Bill #	Title	Keywords
2016	AB 2679	<a href="#">Medical marijuana: regulation: research</a>	Medical Cannabis, Research, Reporting
2016	AB 821	<a href="#">Sales and use taxes: administration: payments: dispensaries</a>	Cannabis Dispensaries, Sales and Use Tax Payments
2016	Prop 64	<a href="#">Control, Regulate and Tax Adult Use of Marijuana Act of 2016</a>	Cannabis Legalization, Regulation, Taxation,
2016	SB 837	<a href="#">State Government</a>	Term: Marijuana becomes Cannabis, Regulations
2017	AB 1159	<a href="#">Cannabis: Legal Services</a>	Cannabis Regulation, Attorney-Client Privilege
2017	AB 133	<a href="#">Cannabis Regulation</a>	Adult Use Cannabis, Transportation Regulations, Taxation, Cultivation
2017	AB 133	<a href="#">Cannabis: Regulation</a>	Adult Use Cannabis, Transportation Regulations
2017	SB 65	<a href="#">Vehicles: alcohol and marijuana: penalties</a>	Adult Use Cannabis, Law Enforcement
2017	SB 94	<a href="#">Cannabis: Medicinal and Adult Use</a>	Licensing, Product Testing
2017	SB 94	<a href="#">Cannabis: medicinal and adult use</a>	Adult Use Cannabis, Regulations
2018	AB 106	<a href="#">Cannabis: licenses: criminal records</a>	Adult Use Cannabis, Licensing, Background Checks
2018	AB 1459	<a href="#">Cannabis: Provisional License</a>	Adult Use Cannabis, Licensing, Provisional License
2018	AB 1527	<a href="#">Cannabis: Cannabis Control Appeals Panel</a>	Adult Use Cannabis, Cannabis Control Appeal Panel,
2018	AB 1741	<a href="#">Cannabis: taxation: electronic funds transfer</a>	Adult Use Cannabis, Sales and Use Tax Payments
2018	AB 1793	<a href="#">Cannabis convictions: resentencing</a>	Adult Use Cannabis, Criminal Procedure, Recall or Dismissal of Sentence
2018	AB 2020	<a href="#">Cannabis: local jurisdiction licensees: temporary event license</a>	Adult Use Cannabis, Licensing, Event License
2018	AB 2164	<a href="#">Local ordinances: fines and penalties: cannabis</a>	Illegal Cannabis, Cultivation, Local Penalties
2018	AB 2215	<a href="#">Veterinarians: cannabis: animals</a>	Medical Cannabis, Veterinarians, Prescription Regulations
2018	AB 2261	<a href="#">Cannabis</a>	Adult Use Cannabis, Definitions
2018	AB 2402	<a href="#">Cannabis: personal information</a>	Adult Use Cannabis, Regulations, Disclosure of Personal Information

Year	Bill #	Title	Keywords
	AB		
2018	2721	<a href="#">Cannabis: Testing Laboratories</a>	Adult Use Cannabis, Testing, Regulations
	AB	<a href="#">Adult-use cannabis and medicinal cannabis: license application: OSHA training</a>	Adult Use Cannabis, Regulations, Employee OSHA Training
2018	2799	<a href="#">OSHA training</a>	
	AB		Adult Use Cannabis, Marketing, License Suspension
2018	2899	<a href="#">Cannabis: Advertisements</a>	
	AB		Adult Use Cannabis, Alcohol/Cannabis Drink Sales Prohibition
2018	2914	<a href="#">Cannabis in Alcoholic Beverages</a>	
	AB		Adult Use Cannabis, Cannabis Marketing, Minors
2018	3067	<a href="#">Internet: marketing: minors: cannabis</a>	
	AB		Adult Use Cannabis, Cannabidiol exclusion
2018	710	<a href="#">Cannabidiol</a>	
	SB	<a href="#">Cannabis: State and Local Equity Programs</a>	Adult Use Cannabis, Cannabis Equity Programs
2018	1294	<a href="#">Programs</a>	
	SB	<a href="#">Commercial cannabis activity: licensed distributors</a>	Adult Use Cannabis, Transportation Regulations
2018	311	<a href="#">distributors</a>	
	AB	<a href="#">Adult-use cannabis and medicinal cannabis: license application: labor peace agreements</a>	Adult Use Cannabis, Labor, Labor Peace Agreement
2019	1291	<a href="#">labor peace agreements</a>	
	AB	<a href="#">Cannabis vaporizing cartridges: universal symbol</a>	Adult Use Cannabis, Cannabis Cartridge, Cannabis Vaporizer, Labelling
2019	1529	<a href="#">universal symbol</a>	
	AB	<a href="#">Personal income taxes: deductions: business expenses: commercial cannabis activity</a>	Adult Use Cannabis, Taxation
2019	37	<a href="#">commercial cannabis activity</a>	
	AB		Adult Use Cannabis, Law Enforcement
2019	397	<a href="#">Vehicles: driving under the influence</a>	
	AB	<a href="#">Commercial cannabis activity: testing laboratories</a>	Adult Use Cannabis, Testing, Regulations
2019	404	<a href="#">laboratories</a>	
	AB	<a href="#">The California Cannabis Research Program</a>	Medical Cannabis, Research, Reporting
2019	420	<a href="#">Program</a>	
	AB		Adult Use Cannabis, Cultivation
2019	858	<a href="#">Cannabis: cultivation</a>	
	AB		Adult Use Cannabis, Licensing, Regulations, Cannabis Equity Programs
2019	97	<a href="#">Cannabis</a>	
	SB		Adult Use Cannabis, Marketing, Labelling
2019	185	<a href="#">Cannabis: marketing</a>	
	SB		Medical Cannabis, School Sites
2019	223	<a href="#">Jojo's Act</a>	



Year	Bill #	Title	Keywords
2019	SB 34	<a href="#">Dennis Peron and Brownie Mary Act</a>	Adult Use Cannabis, Donations, Taxation, Cannabis Equity Programs
2019	SB 527	<a href="#">Local government: Williamson Act: cultivation of cannabis and hemp</a>	Cannabis Cultivation
2019	SB 595	<a href="#">Cannabis: state licensing fee waivers: needs-based applicants and licensees: local equity applicants and licensees</a>	Adult Use Cannabis, Licensing, Cannabis Equity Programs
2019	SB 657	<a href="#">Cannabis cultivation: county agricultural commissioners: reporting</a>	Adult Use Cannabis, Reporting
2020	AB 1458	<a href="#">Cannabis testing laboratories</a>	Adult Use Cannabis, Product Testing, Edible Cannabis
2020	AB 1525	<a href="#">Cannabis: financial institutions</a>	Adult Use Cannabis, Licensing, Banking
2020	AB 1872	<a href="#">Cannabis</a>	Adult Use Cannabis, Taxation
2020	SB 1244	<a href="#">Cannabis testing laboratories</a>	Adult Use Cannabis, Product Testing, Law Enforcement
2020	SB 67	<a href="#">Cannabis: marketing: appellations of origin: county, city, or city and county of origin</a>	Adult Use Cannabis, Marketing, Labelling

\*Law information from [Leginfo.ca.gov](http://leginfo.ca.gov).

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