

# Massachusetts Marijuana Social Equity Report Pt. I

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## About the Author:

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Cynthia Mompoin's career roots are in education, leadership, business development, and evaluating students, schools, and systems. Graduating with a degree in Political Science from Georgetown University, where she conducted research at both Georgetown Medical Center and Georgetown's Center for Social Justice, she entered the educator workforce through an AmeriCorps program. After completing her Master's in Educational Leadership, she shifted focus from evaluating students and curricula to evaluating educators in Atlanta, Georgia, and schools and districts in the state of Massachusetts as an independent consultant. She took her experience in the field to MA's Department of Elementary and Secondary Education evaluating and creating programs to address issues of inequity in the education system particularly within the educator workforce. It is with this keen lens on recognizing structural and subconscious biases that she brings forth this evaluation of MA Cannabis Control Commission's Equity Program. As an Economic Empowerment certificate holder and an approved Social Equity Participant, she is compelled to write this report out of a duty to herself, to those participating in the program, and most importantly, to those harmed by marijuana mass incarceration.

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## Purpose:

The purpose of this report is to analyze MA's equity programs through the lens of those experiencing the harms of the War on Drugs and to provide tangible and actionable recommendations that would disrupt the current course of action that is perpetuating the "status quo" when it comes to the income and wealth racial gap in MA, the pervasiveness and dominance of white ownership and control in the Cannabis industry, and the disproportionate criminalization and penalization of black and brown participation in the industry.

## Introduction:

February, 2020. The Cannabis Control Commission's (CCC's) executive director, Shawn Collins, and chair commissioner, Steve Hoffman, issued a letter to the MA joint committee legislative body calling for legislated financial support and state oversight of a cannabis social equity fund. The letter along with the launch of the second cohort application for social equity program are the most recent acts of the CCC to promote equitable participation

*The Cannabis Control Commission is dedicated to supporting full and robust industry participation by minorities, women, and veterans. Policies and procedures have been developed to encourage the involvement of people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement. The licensing process requires all operating marijuana establishments to positively impact those communities. Success will be measured in terms of ownership, employment, and ancillary contributions by these mandated categories of participants in the industry, as well as tangible benefits provided by licensees to disproportionately impacted communities.<sup>1</sup>*

The CCC doesn't explicitly define *social equity*, but does state that "[e]quity is the recognition and accommodation of differences to prevent the continuation of an inequitable status quo."<sup>2</sup> They go on to describe its Social Equity Program (SEP) which focuses "on those most impacted by the War on Drugs, marijuana prohibition, disproportionate arrests and incarceration, and provides education and entry across four areas..."<sup>3</sup> It isn't difficult to conclude that social equity in the Cannabis industry would then be to make accommodations for those most affected by the War on Drugs, i.e. black and brown people who have experienced the greatest harm of the mass incarceration agenda of the War on Drugs. However, the CCC never makes it to that point in their efforts for "social equity". A review of CCC metrics- ownership, employment, and beneficiaries- show that the current beneficiaries of marijuana legalization and regulation continue to be white men.

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<sup>1</sup> CCC. Open Data

<https://opendata.mass-cannabis-control.com/stories/s/Agent-and-Owner-Registration/49ku-9nf3>

<sup>2</sup> CCC Equity Programs Source: <https://mass-cannabis-control.com/equityprograms/>

<sup>3</sup> CCC Equity Programs

MA's enabling laws for marijuana adult use fall short of explicitly addressing the injustices and harm that MA policies and enforcement have exacted on black (and brown) people. Yet, the law provides the latitude for the CCC to create and enforce policies that will ensure that victims of mass incarceration, i.e. those that are statistically harmed by marijuana policies disproportionately more than any other population, are able to fully participate in the industry.

The CCC has abandoned their oath of office and commitment to equitable participation by not exhausting efforts to promote and encourage full participation of those most harmed by the War on Drugs and by promoting the "status quo" of the Cannabis industry.

*Oath of office:*

*MGL 94G section 4 a1/2 The commission shall, in accordance with chapter 30A, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include... (iv) procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;*

## TOPIC: Decision Making

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**OBSERVATION 1:** CCC and MA leaders make decisions that keep those most affected by the War on Drugs out of the legal Cannabis industry:

**RECOMMENDATION 1:** Appoint appropriate leadership

Appoint leadership who not only have a sensitivity towards mass incarceration and the harms done to black and brown individuals, families and communities, but can advocate for bold measures and changes at the leadership level that benefit black (and brown) people. The leadership needs to reflect the body of participation desired.

*Evidence:*

Governor Baker, Attorney General Healy, and Treasurer Deb Goldberg appointed a total of five commissioners in accordance with M.G. law chapter 10 section 76, yet not one is representative of the core body of people affected by prohibition and effectively used to legalize the industry.

*Commentary:* From the governor's office to the CCC to the local municipalities, it's clear that the major players and key decision makers in this industry did not care to have those impacted the most by the War on Drugs as part of the formation and foundation of the nascent legal Cannabis industry in Massachusetts. Not one commissioner can sympathize and articulate the interest and needs of those mass incarcerated for their participation in the "traditional" Cannabis industry. The CCC's own report on Positive Impact Plans enumerates this point when it describes the five commissioners each having a different understanding of "social equity". The report states, "if placed on a continuum, key stakeholders [the Commissioners] defined social equity as ranging from acknowledgement of past harm with a commitment to addressing harm, to equality of opportunity (without attachment to equality of outcome). Different definitions may indicate a difference in approach to achieving the stated ends."<sup>4</sup> This lack of consensus and understanding of marijuana social equity despite these key stakeholders knowing the history of prohibition and disproportionate harms on certain populations align with the observation regarding the CCC's decision making. To further undergird the point, four of the commissioners are women, and notably the commission consistently makes recommendations and demands the inclusion of women in the diversity plans as they review each license. Such perspective and sensitivity to women will result in an increase in women participation in Cannabis, a model for the rest of the country nonetheless. *N.B. marijuana mass incarceration did not disproportionately harm women, it happened and continues to happen to black (and brown) people.* In its most recent publication dated April 2020, the American Civil Liberties Union (ACLU) notes that "[o]n 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

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<sup>4</sup> Hamilton, JR., Doonan SM., Johnson, JK (2019, October). Special Report: A Baseline Review and Assessment of the Massachusetts Cannabis Industry's Required Positive Impact Plans. Boston, MA: *Massachusetts Cannabis Control Commission*.

marijuana at similar rates.”<sup>5</sup> The report goes on to highlight that this disparity continues to this day in MA despite legalization in 2016.

MA law is clear in stating the areas of expertise needed to be appointed to the commission, and it includes social justice.<sup>6</sup>

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<sup>5</sup> ACLU. (2020, April) A Tale of Two Countries: Racial Targeted Arrests in the Era of Marijuana Reform p.5

<sup>6</sup> MA Sessions Law (2017) An Act to Ensure Safe Access to Marijuana Chapter 55, Section 76

**OBSERVATION 2:** The CCC engaged in a series of decisions that amount to true accommodations, but exclusively for medical marijuana dispensary operators.

#### RECOMMENDATION 2: MA Incubator

1. Establish a business incubator program that requires every existing and new dispensary or general applicant to incubate an EE or SE business. Mandate that every marijuana establishment identify at least 1 business from the CCC's Equity Program (EEs and SEs). The framework for the incubating partnership should be discussed with program participants and implemented immediately for all licensed holders or prior to obtaining a final license for all new applicants and should be a condition for renewal. As stated in the CCC's guidance document, "[i]f there is evidence of discrimination or barriers to entry in the regulated marijuana industry, state law directs the Commission to take remedial measures to address those hurdles."<sup>7</sup>
2. Develop the parameters of this program to ensure success, accommodating for potential obstacles or pitfalls. It's imperative the CCC issue bold and creative policies that will lead to true representation, participation and ownership in MA Cannabis industry by black (and brown) people.
3. Prioritize the interest of the public and ensure decisions made and policies put forth do not reflect regulatory capture

#### *Evidence:*

In April 2018, the CCC decided to uphold the same priority status for registered medical dispensaries (RMDs) given to Economic Empowerment applicants but without any of the operational "burdens" placed on Economic Empowerment certificate holders (EEs). The CCC allowed for RMDs to submit applications after April 18, 2018 and still qualify for the "priority" status.

In addition, the CCC did not place any limitations on how RMDs exercised their priority status; thereby, allowing the dispensaries to expand into other localities and allowing non operational and non existing dispensaries to emerge and gain a notable "headstart" in the industry in MA. Originally, the intent was for EEs to have priority status and for RMDs to have expedited review status. There has never been any clear distinction between "priority" and "expedited" status other than the classification of licensees who qualify for either distinction.

#### Commentary:

EEs are granted "priority" licensing review status, but with the requirement that:

At least 51% of current employees/subcontractors reside in areas of disproportionate impact and will increase to 75% by first day of business; and that

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<sup>7</sup> Cannabis Control Commission. Guidance on Municipal Equity. Available: <https://mass-cannabis-control.com/document/guidance-on-equitable-cannabis-policies-for-municipalities/> Accessed April 16, 2020

At least 51% of employees or subcontractors have drug-related CORI, but are otherwise legally employable in a cannabis-related enterprise; EEs are the only licensee group with such requirements. RMD's have been granted priority status without any requirement above that of a general applicant. Ultimately, these dispensaries, having capital to secure locations and forge economically driven relationships with landlords and municipalities, were effectively given "accommodations" by the CCC that solidified the "status quo" for Cannabis in Massachusetts.

Evidence:

The CCC intervened after 18 months and over 100 licenses later before the CCC would intervene on the rapid expansion of medical dispensaries and their subsidiary retail locations which are owned and operated by all white men. Commission's policy clarification on October 10, 2019.

Commentary:

The CCC could have limited the RMD retail expansion to be colocated at their existing municipalities; and they could have limited priority status only to RMDs that were already licensed by July 2018 or at least submitted an application by April 2018.

Commentary:

These decisions also highlight avoided opportunity: We intentionally cannot call it a missed opportunity because the CCC was aware of the 1:1 incubator program in Oakland, CA. If the CCC wanted to grant RMDs the free reign it allowed, yet still foster equitable participation, the CCC could have adopted measures similar to Oakland's social equity model that was already operational at the time these decisions were made in MA, a model the CCC was familiar with as evidenced in their 2018 Social Equity Presentation<sup>8</sup>. The CCC did not exercise its regulatory authority to mandate that RMDs and General Applicants partner with an Economic Empowerment certificate holder (and social equity participants) in order to open up any recreational establishments. The CCC could have (and still can) promoted a Massachusetts version of Oakland's 1:1 incubator model under Massachusetts' Positive Impact Plan provision. Had that been the course of action by the leaders at the CCC, October 2019 would have seen 100 RMDs expanding and 100 establishments led by Economic Empowerment Certificate holders, the very people who are mandated to support communities of disproportionate impact beyond the Positive Impact Plan requirement including mandated to hire at least 75% of the working staff with a CORI or living in an area of disproportionate impact (DIA). Immediately, Massachusetts would see a "robust and equitable" industry from the start measurably demonstrated through employment and more importantly through ownership by business leaders who have already demonstrated a track record for empowering people in disproportionately impacted communities. Such action would make Massachusetts a true national leader and model for social justice, a new Cannabis industry model, and demonstrate a step towards restorative justice for the marijuana victims of the War on Drugs.

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<sup>8</sup> Social Equity Presentation.

[https://mass-cannabis-control.com/wp-content/uploads/2018/09/Social-Equity-Program-Presentation\\_v09122018.pdf](https://mass-cannabis-control.com/wp-content/uploads/2018/09/Social-Equity-Program-Presentation_v09122018.pdf)

*Evidence:*

On March 23, 2020, MA Gov. Baker issued an emergency order due to COVID-19, effectively closing all adult-use facilities immediately. The CCC boldly amended that order on April 7, 2020,<sup>9</sup> to allow for adult-use cultivation and manufacturers to remain open to support the medical dispensaries (RMDs) and demand from a surge of new patients.

*Commentary:*

The CCC advocated for all of its establishments unequivocally to remain open during the government's emergency order to shut down certain businesses. However, when that could not happen, the CCC boldly and creatively took action and provided justification to amend the order. This act of the CCC demonstrated to the public the full extent of their regulatory authority and the broad range and flexibility to exercise that authority not only in matters of creating policy, interpreting law, but also in states of emergency orders. We have not seen this same bold and creative measures with respect to accommodations for the Equity Programs and its participants. No demand or requirements for social equity, and it's reflected in the PIPs. These dispensaries are the best poised to provide the accommodations necessary for social equity through a 1:1 business incubator. The CCC didn't mandate that the RMDs participate in social equity. The PIPs have been inconsistent in activity and proposed impact.

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<sup>9</sup> Collins, Shawn. Amended Cease and Desist Order. *Cannabis Control Commission*. [https://mass-cannabis-control.com/wp-content/uploads/2020/04/20200407\\_Amended-Cease-and-Desist-Order-v-FINAL-Executed.pdf](https://mass-cannabis-control.com/wp-content/uploads/2020/04/20200407_Amended-Cease-and-Desist-Order-v-FINAL-Executed.pdf) Accessed April 16, 2020

### **OBSERVATION 3: Insufficient accommodations for EEs/SEs and (to-date) no funding or financial support Pt. 1**

#### **RECOMMENDATION 3: Local Equity Support**

- 1.) Mandate that municipalities submit to the CCC their social equity program which aligns with the CCC's Equity program (not competes by creating another layer of exclusivity for residents and excluding the state Equity participants). The CCC should then prioritize review of applications based on the municipalities implementation of equity.
- 2.) Be thoughtful, purposeful, bold, and creative in securing and dispersing funds to support entrepreneurial endeavors and establishments of SEs (and EEs) with little to no barriers.
- 3.) Enumerate the licensing process to show the difference between priority, expedited, and general applicant status accounting for details in communication, timeline, and approximate timeframe for review.

Evidence: EEs have priority status.<sup>1</sup>

There have been 193 applications approved with a provisional or final license. Of those licenses approximately 10 have gone to EEs or SEs.

There are nearly 400 applications under review. Of those applications under review 8 are EEs.

The CCC has not delineated the difference between "priority" and "expedited" status other than who holds the status.

The accommodations extended to EEs have been extended to SEs, DBEs, and Micro Businesses with no clear distinction if priority trumps expedited and how so.

Commentary: While these other populations provide for a diverse business community, the point is that the priority accommodation set aside for EEs, ie those specifically charged with economically empowering communities through their cannabis establishment, loses impact when there is no visible nor articulated difference between the EE priority status and expedited status.

Evidence:

An example of that was demonstrated in January 2020 when an Economic Empowerment applicant boldly expressed her frustration with the review process because her application had been with the CCC for over a year. The CCC pushed back with nuance details for this particular application, but the interaction called into question what "priority" review status meant for an EE applicant. The fact that there is currently only one operational EE applicant also highlights that the accommodations for EEs are more discriminatory than equitable.

Commentary:

From a logic perspective, one must ask how can it be equitable to grant EEs priority status on par with existing RMDs without accounting for the key supports necessary to succeed from the start? It's not equitable. And it definitely isn't equity either considering existing RMDs have a notable advantage over any newcomer EE applicants. Effectively, the CCC did more than abandon their

responsibility to accommodate those poised to empower communities, but did the exact opposite of their charge.

Evidence: The CCC realized in 2019, despite a year of complaints from EEs, that the host community agreement requirement with no local mandate for Equity was significantly impacting EEs ability to enter the industry. The CCC did request legislative relief to review host community agreements (HCAs) to push back on violations of the law,

Numerous municipalities have instituted their own social equity program that are not supportive of the state Equity program participants. City of Boston's ordinance, adopted in March 2020, requires that any Equity applicant be a resident of the city<sup>10</sup>. In Somerville's review, state certified economic empowerment status, while noted in the city's evaluation, did not provide much merit in their decision to score favorably for the candidate.<sup>11</sup>

Commentary:

When the legislature clarified and confirmed the CCCs role to review HCA's agreement, it immediately allowed for the Commission to push back on any agreements that violated the law. But, the oversight was not enough to address the real issue that Equity participants faced in communities. Municipalities should be mandated to institute local accommodations for Equity applicants to ensure equitable participation and ensure that those harmed by the War on Drugs are not subject to being left out or locked out of this opportunity at the local level through local biases in issuing HCAs.

The City of Cambridge demonstrated how important such a legislative measure was in affecting local Equity programs.

It is only in that recent letter to the joint committee that the CCC chair and executive director have requested legislative backing to require local implementation of the state Equity programs.<sup>12</sup>

Evidence: Capital is a known barrier and significant capital is necessary to erect a marijuana license.

In February 2020, the CCC submitted a letter to the legislature requesting a social equity fund. The MA legislature is currently reviewing a bill to legislate funding for the social equity program. CCC is considering Oakland, CA's and Illinois' equity funds for models to adapt for MA's social equity program.<sup>13</sup>

Commentary: Massachusetts' cannabis industry has been legal for 3.5 years, and it is now that the CCC is seeking authority to establish and maintain a fund for social equity. Any strategic business planner, community developer, or simply solutions-oriented individual would have known that

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<sup>10</sup> City of Boston Equity Ordinance. Available:

<https://www.boston.gov/sites/default/files/file/2019/12/Cannabis%20Ordinance%20with%20Criteria.pdf>

<sup>11</sup> MAC Round One Recommendation (Sept 2019)

<https://www.somervillezoning.com/wp-content/uploads/sites/2/2019/09/Round-1-Review.pdf>

<sup>12</sup>Collins, Shawn (February 2020). <https://t.co/fAvcRNoS5N?amp=1>

<sup>13</sup>Ibid

financial resources are essential for obtaining a marijuana license. In fact, by their own admission, the CCC recognized finances as the greatest barrier for entry.<sup>14</sup> Yet, it is only now the CCC is exploring options for securing and providing funding to support Equity Program participants entrepreneurial efforts. To date, the CCC has not engaged the public or equity participants to receive input as to what measures or funding terms would most effectively remove barriers and position participants for success. How the CCC handles the allotment and disbursement of funds will speak volumes about the true priorities, values, and perceptions of those harmed by the War on Drugs and the participants in the state's Equity programs.

Concerns with CCC's lack of engagement are discussed later in this report.

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<sup>14</sup> Social Equity Presentation & (insert info about CCC report)

**OBSERVATION 4:** The CCC provides insufficient accommodations for EEs and SEs (Part 2)

**RECOMMENDATION 4:** Accommodations that address the harms of mass incarceration

1. Be intentional about accommodations made to address the harms of mass incarceration and facilitate participation in the industry.
2. Quantify and offer options for restitution as compensation to the victims of marijuana mass incarceration for the collateral consequences of the War waged against them.

Evidence:

Prior to legalization, the harm of the War on Drugs was commonplace rhetoric in the push to legalize the Cannabis plant. The information circulated clearly called out the injustices befalling black and brown men in the state and across the nation. However, the restorative actions fail to even identify these populations, instead the decision was made to call out the communities, as in the zip codes where the injustices and terrorism occurred.

Evidence:

Through the social equity program, participants are offered benefits including technical assistance in the form of training offered by state approved vendors. However that is not enough.

Commissioners have described their slow rollout and approval of licenses as “thoughtful and purposeful”. Considering the impact the CCC decisions have had on EEs and black and brown communities and the impact their decision has had on RMDs, the question becomes at the expense of whom?

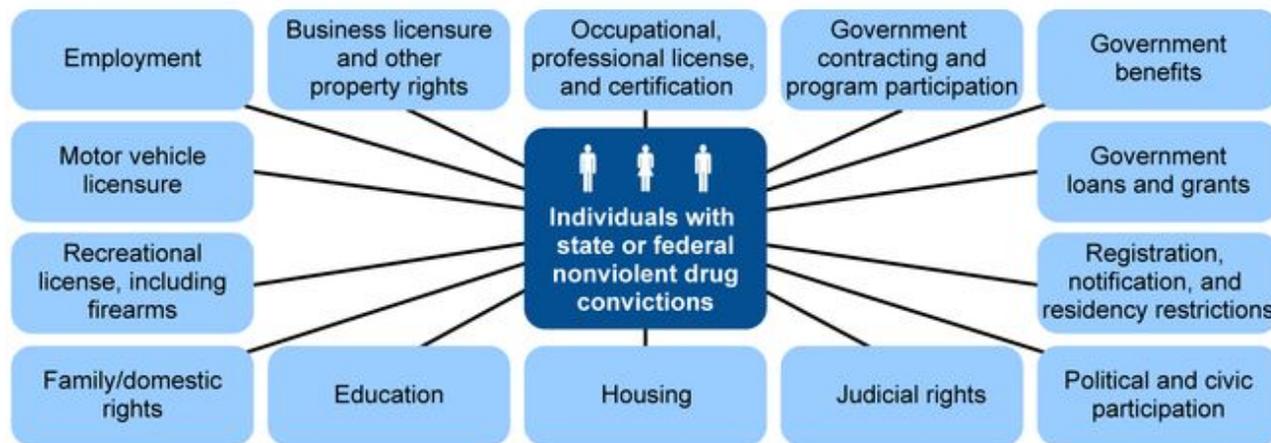
The CCC and legislative body decided that “restorative justice” in the form of expungement of records would be an appropriate act along with the training clinics.<sup>15</sup>

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<sup>15</sup>CCC. Guidance on Plans to Positively Impact Disproportionately Harmed People. <https://mass-cannabis-control.com/document/guidance-on-plans-to-positively-impact-disproportionately-harmed-people/> Accessed April 16, 2020.

### Aspects of an Individual's Life that Can be Affected by Federal Collateral Consequences for Nonviolent Drug Convictions:

Aspects of an Individual's Life That Can Be Affected by Federal Collateral Consequences for Nonviolent Drug Convictions, as Identified by the NICCC



Source: GAO analysis of the American Bar Association's National Inventory of the Collateral Consequences of Conviction (NICCC). | GAO-17-691

Image taken from National Inventory of the Collateral Consequences of Conviction (NICCC)  
<https://www.gao.gov/products/GAO-17-691>

**Commentary:**

The CCC and legislature have made decisions as to what accommodations would be suitable for “social justice” with no compassion for the victims of marijuana mass incarceration, no respect for the business acumen these victims or those close to them may possess, nor the realities that black people already face without the stigma of a record even it was unjustly created.

The NICCC identifies the numerous areas of “collateral consequences”. A more effective measure would be to identify ways to ameliorate these consequences. Many of these consequences have long term effects. It is important to ground this discussion in the context of the War on Drugs. As victims of a war, penalized for engaging in an activity that many are making a tremendous amount of wealth, the goal isn't to erase the past, but to attempt to right the wrongs enacted on these victims by the government and local enforcement.

Expungement is an insufficient reparative act and arguably criminal. The records are historical data and evidence. Expunging the records of victims may prevent future harms or consequences, but they do not retribute the past harm already done such as trauma, time, opportunity and resources lost.

With low level marijuana charges, to expunge these records is to erase the evidence for the War on Drugs and the injustices inflicted on black people. It absolves the American government and local governments of their criminal and terrorist actions against its own citizens, a past our present society grapples to understand and accept. Erasing these records will also result in future generations not knowing part of the violent and horrible history of this country and the great injustices suffered by its own people. If the goal is to expunge records for the victim, then make the compensation so great for the harm that 1.) it is a method of true amelioration; and 2.) it codifies in

history the violation and the effort to rectify such violations. Nevertheless, victims should never have history erased as to how they were violated. That type of behavior is part of the problem with our current History and education system. The narrative of the victim is erased or never told giving a very skewed perception of what actually happened. To expunge records of victims of mass incarceration is to delete the records of the government sanctioned war on black and brown communities. To erase from history that mass incarceration has been occurring since the 1980s and establish a new task force to crack down on the “illicit” market, we position ourselves for the next generation of mass incarceration.

Another point to note is that studies show black graduates are nearly 2x more likely to be unemployed than their white peers.<sup>16</sup> So how does expungement of records help victims of mass incarceration? Victims will fare better if MA issues measures that directly address the collateral consequences of the War on Drugs. My personal experience shows that black candidates with stellar credentials, no CORI, can outshine other candidates and still can't get the job because the candidate isn't a “cultural fit”, ie the leadership wants to give the position to their white counterpart. Ultimately, CORI or not, black men aren't getting hired and when they are hired opportunities for promotion are not offered. As one report shared, “[w]hile college attainment helps all workers get more access to better-paying, stable jobs with better benefits, the advantages are not evenly distributed. Black workers, no matter their level of education, still face impediments in the labor market—employment discrimination, occupational segregation, and unequal pay.”<sup>17</sup>

*Additional concerns with “education” as a tool for restorative justice are discussed later in this report (See Recommendation 10).*

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<sup>16</sup> Gillespie, Patrick. CNN Business: *Best job prospects in 8 years for class of 2016*

From: <https://money.cnn.com/2016/04/21/news/economy/college-graduates-class-of-2016-epi/index.html>

Accessed April 18, 2020

<sup>17</sup> Weller, Christian (December 2019) American Progress: *African Americans Face Systemic Obstacles Getting Good Jobs*. Available

<https://www.americanprogress.org/issues/economy/reports/2019/12/05/478150/african-americans-face-systemic-obstacles-getting-good-jobs/> Accessed April 16, 2020

**OBSERVATION 5:** The CCC doesn't engage the victims of mass incarceration.

**RECOMMENDATION 5:** Engage the victims of mass incarceration

Engage the victims of the War on Drugs to better understand what equity means to them and how that would look in a truly "robust and equitable Cannabis industry" in Massachusetts.

Commentary:

SE benefits should be prioritized to repair the injustices done to black and brown people with the same level of resolve and in just as pointedly stark and unapologetic the "Victimizer" has targeted black (and brown) people. The goal of social equity is to aid, or make "accommodations" that would allow for full participation in the industry from those disproportionately penalized, criminalized, and prevented from participating. Equitable participation in the industry means equitable participation at all levels from decision making to creating opportunity to facilitating access to recreational and medicinal use. Making accommodations to counter the status quo means to do so at all levels for those who were harmed the most by the War on Drugs.

Evidence:

No one on the decision making body for the Cannabis industry in MA is a victim of mass incarceration.

Commentary:

In the case of the War on Drugs, we have 3 parties: Victims of the War, Victors after War, and the Victimizer. The data, reports, and narratives share an unequivocal recognition that the victims of the War on Drugs were disproportionately black and brown people, their families, and ultimately their communities. The victors of the War on Drugs are undoubtedly the white business owners who are able to solidify generational wealth with their legal "drug" operations, the same activities for which black and brown people are incarcerated. The Victimizer is the silent hand that orchestrates this injustice and perpetuates historical attacks on the black and brown communities. The Victimizer in this case is not one individual, or singular population, but is actually a psychology and philosophy that systematically upholds the interests of one group of people while demonizing, penalizing and ignoring any particular and/or all other groups. This psychology and philosophy can be held and perpetuated by anyone, but it always promotes the same ideology: that of white supremacy. The Victimizer in the War on Drugs is the psychosis of white supremacy. It is this psychosis, which can operate absent overt racism and absent hate, that perpetuates the disproportionate discrimination against and the mass incarceration of black and brown people. For example, Boston's drug unit is predominantly black and brown, yet that does not necessarily preclude these officers from operating under the psychology that they've been trained; hence, the reason you will see black and brown officers targeting black and brown communities just as harshly or even more harshly.

**Evidence:**

MA equity programs offer benefits including job training, re-entry programs, and expungement clinics.

Numerous licensure applicants have submitted positive impact plans that give money to disproportionate communities, host trainings, and may even provide mentorship.

**Commentary:**

These “benefits” offer some form of reinvestment in the community, but it does NOT:

- 1.) Provide job security. Not only are employees subject to the market trends and need for their positions; but also the level of discrimination that occurs within the facilities will impact an employee’s job. Moreover, positive impact plans submitted tend to use phrases such as “preference to candidates” from DIA. So these measures lack any guarantee to promote getting a job and fall short of a robust and diverse participation. At best they provide lip service to inclusion. MA, across various sectors, struggles with implementing “cultural fit” policies without intentionally discriminating against a population.
- 2.) Provide a true business opportunity, because it lacks the key resources necessary for licensing, i.e. capital, municipality support, and engagement of the industry experts.
- 3.) Provide any financial compensation or guarantee for positions
- 4.) Target support to the Disproportionately Impacted Populations (DIP).

**Evidence:**

According to CCC Open Data approximately 7.2% (i.e. 56/768) of approved licensed owners are minority. This category includes all individuals that identify as “minority”, not just black and brown individuals.<sup>18</sup>

**Commentary:**

In their study of *Reducing Racial Wealth Inequalities in Greater Boston*, authors from the Federal Reserve Bank of Boston outline the distinction between being given the opportunity to get a job earning income versus the opportunity to build wealth through businesses. “In general, income helps families cover their current needs, but wealth allows them to make investments in education, create businesses, and cover expenses when there are medical emergencies or job losses [or as in the case of 2020, pandemics]”<sup>19</sup> MA social equity program focuses primarily on job training. In fact, the CCC scoffed at the thought that the majority of SEP participants selected the entrepreneurial track without considering that many victims of mass incarceration were actually entrepreneurs who were simply operating in the traditional market making their actions criminal.

**Evidence:**

Following the “status quo” across the country, the CCC focuses vaguely on “communities”, as in zip codes, and not on the very specific populations harmed by marijuana mass incarceration and the War on Drugs.

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<sup>18</sup> CCC Open Data Platform <https://opendata.mass-cannabis-control.com/>

<sup>19</sup> Bryant, D. Haggerty, G. Parker, C. Turchinets, M. Schlorholtz, E. (May, 2017) , *Reducing Racial Wealth Inequalities in Greater Boston: Building A Shared Agenda*. the Federal Reserve Bank of Boston

**Commentary:**

“Mass incarceration” and “those harmed disproportionately by the War on Drugs” are the injustices highlighted when describing the need for marijuana social equity. These are also the same points used as the driving lever for championing legalization. The CCC falls short in providing benefits and metrics that pointedly target the very population they’ve identified as needing the “equity” accommodations in the marijuana industry to fully participate in the industry.

**Evidence:**

The CCC combines promoting diversity with positively impacting those harmed the most by the war on drugs.

The one SE participant to hold a provisional license is a white man.

**Commentary:**

There’s a difference between the victims of mass incarceration and marginalized populations. There was an actual war waged against the victims of mass incarceration: guns, murder, jails, bombs, families destroyed, trauma. The marijuana social equity program was to give aid to those who experienced marijuana mass incarceration war crimes. Marijuana legalization was deemed necessary because of the victims of marijuana mass incarceration, black (and brown) men and black and brown people. To have aid that was meant to rebuild a people after this racist war, to have those funds go to white women and white people under the guise of marginalization, when white men and white women benefited from marijuana mass incarceration making billions off of the still federally illegal marijuana industry, is just more victimization to the victims of this racist marijuana war.

Mass incarceration was a war carried out by skin color and it still ensues by skin color. To say you want to do something for the victims of mass incarceration but dilute their position by giving aid to other marginalized groups, who deserve aid, but weren’t victims of mass incarceration, is a smack in the face to the victims who experienced this modern day Jim Crow known as Mass Incarceration. Participation of marginalized groups is a matter of diversity. Leadership in the Cannabis industry lacks diversity. However, efforts to increase diversity in participation should not be at the expense of restoring those who’ve been harmed directly by the industry.

## OBSERVATION 6: Prepping for Mass Incarceration 2.0

### RECOMMENDATION 6: Facilitate transition to legal market

1. Encourage price elasticity (i.e. how sensitive Cannabis demand is to price)<sup>20</sup> for both recreational and medical marijuana
2. Provide a variety of license types reflective of the variety of operations existing in the traditional (illicit) market allowing for a transition to the legal side.
3. Eliminate key barriers to entry which the CCC identifies and countless other studies have shown to be a.) financial capital necessary to meet the regulatory and legal compliance for operating a marijuana establishment and b.) local authority through HCA.
4. Eliminate all charges for possession and distribution of marijuana. And do not allow law enforcement to make any actions or decisions solely on the basis of the smell of marijuana.

#### Evidence:

The CCC is responsible under Chapter 55 of the enabling legislation (St. 2017) for issuing reports and recommendations that will decrease the market share of the “illicit” market.

CCC’s commissioned report to identify measures that would “deter and contribute to a reduction in the scope of the illicit market and maximize participation in the legal market.”<sup>21</sup> The Massachusetts Cannabis Control Commission issued recommendations to continue arresting people for marijuana offences. The CCC recommends that current criminal laws for marijuana remain and that a multi agency task force be created to combat the illicit market.<sup>22</sup>

M.G.L. 94G section 4a1/2 xxxiv(b) in accordance with chapter 30A already grants the CCC the regulatory authority to create a variety of licenses to meet the needs of the industry.

MA Governor Baker stated, “the thing that is killing people every day on the streets of the Commonwealth is synthetic opioids... And that’s really where the Justice Department and state government and local government ought to be focusing their efforts.”<sup>23</sup>

The CCC’s baseline data report<sup>24</sup> which includes a literary and study review that provides concrete areas to focus on (and are within purview of the CCC’s regulatory powers) including price elasticity and license variety.

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<sup>20</sup> CCC. (February 2020) The Cannabis Control Commission & Attorney General’s Office Joint Report

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Dumcius, G.(January 9, 2018), Instead of Marijuana Crackdown, federal prosecutors should focus on fentanyl, MA Gov. Charlie Baker says. *Mass Live*  
[https://www.masslive.com/news/2018/01/instead\\_of\\_marijuana\\_crackdown.html](https://www.masslive.com/news/2018/01/instead_of_marijuana_crackdown.html)

<sup>24</sup> Doonan SM., McKenna, D., Johnson JK., (2020, February). A Baseline Review and Assessment of the Massachusetts Adult-Use Cannabis Industry— A Report to the Massachusetts Legislature. Boston, MA: *Massachusetts Cannabis Control Commission*.

Commentary:

The legislation grants the CCC a broad sweep of regulatory authority to support transition from the illicit market to the legal market. **If the regulatory body were operating in the public's interest, their recommendations would focus on how to transfer illicit market activities which include large scale cultivating, manufacturing, buying, and selling to operating in the legal market in order to provide safe, regulated, and taxed products and services.** The decision to increase law enforcement activity and establish a law enforcement task force is a reflection of "status quo" and regulatory capture where the key major Cannabis businesses in MA along with their lobbyists want to stomp out and arrest the competition not legalize the competition. This regulatory capture poses the greatest threat to those traditionally harmed by the War on Drugs and systematically left out of the legal industry, black people. Historically, legal actions that seek to penalize populations always [sic] disproportionately impact black and brown individuals and their communities. Data in the ACLU's 4/2020 marijuana report, indicate that despite legalization, marijuana arrests continue and in MA the disparity of arrests for black people increased after legalization.<sup>25</sup> Therefore, it is fair to conclude that the CCC is serving in its capacity to establish the foundation for a new wave of mass incarceration.

The CCC has the opportunity to define how to reduce the scope of the illicit market- more arrests is not the solution. Engagement is. Considering the financial barriers to operating major marijuana establishments, it's imperative that MA allow for a variety of licenses with lower barriers, particularly financial barriers, to entry in order to minimize the impact law enforcement will have on these populations for their continued engagement with the plant.

For public safety, efforts should focus on accessibility. How do we make the plant more accessible in a safe manner for users? Perhaps, encourage a diverse market where a variety of price ranges can be offered for products, so that all users (particularly patients- licensed and non) can access the plant. It's not the intent of this report to exhaust all the possible ways MA Cannabis industry can successfully create an accessible market, but it is to point out the poor decision making to not engage the very community the CCC claims it wants to have participate equitably

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<sup>25</sup> ACLU. (2020, April) A Tale of Two Countries: Racial Targeted Arrests in the Era of Marijuana Reform

**OBSERVATION 7:** The CCC and MA laws promote the status quo of criminalizing marijuana use and disproportionately harming black and brown people through the recommendation of a multi-agency task force to target the traditional (illicit) market.

**RECOMMENDATION 7:** Establish task force to support transition to legal market

Don't use the task force to go to war again with the illicit market. Utilize the multi-agency task force that the CCC and Attorney General's Office are mandated to establish to facilitate transitioning of participants in the traditional (illicit) market to the legal market. The goal of the task force would be to identify measures and opportunities that support the business and compliance development for those engaged in the traditional (illicit) market and affirmative diversion programming for users under 21 years of age. Eliminate all efforts to continue to criminalize and penalize participation in the industry.

**Commentary:**

When Massachusetts voters expressed their desire to legalize Cannabis, they did not state that they wanted to be priced gouged and heavily regulated. At worst, people requested that the plant be regulated similar to alcohol. However, even the current state of emergency<sup>26</sup> has shown that the Cannabis plant is regulated far more stringently than alcohol.

Instead of creating additional barriers to entry, in response to the big businesses and major financial players in the industry, they've limited the scope of opportunity and increased the scope for arrests and criminalization.

Whom from the traditional "illicit" market has the CCC engaged in its decision making? If they did, maybe they'd realize that establishing a multi-agency task force that is well stocked and resource isn't the most effective way to curb the prevalence of "illicit" activity. The traditional market exists because for generations it has been illegal to engage the plant. And now, as MA slowly rolls out legalization and regulation, it is imperative that they cease all criminal charges against users of the plant. It's hard to commit a crime where there is no crime to commit.

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<sup>26</sup> <https://www.mass.gov/info-details/covid-19-essential-services#health-care/-public-health/-human-services->

## TOPIC: Incomplete Data

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**OBSERVATION 8:** The current data utilized paints an illusory picture of inclusion.

**RECOMMENDATION 8:** Gather demographic data by role to show degree of participation Social Equity participation data should be as direct as feasibly possible. MA should include the data of who was targeted by the War on Drugs:

To assess full and robust participation in the legal market, the data should include racial demographic for the following:

- ❖ MA Population
- ❖ Drug CORI Population
- ❖ SEP Participants ( Agents; Owners)
- ❖ Certified EE Participants (Agents; Owners)
- ❖ Approved SEs (Agents; Owners)
- ❖ Registered patients

Data that directly shows how robust and diverse participation is will also show where additional attention or accommodation is needed.

Evidence:

In their baseline data review,<sup>27</sup> the CCC references data on ownership and registered agent status to discuss participation.

Commentary:

Ownership and registered agent are not synonymous and the clear distinction should be made to enumerate the difference. A registered agent covers individuals in a variety of roles. and the CCC does not disaggregate the data by race/ethnicity and role.

The data shared is misleading. It does not explicitly show the race and ethnicity of the owners in MA.

Evidence In MA:

- a. CCC provides data for Minority-owned Businesses under the Disadvantaged Business Enterprise section.
- b. The data shows that 7.7% of establishments are Minority-owned, i.e owned by people of color
- c. The data does not show establishments owned by black people.

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<sup>27</sup> Doonan SM., McKenna, D., Johnson JK., (2020, February). A Baseline Review and Assessment of the Massachusetts Adult-Use Cannabis Industry— A Report to the Massachusetts Legislature. Boston, MA: *Massachusetts Cannabis Control Commission*.

**Commentary:**

The data about ownership is notably different from the participation data of “30% registered agents of color” the CCC touts. Assuming the DBE data is a true reflection of the industry, then of the 768 pending or approved licenses, 92.3% of marijuana businesses are white owned.<sup>28</sup>

Five percent of registered agents are black. It is quite likely that the vast majority of these agents are employees. These distinctions matter because ownership is clear, cut and dry. Who owns the business is who controls the decision making. The owner is the job security, and the leader in the industry.

Agent registration is simply a process mandated by the state to track anyone who legally may interact with the plant from a business perspective. There is no job security in being a registered agent.

**Evidence:**

CCC uses arrest data to categorize disproportionately impacted areas (DIA).

Ex: Braintree is a middle class white community with only 3% black population and less than 2% Latinx population.<sup>29</sup>

**Commentary:**

What does living in Braintree, MA have to do with being a victim of mass incarceration or being part of a population that has been disproportionately harmed by the War on Drugs? Or being part of a community disproportionately impacted by the War on Drugs?

The CCC took a rudimentary view of the word “community”, yet when statistics are reported and the CCC talks about black and brown communities, they aren’t talking just about zip codes but the populations.

Braintree arrest records show a disproportionate impact on black and brown people, who most likely were profiled while shopping at the town’s many stores; but, let’s be clear, any money funneled into Braintree because it is classified as a DIA isn’t going to help those harmed by the War on Drugs [emphasis added].

In order to assess full participation of those most harmed by the War on Drugs, the data needs to be direct. In the CCC’s Social Equity Presentation, the data is explicit about who is affected the most by the War on Drugs, black people. The data for participation needs to show where and how black people are participating in the industry. The most significant role is that of ownership.

To be frank, this practice of shrouding data or shrouding numbers isn’t new. Telling the truth or being transparent doesn’t mean you get to keep your job. In fact, under the wrong regime, it may mean you lose your job, especially if your job entails painting the state in the most favorable light.

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<sup>28</sup> CCC Open Data

<https://opendata.mass-cannabis-control.com/stories/s/Agent-and-Owner-Registration/49ku-9nf3> Accessed April 16, 2020

<sup>29</sup> Taken from <https://datausa.io/profile/geo/braintree-town-ma/#demographics> Accessed April 16, 2020

The CCC does acknowledge certain limitations with data reporting and have claimed to be working on better tools to capture demographic and participation information.<sup>30</sup> We're staying plugged in to see how that rolls out.

#### Evidence:

Massachusetts mass incarceration data showed in 2017 that there were 1,549 black prisoners for every 100,000 black adults – nearly six times the imprisonment rate for whites (272 per 100,000) and nearly double the rate for Hispanics (823 per 100,000).<sup>31</sup>

#### Commentary:

MA leaders (and likely residents) appear to conflate mass incarceration with being incarcerated in part of America's over-incarceration system.

However, marijuana mass incarceration is about the discriminatory, disparate, and abusive policies and habits of practice by the government and local officials targeting black (and brown) people fueled by the War on Drugs. By the first hand account of Maur Stringer, a victim of the War on Drugs, "The War on Drugs was a war waged against black and brown people, an ugly war; a war in every sense of the word. American citizens, black skin, were treated like an American war enemy in uniform, complete with war crimes, decimating entire communities, public executions, bastardized children and countless other war crimes right here on American soil, all under the guise of marijuana use in this case. Mass incarceration is merely one product of this racist drug war." His depiction aligns with President Nixon's own advisor who confirmed that decimating communities was the specific goal of the War on Drugs.<sup>32</sup> In 1994, John Ehrlichman, Nixon's counsel and Assistant for Domestic Affairs, nonchalantly described the campaign's target and plan of attack stating, "we could disrupt those [black] 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."<sup>33</sup>

For black people in America, mass incarceration is a continuation of Jim Crow, Black Codes.<sup>34</sup> In fact, there are more black people under correctional control in this country than there were slaves on the plantations in the 1800s.<sup>35</sup> As a result, we find an astounding overrepresentation of black and brown people in the criminal justice system. Typically the data for arrests and imprisonment are shared. However, the grossly disparate and discriminatory treatment extends throughout the majority of the justice system from profiling to sentencing and probationary disparities. Perhaps placing mass incarceration in its proper context will allow for disproportionately impacted

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<sup>30</sup> Doonan SM., McKenna, D., Johnson JK., (2020, February). A Baseline Review and Assessment of the Massachusetts Adult-Use Cannabis Industry— A Report to the Massachusetts Legislature. Boston, MA: Massachusetts Cannabis Control Commission

<sup>31</sup> <https://www.pewresearch.org/fact-tank/2019/04/30/shrinking-gap-between-number-of-blacks-and-whites>

<sup>32</sup> Stringer, Maur B. (April 2020). Author of *Jumping Jim Crow for Cannabis* and victim of the Massachusetts War on Drugs.

<sup>33</sup> Sherman, Erik (March 23, 2016). "[Nixon's Drug War, An Excuse To Lock Up Blacks And Protesters, Continues](#)". *Forbes*.

<sup>34</sup> Stringer (April 2020)

<sup>35</sup> DeGruy, Joy. (2005) *Post Traumatic Slave Syndrome : America's Legacy of Enduring Injury and Healing*. Milwaukie, Oregon:Uptone Press

populations (DIP) to be identified explicitly in the measures for social equity. As Stringer describes, “Social equity is wartime relief for the victims of the War on Drugs, the victims of marijuana mass incarceration. It is to rebuild what the ugly crimes of war destroyed”.

## TOPIC: Communication and Engagement

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OBSERVATION 9: The CCC does very little to engage black and brown people to allow for meaningful participation in the legal industry.

RECOMMENDATION 9: Engage EEs, SEs, and the victims of mass incarceration

1. Actively engage economic empowerment certificate holders and social equity applicants in meaningful and constructive communication to foster the best opportunity for successful and full participation.
2. Identify and directly engage the victims of mass incarceration

Evidence:

Despite the Equity programs being created because of the harms done by the War on Drug policy against black and brown people, their families, ultimately affecting their communities, black and brown people only make up about half of the Equity program participants.

SEs and EEs express frustration to the CCC of being ignored despite efforts to reach out to the CCC.<sup>36</sup>

The individual invited to join the CCC and Law Enforcement to discuss the “illicit” market and be the voice of incarceration is white<sup>37</sup>.

Commentary:

The victims of mass incarceration and the War on Drugs are real people who have not had a voice at the table of legal cannabis. At best, the CCC has engaged a few minorities in various capacities, but no notable outreach has been made to engage those on the front lines of this war. Law enforcement knows exactly where to go to find the “criminals” dealing marijuana. Yet somehow, the state agency was not able to reach out to these same “criminals” to engage them in discussion and plenary action on how to redirect the traditional (illicit) market activity into the legal market space. If anything, these are the people who can speak to what key provisions need to be in place to support that transition?

Commentary:

Ideally, the CCC should go out into the community and ask those harmed by the War on Drugs and/or those currently operating in the traditional market, what would it take to transition to the legal market, or put out a survey. However, the logistics of conducting such a survey exceeds the scope

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<sup>36</sup> CCC. (2020). *Cannabis Control Commission Applicant Forum. January 23, 2020*. Cannabis Control Commission. Worcester MA

<sup>37</sup> Crawford, Mike. (February 20, 2020 ) *Illicit Market Summit bans press, includes locals who were incarcerated*. <https://midnightmass.substack.com/p/illicit-market-summit-bans-press>

of any government agency. But given the known barriers, the CCC must evaluate what policies, efforts, and accommodations are in place or need to be in place to address each of the following barriers to participation in the legal market:

1. Money
2. Space/location; remove the requirements for support from the local municipality
3. Opportunity/license types
4. Background/CORi (already in place)
5. Technical assistance
6. The stigma associated with marijuana use

Evidence:

The Citizens Review Committee is a nine-person advisory committee, appointed by the Commission. According to the regulatory definition, “the committee advises the Commission on the implementation of the Social Equity Program and the use of community reinvestment funds. The committee makes specific recommendations as to the use of community reinvestment funds in the areas of programming, restorative justice, jail diversion, workforce development, industry-specific technical assistance, and mentoring services, in areas of disproportionate impact.” It met last in mid-2019.

Commentary:

Again, a matter of outreach, this committee has not met since last year, yet the matters of social equity have become ever pressing, as we see the MA industry enter it’s 4th year of legalization with only 1 operational Equity Program participant, and only a handful with licenses. Moreover, how did they identify members for the review committee? What type of citizens did these members represent? Was it equitable representation? What recommendations have they issued that the CCC has implemented?

Evidence:

The Equity Program first certified EEs and has not made any concerted effort to engage EEs in actively pursuing a license.

Commentary:

While the CCC has explicitly stated they cannot assist any entity in obtaining a license, they do have the authority to regulate and define what “priority” status means including priority in communication, outreach, information sharing etc.

Evidence:

With the pending launch of the Delivery license, a license that has been exclusively regulated for state certified economic empowerment and approved social equity participants, the CCC is drafting a series of FAQs to accompany the launch of the license application in May, 2020. One of the commissioners went to social media to ask her “Friends”, which presumably include a majority of people who wouldn’t even qualify to apply for the license for at least the next two years, their thoughts about the delivery license.

**Commentary:**

Currently, we have a prime example of CCC's lack of attention for equitable participation in the industry. This outreach could have been also crafted specifically to the qualified EEs and SEs (because the CCC has all of their contact information). Engagement with the intention of success would mean communication, asking EEs/SEs what questions, if any, they may have about the license and the process to be included in upcoming general communication documents, FAQs, and even meetings.

**Evidence:**

CCC issued a memo on April 17, 2020, directly to EEs/SEs providing "the most up-to-date information regarding policies or benefits that may affect you in the licensing process". The letter outlined the requirements for utilizing the EE/SE benefits. The letter included information about the upcoming Delivery-only license to be made available on May 1st. The memo also included the following paragraph.

***In order to use your status, and receive the benefits listed above, an individual or group of individuals associated with an approved Economic Empowerment application or Social Equity Participant application must be listed on the license application as a Person Having Direct or Indirect Control. In order to use the benefits above, that individual or group of individuals must have, and maintain, at least 10% ownership in the proposed Marijuana Establishment.***

**Commentary:**

The CCC sent out this update without any context as to the main intent of the memo. For 2 years, those familiar with Economic Empowerment know that in order to receive the benefits, including priority status, the EE certificate holder had to maintain 51% ownership of the business. The paragraph above is not just an update, but in fact a significant change in policy. A change that impacts current business negotiations. At no point were EEs notified that this policy change was in consideration. At no point did the CCC engage EEs as a collective group. There are only 123 EE certificate holders. The CCC has already determined that the EE program would not open up to new applicants. Engagement could have been as simple as informing EEs that the existing policy, which mandates 51% control, will no longer be in effect (whether it be for legal reasons or simply because the CCC believes that decision to be in the best interest of business enterprises in the industry). However, no communication of any sorts explaining the decision nor its impact on existing applications. Moreover, this policy change has not been made public nor shown where it's codified in regulations.

Another concern is that the change in policy does not mention how that impacts the staffing requirements originally tied to the economic empowerment certificate holder. If an EE only holds 10% ownership, or even simply indirect ownership in a business, is that business still beholden to the staffing requirements for EEs? Currently the policy requires that at least 75% of staff live in ADI and at least 51% of staff have a CORI. If businesses can leverage priority status without having to "empower the community", the significance of economic empowerment is lost.

It is important to understand the rationale for such a decision because of the implications it may have in business negotiations.

The concern with this policy change would be different if the Equity program had been established in this manner in 2018 because EEs would have been in a far greater position to negotiate with businesses (assuming that priority status held meaningful impact in the time for approval for a licensure application).

Lastly, in light of Observation 8 of this report, one must consider the potential impact such a policy will have on the ownership participation data, a data point that the CCC is beholden to in order to show equitable participation and to demonstrate they are producing a successful program.

**Evidence:**

The CCC commissioned report on Positive Impact Plans concludes with considerations that the CCC engage the community to find out MA's history of prohibition and continued experience of those harmed by the injustices of prohibition.

**Commentary:**

Data doesn't look at impact of racial discrimination across municipalities or by state law enforcement. Very few leaders, if any at the CCC, have been on the "receiving" end of the legal system. To understand the ramifications of the War on Drugs on individuals, their mental health, their families, and their communities, the nuances of having to "talk" with your children about interaction with police for activities their white peers participate in at equal rates with little to no consequence, nor the trauma for having to navigate knowing you are statistically very likely to be judged negatively solely based on the color of your skin among other nuances.

## Topic: Cognitive Dissonance

*(the state of having inconsistent thoughts, beliefs, or attitudes, especially as relating to behavioral decisions and attitude change.)*

OBSERVATION 10: The CCC, and MA leaders in general, operate with a level of cognitive dissonance that disrupts impactful progress towards equity in the Cannabis industry.

RECOMMENDATION 10: Listen to those harmed the most by the War on Drugs. Seek “counsel” from the victims of mass incarceration, the disproportionately impacted populations, for insight into the “Massachusetts Experience of Mass Incarceration and Cannabis Legalization”, and guidance on what measures will actually have a restorative impact for them.

### Evidence:

Marijuana is a naturally occurring plant that the United States deemed illicit and unsafe despite its prevalent use both recreationally and medicinally up until the early 1900s. During prohibition, “Black men...were portrayed as violent and immoral cannabis users”<sup>38</sup> This perception contributes to the over policing, searching, arresting, and sentencing of black people.

### Commentary:

Despite the numerous reports, presentations, and commentary that the CCC issues discussing “social equity” in the context of the War on Drugs and how it disproportionately negatively impacts black people, the FBI data and ACLU reports consistently quoting the atrocious disproportionate arrest rate for marijuana of black people, and the personal testimonies shared by the black people in MA, the CCC refuses to identify them as a “population of disproportionate impact” deserving “accommodations” as victims of marijuana mass incarceration. Marginalized groups such as white women, Asians, LGBTQIA+, or affluent zip codes with high racial profiling should not be categorized under “marijuana social equity”. None of these populations suffered the atrocities of the War on Drugs. Yet, the state refuses to issue reparative acts specifically to the population (men and women) who continue to be persecuted for the use of Cannabis at a rate of 3.6% times more than their white counterparts EVEN in a legal state. At this point, every key stakeholder with the power to make changes needs to examine their beliefs. Either you believe that black people are inherently criminal or that they are not victims of injustice deserving of restorative justice due to their use of a plant.

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<sup>38</sup> Doonan SM., Johnson JK., (2019, April). A Baseline Review and Assessment of Cannabis Use and Public Safety Part 2: 94C Violations and Social Equity: *Literature Review and Preliminary Data in Massachusetts*. Boston, MA: *Massachusetts Cannabis Control Commission*.

Commentary:

The CCC is in a position to make ground breaking changes, but they have to break away from the regulatory capture, historical biases, and the “status quo”. They have to be willing to acknowledge that they have blindspots, identify them, and seek out solutions from those with solutions to those blindspots. Gia Moron, president of [Women Grow](#) expressed at the “Why Equity Can’t Wait” event that “I don’t expect governments to know everything, but I do expect them to listen.”<sup>39</sup> As we’ve outlined throughout this report, the important question is that when it comes to Equity, whom are you listening to: the victims, the victors, or the victimizer ?

Evidence:

ACLU reports that in MA, blacks are 3.6 times more likely than whites to be arrested.<sup>40</sup>

Evidence: The CCC social equity report and positive impact reports indicate that the leaders and the licensure applicants hold various understandings of “social equity” and what amounts to accommodations.

Commentary:

There’s a fear and a stigma with explicitly stating accommodations should go to black and brown people to offset the disproportionate harm they’ve endured by the War on Drugs. Perhaps it’s because those in power do not see black and brown people as victims deserving such level of accommodations or empowerment; perhaps, they find safety in knowing that communities and zip codes in MA are diverse enough to include white residents who will likely benefit from “community” based accommodations or social equity programs despite the fact that the War was Waged on black and brown skin color.

Evidence: Social equity measures exist in the law, but insufficient measures have been created to ensure success.

Commentary: They had enough foresight to build social equity into the legislation and either lacked the foresight or the desire to provide an equitable start and access into the industry until the key money players had established themselves and shaped the foundation for business in MA.

Evidence: CCC holds the brunt of the responsibility because as a new and independent agency in a newly regulated industry, they have the freedom to be thoughtful, creative, and effective within the broad legal parameters granted them, yet they have not exercised that authority to promote meaningful participation for EEs and SEs.

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<sup>39</sup>Taken From <<https://www.forbes.com/sites/janetwburns/2020/01/08/in-2020-cannabis-equity-cant-wait/#5ce3aada1c97>  
Accessed March 28, 2020.

<sup>40</sup> ACLU (April 2020)

Commentary: The level of disconnect displayed by the rhetoric used by the CCC and MA as a state and the rollout of the legal Cannabis industry in this state translates into poor recommendations, perpetuation of disenfranchisement, regulatory capture by local RMDs as “status quo” , and it further undergirds the system of mass incarceration disproportionately impacting black and brown communities. No one at the CCC has articulated why they are pushing for expungement of marijuana arrests and at the same time recommending marijuana arrests continue.

Evidence:

Current solutions and measures for positive impact focus heavily on education without any accommodations for implementation.

Commentary:

MA Cannabis leaders must be intentional about the accommodations made to address the harms of mass incarceration. Education alone is not sufficient.

Political Scientist and Historian, Dr. Megan Ming Francis is currently a visiting professor at Harvard University. She provides a powerful TEDxTalk where she elaborates on why “education” isn’t sufficient for addressing the racial inequalities and injustices in this country.” She says to her audience, “We keep offering up Education as a solution to all racial injustices in the United States. Education is not a cure all for America’s racial sins. And yet education is still how America understands their responsibility to fixing contemporary racial injustices”.<sup>41</sup> Her point is quite relevant in the context of MA Cannabis Social Equity Program. “Education” is the extent of many of the positive impact plans and assistance offered to social equity participants. In the sample review of 30 provisional licenses, one third (11 applications)<sup>42</sup> indicated that some form of education, training, or seminar was a core activity to their positive impact plan.

Dr. Ming Francis continues, “that in order to combat continuing racial injustices today, we must expand our vision and our responsibility to what civil rights actually means, we must include the battle against racist violence in our civil rights. Instead of education, what if we placed freedom from civil violence at the crux of what it means to be free and equal in the United States?” This approach places the onus on the CCC and their multi state agency task force to dismantle mass incarceration. Mass incarceration was violent. It is violent. Francis concludes by not eliminating education, but by placing greater urgency and importance on confronting “the ways that our actions and institutions lead to the differential treatment of blacks, even if unintentionally.”<sup>43</sup>

Education and information are powerful tools, but they are useless when you don’t have the means to utilize that information. The data, the history, the common place knowledge is too great and too damning in MA for the state not to take a confrontational (as opposed to a cursory) assessment and bold action to provide accommodations needed to begin to right the wrongs and the harm inflicted on black (and brown) people through the racist drug policy and enforcement. It is cognitive dissonance at best and willful discrimination at worst to not end marijuana mass incarceration and to not provide meaningful accommodations to those affected by it.

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<sup>41</sup> TEDxTalks (March 21, 2016). *Let’s get to the root of racial injustice. Megan Ming Francis. TEDxRainier* [YouTube Channel] YouTube Retrieved April 16, 2020, from <https://www.youtube.com/watch?v=-aCn72iXO9s>

<sup>42</sup> *Cannabis Control Commission* Meeting March 16, 2020.

<sup>43</sup> TEDxTalks (March 21, 2016)

## Conclusion: Call to Action: MA it's Time to Implement Marijuana Social Equity

Is MA ready to right the wrongs exacted by this state on so many of its citizens? The CCC has the authority and opportunity to create a powerful social equity program. Despite what has been said, there are very little limitations to their influence and regulatory authority in this nascent industry to effect the necessary changes that will disrupt the system's "status quo". Whether it is through flexible regulation or direct advocacy to the legislative body, social equity in the Cannabis industry in MA is within reach. The CCC has demonstrated that ability through the creation of expedited qualifications, amending executive orders, and placing greater expectations on license applications. CCC has the opportunity and ability to do the same to ensure that black and brown people are afforded the opportunity to participate fully in the Cannabis community particularly as business owners. At this point to not take measures to address the discrimination against the populations harmed the most by the War on Drugs who have already identified their key barriers to entry in the regulated market, is an abandonment of duty by the CCC.

MA is more poised than any other state or community to right the wrongs of its own racist past and present let alone set a precedent for the rest of the country. The question is not can the CCC and legislative body support such efforts, but will they?

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*The MA Social Equity Report, Part I is the first in a series on the business of Cannabis in MA looking at the winners, the victims, and the game changers. Direct inquiries to [danbalagroup@gmail.com](mailto:danbalagroup@gmail.com)*