Marijuana and Public Health: Opportunities for Equitable Policies & Approaches

December 14, 2017
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Kristania De Leon
Project Manager
CA4Health
Public Health Institute

CA4Health.org
CA4Health is an inclusive statewide community of practice consisting of people and organizations working to advance chronic disease prevention and health equity in California. We believe that increased collaboration, fostering non-traditional partnerships, and tackling tough challenges together will create impactful, lasting change in California.

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www.CA4Health.org
Derek Carr, JD
Staff Attorney
ChangeLab Solutions

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- College/University: 7%
- Advocacy: 4%
- Health Plan: 4%
- Research/Policy Institute: 3%
- Govt. - Federal: 3%
- Business: 2%
- Community Network: 2%
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- Other/No Affiliation: 1%
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- Trade/Interest Group: 1%
Cannabis and Public Health

Opportunities for Equitable Policies and Approaches

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ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.
Our mission: Healthy communities for all through better laws & policies
Applying an Equity Lens to Cannabis Policymaking

Who has been harmed?

Who stands to benefit and how?

How to prevent future harm?
Proposition 64 Does A Lot...

- Legalizes Recreational Cannabis Use, Cultivation, and Distribution
- Packaging, Labeling, Advertising, and Marketing Standards and Restrictions
- Requires State and Local Approval for All Cannabis Businesses
- Provides Expansive Local Regulatory Authority
- Restricts Cannabis Use in Specified Locations
But Where’s the Equity?
Local Communities Should Lead the Way
Preventing Future Harm
Avoiding Unintended Consequences
Clustering in Low-Income Communities

Denver, CO
Restrictions on Cannabis Use*

- Consumption prohibited in all public places
- Smoking prohibited wherever tobacco smoking is prohibited by state or local law

*not an exhaustive list
Addressing Health Inequities Requires Equitable Enforcement

Strong Public Health Policies Can Help Address Health Inequities

- **Smokefree Housing**: Communities of color & low-income communities are significantly more likely to be exposed to secondhand smoke at home.

But Enforcement Must Be Equitable

- Racially inequitable enforcement persisted in Colorado, Washington State
  - Housing security
  - Immigration status
  - Inability to pay fines
Exposure to Cannabis Advertising

Predatory Industry Practices

Allocation of Tax Revenues

Additional Equity Considerations
Leslie Valencia, MCP
Researcher and Author of “Equitable Cannabis Policy” report

www.linkedin.com/in/leslievalencia/
Equitable Cannabis Policy

by Leslie Valencia
Read at: www.lesliev.net

University of California, Berkeley &
The Greenlining Institute

Recommendations for California municipalities and analysis of Oakland’s Equity Permit Program
What is Equitable Cannabis Policy?

Pioneering Concept in Academia

- August 2016
  - Drug Policy and Criminal Justice - DPA, ACLU, MPP, SSDP, NORML, MAPS, ASA
  - Equity and Diversity - MCBA (http://www.minoritycannabis.org/model-bill), The Hood Incubator, Supernova Women, Cannabis Cultural Alliance, California Minority Alliance
- Spring 2018
  - Cannabis Equity Org - Online Research Hub and Policy Toolkit launching in Spring 2018
  - To support equity and innovation in cannabis research, industry, policy and regulation.

Methodology for Academic Definition

The Greenlining Institute defines racial equity as:
“the condition that would be achieved if one’s racial or ethnic identity was no longer a determining factor in one’s success.”

In this research, equitable cannabis policy was defined as:
“giving people of color access to the economic benefits of the cannabis industry.”

Similarly, Oakland defines it as the desired outcome of being able to:
“Promote equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities of color and to address the disproportionate impacts of the war on drugs in those communities.”
Equitable Cannabis Policy Framework

Giving people of color access to the economic benefits of the cannabis industry by utilizing:

1. Data driven definitions for data driven outcomes
   a. properly identifying the population that should benefit economically from industry to prevent a lack of results

2. Measures for preventing discrimination
   a. discrimination can prevent the identified population from entering the industry and benefiting economically

3. Incentives for ethical business models
   a. ultimately businesses have the ability to assist the identified population in accessing the industry’s economic benefits

4. Equitable distribution of tax revenue
   a. tax revenue can be used to perpetuate inequality or to ensure that poc benefit economically from the industry

5. Assistance for transitioning to the regulated market
   a. the main barriers of entry to the regulated industry should be addressed to ensure access to its economic benefits

Restorative Justice
Restorative Justice is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships, and communities. Source: Center for Justice Reconciliation
Why Equitable Cannabis Policy?

Criminal behavior was a direct result of the criminalization of cannabis and people of color.

The War on Drugs
- 1910-1920s immigration - “marihuana”
- 1971 Nixon and the War on Drugs
- 1981 Reagan's “Just Say No Campaign”
- 2000’s Bush Administration

POC consume drugs at similar rates than Whites yet:
- National Arrests - >4X for Blacks (than Whites)
- California Arrests - >2X for Blacks (than Whites)

Racial Disparities Remain even After Legalization
- 1% Black-owned dispensaries in country, Buzzfeed
- Colorado Youth Arrests 2012 vs. 2014:
  -8% Whites, +29% Hispanics, +58% Blacks
- Medical and Adult use are being more widely regulated but racial disparities cannabis arrests in certain municipalities remain drastic, preventing people of color from participating in the industry

Transitional justice
The full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Source: United Nations.

Disproportionate Impact of Drug Laws

<table>
<thead>
<tr>
<th></th>
<th>U.S. Population</th>
<th>People in State Prison for Drug Offenses</th>
<th>People in Federal Prison for Drug Offenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>WHITE</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>LATINO</td>
<td></td>
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<tr>
<td>BLACK</td>
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</tbody>
</table>

Data from 2014 U.S Census Bureau of Justice Statistics, ACLU, 2016

WATCH: The War on Drugs is an Epic Fail, 2016 by Jay Z and The Drug Policy Alliance @ https://www.youtube.com/watch?v=HSozqaVcOU8&t=6s
What are the Economic Benefits?

Map of Medical and Adult Use Tax Rates

California
-62% of the country’s TOTAL medical marijuana sales
-$6.2bn industry by 2020
-18.5% CAGR (National 31%)
-43,374 jobs

MD = Medical
AU = Adult Use

Y1 $78M
Y2 $220M
MD = 1998
AU = 2012

Y1 $78M
Y2 $129M
MD = 1998
AU = 2015

Y1 $78M
MD = 2001
AU = 2012
Not only are state taxes implemented, in California local tax rates can also be implemented.
What is an Equity Permit Program?

Cannabis equity permit programs are appearing throughout the country attempting to repair some of the harm caused by the criminalization of cannabis, addressing the ways in which people of color have been disproportionately targeted, arrested and convicted for it.

Oakland is the first municipality in the U.S to successfully pass criteria and benefits, and now San Francisco, Los Angeles and Sacramento are following the lead. There are also efforts in Massachusetts for establishing a statewide equity program, and efforts in Hartford, CT, Boston, MA, and Maryland.

A cannabis equity permit program generally consists of:
1. Criteria that targets a certain population: those who were most criminalized and negatively affected by The War on Drugs
2. Decriminalization initiatives to prevent further criminalization/discrimination
3. Access to certain benefits that attempt to remove some of the barriers of entry into the cannabis industry for the identified population
# Existing Equity Permit Programs

### Equity Applicant Criteria and Benefits

<table>
<thead>
<tr>
<th>Location</th>
<th>Criteria</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Oakland, CA</strong></td>
<td>• Oakland resident making &lt; 80% of the Area Median Income (AMI); <strong>AND</strong></td>
<td>• Priority permitting processing&lt;br&gt;1:1 ratio of general vs equity applicants&lt;br&gt;<strong>OR</strong></td>
</tr>
<tr>
<td></td>
<td>• Lived in any combination of Oakland’s police beats with historically high cannabis arrests for at least 10 of the last 20 years; <strong>OR</strong></td>
<td>• No-interest loans&lt;br&gt;• Technical assistance&lt;br&gt;• Waived city fees&lt;br&gt;<strong>AND</strong></td>
</tr>
<tr>
<td></td>
<td>• Arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California with same income restriction</td>
<td></td>
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<tr>
<td></td>
<td><strong>Ownership shall mean the individual or individuals who:</strong>&lt;br&gt;(i) own 50% or more in the for profit entity (ii) constitute a majority of the board of directors for not for-profit OR (iii) have a controlling interest in the collective's governing body.</td>
<td></td>
</tr>
<tr>
<td><strong>Los Angeles, CA</strong></td>
<td><strong>Tier 1</strong>&lt;br&gt;• Make &lt; 80% of AMI <strong>AND</strong>&lt;br&gt;• Have a California Cannabis Conviction (misdemeanor or citation) prior to November 8, 2016</td>
<td>• Priority permitting/renewal processing,&lt;br&gt;1:1 ratio Tier 1-3 vs. general applicants&lt;br&gt;<strong>OR</strong></td>
</tr>
<tr>
<td></td>
<td>• <strong>Own no less than a 51% equity share of the business</strong></td>
<td>• Technical assistance&lt;br&gt;• Program site specific conditions&lt;br&gt;<strong>AND</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Tier 2</strong>&lt;br&gt;• Make &lt; 80% of AMI; <strong>AND</strong>&lt;br&gt;• Lived at least 5 years total in a Disproportionately Impacted Area (still being defined), <strong>OR</strong></td>
<td>• Potential fee deferrals for Tier 1 and access to an Industry Investment Fund if established&lt;br&gt;<strong>AND</strong></td>
</tr>
<tr>
<td></td>
<td>• Lived at least 10 years total in a Disproportionately Impacted Area with no income restriction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• <strong>Own no less than a 33.33% equity share of the business</strong></td>
<td></td>
</tr>
<tr>
<td><strong>San Francisco, CA</strong></td>
<td>Must meet 3 or more of following criteria:&lt;br&gt;• SF resident making &lt;80% of AMI&lt;br&gt;• Convicted of cannabis crime 1971-2016&lt;br&gt;• Faced housing insecurity in SF, 1995&lt;br&gt;• Has a parent, sibling, or child convicted of a cannabis crime from 1971-2016&lt;br&gt;• Attended an SFUSD school for 5 years total during the period 1971-2016 <strong>OR</strong>&lt;br&gt;• Lived for at least 5 years total in SF census tracts with incomes 17% below the federal poverty level in 1971-2016</td>
<td>• Sole owner/operator or (i) corporate ownership interest of at least 40% and CEO (ii) corporate ownership interest of at least 51% (iii) Executive Director or majority of of the board of directors&lt;br&gt;<strong>AND</strong></td>
</tr>
</tbody>
</table>

**Benefits**

- Priority permitting processing<br>1:1 ratio of general vs equity applicants<br>• No-interest loans<br>• Technical assistance<br>• Waived city fees<br>**OR**<br>• Priority permitting/renewal processing,<br>1:1 ratio Tier 1-3 vs. general applicants<br>**AND**<br>• Technical assistance<br>• Program site specific conditions<br>• Potential fee deferrals for Tier 1 and access to an Industry Investment Fund if established<br>**AND**<br>• Priority permitting processing<br>1:1 ratio of equity vs. existing applicants
## Existing Equity Permit Programs

### Equity Incubator Criteria and Benefits

<table>
<thead>
<tr>
<th>Oakland, CA</th>
<th>Los Angeles, CA</th>
<th>San Francisco, CA</th>
</tr>
</thead>
<tbody>
<tr>
<td>• General applicants providing free real estate to Equity Owners</td>
<td>Tier 3 Social Equity Applicant</td>
<td>Commit to all of the following for 3 years:</td>
</tr>
<tr>
<td>• Min. 1,000sf for a min of 3 years with security requirements included</td>
<td>• Social Equity Agreement with the City</td>
<td>• 800sf, or 10% of operating premise, of rent free commercial space with security services (AND?OR?)</td>
</tr>
<tr>
<td></td>
<td>• Provide Tier 1 applicants access to free real estate and prorated utilities for a min of 2 years.</td>
<td>• Equity Incubator Plan: providing business plan guidance, operations consulting, and technical assistance to Equity Operators</td>
</tr>
<tr>
<td></td>
<td>• Cultivation-500sf. Manufacturing-800sf. Testing-1,000sf. Distributor-1,000sf. Non storefront retail-1,000sf. Storefront retail-1,000sf. Microbusiness -800sf OR 10% of operating premise, whichever is greater)</td>
<td>• 30% of all Business Work Hours are performed by Local Residents</td>
</tr>
<tr>
<td></td>
<td>• 50% weekly workforce hours to residents within 5 mile radius</td>
<td>• 50% of employees fit equity criteria</td>
</tr>
<tr>
<td></td>
<td>• 30% shall be Social Equity Workers AND</td>
<td>• Community Investment Plan (500ft)</td>
</tr>
<tr>
<td></td>
<td>• 10% Transitional Workers</td>
<td></td>
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<tr>
<td>• Dispensary staff must be comprised of 50% of Oakland residents and 25% of Oakland residents in census tracts identified by the City Administrator as having high unemployment rates or low household incomes.</td>
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### Benefits

- Oakland, CA
  - Priority licensing

- Los Angeles, CA
  - Priority permitting/renewal processing
  - Program site specific conditions

- San Francisco, CA
  - Priority permitting processing
Equitable Cannabis Policy Assessment

- How does this policy prevent existing and future discrimination of this population?
  -Do we have language in our governing documents that protect our most vulnerable communities?
  -Are we keeping track of workforce and arrest data by race (location and income, etc.)?

- How does this policy create incentives for ethical business models that support this population?
  -Are we supporting any existing models?
  -How are we measuring the effectiveness of these incentives?

- Is the tax revenue being distributed in a way that benefits this population?
  -How are we utilizing the cannabis tax revenue?
  -What is it mostly going towards?
  -Is it going in the general fund or to specific funds in order to address specific issues, or both?

- Does this policy provide assistance for this population to transition into the regulated market?
  -Are we collecting the data needed to address any challenges for transitioning into the legal market?
  -Are we providing services to help this population to succeed in the regulated market?

Data driven outcomes
CA Counties with the Largest Disparities

Counties with the largest disparities
Population size >30,000, Black population >2%

<table>
<thead>
<tr>
<th>County</th>
<th>Population</th>
<th>Blacks Arrested</th>
<th>Times more likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Francisco</td>
<td>44</td>
<td>192</td>
<td>4.3x</td>
</tr>
<tr>
<td>Marin</td>
<td>123</td>
<td>507</td>
<td>4.1x</td>
</tr>
<tr>
<td>Lake</td>
<td>161</td>
<td>612</td>
<td>3.8x</td>
</tr>
<tr>
<td>Sacramento</td>
<td>99</td>
<td>370</td>
<td>3.7x</td>
</tr>
<tr>
<td>Kern</td>
<td>121</td>
<td>414</td>
<td>3.4x</td>
</tr>
</tbody>
</table>

Source: ACLU 2013
Leslie Valencia holds a Bachelor of Arts in Architecture, Masters of City Planning, and the Interdisciplinary Graduate Certificate in Real Estate from the University of California Berkeley.

As an independent consultant and researcher, Leslie completed one of the most comprehensive studies on equitable cannabis policy, taking an in-depth look at Oakland's Equity permit program within its local, state and national context. This research was completed under the University of California Berkeley and in partnership with The Greenlining Institute.

She is currently working on an online academic hub and policy toolkit, titled Cannabis Equity Org, that will be launching in Spring of 2018. Leslie also holds expertise in affordable housing, community-based participatory research, sustainable design, and recycled water reuse.

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University of California, Berkeley  
Email: lesliev@cannabisequity.org  
Portfolio: https://www.lesliev.net/
Gregory Minor, JD, MCP
Assistant to the City Administrator – Special Permits and Nuisance Abatement
City of Oakland

oaklandnet.com
Cannabis Industry
Opportunities and Challenges

Greg Minor
City of Oakland

December 14, 2017
San Francisco Visit
# City of Oakland Timeline

<table>
<thead>
<tr>
<th>Year</th>
<th>Action</th>
</tr>
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<tbody>
<tr>
<td>1996</td>
<td>Prop 215</td>
</tr>
<tr>
<td>1998</td>
<td>Federal closure of OCBC</td>
</tr>
<tr>
<td>2004</td>
<td>City begins licensing dispensaries</td>
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<tr>
<td></td>
<td>Voters pass Measure Z</td>
</tr>
<tr>
<td>2010</td>
<td>Cultivation legislation</td>
</tr>
<tr>
<td>2011</td>
<td>City doubles number of licensed dispensaries</td>
</tr>
<tr>
<td>2015</td>
<td>MMRSA</td>
</tr>
<tr>
<td>2016</td>
<td>Prop 64</td>
</tr>
<tr>
<td>2015-17</td>
<td>City develops updated ordinances</td>
</tr>
</tbody>
</table>
Race and Equity Analysis

1. Agree Upon Shared Goal
2. Data-Based Analysis
3. Identify Equity Barriers/Opportunities
4. Recommend Strategies to Minimize Barriers
Cannabis Arrest Disparities

**1995-2015 Arrest Data**

- Black: 81%
- Asian: 9%
- White: 5%
- Hispanic: 3%
- Other: 2%

**City of Oakland Population**

- Black: 30%
- Asian: 30%
- White: 31%
- Hispanic: 7%
- Other: 2%
Oakland’s Unique Cannabis Industry History
Ongoing Issues

- Federal Law
  - Access to banking
  - Security issues

- Impact on Real Estate Market
  - Impact on non-cannabis uses
  - Restricted vs unrestricted number of permits

- Taxation Rates
  - Competing jurisdictions
  - Too high → unregulated market

- Transitioning to Regulated Market
  - Huge shift
  - Delivery services/ Cottage operators

- Implementing Brand New Program
  - Documentation requirements
  - Outreach
More Information

- Email
gminor@oaklandnet.com

- Website
http://www.oaklandnet.com/cannabispermits
Questions?
Jim Keddy, MA
Executive Director
Youth Forward

youth-forward.org
THE NEW BOOM

Equity Perspectives on Marijuana Policy and the Industry
• In what ways will the legalization of marijuana and the development of a legal industry contribute to a more equitable society?

• In what ways might these changes exacerbate inequity?
Marijuana and Mass Incarceration

Over many decades, the criminalization of marijuana has taken a devastating toll, particularly on African American and Latino families.

Marijuana arrests have sent thousands of men and women to prison, separated families and dramatically increased poverty.
The Legacy of the War on Drugs

- Reduced access to affordable housing,
- Vacant and blighted properties
- Struggling entrepreneurs of color
- Lifelong joblessness for people with felony convictions.
Racial bias in marijuana arrests

• According to the ACLU, African Americans have been arrested at rates 3.7 times greater than Whites for marijuana-related crimes.

• At the national level, of the 8.2 million marijuana arrests between 2001 and 2010, 88% were for simply having marijuana.
Examples of local arrest data

Oakland

• In 2015, African Americans accounted for 77% of marijuana arrests while making up 30% of the population.

Sacramento

• From 2012-2016, African Americans consisted of 43% of marijuana arrests while making up 15% of the population.
A Reparations Approach

How do we repair some of the harm to Black and Latino communities generated by the War on Drugs?

How do we insure that marijuana policy going forward doesn’t create further harm and inequity?
Marijuana Legalization
A Transfer of Wealth

Underground Economy

Legal Economy
benefitting primarily white entrepreneurs and investors
Decriminalization under Prop 64

Prop 64 reduced or eliminated penalties for most marijuana offenses.

• Adults can petition for resentencing or for reclassification for certain offenses.

• Youth under age 18 may only be charged with infractions.
Criminalization Going Forward

• Non-citizen immigrants risk deportation

• Marijuana industry and law enforcement push for crackdown on the underground economy

• Increases in law enforcement budgets

• Racial profiling for driving while under the influence.
Built Environment

- Concentration of marijuana businesses in low-income areas and communities of color that abut industrial/warehouse areas.

- Concentration of marijuana advertising.

- Marijuana businesses drive up property values and contribute to displacement of residents and existing businesses.
Built Environment

• Illegal growing on tribal lands and rural areas.
  • Example- Hmong immigrant growers face crackdown, not able to transition to legal status
  • Contamination of streams and soil

• Conflicts between existing tobacco policy and marijuana laws.
  • Smoking in public housing

• Pesticides and worker’s rights
Local Tax Revenues

• City and county marijuana tax revenues flow to the general fund.

• The biggest recipients of general fund dollars are law enforcement agencies.

• In the absence of organizing, law enforcement budgets will increase, thus continuing the pattern of marijuana policy driving criminalization.
When cities raise revenues from marijuana…

City Revenues

Law Enforcement
State Tax Revenues

- According to the LAO, the State will collect about $1 billion in new revenues by 2020.

- 60% of revenues in the Tax Fund go to support youth education, prevention, early intervention and treatment (about $500 million annually in a few years).

- Prop 64 did not include any equity language in how Youth Funds are to be distributed.

- The only funding stream with an equity focus is the smaller Community Reinvestment grants program.
Public Health

• The marijuana industry relies heavily on the frequent user for its profitability. A third of users consume two-thirds.

• The earlier someone starts using marijuana, the greater the chance of problem use and addiction.

• Marijuana use is concentrated in lower income communities.

Thus
We may see the industry take a predatory approach to low income neighborhoods and communities of color, similar to that of tobacco and alcohol.
Economic Development Advocacy

To support the participation of people of color and those directly affected by marijuana arrests, local and state government can:

• Set aside a percentage of permits/licenses
• Create a business incubator program
• Establish a loan fund
• Set hiring goals
• Support contracts and new businesses in ancillary industries (construction, security, hiring etc..)
• Remove employment and ownership barriers (fees, criminal records...)
Tax Policy Advocacy

Rather than invest marijuana revenues in law enforcement and general public services, local and state government can:

- Fund reentry programs including job placement and mental health supports
- Support children’s services and youth development in neighborhoods most impacted by criminalization
- Use revenues to support economic development
- Support prevention and substance abuse services
Public Health Advocacy

Local communities can advocate for:

• A fair distribution of marijuana businesses

• Restrictions on marijuana advertising

• Stronger health protections, such as a clearer warning label

• Signage inside stores regarding adverse health impacts and threat to non-citizen immigrants

• Community-based prevention efforts to denormalize marijuana use, particularly among young people and pregnant women
Contact info:

Jim Keddy, Youth Forward

[jim@youth-forward.org](mailto:jim@youth-forward.org)

Racial Justice, Public Health and Marijuana Policy Convening, January 23rd, 10 am to 3 pm, The California Endowment Conference Center, Los Angeles

Questions?

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2. Select Ask: All Panelists
3. Click Send
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SESSION 1
Marijuana and Our Health: What We Do and Don’t Know

SESSION 2
Marijuana and Communities: Criminalization, Impact, and Moving Forward

SESSION 3
Marijuana and Public Health: Opportunities for Equitable Policies and Approaches
(recordings and slides will be available next week)
Thank you to our host & presenters!

Derek Carr

Leslie Valencia

Gregory Minor

Jim Keddy
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Marijuana and Public Health: Opportunities for Equitable Policies and Approaches

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