



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: August 11, 2022

REPORT NO. PC-22-018

HEARING DATE: August 18, 2022

SUBJECT: Draft Cannabis Equity Assessment and Program Development

SUMMARY

Staff Recommendation: *This is an information item. No action will be taken.*

Cannabis Equity Public Engagement: The draft Cannabis Equity Assessment (Attachment 1) was made public on July 8, 2022 for a 30-day public review period. City staff also held a virtual public meeting on July 12, 2022 to present the draft Cannabis Equity Assessment to the public. The item was heard as an information item by the Economic Development and Intergovernmental Relations (EDIR) Committee on July 13, 2022. Council President Pro Tem Montgomery Steppe provided direction to City staff and requested that draft cannabis equity applicant and ownership criteria be brought forward for consideration when the item returns to EDIR as an action item on September 7, 2022. As such, Attachment 2 includes the preliminary equity applicant and ownership criteria. The Cannabis Business Division (CBD) staff are currently assessing public comment and will be incorporating revisions from the public and Planning Commission to the final draft equity assessment prior to bringing it forward to EDIR Committee on September 7, 2022.

Environmental Review: N/A

Fiscal Impact Statement: N/A

Code Enforcement Impact: N/A

Housing Impact Statement: N/A

BACKGROUND

The purpose of the City of San Diego's Cannabis Equity Program (Program) is to focus on creating equity and inclusion for individuals and communities negatively and disproportionately impacted by

cannabis criminalization. In support of this, community stakeholders and City staff have prepared a draft Cannabis Equity Assessment Report (Report) and are proposing the creation of a new Cannabis Social Equity and Economic Development (SEED) Program whose primary purpose includes:

- Providing a path to clearing criminal background records that have been a result of drug enforcement policies.
- Developing cannabis equity applicant criteria to guide how cannabis conditional use permits are released to address disparities.
- Fostering equitable access to participation in the industry including setting aside cannabis permits, promotion of ownership and stable employment opportunities in the industry.
- Providing training and education to San Diego residents who are seeking to repair communities that have been negatively affected by the War on Drugs; and
- Investing a portion of the City's annual cannabis tax revenues for economic and community infrastructure in communities that have historically been disenfranchised.

The City of San Diego (City) defines equity as *“occurring when institutional racism and systemic disparities are eliminated, providing everyone with equitable access to opportunity and resources to thrive, no matter where they live or how they identify”*. In August 2019, City Council Districts 3 and 4 completed a Cannabis Equity Study for the purpose of assessing the impact of the criminalization of cannabis within the city (The Report is included as Appendix G in the Cannabis Equity Assessment). The 2019 Cannabis Equity Study concluded that youth and people of color were arrested at disproportionately higher rates for cannabis-related charges. In January 2022, Mayor Todd Gloria (Mayor) further emphasized equity when he launched an updated City Strategic Plan with a focus on Customer Service, Empowerment & Engagement, Equity & Inclusion, and Trust & Transparency.

During the State of California's (State's) cannabis prohibition period, the number of arrests, convictions, and long-term collateral consequences fell disproportionately on the Black/African American and Latinx populations. The consequences associated with cannabis law violations have created systemic barriers for persons with prior convictions to enter the newly regulated cannabis industry. In order to promote equitable ownership and employment opportunities in the cannabis industry, as well as decrease disparities in life outcomes for marginalized communities, the State established the Cannabis Equity Act (Equity Act), as amended by Assembly Bill (AB) 97. The Equity Act was signed into law in 2018 and aimed to repair some of the decades of harm done by the “war on drugs.”

The Bureau of Cannabis Control (BCC), now known as the Department of Cannabis Control (DCC), entered into an interagency agreement with the State Governor's Office of Business and Economic Development (GO-Biz) to administer the Cannabis Equity Grants Program (Grants Program) to aid local jurisdictions in their program efforts to support equity applicants and licensees. The purpose of the Grants Program is to advance economic justice for populations and communities adversely impacted by cannabis prohibition. Local jurisdictions are encouraged to develop and operate cannabis equity programs that focus on the inclusion and support of individuals and foster equitable access to licensure and business ownership in the regulated cannabis industry. On March 15, 2021, the Development Services Department's Cannabis Business Division (CBD) was awarded

GO-Biz grant funding in the amount of \$75,000 to conduct a cannabis equity assessment, pursuant to State requirements, and support the development of a cannabis equity program in San Diego.

The City of San Diego's Department of Race and Equity (DRE) in partnership with the CBD prepared the draft Report for review and consideration. The draft Report provides an equity analysis which includes quantitative and qualitative findings, identified barriers and a list of 17 prioritized preliminary recommendations. Community input from nine (9) listening sessions, an online survey as well as 1:1 conversations informed the development of the overall draft Report and more specifically the recommendations contained in the draft Report. The prioritization for the preliminary 17 recommendations is not final as staff reviews input from the 30-day public comment period and builds a structure for future prioritization and a feasibility analysis to guide an implementation plan. The adoption of the final recommendations will be informed by budgetary allocations, policy implications, stakeholder feedback and producing equitable outcomes associated with each action step.

In addition, the adoption of an operational cannabis equity program would also position the City of San Diego to be eligible to apply for up to \$5,000,000 in future 2023 grant funding to assist applicants and equity licensees gain entry to, and successfully operate in, the regulated cannabis marketplace. Local jurisdictions currently receiving funds for equity business development include Los Angeles, Oakland, San Francisco and Sacramento, amongst others. In order to apply for future grant funding, the City is required to have adopted an equity assessment and program prior to October 25, 2022.

Under the terms of the grant program, the City's draft cannabis equity assessment is defined as "an assessment conducted by the local jurisdiction that informs the creation or revision of its local equity program", and may include the following:

- Reference to local historical rates of arrests or convictions for cannabis law violations.
- Identification of the impacts that cannabis-related policies have had historically on communities and populations within that local jurisdiction.
- Information that demonstrates how individuals and communities within the local jurisdiction have been disproportionately or negatively impacted by cannabis prohibition or criminalization."

As such, the City's cannabis equity assessment provides a data-informed look at:

- The history of impacts the prohibition of cannabis has had on San Diego.
- Assessing the potential equity opportunities/constraints in the current regulatory framework.
- Proposing policy recommendations to assure that there is equity and diversity in the emerging cannabis industry in San Diego.

Key Quantitative Findings

The data contained within the Report finds that racial and ethnic diversity within the cannabis industry remains an issue at State and local levels. Economic and social challenges, combined with the inability to secure financing to pay for start-up and other processing fees, limit the potential pool of applicants for new cannabis businesses, specifically minority populations. A Program would provide equitable access to the cannabis industry work force and encourage entrepreneurship in a variety of businesses that not only produce cannabis products but also support the industry. This includes the areas of finance, marketing/advertising, cannabis growing infrastructure, and legal services that provide support to cannabis businesses.

The following presents the KMA key findings that support this conclusion:

- Relative to their share of the work force, minorities and women are underrepresented in cannabis-related executive positions. A Countywide survey found that racial and ethnic diversity within the cannabis industry is currently an issue in both the City and County. The survey found that 68% of cannabis business license holders are White; with 14% Hispanic, Latino, or Spanish origin; and only 7% Black/African American. It is estimated that 87% of cannabis business license holders in the County are male and only 13% are female.
- From 2015 through 2022, Black/African American and Hispanic, Latino, or Spanish origin individuals experienced a disproportionate number of cannabis-related arrests in the City when compared to Asian, Pacific Islander, White, and persons of another race.
- In accordance with a February 2021 court order, a San Diego Superior Court Judge reduced felony cannabis convictions to misdemeanor convictions for approximately 26,000 people in San Diego County. In addition, about 1,000 people with misdemeanor cannabis convictions had their cases completely dismissed. Although convictions have been reclassified, the court system has been slow in updating individual records, and it is the responsibility of the offender to ensure that their individual record is addressed.
- From 2015 to 2022, youth under the age of 19 were disproportionately arrested for cannabis-related crimes compared to all other age groups. Hispanic, Latino, or Spanish origin youth accounted for 47% of the arrests.
- Since 2014, nearly 50% of cannabis business applications have been approved by the City. The majority of approved applications were located in Council District 6, which includes the communities of Clairemont, Kearny Mesa, Mira Mesa, Rancho Peñasquitos, and Sorrento Valley. These communities tend to have high rates of individuals who hold bachelor's degrees or higher.
- The most Disadvantaged Communities, as defined by the State, are located within the Southeastern, Central, and Southern police divisions. These police divisions overlap Council Districts 3, 4, 8, and 9. Disadvantaged communities are areas throughout California which most suffer from a combination of economic, health, and environmental burdens. These

burdens include poverty, high unemployment, air and water pollution, and presence of hazardous wastes, as well as high incidence of asthma and heart disease.

- Based on a series of indicators, neighborhoods in the Mid-City, Southeastern, and Southern police divisions are the most disadvantaged neighborhoods in the City. These police divisions overlap Council Districts 3, 4, 8, and 9. These areas yield the highest rates of non-White residents, highest rates of low-income residents, and the lowest rates of individuals holding bachelor's degrees. However, these areas do not have the highest arrests when compared to other neighborhoods in the City.
- The neighborhoods with the most cannabis-related arrests were East Village (4.5%) and North Park (4.0%). East Village is in the Central police division, and North Park is in the Mid City police division. Both neighborhoods are located within Council District 3. Arrests are based on the location of the violation and not the person's residence.
- The City acknowledges and recognizes racial and social disparities in providing municipal services. In recent years, the City has initiated several efforts to address disparities in the City's programs, services, and budget decisions. These policies and programs will ensure that there is greater diversity, inclusion, and equity in San Diego for minority populations.

Key Qualitative Findings

The qualitative analysis is the result of information gathered from nine cannabis equity listening sessions held in May/June 2022 as well as the online survey and one on one meetings with stakeholders.

To effectively understand the significant amount of input and comments and recommendations that were gathered by the notetakers at the nine listening sessions, the City partnered with data researchers at the University of California at Berkeley Goldman School of Public Policy's The People Lab (TPL) to identify and analyze and provide the major themes developed from the information that emerged in the public comments. Because the listening session attendees are not a representative sample of the broader community, the comments analyzed cannot necessarily be taken as representative of community views. Nor do the themes that emerged in the comments offer definitive for the design of a Cannabis Equity Program. Nevertheless, the work completed as part of this process provides valuable context for the prioritized recommendations found in Chapter 6 of the Report.

The following key qualitative findings take into consideration the context of historic cannabis criminalization within the City of San Diego and are based on the feedback provided at the City's nine cannabis equity listening sessions, survey results, and best practices from other California jurisdictions. These findings inform the SEED strategic framework and preliminary 17 recommendations. The findings, which are discussed at length in the Report, include:

- Identifying Capital Resources
- Creating Equity Policies & Updating Municipal Code Regulations

- Addressing Drug Convictions
- Ensuring Capacity Building

Description of Primary Barriers

Many major California cities have already completed cannabis equity studies that identify common themes related to barriers to entry for individuals and communities impacted by cannabis enforcement. San Diego faces similar issues as other jurisdictions across the state that have identified barriers to entry due to the nature of the relatively new legal cannabis industry,

These are significant challenges for any person attempting to operate a cannabis business, but they are even more pronounced for low-income individuals who have a personal or family history with the criminal justice system. A primary short-term goal of developing a Program will be to develop a robust legal assistance program in partnership with the County of San Diego to provide residents with criminal records the ability to have their records expunged and sealed. This type of work is critical to help uplift residents; not only to help them enter the cannabis business landscape, but also to help them more effectively access non-cannabis related job and educational opportunities. Expungement can also assist with securing housing and other opportunities that are difficult for residents with a cannabis criminal record.

The following are the major barriers identified as part of the Report:

- Legacy Market
- Convictions
- Access to Capital
- Zoning/Location
- Start Up Costs
- Business Skills and Knowledge
- Lack of Regulatory and Government Knowledge
- Technical Barriers

Summary of SEED Preliminary Recommendations

The draft Report provides 17 preliminary recommendations based on short, medium- and long-term initiatives to create an Equity Program that fulfills the needs of locally impacted communities and residents seeking entry into the regulated cannabis market. The success of these recommendations rests in the ability to implement them over time, with feedback from community members, and support from state and local stakeholders as well as legislators, to apply best practices within our unique San Diego context. These 17 preliminary recommendations are included and summarized in the draft Report that was published prior to receiving feedback from EDIR Committee members and the public and thus are undergoing revisions prior to returning to EDIR Committee.

As stated above, the prioritization for the 17 recommendations are preliminary and not final as staff builds an Equity Program structure for future prioritization and a feasibility analysis to guide an implementation plan. The adoption of the final recommendations will be informed by budgetary allocations, policy implications, stakeholder feedback and metrics for tracking equitable outcomes

associated with each action step. The key preliminary recommendations provided herein are intended to serve as a framework for the City's Cannabis SEED Program with a menu of options by which to move forward with the implementation of a cannabis equity program, to focus on inclusion and support of individuals and communities negatively impacted by cannabis criminalization.

The recommendations of this report are intended to be further refined and prioritized through an appointed SEED Task Force as each item is complicated and will need further review to ensure that potential negative impacts and/or unintended consequences are avoided- especially with a potential loan or grant program. Further work will require robust public engagement, reporting, and monitoring, to ensure successful implementation for intended equity applicants.

Additional Information Related to A Revolving Loan Program

During the public comment period, CBD staff received feedback that a potential loan program that was not forgivable could have serious negative consequences to cannabis equity applicants. As such, CBD staff conducted additional outreach to a number of California jurisdictions including Oakland, Long Beach, San Francisco, Los Angeles and Sacramento for feedback and lessons learned. From conversations with Oakland and Long Beach, it is clear from the conversations that just a loan program will not suffice and that there must be additional safeguards in place to ensure that a loan program will assist rather than hinder social equity applicants. The following is feedback from Oakland and Long Beach:

Oakland

According to Cannabis staff at the City of Oakland, Oakland has implemented both a revolving (no interest) loan program since 2018 and a grant program since 2020. In short, loans are not taxable and the same dollar can benefit more than one operator (via repayments) but they have to be paid back, which can be a challenge for operators in a highly competitive cannabis industry. Grants are taxable, but they don't have to be paid back. So there are pros and cons to each approach, which is why Oakland has left it up to operators to decide how they prefer to receive capital at this point. Later this year, Oakland will be developing a loan forgiveness policy that most likely will authorize loan forgiveness but limit anyone who's received loan forgiveness from receiving future loans/grants.

Oakland staff indicated that a grant program alone is probably simplest as an equity applicant would not have anyone getting into debt or having to process repayments, but it also can be a less efficient use of funds as the funds can only be used once. Staff would leave it up to applicants to express their preference, keeping in mind the tax implications of grants vs loans.

Long Beach

Staff from Long Beach indicated that most cities will agree that just issuing social equity applicants grant funding with no support is not the solution; it would be a disservice to them because they will not know how to use their grant funding effectively (in most cases). They also agreed with the feedback CBD staff received about negative impacts on social equity applicants with a proposed loan program. Long Beach has never done loans primarily because of the issues Oakland

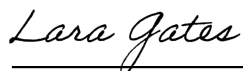
experienced and nonetheless, the potential administrative burden of attempting to locate applicants to repay funds. Even as Long Beach's grant program stands now, they have run into issues with applicants being awarded funds and refusing to return the funding when they fail to fulfill the requirements of the grant. Long Beach has established some new procedures and application requirements to prevent this from happening again but there's always a huge risk.

Long Beach staff have been told by their non-equity licensees that a lot of people are going out of business because of the high debt ceiling incurred through over taxation, regulatory requirements, and competition/market share. Staff indicated that is only going to be that more much difficult for equity applicants especially if they take out loans right out the gate before even becoming licensed/operational.

CONCLUSION:

This Cannabis Equity Assessment Report summarizes key findings of the equity analysis, as well as feedback provided at the nine cannabis equity listening sessions, survey results, and best practices from other California jurisdictions. This Report also implements and supports the State of California's effort to advance economic justice for populations and communities harmed by cannabis prohibition. In support of the State's Go-Biz grant guidelines, the City of San Diego's Equity Report will help further the purpose and intent of the AUMA by creating a program to ensure equitable access to licensure and business ownership in the regulated cannabis industry, ensuring that the persons most harmed and economically disadvantaged by cannabis criminalization are offered assistance, and priority licensing, to enter the multibillion-dollar cannabis industry as entrepreneurs.

Respectfully submitted,



Lara Gates
Deputy Director
Development Services Department

LOWE/LNG

Attachments:

1. Draft Cannabis Equity Assessment (Full Report with Attachments can be found at: <https://www.sandiego.gov/development-services/cannabis>)
2. Preliminary Equity Applicant and Ownership Criteria