



Using Marijuana Revenue to Create Jobs

By Maritza Perez, Olugbenga Ajilore, and Ed Chung | May 20, 2019

Today's national policy debate around marijuana stands in sharp contrast to the debate of the past. Current elected leaders as well as those running for office now are asked not only if they believe marijuana should be legalized, but also when and how. Much of this is due to a shift in public opinion. A 2018 Center for American Progress poll showed that 68 percent of Americans believe that marijuana possession should be legalized.¹ The momentum is evident in states as well: 33 states and the District of Columbia have loosened their marijuana laws, while 10 of these states and the District of Columbia have specifically legalized marijuana for recreational use.² This year, states such as Illinois and Connecticut have also indicated that marijuana legalization will be a top priority.³

The reasons behind why lawmakers are considering marijuana legalization vary, but one of the overarching motivations is to take advantage of what appears to be a windfall to state budgets for public projects. In Colorado, for example, the first \$40 million received from the excise tax on retail marijuana in fiscal year 2017–2018 was used for public school construction, while the remaining \$27.8 million was transferred to a fund for public schools.⁴ In Washington state, marijuana sales surpassed \$1 billion in FY 2017, and the state collected \$314.8 million in excise tax revenue.⁵ The revenue was primarily used to fund Medicaid which secured health insurance for many low-income Washington residents.⁶

But as lawmakers decide how and for what priorities the tax revenue from marijuana sales will be used, they must not ignore the history and damage that past public policies surrounding marijuana have caused. For decades, the war on drugs—which includes the war on marijuana⁷—disproportionately criminalized African American and Latinx individuals for engaging in marijuana activity that is increasingly legal in the majority of the United States. The criminal records that stem from marijuana-related arrests and convictions can have lifelong consequences that systematically excludes people of color from equal access to jobs and economic opportunity.

Correcting these injustices by using marijuana-related tax revenue to create specific opportunities for affected communities must come first—not at some later, undefined

time. Below are several proposals offered by or implemented in jurisdictions across the country that provide communities most harmed by the war on marijuana with access to the benefits of creating a regulated marijuana market. These proposals include automatically clearing the records of people arrested or convicted of marijuana offenses; supporting businesses owned and operated by people of color entering the regulated marijuana market; and encouraging equitable licensing practices in the market.

Jurisdictions, however, should also offer broader solutions that are not necessarily connected directly to the regulated marijuana market. This issue brief, therefore, proposes using tax revenue from marijuana sales to create public sector jobs specifically for communities affected by the war on marijuana. The proposal uses the model laid out in CAP's 2018 report, "Blueprint for the 21st Century: A Plan for Better Jobs and Stronger Communities," that makes major investments in employment for long-term residents of targeted distressed areas who want to work.

Discriminatory drug enforcement created structural barriers to building economic wealth

As documented in a previous CAP report, the war on drugs created a vast network of laws that systematically excluded generations of African American and Latinx individuals from equal access to economic opportunity.⁸ The consequences of unequal enforcement in these communities are still evident today, even in states where marijuana restrictions have been loosened. New York City, for example, deprioritized marijuana prosecutions in 2018, after *The New York Times* reported that black and Hispanic New Yorkers were arrested on low-level marijuana charges at eight times and five times the rate of white New Yorkers, respectively—despite continued evidence of equal usage rates of marijuana across races.⁹ Nonetheless, in the same year the new policy was announced, nearly 90 percent of all New Yorkers arrested for smoking marijuana were black or Hispanic, even as overall marijuana arrests were drastically reduced.¹⁰

In addition to the overrepresentation of African Americans and Latinx individuals in arrest rates, the war on drugs led to harsh sentencing laws that contributed to greater incarceration rates and depleted these communities of breadwinners and workers. A 2016 analysis placed the unemployment rate for black men in the United States at 11 percent but concluded that this rate would jump to 19 percent if it accounted for incarcerated individuals.¹¹ For those who are formerly incarcerated, a recent analysis by the Prison Policy Initiative showed that more than 27 percent are unemployed, which is higher than the overall unemployment rate during the Great Depression.¹² These results are compounded for African Americans due to existing racial discrimination present in employment practices; indeed, one study found that white job applicants with a criminal record were more likely to be called for a job interview than black applicants without a criminal record.¹³

Increased incarceration rates cycled more families and children into poverty, particularly African American and Latino children, who are seven and two times more likely than white children, respectively, to have an incarcerated parent.¹⁴ Children who experience the incarceration of a parent tend to be socioeconomically disadvantaged prior to their parent's incarceration, as individuals who have limited access to resources or face structural barriers are at greater risk of becoming justice-involved. But incarceration worsens these disadvantages due to the loss of a family member and provider.¹⁵ A 2015 research project on incarceration's economic effect on families showed that nearly 2 in 3 families with an incarcerated loved one could not afford basic needs due to the financial costs of losing a wage earner and paying fees associated with incarceration.¹⁶ Communities that experience high incarceration rates are left with fragmented social networks and a smaller workforce, both of which can contribute to continued contact with the criminal justice system.

Providing access to employment opportunities and the regulated marijuana market

To begin to ameliorate these harms, lawmakers must lead with proposals that incorporate equity and inclusivity into marijuana legalization policy, particularly around employment and business opportunities. At the outset, states must reduce the collateral consequences that are associated with marijuana arrests and convictions; these include prohibiting a person from obtaining an occupational license, public housing, and student loan assistance for college. The American Bar Association (ABA) has identified more than 40,000 state and federal regulations that impose collateral consequences on criminal convictions.¹⁷ One analysis of the ABA data found that at least 84 percent of collateral consequences were related to employment, and 82 percent did not have an end date.¹⁸ For non-U.S. citizens, the collateral consequences of a drug conviction can also include the inability to naturalize, which can exclude people from opportunities only available to citizens.¹⁹ These hindrances make it more difficult for people with arrest or conviction records to find and maintain employment, including in the regulated marijuana market, where past drug convictions are often used to bar people from receiving a marijuana business license.²⁰

In order to assist people who have been arrested or convicted of marijuana crimes with securing employment, states must provide automatic and cost-free expungements. An expungement is a legal process by which a person's record of arrest or conviction is erased, meaning that the individual will not need to disclose their arrest or conviction, and a background search will not reveal a record of arrest or conviction. It provides a clean slate²¹ to people with arrest and conviction records and mitigates the effects of collateral consequences. In 2018, for example, California passed legislation requiring prosecutors to expunge certain marijuana-related convictions. And earlier this year, San Francisco District Attorney George Gascón partnered with Code for America, a technology solutions nonprofit, to automate

the cumbersome expungement process, leading to the clearing of thousands of records.²² Other major California counties such as Los Angeles and San Joaquin have followed San Francisco's lead.²³

Jurisdictions must also consider the forces keeping low-income individuals of color from joining and profiting from the regulated marijuana market. A 2017 survey of marijuana business owners found that only 19 percent identified as nonwhite.²⁴ One reason for this underrepresentation is that access to capital is a barrier for business owners of color.²⁵ To enter the marijuana market, owners must usually pay a large fee in addition to the start-up costs associated with opening a business.²⁶ Thus, jurisdictions should create grant programs that support minority-owned businesses and underrepresented people who want to enter the industry. An example is included in the Marijuana and Freedom Opportunity Act, a bill recently reintroduced by Senate Minority Leader Chuck Schumer (D-NY).²⁷ The bill would establish a fund from revenue collected from regulated marijuana businesses under existing federal tax laws to support the small-business concerns of marijuana businesses owned and controlled by socioeconomically disadvantaged people.²⁸

Additionally, states can reduce barriers to the regulated marijuana market by prioritizing people directly affected by the war on drugs in receiving marijuana business licenses. An initial application fee to receive a license can cost up to \$120,000, a figure that excludes associated business costs such as legal fees, insurance, taxes, and marketing.²⁹ Further, many jurisdictions exclude people with drug convictions from receiving a license to sell marijuana. Some states and cities have taken steps to solve this problem such as Oakland, California, whose Equity Permit Program reserves half of its licenses for "equity applicants."³⁰ Participants in the program can have their licensing fees waived and receive technical and financial assistance. To qualify, equity applicants must earn less than 80 percent of the city's median income and have been convicted of a marijuana offense or lived for 10 years in an area where people were disproportionately arrested for marijuana offenses.³¹

Creating public sector jobs for communities affected by the war on marijuana

In addition to proposals focused on providing access to the regulated marijuana market, policymakers should use marijuana-related tax revenue to provide broader opportunities for people who have been adversely affected by disproportionate marijuana enforcement actions over the years. One possibility is outlined in Sen. Cory Booker's (D-NJ) Marijuana Justice Act of 2019, which proposes a community reinvestment fund that would provide grants to communities most affected by the war on drugs.³² The grants would support programming focused on job training, re-entry services, expungement of convictions, health education, and other community initiatives. This month, Illinois Gov. J.B. Pritzker (D) included a similar

proposal in his plan to legalize recreational marijuana in his state.³³ The plan calls for 25 percent of all revenue from regulated marijuana sales to fund the Restoring Our Communities grant program, which would be used to repair communities most harmed by “discriminatory drug policies.”³⁴

A more direct approach, however, would be to use marijuana-related revenue to fund the creation of public sector jobs for people in communities most affected by harsh marijuana enforcement. This proposal is based on a concept in CAP’s “Blueprint for the 21st Century,” which calls for a nationwide investment in millions of new jobs in the country’s hardest-hit areas to meet pressing social and economic needs.³⁵ As the Jobs Blueprint notes, certain communities have been left especially far behind in today’s economy, including those that have experienced persistent poverty or decades-long lack of opportunities.³⁶

For communities in which harsh marijuana enforcement has contributed to the enduring lack of opportunities, using marijuana revenue to create jobs would provide a boost to the local economy as well as address broader community needs. Actual jobs created under the Jobs Blueprint and the proposal in this brief could include: support services in schools and libraries; outreach and peer support to people struggling with substance misuse by trained and certified graduates of treatment programs; support for after-school or summer enrichment programs; and delivery of meals to seniors and other homebound individuals.³⁷

To determine which communities should benefit from this proposal, policymakers could use essentially the same formula outlined in the Jobs Blueprint—a weighted index of communities’ poverty rate, median earnings, and nonemployment.³⁸ However, they must also determine which communities have experienced disproportionate arrest rates for marijuana offenses. This can be accomplished using historical data on marijuana arrests from data inputted into the FBI’s Uniform Crime Reporting (UCR) database or similar state-based data collections whereby areas that experienced high marijuana arrest rates relative to their population will be program targets.

Using the calculations in the Jobs Blueprint,³⁹ the authors find that thousands of jobs could be created using marijuana revenue in highly distressed communities with disproportionate rates of marijuana arrests. Colorado’s 2017–2018 excise tax revenue could have created nearly 2,000 jobs, and Washington state could have added almost 10,000 jobs with their 2017 excise tax revenue. Similarly, California’s tax revenue from its regulated marijuana market in 2018 totaled \$345 million, which could have created an additional 10,000 jobs in highly distressed communities. The federal government could use this same model by taking the revenue that the U.S. Department of the Treasury currently collects from marijuana businesses and regranting it to states to create jobs in communities that have historically been adversely affected by harsh marijuana enforcement policies.

Conclusion

Today, states are raking in billion-dollar profits for activity that sent millions of African American and Latinx individuals into the criminal justice system, trapping their families and communities in poverty for generations. The movement to legalize marijuana presents an opportunity both to achieve justice for and to build economic opportunity in these communities. Creating public sector jobs and other policies outlined in this issue brief acknowledge the economic impact that the war on drugs has had on low-income people of color. With these policies, elected leaders can begin to address the structural barriers that states must rupture so that individuals from some of their most vulnerable communities have equal access to economic opportunity.

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39 Ibid, footnote 185. CAP's Jobs Blueprint estimated that the 900,000 jobs could be guaranteed at a cost of \$32 billion—or \$35,555 per job—which includes 25 percent for nonlabor costs. The 900,000 jobs figure does not include the 300,000 additional jobs estimated to be created separately from the other public investments described in the Jobs Blueprint.