

CALIFORNIA CANNABIS TAX REVENUES:

A close-up photograph of a hand holding several US one hundred dollar bills. The bills are fanned out, showing the portrait of Benjamin Franklin. In the background, a laptop keyboard is visible, and another hand is holding a yellow envelope with a blue starburst logo. The overall scene suggests a financial transaction or the handling of cash.

A WINDFALL FOR LAW ENFORCEMENT OR AN OPPORTUNITY FOR HEALING COMMUNITIES?

CO-AUTHORS YOUTH FORWARD | GETTING IT RIGHT FROM THE START, A PROJECT OF THE PUBLIC HEALTH INSTITUTE

CO-SPONSORS ALLIANCE FOR BOYS AND MEN OF COLOR | CALIFORNIA PAN-ETHNIC HEALTH NETWORK (CPEHN)
CALIFORNIA URBAN PARTNERSHIP | CHILDREN'S DEFENSE FUND CA | PREVENTION INSTITUTE | PUBLIC HEALTH ADVOCATES

ACKNOWLEDGEMENT

I would like to thank Jim Freeman of the Grassroots Support Action Team who did the bulk of the analysis and writing of this report. I also want to express appreciation to my co-authors, Dr. Lynn Silver and Dr. Alisa Padon of the Getting It Right From The Start Project at Public Health Institute. Dr. Silver and Dr. Padon provided the data on local governments and cannabis tax revenues and made significant contributions to the overall development of the report.

Funding to develop and produce this report came from The James Irvine Foundation and the Heising-Simons Foundation. The opinions expressed in this report are those of the authors and do not necessarily represent the views of the foundations that provided funding for the report.

Finally, I would like to thank the many partners with whom I have been working since 2017 at the state and local levels, including this report's co-sponsors, in building a campaign for racial justice, community reinvestment, and public health focused on cannabis legalization in California.

A handwritten signature in black ink, appearing to read 'Jim Keddy', with a long horizontal line extending to the right.

Jim Keddy
Executive Director
Youth Forward
jim@youth-forward.org

April 1, 2020

CONTENTS

- 2** Overview
- 4** Findings
- 15** Positive Examples and Recommended Action Steps
- 17** Recommendations for Local Officials
- 19** Recommendations for Governor Newsom
- 19** Recommendations for Youth Organizers, Racial Justice Advocates and Public Health Activists
- 20** Endnotes



Photo: Nikki David / Neon Tommy. Cover photo: H. Ko

To date, the state government has made some encouraging progress in investing \$28.5 million in cannabis revenue in those communities that were heavily impacted by the War on Drugs, providing funding for job training, mental health, legal services, and other community needs.¹ However, cities and counties have for the most part failed to capture and invest this new source of funds appropriately.

OVERVIEW

When California voters passed Proposition 64 and legalized recreational cannabis in 2016, there appeared to be two primary motivations. First, voters hoped that the measure would scale back ineffective policies of the War on Drugs and its associated systems of mass criminalization and incarceration. Second, because the measure allowed both the state and localities to collect taxes on cannabis businesses, voters believed the initiative would generate substantial new revenue that could be used to invest in youth programs, substance abuse prevention and treatment, environmental restoration and public health initiatives. Unfortunately, three years after the passage of Proposition 64, elected officials have made decisions that are failing to meet these expectations and to reverse the course of the War on Drugs.

Proposition 64 set tax rates for cannabis at the state level and gave cities and counties the authority to impose local taxes on top of the state tax. To date, the state government has made some encouraging progress in investing

\$28.5 million in cannabis revenue in those communities that were heavily impacted by the War on Drugs, providing funding for job training, mental health, legal services, and other community needs.¹ The state is also currently in the process of implementing the mandated, larger funding stream that will go toward the prevention, early intervention, and treatment of youth substance abuse.

However, cities and counties have for the most part failed to capture and invest this new source of funds appropriately. As will be described below, many jurisdictions are not even imposing a tax on cannabis activity. And for those that are taxing cannabis, rather than use these revenues to address the concerns that drove legalization, these local governments are investing a substantial portion of it toward expanding the already-massive criminal justice system and opening up new fronts in the War on Drugs. In particular, local cannabis revenue has been a windfall for police departments across the state.

Yet California has already spent decades over-investing in police and the criminal justice system to address drug usage, among many other public health and safety issues. Not only has it been ineffective at creating healthier communities, it has also been one of the most destructive public policy strategies in our history. All across the state, from San Diego to the Emerald Triangle, there are communities that have been devastated by the War on Drugs. In particular, Black and Brown communities have had massive amounts of public resources dedicated to the criminalization of their residents, often at the expense of investments in education, health, jobs, housing, and other, less harmful, public safety strategies. These dynamics have fueled the mass incarceration system, separated hundreds of thousands of families, and deepened intergenerational poverty and trauma.

Furthermore, often overlooked is that the War on Drugs is, in many respects, a War on Children. Growing up with parents who are incarcerated or



Photo: Cheryl A. Guerrero

“Corporate cannabis” has become one of the preeminent growth industries in the state and the nation. The predominantly affluent White people who own these businesses are getting even wealthier by selling the same product that led to enormous harm being caused to mostly Black and Brown people.

have a criminal record has trapped generations of children in poverty, severely limiting their access to quality education, healthcare, housing, and future employment. Having an incarcerated parent also exposes youth to levels of trauma that can be even greater than those resulting from a parent’s death or divorce.² Moreover, mass incarceration has led to more children entering the foster care system, exposing them to even higher risks of childhood trauma, homelessness, child sex trafficking, and future incarceration.³ And it must also be noted that many of those ensnared by the War on Drugs are youth themselves.

In short, the law enforcement-centered approach to addressing cannabis has operated as a giant wrecking ball, destabilizing countless families and communities across the state. Given this history, the only just course of action is to ensure that the benefits being realized from Proposition 64 are enjoyed by the communities who bore the brunt of the drug war for so long. However, most of the benefits are instead flowing to a primarily

White-owned legal cannabis industry. “Corporate cannabis” has become one of the preeminent growth industries in the state and the nation. In fact, California’s \$3.1 billion legal cannabis industry is already the largest in the world, and within five years it is expected to more than double in size.⁴ In other words, the predominantly affluent White people who own these businesses are getting even wealthier by selling the same product that led to enormous harm being caused to mostly Black and Brown people.

Now these cannabis entrepreneurs are attempting to expand their market share even further by seeking to have law enforcement escalate efforts to crack down on the unlicensed cannabis industry (much of which is run by people of color). Their efforts have succeeded, resulting in many localities directing large chunks of their Proposition 64 tax revenues toward police to expand their enforcement efforts. Thus, cannabis legalization has not signaled the end of the War on Drugs, as many Californians had hoped. Instead, we are in the midst of creating a War on Drugs 2.0, which risks producing many of the same types of consequences as the original.⁵

While repairing the harm caused by such clear examples of systemic racism is often not easy or straightforward, in this case, there are clear and concrete steps that can be taken. While this industry is still in its infancy phase, we still have the opportunity to shift how these local revenues are captured and used. That opportunity should not to be missed, because it is exceedingly rare for hundreds of millions of new potential tax dollars to become available at the local level. Furthermore, in the coming years, those revenues are likely to grow exponentially as the number of legal businesses expands and as more people turn from illegal to legal cannabis for their recreational and other uses.

Thus, this is a critical juncture for California. As local governments bring in more and more revenues from legal cannabis, policymakers can go down

one of two paths. They can continue the existing pattern by failing to tax the cannabis industry at all or at very low rates and by investing the revenues they do collect in the expansion of law enforcement and the criminalization of people of color. Or, alternatively, they can support the health and wellbeing of communities of color by imposing reasonable local taxes and investing cannabis tax revenues in youth development, public health, and economic equity. This report provides never-before-seen data describing the outcomes of Path #1 so that more cities and counties can learn from these mistakes and instead opt for Path #2 and thus make smarter investments in California’s future.

FINDINGS

The War on Drugs and Systemic Racism

By 1982, California had already built an expansive criminal justice system. Adjusting for inflation, Californians spent \$12.0 billion that year (in 2018 dollars) at the state and local levels on police, prosecutors, jails, prisons, probation, and other aspects of the justice system.⁶ By itself, the California criminal justice system employed 128,643 people, including 71,380 just by police and sheriff’s departments.⁷

Nevertheless, California continued to aggressively expand its criminal justice system, due in substantial part to the War on Drugs. Thus, by 2015, spending on the criminal justice system had risen by 245% since 1982 (compared to a 57% increase in population).⁸ That produced a \$42.1 billion system (in 2018 dollars) employing 236,990 people, an increase of 108,347.⁹ Over that time, police spending rose 177%, from \$6.3 billion in 1982 to \$17.5 billion in 2015 (see [Figure Two](#)).¹⁰ As a result, there were 103,483 police employees, an increase of 32,103.¹¹

Figure One. CA Criminal Justice Spending, in Billions of 2018 Dollars

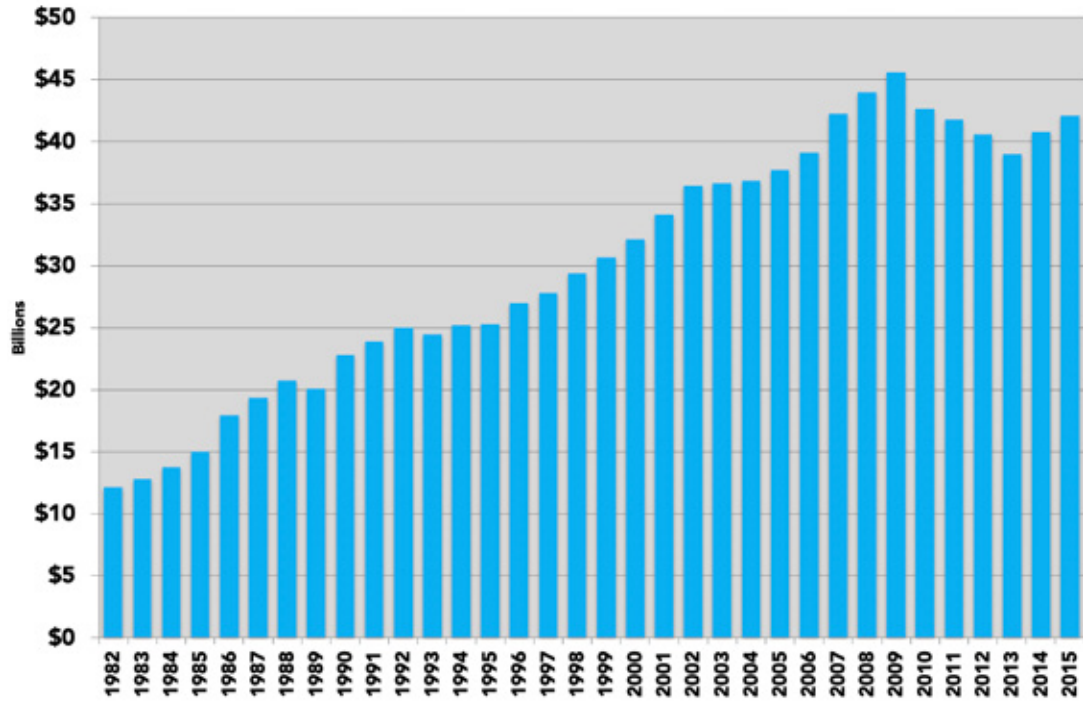
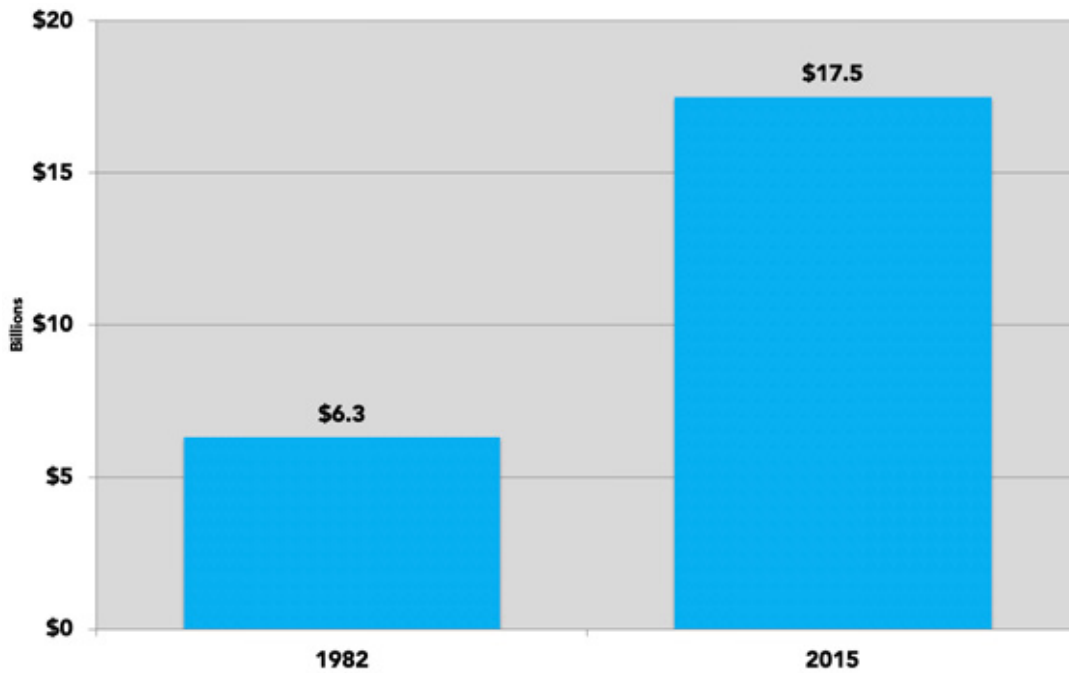


Figure Two. CA Police Spending, in Billions of Dollars



Sources: Bureau of Justice Statistics

This expanded justice system resulted in a far larger role for law enforcement in Californians' lives, including carrying out the mass criminalization and incarceration of many more categories of behavior related to poverty, mental illness, homelessness, and—especially—drug use. For example, as recently as 2010, there were 71,816 arrests for cannabis offenses across the state in just one year.¹² Of those, 57,262 (80%) were for cannabis possession.¹³

It is impossible to analyze these dynamics without taking into account the role of systemic racism. California's massive investments in such "tough on crime" approaches were overwhelmingly directed at communities of color. For example, despite having comparable rates of cannabis use, White people and people of color have had radically different experiences with how that behavior has been treated by law enforcement.¹⁴ A 2013 study found that for every 100,000 White Californians, there were 171 arrests for cannabis offenses.¹⁵ In contrast, for every 100,000 Black Californians, there were 374 arrests.¹⁶ In other words, Black people were arrested at more than twice the rate as White people for the same offenses.

All across the state, there have been stark disparities in cannabis arrests. In Long Beach, between 2010 and 2016, Black residents constituted 13% of the population but 44% of the cannabis-related arrests.¹⁷ During the

same timeframe in Sacramento, Black residents represented 11% of the population but 35% of the cannabis-related arrests.¹⁸ And in Los Angeles County, between 2012 and 2016, Black people were just 8% of the population subject to the Sheriff's Department jurisdiction, but represented 26% of cannabis bookings.¹⁹

Overall, California made an enormous investment in a deeply flawed, extremely harmful, and racially unjust set of practices. For example, according to the ACLU, prior to the passage of Proposition 64, nearly half a billion dollars was spent annually on the enforcement of cannabis laws.²⁰ Much of that was on the costs of incarceration for these offenses. In Sacramento, for example, between 2010 and 2016 residents spent 704,907 days in custody for offenses that are largely legal now, costing taxpayers more than \$83 million.²¹

These practices were also extremely costly for the individuals who were most directly affected. For example, between 2012 and 2016, the Los Angeles Police Department made 7,600 arrests involving cannabis-related offenses.²² Those arrested individuals paid nearly \$8 million in non-refundable bond deposits.²³ All across the state the criminalization of cannabis produced similar losses of community wealth, primarily from high-poverty neighborhoods, thus deepening the already-severe income and wealth inequality across the state.

Corporate cannabis and law enforcement were well-matched for a post-Proposition 64 partnership. The cannabis industry recruited political heavyweights to work for them, hired major lobbying firms to push localities and the state to increase enforcement activities on the unlicensed industry, and engaged in a major public relations campaign to demonize that sector.

Given this context, Proposition 64 represented a significant change in the landscape. Rather than a heavily policed, 100% illegal market, all of a sudden wealthy investors had access to a brand new, legal, and highly lucrative industry. However, to maximize their profitmaking, they were going to need help to prevail over their competition within the underground economy. Meanwhile, law enforcement faced a post-Proposition 64 future in which a significant portion of the rationale for the build-up in their budgets—namely, the enforcement of marijuana laws—was being eliminated. Unless they were able to successfully pivot toward other enforcement activities, they risked being downsized to match their reduced responsibilities.

Thus, corporate cannabis and law enforcement were well-matched for a post-Proposition 64

partnership. The cannabis industry recruited political heavyweights to work for them, hired major lobbying firms to push localities and the state to increase enforcement activities on the unlicensed industry, and engaged in a major public relations campaign to demonize that sector.²⁴ And law enforcement, which has so effectively been able to expand the scope of its responsibilities over the past few decades, was more than happy to oblige in committing itself to the next in a long line of “tough on crime” strategies and continue with its War on Drugs. Thus, as cities and counties around the state proceeded to pass and implement the local ordinances needed to tax recreational cannabis, the cannabis industry and law enforcement were in prime position to advance their shared interests.

Local Cannabis Tax Revenue: A Windfall for Police

To better understand the impact of the taxes imposed by localities, we researched those cities that were the first to pass recreational cannabis ordinances related to Proposition 64 and that had actually begun to collect cannabis-related revenue by 2018.²⁵ That includes those cities that passed ordinances in 2016 in anticipation that Proposition 64 would be approved by voters, as well as those that passed ordinances in 2017. In total, that includes 28 cities from across the state, ranging from very large cities (such as Los Angeles, Long Beach, and San Diego) to small ones (such as Point Arena, Woodlake, and Greenfield).

Those cities have been tasked with allocating a substantial amount of new revenue. To illustrate, according to the projections in their city budgets, these cities estimated that they would bring in over \$85 million from local cannabis taxes in just the 2019-20 fiscal year (see [Figure Three](#)).²⁶



Photo: David Downs

The revenue collected from cannabis in nearly all these cities (except for Shasta Lake—see below) goes into their “general fund” where it is used to pay for various city services. However, for most cities, the largest chunk of their general fund spending goes toward the police. On average, for the 28 cities in our study, police spending represented 39% of general fund spending (see [Figure Four](#)).²⁷ For some cities, such as Cloverdale, Modesto, and Woodlake, police spending represents the majority of their general fund spending. Thus, absent any affirmative efforts to direct additional resources elsewhere, new revenues such as those from cannabis tend to heavily benefit the police.

Additionally, instead of actively seeking to direct new revenues elsewhere, many jurisdictions are instead explicitly seeking to use cannabis revenues to expand police budgets. For example, San Diego has decided that “enforcement of marijuana laws” and “proactively cracking down on illegal operators” should be prioritized in deploying cannabis revenues.²⁸ Los Angeles is directing millions of dollars per year in cannabis revenues to the police “overtime fund” where it is used for “investigating and enforcing laws relative to illegal cannabis businesses” among other law enforcement functions.²⁹ And the small city of Woodlake, which only has a city police budget of \$1.6 million and nine police officers overall, uses its cannabis revenue to “fund an additional officer, an additional K9, and a patrol vehicle.”³⁰

About Local Cannabis Taxes

As of January 31, 2019, 289 California jurisdictions allowed some form of legal cannabis commercial activity. Of these 289, 135 had passed ordinances imposing a tax on cannabis cultivation, retail, manufacturing, distribution, and/or testing. Relative to other similar products, such as tobacco taxes, these taxes were modest in size.

Retail, Manufacturing, Distribution, and Testing

Most jurisdictions taxed by gross receipts. The average initial overall tax rate was 5% and ranged from 1% to 15%. The average maximum overall tax rate was 10% and ranged from 2% to 21%.

Cultivation

62 of those jurisdictions taxed by the square foot, 47 taxed by business “gross receipts,” and 18 taxed some other way, such as a combination of the two. The average initial cultivation tax rate by gross receipts was 5% and ranged from 1% to 10%. Many jurisdictions opted to reserve the right to raise taxes in the future, imposing a maximum rate that could be levied. The average maximum rate was 10% and ranged from 1% to 20%.

By square foot, the average initial rate was \$8 and ranged from \$1.33 to \$18. The average maximum rate was \$15 and ranged from \$2 to \$50.

Source: Public Health Institute, 2019. Support: California Tobacco Related Disease Research program.

Figure Three. Projected Local Cannabis Revenue 2019-20 Fiscal Year

City	County	Projected Cannabis Revenue 2019-2020
Adelanto	San Bernardino	\$600,000
Bellflower	Los Angeles	\$860,000
Cathedral City	Riverside	\$6,250,000
Cloverdale	Sonoma	\$120,000
Coachella	Riverside	\$360,000
Coalinga	Fresno	\$755,818
Cotati	Sonoma	\$358,500
Davis	Yolo	\$620,000
Dixon	Solano	\$1,080,000
Greenfield	Monterey	\$2,632,298
Grover Beach	San Luis Obispo	\$1,500,000
Hayward	Alameda	\$250,000
King City	Monterey	\$325,000
Long Beach	Los Angeles	\$4,000,000
Los Angeles	Los Angeles	\$41,000,000
Modesto	Stanislaus	\$5,275,000
Pacifica	San Mateo	\$125,000
Palm Springs	Riverside	\$2,383,000
Point Arena	Mendocino	\$37,500
Salinas	Monterey	\$1,200,000
San Diego	San Diego	\$11,500,000
San Leandro	Alameda	\$600,000
Santa Barbara	Santa Barbara	\$500,000
Santa Rosa	Sonoma	\$1,300,000
Seaside	Monterey	\$520,000
Shasta Lake	Shasta	\$496,000
Watsonville	Santa Cruz	\$323,000
Woodlake	Tulare	\$365,000
Total		\$85,336,116

Figure Four. Police Spending as a Percentage of General Fund Spending 2019-20 Fiscal Year

City	County	% of General Fund Spending Dedicated to Police
Adelanto	San Bernardino	34%
Bellflower	Los Angeles	40%
Cathedral City	Riverside	37%
Cloverdale	Sonoma	62%
Coachella	Riverside	38%
Coalinga	Fresno	49%
Cotati	Sonoma	47%
Davis	Yolo	33%
Dixon	Solano	30%
Greenfield	Monterey	35%
Grover Beach	San Luis Obispo	34%
Hayward	Alameda	47%
King City	Monterey	47%
Long Beach	Los Angeles	44%
Los Angeles	Los Angeles	26%
Modesto	Stanislaus	51%
Pacifica	San Mateo	28%
Palm Springs	Riverside	28%
Point Arena	Mendocino	18%
Salinas	Monterey	41%
San Diego	San Diego	35%
San Leandro	Alameda	35%
Santa Barbara	Santa Barbara	33%
Santa Rosa	Sonoma	34%
Seaside	Monterey	39%
Shasta Lake	Shasta	48%
Watsonville	Santa Cruz	41%
Woodlake	Tulare	59%
Average		39%

Source: City Budgets

Some cities have gone even further in targeting cannabis revenues toward the police. Shasta Lake made its ordinance a “special tax,” which required approval by two-thirds of voters instead of the typical majority required for a “general tax.” That special tax proposal stated that all cannabis tax revenue would be used to “provide funding to support law enforcement and code enforcement activities.”³¹ The ordinance passed with 79% of the vote, thus providing a new dedicated funding stream for the police.³²

In short, new cannabis revenue has been a boon for law enforcement. Between 2016-17 (the year that Proposition 64 was passed) and 2019-20, 23 of the 28 cities we researched experienced double-digit increases in the amount of general fund dollars going into their police budgets (see [Figure Five](#)).³³ Eight of the 28 saw their police budgets grow by at least 25%. Overall, ***the average shift in police budgets for these 28 cities was an increase of 19% over that three-year period.*** Ultimately, in just those cities, over \$455 million more in general fund dollars was spent on police in 2019-20 than was spent just three years earlier.



The average shift in police budgets for these 28 cities was an increase of 19% over that three-year period.



Photos, clockwise from top left: The Orange County Register; Global Research; Joshua Lott for the Marshall Project

Figure Five. Changes in Police Spending After Passage of Proposition 64

City	County	2016-2017 Police Spending	2019-2020 Police Spending	% Change
Greenfield	Monterey	\$2,319,100	\$3,575,262	54%
Dixon	Solano	\$4,141,381	\$5,945,693	44%
Palm Springs	Riverside	\$25,675,356	\$34,323,000	34%
San Leandro	Alameda	\$31,749,103	\$40,914,566	29%
Woodlake	Tulare	\$1,232,922	\$1,581,801	28%
Cloverdale	Sonoma	\$3,334,752	\$4,198,699	26%
Cathedral City	Riverside	\$14,792,447	\$18,590,381	26%
Cotati	Sonoma	\$2,950,972	\$3,698,397	25%
Shasta Lake	Shasta	\$2,660,555	\$3,309,417	24%
Seaside	Monterey	\$11,064,352	\$13,727,237	24%
Santa Rosa	Sonoma	\$48,458,821	\$59,658,991	23%
San Diego	San Diego	\$439,642,132	\$539,262,929	23%
King City	Monterey	\$3,137,112	\$3,764,593	20%
Coachella	Riverside	\$8,171,602	\$9,656,954	18%
Long Beach	Los Angeles	\$207,137,483	\$243,903,742	18%
Modesto	Stanislaus	\$59,102,867	\$69,535,702	18%
Los Angeles	Los Angeles	\$1,433,792,173	\$1,676,632,617	17%
Adelanto	San Bernardino	\$5,522,618	\$6,404,817	16%
Davis	Yolo	\$17,563,698	\$19,945,541	14%
Grover Beach	San Luis Obispo	\$3,833,268	\$4,297,905	12%
Bellflower	Los Angeles	\$11,536,155	\$12,870,580	12%
Santa Barbara	Santa Barbara	\$40,942,916	\$45,555,190	11%
Hayward	Alameda	\$71,139,162	\$78,725,448	11%
Salinas	Monterey	\$36,059,797	\$39,484,747	9%
Pacifica	San Mateo	\$9,333,300	\$10,203,510	9%
Watsonville	Santa Cruz	\$17,229,057	\$18,650,882	8%
Point Arena	Mendocino	\$113,015	\$109,868	-3%
Coalinga	Fresno	\$3,419,918	\$3,246,688	-5%
			Average	+19%

Source: City Budgets

Overall, these are enormous budgetary shifts for such a short period of time. They are particularly noteworthy given the long history of similar increases being enjoyed by police departments across the state. Of course, cannabis revenues by themselves are certainly not responsible for all of these increases.³⁴ Nevertheless, it is clear that cannabis is already playing a significant role in the continuing expansion of law enforcement budgets across the state rather than shifting investment to social sectors that can prevent crime and incarceration.

As an example of how transformative cannabis revenues can be for a police department, consider Greenfield, home to 17,648 in the Salinas Valley.³⁵ Prior to the passage of Proposition 64, Greenfield's total general fund revenues amounted to less than \$7 million annually.³⁶ By 2019-20, the city projected over \$2.6 million just in cannabis revenue.³⁷

Alongside the many city departments that saw significant budgetary increases, Greenfield's general fund spending on the police department grew by 56% in just three years (see Figure Six). As a result, this small city, which had a police department with only 15.9 full-time employees (FTEs) when Proposition 64 was passed in 2016-17, now has 34.1 FTEs.³⁸

As a result of this continued infusion of resources into law enforcement strategies, California's War on Drugs has raged on. For example, while there have been numerous major developments intended to roll back the criminalization of drug use in recent years, including Proposition 64 and 2014's Proposition 47 (which made drug possession a misdemeanor instead of a felony), California's criminal justice system is still being flooded with drug arrests (though most are now misdemeanors).³⁹ In fact, there were more people

Figure Six. Greenfield, CA: General Fund Spending on Police Pre- and Post-Proposition 64

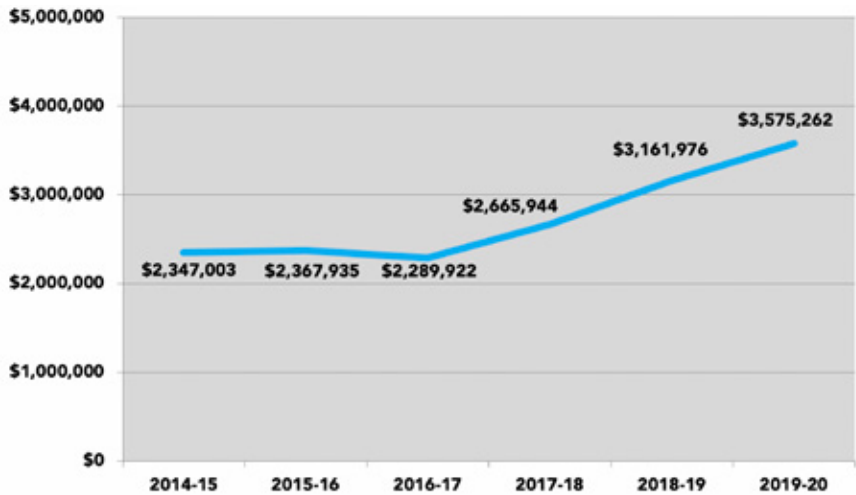
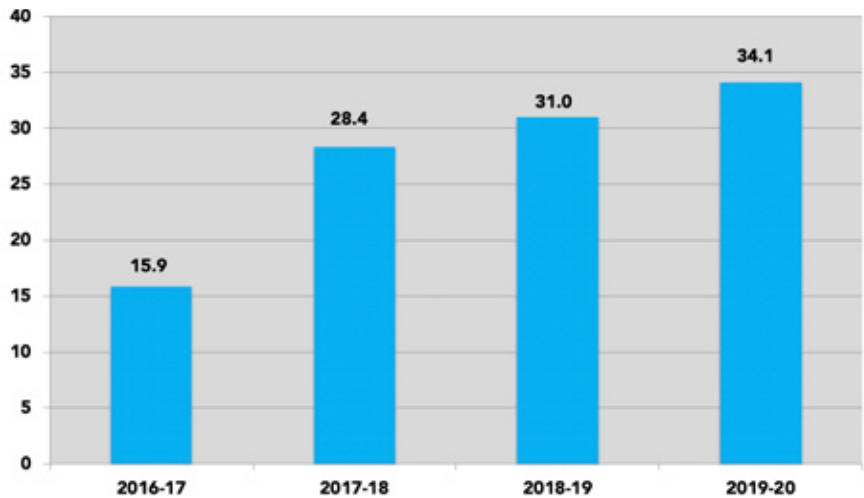


Figure Seven. Greenfield, CA: Number of Police FTEs by Year



Sources: City Budgets

arrested for drug offenses in California in 2018 than there were before these initiatives (see Figure Eight).⁴⁰

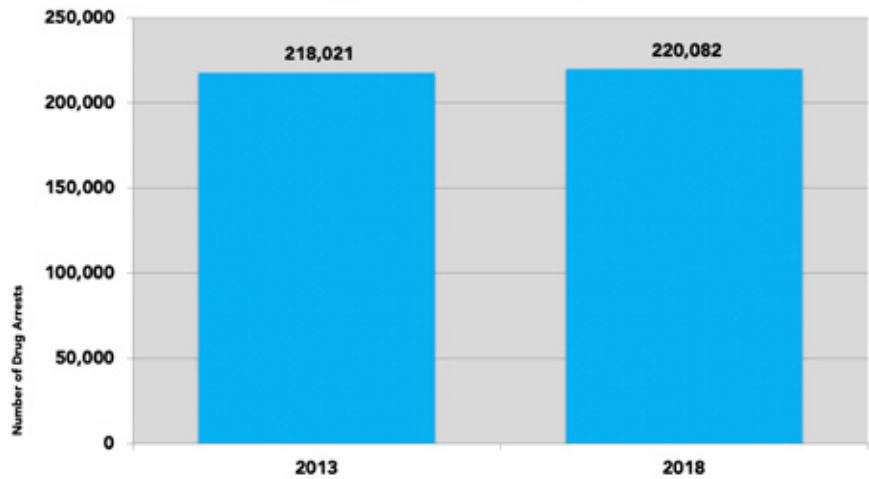
Plus, while the enforcement of cannabis laws has always been concentrated within communities of color, it has become even more so in recent years. People of color represented 68% of cannabis arrests in 2013, but by 2018 that had risen to 75% (though with far fewer cannabis arrests in total).⁴¹

Moreover, beyond the 28 cities highlighted above, jurisdictions all across the state are pouring resources into specialized law enforcement units dedicated to cannabis enforcement. For example, Sacramento created a unit of 15 new officers dedicated to unlicensed cannabis.⁴² Working with SWAT teams, they raid suspected unlicensed cannabis grows across the city. There are many similar (and often well-staffed and highly-resourced) law enforcement units across the state, including:

- **Santa Clara County:** Marijuana Eradication Team⁴³
- **San Luis Obispo:** Cannabis Regulations Unit⁴⁴
- **San Jose:** Division of Cannabis Regulation⁴⁵
- **Santa Barbara County:** Cannabis Compliance Team⁴⁵
- **San Bernardino County:** Marijuana Enforcement Team⁴⁷

Thus, just as recreational cannabis has been a major growth industry for business interests, so too has it been for law enforcement.

Figure Eight. The End of the War on Drugs? California Drug Arrests: 2013 Compared to 2018



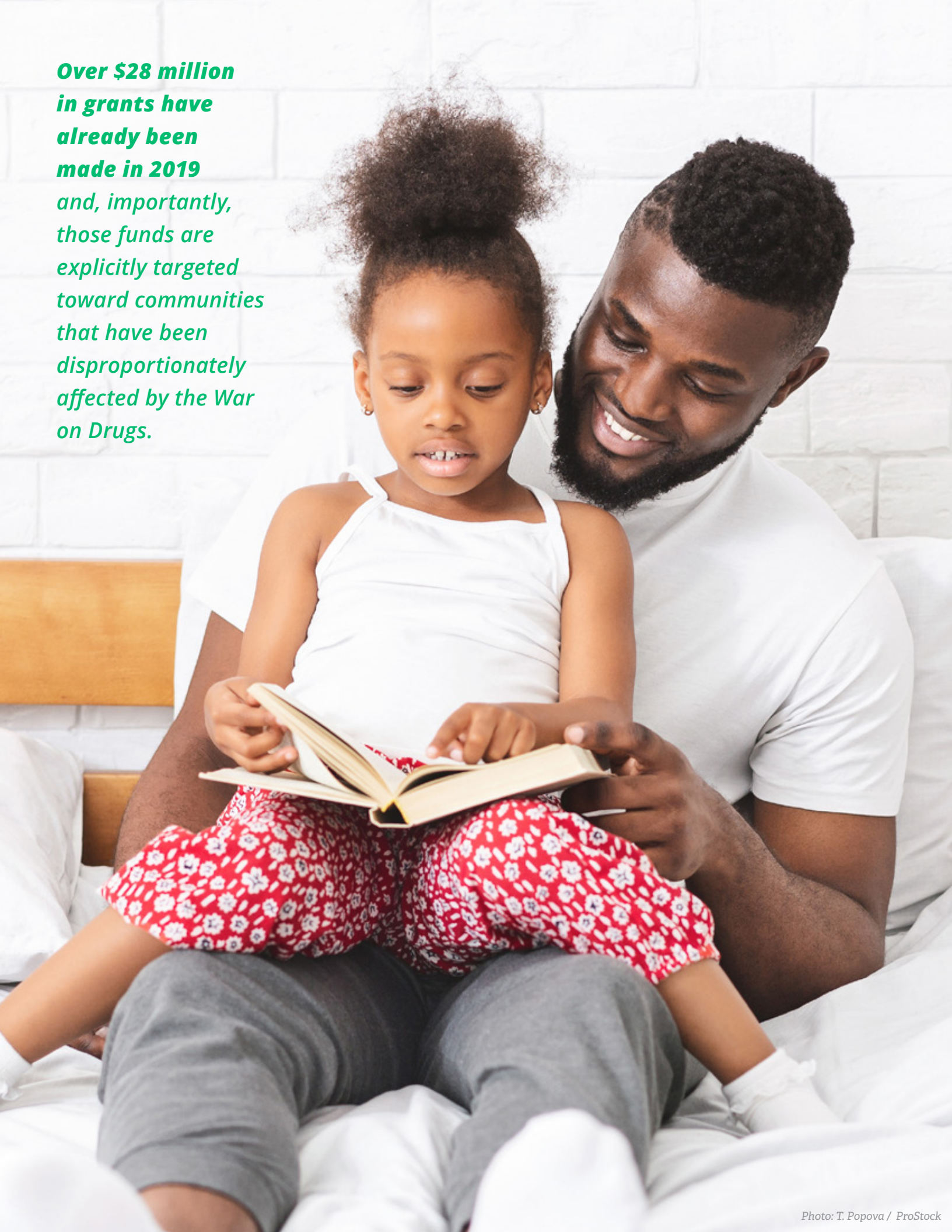
Sources: California Attorney General

Cannabis Enforcement and Immigration

The standard argument in support of this heightened law enforcement attention on the unlicensed cannabis market is that it needs to be eliminated to create the fully legal market envisioned by Proposition 64. However, not only does this approach tend to needlessly criminalize predominantly Black and Brown residents, it also ignores the fact that many of those individuals have valid reasons for not moving to the legal cannabis market.

While recreational marijuana is legalized in California, it continues to be a federal crime to possess marijuana, and when it comes to immigration-related decisions, federal law trumps state law. Thus, organizations such as the Immigrant Legal Resource Center have advised both documented and undocumented immigrants not to work in the marijuana industry because it can be used against them during immigration proceedings and even trigger deportation.

Over \$28 million in grants have already been made in 2019 and, importantly, those funds are explicitly targeted toward communities that have been disproportionately affected by the War on Drugs.



POSITIVE EXAMPLES AND RECOMMENDED ACTION STEPS

While there have undoubtedly been some deeply concerning developments in the use of cannabis revenues, the news is not all bad. For example, as mentioned previously, at the state level, Proposition 64 revenues are being used to fund the Community Reinvestment Grant Program, which is designed to address critical community needs related to jobs; mental, physical, and behavioral health; and support for reentry from the criminal justice system.⁴⁸ Over \$28 million in grants were made in 2019 and, importantly, those funds were explicitly targeted toward communities that have been disproportionately affected by the War on Drugs.⁴⁹

Additionally, a number of cities and counties have put their new cannabis revenues to far better use than simply augmenting police budgets, including:

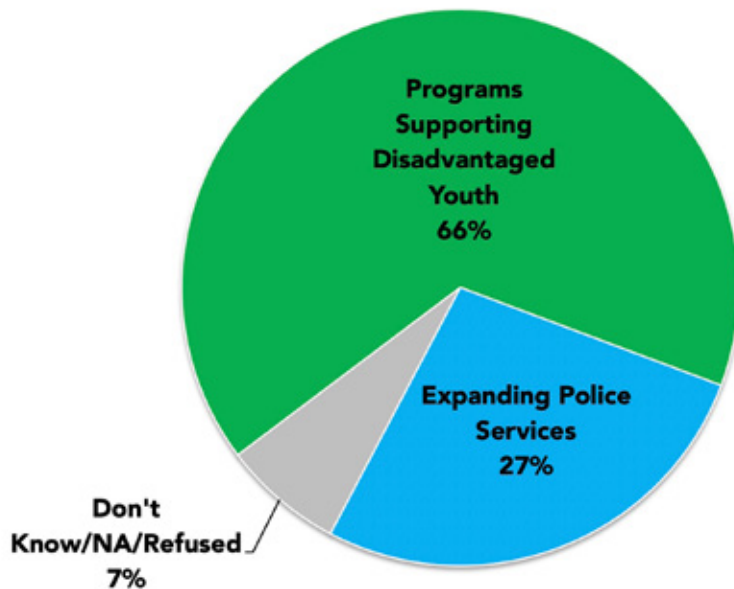
- **Santa Ana** is dedicating \$3.1 million in cannabis revenues this year to **youth services**, including tutoring services, internships, and youth enrichment programs.⁵⁰
- **Santa Cruz County** is investing \$350,000 in cannabis revenue per year in the Thrive by Three program, which is dedicated to creating a **robust system of care for children from low-income families and their families**.⁵¹ It includes initiatives such as the Nurse-Family Partnership, a research-based community health program in which specially-trained nurses regularly visit first-time mothers from early in their pregnancies until their child's second birthday.

- **Monterey County** is allocating nearly a million dollars in cannabis revenues in 2019-20 to initiatives including **early childhood education and intervention programs, a homeless shelter, and the Whole Person Care program**, which provides comprehensive case management services to those who are homeless, have mental illness or substance use disorders, or have multiple chronic diseases.⁵²
- **Humboldt County** uses \$400,000 in cannabis revenue per year to fund the Adverse Childhood Experiences (ACEs) Collaborative Partnership, which **seeks to address the impact of the intergenerational trauma inflicted by the War on Drugs and deep poverty in the Emerald Triangle region**.⁵³ It provides early childhood mental health supports, training for early childhood educators on social-emotional needs of children, and training for foster parents of children who have experienced trauma, among other initiatives.

As encouraging as they are, such efforts represent just the tip of the iceberg of what could be achieved if California cities and counties were to invest cannabis revenues appropriately. We are in the midst of a once-in-a-generation opportunity for a new revenue source at the community level that can be a powerful force for public health and racial justice. We simply cannot afford to miss this chance to repair the harm and trauma caused by decades of misguided and racially unjust drug policy.

Figure Nine.

**FM3 Research Statewide Survey of California Voters:
When considering how to best invest local marijuana taxes, do
you think it is more important to fund (1) programs supporting
disadvantaged youth or (2) expanding police services?**



Thus, while it may be prudent to focus some limited law enforcement attention on large-scale organized crime within the cannabis sector, for the vast majority of the unlicensed cannabis industry, we should instead be relying on approaches that do not resort to criminalization. Then, instead of continuing the pattern of over-investment in police and the criminal justice system, cities and counties should use cannabis tax revenues to substantially increase their investments in youth and public health initiatives within Black and Brown communities. By allocating cannabis revenues toward afterschool programs, mental health supports, prevention efforts, youth job training, appropriate regulation of the legal cannabis industry, and health services, local officials could immediately improve community health and well-being across the state. In doing so, they would not only increase graduation rates, reduce juvenile crime, and prevent substance abuse, they would enhance the conditions that improve

public safety over the long-term. And, fortunately, the public recognizes both the need to prioritize youth investments over expanding police budgets (see Figure Nine) and the importance of concentrating our investments in communities of color.⁵⁴

Investing in youth and public health is also critical given the mounting evidence of the harmful effects of cannabis use by adolescents and pregnant women. Multiple studies have shown that frequent cannabis use by teenagers can lead to impaired cognitive development and even trigger early onset of psychosis and other

mental health issues.⁵⁵ By slowing cognitive development, cannabis use makes it more difficult for adolescents to do well in school and to graduate from high school.⁵⁶ For pregnant women, cannabis use has been shown to result in lower birth weights, and may affect infant brain development, effects which carry a range of health and developmental risks.⁵⁷

Moreover, these health risks associated with cannabis use have escalated significantly as the cannabis industry has increased THC levels in cannabis products, ignoring the potential health impact. THC levels in commonly cultivated cannabis plants have quadrupled since 1995.⁵⁸ Many legal cannabis products now contain THC levels as high as 75%-90%.⁵⁹

Thus, local officials who have allowed legal cannabis businesses to operate in their community have an obligation to mitigate these health risks.

They have a responsibility to not only regulate allowable products but also invest cannabis revenues in programs that provide youth with positive alternatives to drug use and that educate youth and pregnant women about these harms. They also have an obligation to restrain the predatory marketing practices of the legal cannabis industry that are currently flooding many California cities with billboards and ad campaigns, some of which are meant to attract youth users.⁶⁰

In short, Proposition 64 has created both new opportunities and new threats. To maximize the former and minimize the latter, it is imperative that California learn from the mistakes of the past and seize this chance to right some wrongs, heal some very deep wounds, and dramatically improve the trajectory of children and youth whose families and communities were ravaged by the War on Drugs. What follows are some recommendations for doing so.

Recommendations for **Local Officials**

1. If your city or county allows or is considering allowing cannabis commercial activity but does not yet have a tax, implement a special tax dedicating the revenues as suggested below.

- For one model, see the “**Getting it Right from the Start**” model special cannabis tax ordinance for California jurisdictions.⁶¹

2. Invest cannabis revenues in those Black and Brown communities most impacted by the War on Drugs.

- As cities and counties look to invest cannabis revenues, they should first look at those neighborhoods and communities that suffered the highest rates of arrests for cannabis-related crimes. Local police and sheriff departments have this data and, upon the request of local officials, have the ability to generate research that will typically reveal geographic and racialized patterns of arrests and criminalization.

3. Invest cannabis revenues in youth and in the protection of vulnerable populations.

- Local officials should use these revenues to invest in prevention, youth development, and public health in impacted communities. Examples include:
 - Expanding access to afterschool and summer programs, trauma-informed care, mental health supports, restorative and transformative justice programs, and reentry supports for justice-involved youth and adults.
 - Supporting youth driven, peer-to-peer awareness campaigns to inform teens about the risks of cannabis use.⁶²
 - Expanding substance abuse prevention and treatment programs.
 - Partnering with First 5 and early childhood advocates in public awareness campaigns to educate

pregnant women and to establish home visiting programs and other early childhood supports.

- Regulating the legal industry to strengthen protection of youth and public health.

4. **Increase economic opportunities for Black and Brown communities.**

- Local officials should expand programs to help people with prior convictions to reduce or clear their criminal records. Thousands of Californians face severe limitations when it comes to jobs, affordable housing, and access to education due to prior criminal convictions. People who have their records expunged have been shown to experience a 33% increase in their earning potential.⁶³

- Cities and counties should support economic equity initiatives for entrepreneurs of color. This should include economic equity opportunities in the cannabis industry. Some cities in California have created support programs that create a more diverse and inclusive cannabis industry through prioritizing equity applicants in licensing, providing training, incentivizing or requiring hiring from vulnerable communities, offering fee waivers, and assisting with securing space. By following the examples of Sacramento, Los Angeles, Oakland and San Francisco, local governments can ensure that communities of color capture some of the emerging wealth generated by the cannabis industry.

Momentum Growing with Local Organizers

Across the state, local organizers and racial justice advocates are becoming increasingly aware of the need to address the issue of local cannabis tax revenues. In Oakland, for example, a grassroots effort is seeking to place a measure on a future ballot to set aside the City's cannabis sales tax revenue into a restricted special fund for "services and programs that support and repair the damages from the War on Drugs on individuals, their families and their communities." Coined as the "Emerald New Deal," the measure seeks to harness the proceeds from the emerging cannabis economy to benefit those who have borne the brunt of this racist policy, while increasing investments in communities that have historically been neglected. Funds will prioritize community-based initiatives dealing with housing security, employment and business development, medical care including mental health treatment, education scholarships, and community organizing.

In San Diego, organizers with Mid City CAN have conducted an analysis of marijuana arrests for the City of San Diego and have presented this data to City Council to raise awareness of extreme racial disparities in enforcement. Their data also shows the neighborhoods that were severely over-criminalized due to marijuana enforcement. They are recommending the City place cannabis tax revenues into a special fund dedicated to supporting the well-being of children and youth in those most impacted neighborhoods. Currently the City of San Diego is bringing in \$12 million in cannabis revenues for the 2020 fiscal year; this is projected to grow to \$30 million in the next five years.

For more information about the Oakland effort, please contact Francis Capoltura at fcapoltura@in-advance.org. For more information about San Diego, please contact Diana Ross at dross@midcitycan.org.

Recommendations for **Governor Newsom**

As the primary leader behind cannabis legalization in California, Governor Newsom has the unique role and responsibility to address the concerns expressed in this report. Governor Newsom can:

- 1. Use his “bully pulpit” to raise awareness of the importance of investing cannabis tax revenues through the lens of racial equity and reparations.**
- 2. Provide preference points in state Prop 64 grantmaking for applicants that are targeting the investment of their cannabis grant funding in communities of color.**
- 3. Increase funding for public health efforts to protect vulnerable populations and fully inform the public of health risks.**
- 4. Support policy change that limits cannabis marketing, accurately informs the public of risks, and eliminates products that are attractive to children and youth.**
- 5. Prioritize communities hit hard by the War on Drugs in all cannabis licensing opportunities.**
- 6. Pursue increases in the tax rate on high-THC products—for example a tax per standard dose of THC—as well as limitations on the production and sale of such products.**

Recommendations for **Youth Organizers, Racial Justice Advocates And Public Health Activists**

- 1. Research if your local city or county has a cannabis tax yet, and if so, how it is spending its cannabis tax revenue.**
- 2. Share the information collected under #1 broadly with fellow advocates and in the news media.**
- 3. Educate local officials on the racialized history of the War on Drugs and share with them examples of how state agencies and communities are prioritizing cannabis revenues for the most impacted neighborhoods.**
- 4. Bring forward proposals to your local officials for how to tax cannabis businesses and invest these revenues in your communities based on your local needs.**
- 5. In the absence of action on the part of local officials, consider using local ballot measures to present voters with an alternative for how to capture and spend these funds.⁶⁴**

The Push to Lower Cannabis Taxes

The cannabis industry has been engaging in a major advocacy effort to convince localities that they should lower their cannabis tax rates. They argue that current rates are stifling the growth of the industry and preventing unlicensed operators from shifting to the legal market. Putting aside that the “growth-stifling” argument is used by corporations in virtually every industry to expand their profits, consider that California’s \$3.1 legal cannabis industry grew 23% last year and is projected to become a \$7.2 billion industry by 2024. Its profitability is attracting more and more wealthy investors by the day. Indeed, a national study of cannabis regulations found that California was the most “business-friendly” state for the cannabis industry. To the extent that individual business owners are experiencing diminishing profits, by far the most significant factor is overproduction, not excessive taxation.

Additionally, a key factor in the passage of Proposition 64 was the promise that there would be substantial new revenues to meet critical funding needs across the state. Thus, not only would it be a grave mistake to lower cannabis tax rates, it would also amount to a “bait-and-switch” for California voters. The far better path is to emulate what was done with tobacco taxes and implement tax increases on recreational cannabis over time to expand the cannabis revenues available to promote healthy communities statewide.

Sources: Patrick McGreevy, “California Now Has the Biggest Legal Marijuana Market in the World. Its Black Market Is Even Bigger,” *Los Angeles Times*, August 15, 2019; Andrew Sheeler, “California Is the Friendliest State for Marijuana Businesses, Law Firm Analysis Finds,” *Sacramento Bee*, August 30, 2019.

ENDNOTES

- 1 Governor’s Office of Business and Economic Development, *California Community Reinvestment Grants Program*, <http://www.business.ca.gov/Programs/California-Community-Reinvestment-Grants-Program>.
- 2 Sarah D. Sparks, “Parents’ Incarceration Takes a Toll on Children, Studies Say,” *Education Week*, February 24, 2015
- 3 Ibid. (noting that nearly 1 in 5 youth within the foster care system has an incarcerated parent).
- 4 Patrick McGreevy, “California Now Has the Biggest Legal Marijuana Market in the World. Its Black Market Is Even Bigger,” *Los Angeles Times*, August 15, 2019; Andrew Sheeler, “California’s Legal Marijuana Will Outsell the Black Market in 5 Years, Forecast Says,” *Sacramento Bee*, August 20, 2019.
- 5 Susan Stellan, “Is the War on Drugs Over? Arrest Statistics Say No,” *New York Times*, November 5, 2019.
- 6 Bureau of Justice Statistics, *Justice Expenditure & Employment Extracts: 1982 and 1983*, <https://www.bjs.gov/content/pub/pdf/jeee-i283dagfes.pdf>; Robert Sahr, “Individual Year Conversion Factor Tables,” Oregon State University, <http://liberalarts.oregonstate.edu/spp/polisci/faculty-staff/robert-sahr/inflation-conversion-factors-years-1774-estimated-2024-dollars-recent-years/individual-year-conversion-factor-table-0>.
- 7 Ibid.
- 8 Bureau of Justice Statistics, *Justice Expenditure & Employment Extracts, 2015 - Preliminary*; Statista, “Resident Population in California from 1960 to 2018 (in Millions),” <https://www.statista.com/statistics/206097/resident-population-in-california/>.
- 9 Ibid.
- 10 Ibid.
- 11 Ibid.
- 12 ACLU, *The War on Marijuana in Black and White* (2013), 128, <https://www.aclu.org/report/report-war-marijuana-black-and-white>.
- 13 Ibid.
- 14 Ibid., 9.
- 15 Ibid., 139.
- 16 Ibid.
- 17 *Million Dollar Hoods*, Cannabis in Long Beach: Arrests by the Long Beach Police Department, 2010-2016 (2019).
- 18 *Million Dollar Hoods*, Cannabis in Sacramento County: Arrests by the Sacramento County Sheriff’s Department, 2010-2016 (2019).
- 19 *Million Dollar Hoods*, Cannabis in Los Angeles: Booking Into the Los Angeles County Jail, 2012-2016 (2019).
- 20 ACLU, *The War on Marijuana in Black and White*, 139.
- 21 *Million Dollar Hoods*, Cannabis in Sacramento County.
- 22 *Million Dollar Hoods*, Race, Community, and the Recent Disparities in Cannabis Enforcement by the LAPD (2018).

- 23 Ibid.
- 24 Patrick McGreevy, "These California Politicians Once Helped Regulate Legal Marijuana. Now They're Working for the Industry," *Los Angeles Times*, September 30, 2019; Andrew Scheeler, "Political Heavyweights' Unite to Fight for Cannabis From the Capitol to the Counties," *Sacramento Bee*, August 6, 2019; see also, e.g., Associated Press, "Marijuana Industry Wants L.A. to Crack Down on Illegal Pot Shops," *Los Angeles Times*, June 10, 2019; Rebecca Klar, "Legal Marijuana Industry Presses for Crackdown on Illegal Shops in California," *The Hill*, June 11, 2019; Thomas Fuller, "Getting Worse, Not Better: Illegal Pot Market Booming in California Despite Legalization," *New York Times*, April 27, 2019.
- 25 Counties were excluded from this analysis for two reasons. First, it tends to be far more difficult to isolate law enforcement spending within county budgets. Second, because of criminal justice realignment in California, counties have been given more responsibilities in recent years, making a pre-64/post-64 comparison difficult. Note that there were localities that passed cannabis ordinances prior to 2016 that were able to use those ordinances to tax both recreational and medical cannabis after the passage of Proposition 64.
- 26 These figures were taken from the most recently available city budgets.
- 27 Where possible, state and federal revenues were subtracted from local general fund revenues to isolate those funds over which localities have discretion. Also, it should be noted that different cities organize their city governments and budgets using different categories. While most clearly isolated police spending, others referred to "public safety departments" or broke out police spending into various sub-categories. In some cases, judgment calls were made to include the most comparable information from each of the 28 cities.
- 28 City of San Diego, *Adopted Budget: Fiscal Year 2019*, 364, https://www.sandiego.gov/sites/default/files/fy19ab_full.pdf.
- 29 City of Los Angeles, *Adopted Budget: Fiscal Year 2018-19*, <https://lacontroller.org/budgets/2018-2019/>.
- 30 Woodlake Police Department, <https://www.cityofwoodlake.com/woodlake-police-department/>; City of Woodlake, *Annual Budget: FY 19-20, 2*, <http://www.cityofwoodlake.com/wp-content/uploads/2019/06/FY-19-20-Budget-Final-SM.pdf>.
- 31 Ballotpedia, "Shasta Lake, California, Marijuana Tax, Measure A (2017)," [https://ballotpedia.org/Shasta_Lake,_California,_Marijuana_Tax,_Measure_A_\(August_2017\)](https://ballotpedia.org/Shasta_Lake,_California,_Marijuana_Tax,_Measure_A_(August_2017)).
- 32 Ibid.
- 33 A 2019-20 budget was available for all 28 cities except for Adelanto. However, according to the Adelanto City Council's 2019 meeting notes, the 2018-19 budget was continued for the 2019-20 fiscal year. Thus, for our analysis, the same dollar figures from 2018-19 were used for 2019-20.
- 34 To state the obvious, the \$370 million increase in police budgets far exceeds the \$86 million projected to be collected in cannabis revenues.
- 35 United States Census Bureau, *QuickFacts: Greenfield, California*, <https://www.census.gov/quickfacts/fact/table/greenfieldcitycalifornia/INC110217>.
- 36 City of Greenfield, *Fiscal Year Operating Budgets*, <http://ca-greenfield.civicplus.com/Archive.aspx?AMID=37>.
- 37 Ibid.
- 38 Ibid.
- 39 California Department of Justice, *Crime in California: 2018*, <https://data-openjustice.doj.ca.gov/sites/default/files/2019-07/Crime%20In%20CA%202018%2020190701.pdf> (87% of drug arrests in 2018 were for misdemeanors, compared to 37% in 2013).
- 40 Ibid.
- 41 Ibid.; California Department of Justice, *Crime in California: 2018*, <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd13/cd13.pdf>
- 42 Bob Moffitt, "Sacramento Police to Add 15 New Marijuana Enforcement Officers," *Capital Public Radio*, November 22, 2017.
- 43 County of Santa Clara, Office of the Sheriff, *Marijuana Eradication Team (MET)*, <https://www.sccgov.org/sites/sheriff/Pages/met.aspx>.
- 44 City of San Luis Obispo, *Cannabis Regulations Unit*, <https://www.slocity.org/government/department-directory/police-department/marijuana-enforcement-team>.
- 45 San Jose Police, *Division of Cannabis Regulation*, <https://www.sjpd.org/exo/dcr/>.
- 46 Santa Barbara County Sheriff's Office, *Cannabis Compliance Team*, <https://www.sbsheriff.org/cannabis-compliance-team/>.
- 47 San Bernardino County Sheriff's Department, "Press Release: January 12, 2018," <http://wp.sbcounty.gov/sheriff/central-station/marijuana-enforcement-team-seizes-marijuana-plants-and-processed-cannabis/>.
- 48 Governor's Office of Business and Economic Development, California Community Reinvestment Grants Program.
- 49 Ibid.; Governor's Office of Business and Economic Development, "Press Release: Investing in Social Equity: \$28.5 Million Works to Counteract Impacts of the War on Drugs," September 25, 2019.
- 50 City of Santa Ana, "Press Release: Santa Ana City Council Approves \$646 Million Budget," June 18, 2019, <https://local.nixle.com/alert/7355986/>.
- 51 Interview with David Brody, Executive Director of First 5 Santa Cruz County, July 30, 2019.
- 52 County of Monterey, *Recommended Budget: 2020*, <https://www.co.monterey.ca.us/home/showdocument?id=77798>; County of Monterey Health Department, *Whole Person Whole Care*, <https://www.co.monterey.ca.us/government/departments-a-h/health/public-health/whole-person-care>.
- 53 Interview with Mary Ann Hansen, Executive Director of First 5 Humboldt County, July 31, 2019.
- 54 Based on statewide polling conducted by FM3 Research.
- 55 Nora Volkow, et al., "Adverse Health Effects of Marijuana Use," *NEMJ*, June 5, 2014.; National Academies Press, *The Health Effects of Marijuana: An Evidence Review and Research Agenda*, January 12, 2017; Office of the Surgeon General, *U.S. Surgeon General's Advisory: Marijuana Use and the Developing Brain*, <https://www.hhs.gov/surgeongeneral/reports-and-publications/addiction-and-substance-misuse/advisory-on-marijuana-use-and-developing-brain/index.html>.
- 56 Ibid.
- 57 Ibid.
- 58 Chandra S. Radwan MM, Majumdar CG, Church JC, Freeman TP, ElSholy MA. "New trends in cannabis potency in USA and Europe during the last decade (2008-2017)". <https://www.ncbi-min-nih-gov.ucsf.idm.oclc.org/pubmed/30671616> *Eur Arch Psychiatry Clin Neurosci*. 2019 Feb;269(1)5-15. doi: 10.1007/s00406-019-00983-5.
- 59 Ibid
- 60 For research and model ordinances on how local governments can protect children, youth and pregnant women from the predatory practices of the cannabis industry, go to <https://www.gettingitrightfromthestart.org/>.
- 61 See Getting it Right From the Start, *Model Ordinances*, <https://www.gettingitrightfromthestart.org/our-model-ordinances>.
- 62 Office of the Surgeon General, *U.S. Surgeon General's Advisory*.
- 63 Jeffery Selbin et al., "Unmarked? Criminal Record Clearing and Employment Outcomes," *Journal of Criminal Law and Criminology*, Vol. 108, No. 1, 2018.
- 64 Getting it Right From the Start, *Model Ordinances*

CO-AUTHORS



CO-SPONSORS

