

Is Cannabis Possession Actually “Legal” In Washington State Following The Passage Of
Initiative 502 And, If So, For Whom?

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Abstract

Is cannabis possession actually “legal” in Washington state following the passage of Initiative 502 and, if so, for whom?

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In 2012, Washington state passed Initiative 502 legalizing recreational adult use of cannabis, changing the legal landscape for the citizens of the state that wished to consume cannabis without fear of the legality of consuming. Yet, an individual can be convicted of misdemeanor cannabis possession in 2021, nine years later. Examining the convictions of misdemeanor cannabis possession in Pierce County between 2013-2018, reveals that a Black individual is three times as likely as a White individual to receive a conviction for misdemeanor cannabis possession. This disparity in convictions continues the negative impact on the Black community perpetrated by the War on Drugs and continues a misconception of the legalization of recreational cannabis use: that it is legal to possess. The disparity in convictions is discussed in the context of the impact of the War on Drugs on the Black community and the use of prosecutorial and officer discretion in deciding what statutes to pursue.

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2 Introduction

Imagine that you are stopped for speeding in Washington State in 2021. Not the biggest of issues, as most of us know it comes with the risk of speeding. Today, though, you have a pipe with its bowl packed with less than half a gram of cannabis in your glove box.¹ Since you have to open the glove box for your registration, you admit to having the pipe. You think it is no big deal, it is legal to have cannabis now, so you don't see an issue with having the little bit of cannabis on you. You are surprised, as the officer writes you a citation for possessing under 40 grams of cannabis and an infraction for having the pipe.² Since you can purchase the cannabis at a recreational store, you didn't think you would be penalized for possessing less than what you could buy legally.³ While you wait for your day in court, you spend time trying to determine what kind of punishment you will be handed by the courts.

If you are lucky and get mercy, you will get just the mandatory minimum for a first-time offense: either 24 hours in jail, \$250 in fines or both.⁴ That day in jail, though, might not be for weeks or months later, causing another interruption in your life. After that do not forget your parting gift of now having a record for a drug crime that you thought no longer existed.

Trying to quantify a base line of what constitutes cannabis possession in the United States is difficult, as each state has defined what cannabis possession means differently. This means the

¹ This narrative is a retelling of the interview that I completed with John (a pseudonym to protect his identity), who received his conviction in 1991, when he admitted to having a pipe during a stop for speeding. He believed since he lived in Seattle that it was no big deal then having that small amount on his person, making the story relative to now, when recreational use is legalized, yet possession is punishable.

² (Wash. Rev. Code § 69.50.4013 (2017), Wash. Rev. Code § 69.50.4014 (2015), Wash. Rev. Code § 69.50.445 (2015)) The Infraction for consuming in public/open container in public is a fine no greater than \$100 and does not create a criminal record.

³ Ibid, (Washington State Liquor and Cannabis Board 2020), an individual can purchase up to 1 ounce (28 grams) of cannabis flower.

⁴ (The Norml Foundation 2021; Wash. Rev. Code § 9A.20.021 (2015)), an individual can receive in addition to the required minimum, an additional fine up to \$1,000 and 90-days in jail.

threshold, or legal amount an individual is allowed to carry in one state for personal use can be substantially different in another. As an example, in Washington state an individual can have up to 40 grams and be charged with a misdemeanor possession charge, while in Alaska that same individual can possess up to 4 oz and receive a similar citation (that is almost 3 times what the person can carry in Washington).⁵ This variance in state's statutes alone can cause someone unfamiliar with the different laws to receive a felony possession charge simply by being from a more lenient legal market. With the misdemeanor possession citation in use, Washington residents increase their likelihood of receiving a criminal record after purchasing a legally allowed and regulated product.

Washington state has considered possession of 40 grams of cannabis a misdemeanor since the 1970s. While the statute has had some minor changes since then, its punishment and limits have stayed the same. The current statute RCW 69.50.4014 states the following: "Except as provided in RCW 69.50.401(2)(C) or as otherwise authorize by this chapter, any person found guilty of possession of forty grams or less of *marijuana* is guilty of a misdemeanor."⁶ How can this be, you might ask? Isn't recreational adult use legal in the state of Washington?

In 2012, voters in Washington state approved Initiative 502, legalizing adult recreational cannabis use. The initiative was law enforcement friendly and appealing to conservative counties, as one of the first successful campaigns to reverse cannabis prohibition, these political tactics were necessary to ensure the initiatives success.⁷ In the 8 years recreational adult usage of cannabis has been legal in Washington State, thirteen states and counting have followed Washington's lead and created their own legalized markets. Other states, while legalizing recreational cannabis, have

⁵ *ibid*

⁶ *ibid*

⁷ (Washington Secretary of State 2012)

included social justice platforms; and more states are looking at decriminalization of cannabis possession.⁸

The measures these other states have taken to address the lasting damage their prior laws had on their constituents are what led me to my guiding question for this thesis. Is cannabis possession actually “legal” in Washington state following the passage of Initiative 502 and if so for whom? To answer this question, I had to take into account that the misdemeanor law for cannabis possession is still on the books, and to consider whether any individuals have even been convicted under this law since 2013. To do this, I chose to look at Pierce County between 2013-2018, specifically who received a conviction for misdemeanor cannabis possession. I chose these data sets because being charged with possession when it is legal to purchase cannabis appears in stark contrast to the concept of legalization. First, with the expansion of the expungement process to include misdemeanor cannabis possession, it is important to understand the rate at which possession arrest generated a conviction following legalization.⁹ Secondly the ACLU report shows a pattern of disparity for the same period in arrest, by looking at convictions, we can see if the disparity rate continues past arrest and examine the use of discretion post-arrest.¹⁰ Finally, a conviction for misdemeanor cannabis possession can be created for as little as a single joint to 1.42 the legal limit an individual can purchase at one time.

As a consumer of cannabis who is a white male, more than once have I smoked in public, and I rarely feel the need to be concerned about smoking in public locations. If I have felt this way in the five years I have been an active smoker, and I wanted to understand the use of a statute that appears too longer be necessary. Because racial disparity in arrests and convictions dates back to

⁸ (Marijuana Policy Project)

⁹ The expansion of expungement or ‘vacating’ of cannabis possession charges is still new and is currently unknown if being engaged at any significant level. (Wash. Rev. Code § 9.96.060(2020))

¹⁰ (AMERICAN CIVIL LIBERTIES UNION 2020)

the beginning of cannabis prohibition, a continuing of disparity in the cannabis possession convictions following legalization maintain the racial origins of prohibition.

Before I begin my analysis of the misdemeanor cannabis possession convictions, I will provide a historical cultural review of cannabis possession in the United States through some of the more recent state changes, followed by an overview of important literature guiding my analysis. The more common terms for cannabis are *marijuana*, weed, pot, reefer, and numerous slang terms that have grown over the decades. I will not be using the term *marijuana* though, as its use was codified in racial imagery.¹¹ I am making this conscious choice to separate the racial and negative past from the plant itself, since, by using language conscripted with nefarious means, we continue to allow those illogical and harmful beliefs to exist in society.

3 Historical Aspects of Cannabis Prohibition

3.1 1900-1960s

Around the world, civilizations have used cannabis for its medicinal, spiritual, and recreational benefits for millennia.¹² The use of cannabis by certain groups, however, shaped the United States' political belief that there were no medicinal benefits to consumption.¹³ This began in the southern border region where Mexican immigrants used cannabis for recreational and medicinal purposes. Politicians started speaking about cannabis as *marihuana*(sic) and started to create laws around its usage as early as 1914 locally, and federally in the 1930s.¹⁴ The call for this early legislation was often aimed at the expulse of Mexican immigrants throughout the South and Midwest, which was

¹¹(Loriaux, Amy 2018)

¹² (Bennett, Chris 2010)

¹³ Ibid, while not discussed here, it is important to note that cannabis was used in several pharmaceutical products and was one of the items mentioned in the Pure Food and Drug Act, as requiring the amount included to be listed.

¹⁴ (Akins, Scott 2019; Malmo-Levine, David 2010; Musto, David F. 1987)

due to a need for agricultural labor.¹⁵ Henry Anslinger,¹⁶ the principal architect on the 1937 Marihuana Tax Act, and Director of the Federal Bureau of Narcotics (a precursor to the DEA), is the best example of using racial language to create the idea of a degenerate drug user. Anslinger, did not seem to want to waste federal funds on cannabis and primary left enforcement to the states, as he saw heroin deserving the attention of the FBN, nevertheless he helped design and pass the 1937 act.¹⁷ One of the ways he helped was by providing supposed horror stories to Congress, when testifying before the Ways and Means committee in the U.S. House in 1937, Anslinger read newspaper articles aloud, exposing the supposed cannabis problem: “Two Negroes took a girl fourteen years of age and kept her for two days in a hut under the influence of *marihuana*(sic)....” Anslinger’s role in cannabis regulation lasted for several decades, through his image building of a drug user being a person of color, unable to control their urges and his insistence in strong penalties laid the foundation for Nixon and Reagan to justify the War on Drugs.¹⁸

Anslinger and the FBN were asked to help create federal cannabis legislation to address the concerns of southwest states.¹⁹ Prior to this, Anslinger did not seem to care about cannabis use and felt that it was not something the states should handle.²⁰ While there is the possibility that Anslinger was motivated to enact the Marihuana Tax Act of 1937 (MTA) for possible trade reasons, as this decrease the use of hemp and other aspects of the cannabis use and increase trade deals, his method to garner support for the bill was fearmongering.²¹ Anslinger accomplished this goal with

¹⁵ Ibid, Not discussed here, is the Harrison Act, which taxed narcotics and Alcohol prohibition, both are precursors to the *Marihuana* Tax Act and helped Anslinger in structuring the act. These are important to understand the history of the targeting of drug use in our country, they are not necessary for this thesis’s context of cannabis possession.

¹⁶ Hereinafter Anslinger

¹⁷ *ibid*

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid*

the help of William Hearst's newspapers, "(Hearst)...newspapers included lurid stories about crazed Mexicans who commit violent crimes while under the influence of *Marijuana*."²² Anslinger used the fear of "the other" that Hearst was generating in his papers to convince Congress to pass the "*Marihuana Tax Act of 1937*." Anslinger served a long-term role in shaping the country's narcotics policies which included cannabis regulations, and he was an earlier supporter for longer sentencing and tougher polices on drug crimes. He also pushed though for more hospital and treatment options for addiction, though this did not seem to gain the same attention as his ideals on punishment.²³ This local level enforcement of cannabis, continued to target Black, Asian and Hispanic users and it wasn't until the late 60s, when white use started rising that the Federal government increased targeting cannabis use.²⁴

3.2 The Rise of the 'War on Drugs'

As the 60s were coming to an end, a rising amount of middle- and upper-class White youths were using cannabis on college campuses and at anti-war protests, prompting the federal government to implement stronger penalties for its use.²⁵ The use of Law and Order rhetoric, using "us vs. them" language started to manifest throughout the country.²⁶ The best known example of this is from the Nixon Administration and His domestic policy chief John Ehrlichman: "We knew we couldn't make it illegal to be either against the war or Black, but by getting the public to associate the hippies with *marijuana* and Blacks with heroin, and then criminalizing both heavily, we could

²² (Vitiello, Michael 2019)

²³ *ibid*

²⁴ I state started rising, though it was more the public presence of use that was noticeable, private use levels may have been at that rate for some time, due to the availability of cannabis and the ability to grow cannabis easily.

²⁵ *ibid*

²⁶ (Waxman, Olivia A 2020) As Waxman points out the concept of Law & Order rhetoric and policing happened under Johnson and his war on poverty, which dictated more law enforcement to handle social issues(poverty), which created more civil unrest, and was expanded upon to encompass the drug user. Targeting poverty with policing often meant targeting poor Black communities, that were still dealing with Jim Crow segregation and lacking federal resources.

disrupt those communities.”²⁷ This was not the first use though of this attitude and it can be traced back to newspaper editorial in 1936.²⁸ The Civil Rights movement was also making it more difficult for elected officials to use openly racist language. By targeting cannabis use, politicians were able to demonize a substance used by people whom they considered to be an enemy (people of color, anti-war protestors, civil rights activist), and to maintain their racist practices while saying it was for moral reasons.

Politicians began to codify the language into the concept of Law and Order, which ramped up the war on drugs to dizzying heights. President Johnson started this codification switch when he began his ‘War on Poverty’, by using police instead of social policies to deal with income inequalities, in primarily Black communities, he signified poor meant Black.²⁹ Nixon continues this idea with the Southern Strategy and in the creation of the war on drugs. By signaling that the target was the drug user, policing could remain targeting Black individuals without fear the law would be deemed unconstitutional for racial intent. This concept that we needed laws to control the individual personal acts to create social order was appealing to politicians that saw the civil rights movements as an attack on their power.

Starting with the creation of the Controlled Substance Act (1971) and the basis of the current federal legislation outlawing cannabis, the war on drugs became the standard operating practice of the United States, as drug use was considered the main enemy to democracy. The CSA provided the legislative backbone to the concept of Law and Order, the use of drugs was now illegal at the federal level. Law enforcement could maintain Jim Crow era tactics, without stating it was based on race and instead on the concept of helping the poor community by removing drug users. The

²⁷ (Newman, Tony 2016)

²⁸ (Best, Allen 2014; Musto, David F. 1987)

²⁹ ibid

CSA was the final nail, ending the individual's ability to determine for themselves the substance they consume medicinally or recreationally. Allowing this war to be based on attacking groups that were not acceptable to the Nixon Administration, which was later confirmed as a fact with the admittance of Ehrlichman and became the new strategy of Presidential candidates appealing to be tough on crime and specifically drugs, for the next several decades.³⁰

3.3 Fried Eggs and Police Raids

In the late 80s, the war on drugs escalated with mandatory sentencing requirements, under Reagan, an increase in militarization of law enforcement, and funding tied directly to arrest related to drugs under George H.W. Bush and Clinton in the 1990s.³¹ During the Reagan administration, the drug user became the top enemy of the country and the easiest target for the police. The Reagans reinstated mandatory sentencing for all drug laws, increased the number of individuals serving prison sentences for low level drug convictions and removed the ability to benefit from several social policies aimed at helping the poor. Between the Anti-Drug Abuse Act of 1988 and the creation of the Office of National Drug Control Policy, the Reagans were able to control the conversation around who used drugs and the impact of drugs on the public for the next decades. The Reagans managed this task, by equating a drug user to an accomplice to murder and encouraging citizens to report drug users to the police.³² They created false images that depicted social welfare recipients as Black drug users that were attempting to rob from upstanding citizens through using the programs.³³ This left an image in the minds of the American public that drug users were nefarious and destructive to society, it also continued to build on the concepts that poor Black individuals were harmful to the stability of the country and needed to be policed. Following

³⁰ *ibid*

³¹ (Walker, Ingrid 2017)

³² *ibid*

³³ *ibid*

Reagan, George H.W. Bush and Bill Clinton increased the spending of the Office of National Drug Control Policy, which increased law enforcement funding, deputized additional resources for the targeting of drug enforcement and enforced ‘drug free’ policies on schools. Growing up during this time who of us in our 30s doesn’t remember the D.A.R.E ads showing an egg getting fried, or getting drug tested to play high school sports?

After September 11, 2001, George W. Bush increased funding connecting the drug trade with terrorism.³⁴ He increased law enforcements militarization of equipment for complete drug tactics, this included the use of no-knock warrants and asset seizure of property that had a connection to a drug crime.³⁵ Finally, Obama, while addressing in public statements the negative impact the war has had on communities of color, promised an increase in funding to law enforcement to battle the war, and provided it through the Byrne grants.³⁶

The last 100 years the United States have used the concept of law and order to position the “us” as White, lawful, property owning, morally right individuals. The “other” is then any non-white, non-property owning and therefore unlawful and not morally right. The war on drugs cemented that concept into how we think about personal drug use and the individual taking part in the act. This war, regardless of who is in office, has become part of the lexicon used by politicians to get elected through a tough on crime stance for over forty years and as was shown since the beginning of regulation in our country, the “drug nuisance” has worn a darker complexion.³⁷

3.4 Recreational Adult Cannabis to the Rescue

After years of demonizing personal cannabis use and creating an image that equated drug use to harden criminals, the campaigns to legalize recreational cannabis in Washington state set out to

³⁴ (Björnehed, Emma 2004)

³⁵ *ibid*

³⁶ (Balko, Radley 2017)

³⁷ *ibid*

appeal to conservative voters.³⁸ In Washington, the focus was on individualism (something the us vs them mentality teaches is available to White individuals). The supporters for I-502 in Washington appealed to individual responsibility in the area of the state most likely to see cannabis as criminal: Eastern Washington, a highly conservative area that has strong ties to individualism. The sponsors of the legislation contracted with prominent American travel writer Rick Steves, who is known for his writing encouraging travels to take the less tourist route and be an individual.³⁹ Steves' talks focused on the idea that as hard-working individuals, we should be able to consume cannabis in the safety of our own home, that by legalizing adult use it ends the black market that gang's profit from.⁴⁰ Steves' focus was on personal liberty, and how the initiative is written in a way that it allows personal use, without legalizing drugs.⁴¹ This focus on individual responsibility, allowed the sponsors the ability to mention social justice concerns, without the need to address the consequences prohibition had on the Black community.⁴² This gained the initiative of approval of the regional NAACP chapter and related local groups as they believed cannabis legalization would decrease arrest in general, and thus benefit people of color.⁴³ The sponsors' failure to address the consequences years of prohibition of cannabis had on the public, is noticeable when comparing Initiative 502 to efforts by the second and third groups of states legalizing recreational cannabis use.

One program that deserves mention is California's inclusion of expungement in Proposition 64. Unfortunately, there was little engagement in the process and California realized they needed help addressing the issue and entered a pilot program with Code for America (CoA). Code for America

³⁸ (Schlussel, David 2017)

³⁹ (Steves, Rick)

⁴⁰ *ibid*

⁴¹ *ibid*

⁴² *ibid*

⁴³ (Trillhaase, Marty 2012)

had created a program entitled “Clear My Record” to help individuals find the legal resources and availability of expungement to them.⁴⁴ What they learned from the program highlighted the barriers individuals have when attempting to clear their records. Using modern analytical technology, CoA entered a pilot program with San Francisco County in 2018. Using the software, CoA implemented an automatic expungement process that searched the records, marking those eligible and creating the necessary report to notify the courts of the changes to the records. California has expanded the program to the entire state and as of September 2020 the entire state, this has helped reduce or seal over 144,000 cannabis convictions.⁴⁵

Governor Inslee and the legislature have expanded the expungement process, though the cost and expectations of engagement are on those needing the redress.⁴⁶ Inslee also recently created a task force aimed at addressing the lack of Black ownership in the cannabis industry.⁴⁷ These efforts can be applauded for taking necessary steps to address some of the harms of the cannabis prohibition past. However, as the following literature review shows the current system is flawed and continues to cause harm.

4 Literature Review

4.1 Disparity and Convictions

In April 2020, the ACLU released the report “A Tale of two Countries” an update on their 2010 report highlighting racial disparity in cannabis possession arrest, using statistical data collected from the FBI database.⁴⁸ The “two” countries the ACLU is talking about in their report is differential impact of United States laws on White and Black citizens, allowing Whites the ability

⁴⁴ (Code for America)

⁴⁵ (Toran-Burrell, Alia 2020)

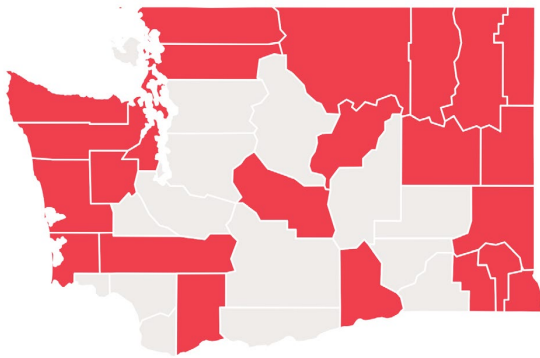
⁴⁶ *ibid*

⁴⁷ (Wash. Rev. Code § 69.50.336 (2020))

⁴⁸ *ibid*

to enjoy changes more easily in the legal system. The nation has a cannabis arrest disparity rating of 3.6x, which means a Black person (typically a Black male) is 3.6 times more likely to be arrested for cannabis possession than a White individual.⁴⁹ The national rate does not tell the true story of the nation as each state's own disparity has a greater negative impact on people of color as most arrests happen at the state level. The ACLU point to one constant seen in their review of arrest records: *as the states moved from prohibition, to medicinal, and to recreational use, a decrease in arrest for all drug possession is evident.*⁵⁰

Figure 1: ACLU: Washington Disparity in Arrest Map⁵¹



Washington is ranked 43 out of 50 states, with a disparity rate in arrests for cannabis possession of 2.1x. This places Washington as having a lower disparity rate according to arrest than the national average. This does not tell the full story of Washington, though, as 23 of 39 counties (over 50% of Washington counties) have a disparity in arrest rate that is higher than the national average.⁵² Pierce and King County are not in the 23 counties (Figure 1), and instead have a rate lower than the national average. It is these more populated counties that give Washington a lower arrest disparity.⁵³ This thesis will address Pierce County in further detail building off this report,

⁴⁹ *ibid*

⁵⁰ *ibid*

⁵¹ *ibid*; The image is take from the ACLU report.

⁵² *ibid*

⁵³ *ibid*

asking if that disparity rate increases at the time of conviction, as that would signal that despite legalization, Black individuals continue to be the target of our drug laws. The disparity rate in Washington arrest has remained within that 2x rate since prior to legalization. As stated, this thesis is looking beyond the arrest disparity and looking at who has received a conviction for misdemeanor cannabis possession, as having a conviction for a drug crime can impact your ability to gain employment and housing. This impact of the conviction spirals outward which can be seen in the disparity in employment.

While there have been changes to how employers look at individuals with a criminal record, businesses often have unwritten rules regarding drug arrest. In my 20s, I worked for a local hotel, which did not have a written policy about criminal convictions, though there was a question about it was on the application. When I became a lead and was training to become a manager, I learned the policy was unspoken. Applicants with a conviction would only be looked at for maintenance (which rarely had openings), and if it were drug-related it was just filed away. When we look at the impact a conviction has on employment, we can see how the racial bias in arrest has a long-term impact on an individual and their community's economic wellbeing. Peter Leasure (2019) used a correspondence applicant study with clear statements about a criminal past to show that those with a misdemeanor drug conviction face the same barriers to employment as a felony conviction.⁵⁴ Leasure completed his study in Columbus, Ohio, where in 2015 79% of new cases tried were for misdemeanor offenses.⁵⁵ As Washington looks at ways to bring social justice initiatives into effect, it needs to remember that having to admit to having the record to a drug conviction has an impact on individuals regardless to the changes affecting recreational use.

⁵⁴ (Leasure, Peter 2019)

⁵⁵ *ibid*

Beverly Yuen Thompson (2017) writes about the effect cannabis legalization has had on those with prior cannabis convictions.⁵⁶ She points to the national disparity in arrest showing Blacks arrested at 3.73 times the rate of Whites for cannabis possession.⁵⁷ She also argues that by having a conviction for cannabis possession, individuals can face barriers in gaining access to employment and public housing, both of which are factors that a parolee must meet to maintain their freedom.⁵⁸ This task is made all that more difficult due to having a drug conviction.⁵⁹

4.2 The profits of recreational cannabis

Kenneth Leon (2019) points not to the continued bias in arrest after legalization, but to the lack of minority dispensary ownership as continued racialization of who can profit and consume cannabis.⁶⁰ Leon looked at several states that had legalized cannabis to see if there has been any restorative justice created through minority owned businesses, which would then bring wealth to their communities.⁶¹ In 2016 Washington State, law enforcement arrested African Americans at two times the rate of Whites for cannabis possession following legalization, yet the ownership rate in Washington at all levels sits firmly in the hands of White citizens.⁶² Washington's cannabis industry shows less than 3% of the industry is owned by African Americans, and ownership of licenses is primarily White male.⁶³ Leon points out that there needs to be more state-led social justice initiatives to increase diversity in ownership and to decrease the racial bias present in

⁵⁶ (Thompson, Beverly Y. 2017)

⁵⁷ Ibid, Thompson was pointing to the 2010 ACLU report on racial disparity in cannabis arrest.

⁵⁸ ibid

⁵⁹ ibid

⁶⁰ (Leon, Kenneth S. 2019)

⁶¹ ibid

⁶² ibid

⁶³ ibid

policing, including finding ways to help those with prior convictions for cannabis take part in the new emerging markets.⁶⁴

The changing landscape for cannabis, though, creates new barriers for those that would have skills from working in the market prior to legalization.⁶⁵ Closing off a revenue source, employment opportunities and more, it forces individual to have limited options and a higher chance of needing an employment source that could lead back to prison. While expungement of those convictions is often discussed today another method has been in place since the beginning: discretion.

4.3 The use of Discretion

The use of discretion by police officers or prosecutors has an impact on more than just the creation of a record, it can affect your ability to stay in the United States. Local jurisdictions around the country have used cannabis possession to target immigrants as early as 1915, and decriminalization has not deterred this targeting.⁶⁶ Carrie Rosenbaum (2016) details the varying programs created to identify and remove those deemed as illegal immigrants in the United States, highlighting the small brushes with the law as the most common, which includes cannabis possession.⁶⁷ Cannabis possession is used to target immigrants even in states where medicinal and recreational cannabis is legal, as the law makes it far simpler to stop an individual for possible cannabis possession versus investigations into one individual immigration status.⁶⁸ She points to data showing a growing number of immigration detainees is because of an arrest associated with cannabis.⁶⁹ This is not a new trend though, as the earliest calls for federal action were aimed at Mexican

⁶⁴ Ibid, (WAC 314-55-045) outlines the license point system used by Washington state to determine if an applicant can work in the industry. An individual can not have more then 8 points based on convictions.

⁶⁵ ibid

⁶⁶ ibid

⁶⁷ (Rosenbaum, Carrie 2016)

⁶⁸ ibid

⁶⁹ ibid

immigrants.⁷⁰ This type of racialized targeting in the law—of who is allowed to consume cannabis and who is not—continues into who can profit from cannabis as well.

As Michelle Alexander points out, the prosecutor may have the greatest power in the criminal justice system and has the greatest impact on the lives of millions of people.⁷¹ Prosecutors get to decide what charges to pursue or not, if the person deserves a plea bargain, deciding the course the courts will take.⁷² This power is one of the reasons so many enter the system for such petty offenses. A police officers' discretion to stop an individual is reliant on knowing the prosecutor will pursue the charging offense.

I was reclassified as a military police officer following 9/11 and received eight weeks training in law enforcement. While part of this training was focused on law enforcement in a hostile area, a portion was also on everyday community enforcement. This consisted of everything from approaching a scene, evaluating the crime, and determining the appropriate action needed to take place to maintain the society. Key to every action, through my training and my time served on Ft. Lewis, was the use of discretion. Discretion at the officer level was part of each decision from stopping the car going two miles over the speed limit, writing the secondary citation for a broken headlight, to writing a third citation for failure to signal when I pulled you over. While prosecutorial discretion is different, it is still an unknown aspect that impacts each individual touched by the justice system.

Sam Kamin wrote about prosecutorial discretion regarding cannabis reform and immigration. The article looks at understanding the prosecutor's ability to use discretion regarding immigration and legal cannabis.⁷³ Discretion is not that different between a police officer deciding to give a ticket

⁷⁰ *ibid*

⁷¹ (Alexander, Michelle 2020)

⁷² (Butler, Paul, 2009; Davis, Angela J. 2007)

⁷³ (Kamin, Sam 2016)

and the prosecutor pressing charges. Both have some latitude in making the decisions. Prosecutors follow the guidelines set forth by the American Bar Association and the Justice Department, as well as guidelines implemented by states and local authorities, if applicable, though as Michelle Alexander points out those are just guidelines, not actual rules.⁷⁴ Lead Prosecutors and State attorneys general can dictate changes to how their offices use discretion if they see fit to make a department wide change, the best example of this is the Cole Memo at the Federal Level.⁷⁵ City prosecutors have that same ability allowing them to modify their response to an areas' unique situation, such as Harris County, Texas.

4.3.1 Examples of Prosecutorial discretion

Layne Dittman focused on the prosecutor's cannabis arrest diversion plans in Harris County, Texas.⁷⁶ Though diversion is a nice tool, the same as drug courts often soften the impact the arrest can have on someone's life, it does little to help those that have already entered the system. The Harris County program aimed at limiting youth arrest and first-time offenders.⁷⁷ Individuals that had already been in the system could receive approval for the program though it was not clear on what basis.⁷⁸ As this example shows, several different strategies involving the use of discretion can be employed if the individual is motivated.

In Seattle Washington, the city initiated the LEAD program, aimed at diverting low-level offense (drug, poverty) away from the court system and instead into case management.⁷⁹ This discretionary change in how the police are interpreting and implementing the law impacts who is becoming a statistic in law enforcement and who is being able to receive assistance for crises.

⁷⁴ *ibid*

⁷⁵ *ibid*

⁷⁶ (Dittman, Layne 2019)

⁷⁷ *ibid*

⁷⁸ *ibid*

⁷⁹ *ibid*

A prosecutor will use the facts presented to them by the police report and their discretion to choose the charges to file against the individual. What this means is that unless the individual admitted to the arresting officer that they were possessing 40 grams or less of cannabis with the intent to sell or distribute, they should be charged with a misdemeanor. Another study should be completed to examine the extent to which felony possession charges in Pierce County were filed for less than 40 grams.

A misdemeanor to most of us does not sound as bad as a felony, in fact personally even with my lived experience of working in law enforcement I still picture a misdemeanor equivalent to a slap on the wrist. Yet, that is not the truth of a misdemeanor nor does it tell the full story of what happens to the individuals that receive a misdemeanor. As Michelle Alexander points out, even a misdemeanor charge places one into the criminal justice system and marks the individual for law enforcement and starts to place barriers to leave the system.⁸⁰ The ability to determine the impact of the citation, through discretionary actions, such as plea bargains, adding additional charges, to dropping the charges all together at any time after arrest, is a lot of power in the hands of prosecutors.⁸¹ While the prosecutor should represent the will of the people, through the enforcement of the law, and attempt to curb the enthusiasm of the law, often the main goal is to win the case, which makes the department look tough on crime.⁸² There is also the extent to which individuals still face harassment in employment for the misdemeanor, that we often think is only faced by those with a felony. Before getting into the specific punishment, one receives in Washington state for a cannabis possession misdemeanor, it helps to discuss what is a misdemeanor.

⁸⁰ *ibid*

⁸¹ *ibid*

⁸² *ibid*

4.4 Misdemeanor Major Impact

According to the Meriam-Webster dictionary a misdemeanor is “a crime that carries a less severe punishment than a felony.”⁸³ This sounds great on paper, though we know thanks to researchers like Michelle Alexander and Peter Leasure that a misdemeanor can carry the same social punishment as a felony and mark the individual as less than a citizen by being part of the criminal justice system.⁸⁴ Washington state defines a misdemeanor for the Revised code of Washington as “imprisonment in the county jail... of not more than ninety days or a fine... not more than one thousand dollars, or by both such imprisonment and fine.”⁸⁵ The Washington state legislature has used this definition since 1984 according to the records. Where does this leave the punishment one receives when being charged with cannabis possession? According to Norml (a National organization that works on reforming cannabis laws), an individual will receive the minimum of 24hrs in jail, up to 90 days and/or the addition of a fine up to \$1,000.⁸⁶ What is not included in the known cost, is how much the individual is charged for spending time in jail, this includes any meals they were served, if they were in their vehicle and now have to pay to have the vehicle released back into their property, or the long term cost of a record. Only the individuals charged with the misdemeanor know the full cost they had to pay to remain out of jail and not receive a warrant for unpaid fines related to the possession charge.

⁸³ (Merriam-Webster.com Dictionary)

⁸⁴ *ibid*

⁸⁵ *ibid*

⁸⁶ *ibid*

5 Hypotheses and Methods

5.1 Hypotheses

To reinstate my guiding question: Is Cannabis possession really “legal” for everyone following recreational legalization, I analyzed Pierce County’s misdemeanor cannabis possession convictions between 2013-2018. Informed by my analysis of the existing literature above, I developed a set of hypotheses and counter-hypothesis that led the research, the first set dealt with the convictions and disparity rates.

H1: There will be a disparity in the convictions, showing a negative impact on people of color, primarily Black men. This disparity rate will be comparable to arrest records. The alternative to this H1a: The disparity rate will not show a similar disparity rate due to felony and federal referrals resulting from arrest.

H2: There will be a slight change in the disparity rate between 2013 and 2018. While there will be a decrease in the total number of individuals arrested over the period, the disparity rate will remain constant. The alternative, H2a: The disparity rate will not be found due to felony and federal referrals resulting from arrest.

These hypotheses are based on the work completed by the ACLU in their report Tale of Two Countries, which I discussed above, as well as the other extensive literature on racial disparities around cannabis legislation and its impacts.⁸⁷

5.2 Data and Methods

Once the research question was determined, and the guiding literature analyzed, and the hypotheses constructed, I determined the primary data sets that I would review. For this I chose to use Pierce County misdemeanor cannabis possession convictions. I chose the convictions first,

⁸⁷ ibid

because analyzing the convictions builds upon the work the ACLU completed on cannabis possession arrest. Second, arrest does not always lead to an individual receiving a conviction and having a conviction of any type is the primary means of impacting an individual's life, not necessarily arrest.

I requested the convictions from the Administrative office of the Courts. Determining the six-year records were requested to include gender, race and ethnicity for each conviction created per year. Like issues reported by the ACLU with UCR data, an unknown option exists and is used in each demographic category.⁸⁸ I will discuss this issue in the analysis section.

Next, I collected the Pierce County population data from the U.S. Census bureau for the same set of parameters. The information was collected from American Consumer Surveys "tables B01001A-E and I". The total population and each subtotal (demographic totals) were deduced by the removing the under 18 population. This was completed to provide a clear comparison with the adult cannabis possession convictions. This action did not cause significant statistical change in each demographic share of the population.

After the data was collected for the Pierce County population, I determined the racial and ethnic population percentages, or each group share of the populace. I used the formula of dividing the demographic's population from the total population. The conviction percentage is determined following the same formula of dividing each demographic conviction total from the total convictions per year. The disparity ratio is determined to see the impact of an action on one group (minority group) versus the impact on another group (majority group). In this case the disparity is looking at the increase likelihood that an individual from a minority group will receive a misdemeanor conviction for cannabis possession versus the majority White population in Pierce

⁸⁸ *ibid*

County. Since cannabis use is relatively the same across demographics, equitable practices would equate that one groups share of convictions should mirror the groups share of the county’s population.⁸⁹ The rate was determined using the following formula: (minority convictions divided by minority population) divided by (majority (White) convictions divided by majority (White) population).

6 Analysis

For the analysis of the convictions, I am paying close attention to four aspects; the convictions between 2013 and 2014 (see Tables 1 and 2) to examine the immediate impact legalization had on convictions, the disparity rate in 2016 has a shift signally a change in enforcement (see Figures 2 and 3) , trends over the six years (see Figures 4) and finally the issues in data collections that were evident (see Appendix for detailed tables).

6.1.1 Years 2013-2014

Table 1

2013 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	4,420 (6)	3,369 (2)	7,789 (8)	1.24% (1.67%)	1.46
Asian	16,523 (11)	23,705 (3)	40,228 (14)	5.81% (2.93%)	0.49
Black	23,659 (80) {2}	20,552 (16) {1}	44,211 (96) {3}	6.38% (20.84%)	3.08
White	236,609 (270) {12}	243,361 (68) {2}	479,970 (338) {14}	69.32% (70.71%)	1
Hispanic***	25,726 (12)	23,295 (2)	49,021 (14)	7.08% (4.6%)	0.64
Total:	306,937 (386) {14}	314,282 (92) {3}	621,219 (478) {17}		

*The cannabis possession convictions are recorded within () of the population columns for each racial category. **Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the convictions. For this reason, Hispanic ethnicity will be recorded in {} below () convictions in racial categories where it was recorded. ***Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as (). In 2013 this left eight convictions without a corresponding population group that are only included in the total column.

⁸⁹ (Azofeifa A, Mattson ME, Schauer G, McAfee T, Grant A, Lyerla R 2016)

2013, which serves as a base year for the convictions, as the first year following recreational legalization, is unique, as a portion of the convictions could have come from arrests that took place in 2012, prior to the legal change in recreational use. Additionally, the federal government did not officially recognize the change or signal a “hands off” approach until August of that year.⁹⁰ There were 478 convictions for misdemeanor possession of cannabis in Pierce County in 2013, with 80% of the convictions impacting the county’s populace along demographic proportions (see Table 1), except for Black individuals. Black individuals received 20% of the total convictions (with Black males’ convictions counting for 83% of these), while making up only 6% of the overall population. This first year, when the legal status of recreational cannabis was in its’ infancy, the conviction disparity between Black and White was 3.08. This rate is slightly higher when comparing the rate of Black males to White males (White males count for 80% of White convictions) at 3.21. For a comparison, the Asian population of Pierce County shares a similar percentage of the total population as the Black population yet had only 3% of convictions.

The impact on the Black population goes beyond just the individual receiving the convictions for possession. As the narrative at the beginning points out, there are several stages one may have to deal with starting from receiving the initial citation or arrest, to going to court, to possibly going to jail at a later time, to paying a fine, and then carrying a conviction for a drug crime. That financial cost is variable to the individual, a first offense is a mandatory minimum of \$250, plus the cost of going to court. This cost is the cost of having to miss work, find childcare, having increased financial stress due to the fine, that could reach \$1,000 if the court deemed it necessary. Then there is the cost of going to jail, the statute recommends first time offense receive 24 hours in jail, which can either be in lieu of the fine or combined. An individual could receive a 90 day sentence in jail,

⁹⁰ (Cole, James M. 2013)

for possession further compounding the cost of the conviction. This cost is felt by the individual's larger community through the loss of the economic benefits each person brings through their ability to be financially stable, free of incarceration, and not having a conviction for a drug crime. These convictions remind the Black populace that just because the law changed, it did not change the actions of the criminal justice system.

Table 2

2014 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	3,170 (3)	4,250 (1)	7,420 (4)	1.17% (1.93%)	1.82
Asian	16,723 (8)	24,232 (2)	40,955 (10)	6.44% (4.83%)	0.82
Black	24418 (39) {2}	18,513 (3)	42,931 (41) {2}	6.75% (19.81%)	3.23
White	239,355 (113) {6}	245,801 (31)	485,156 (144) {6}	76.27% (69.57%)	1
Hispanic***	27,183 (6)	24,565	51,748 (6)	8.13% (2.9%)	0.39
Total:	310,849 (170) {14}	317,361 (37)	628,210 (207) {14}		

*The cannabis possession convictions are recorded within () of the population columns for each racial category.
 Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the convictions. For this reason, Hispanic ethnicity will be recorded in { } below () convictions in racial categories where it was recorded. *Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as (). In 2014 this left one conviction without a corresponding population group that is only included in the total column.

With Year 2(2014), I expected that the full implementation of I502 would have a positive impact on the total convictions and in the disparity rate between groups. As mentioned earlier, the U.S. Department of Justice did not issue the Cole Memo until August of 2013, signaling that it would not be taking action against the states that legalized recreational use, allowing the markets to go forward. Recreational stores also opened in July of 2014, allowing the first legal sale of cannabis to take place. As expected, there was a decrease in the total convictions in 2014 dropping from 478 in 2013 to 207 in 2014 (that is 271 fewer convictions) (see Figure 4).

There was no change to the statute affecting misdemeanor cannabis possession at the time, allowing for me to point at a change in the use of discretion as being the major contributor to this decline in total convictions. This change most likely was at more than one level, individual officers, departmental level and prosecution each could have changed how they looked at cannabis possession. Individual officer discretion is important to look at because recreational legalization changed consuming cannabis in public to an infraction. With this change, I recommend that future research look at how many citations for consuming in public were issued between 2013 and 2014, for a clean look at discretion between infractions and possession convictions.

As stated I am a former military police officer, and I spent that time on Ft. Lewis (JBLM), patrolling the base and performing the same functions as local law enforcement. One of the larger aspects of this meant using my discretion daily on decisions that affected the lives of individuals that were pulled over for speeding or were involved in a domestic dispute. Each event has a different level of discretion I was allowed, yet it still ranged from a warning to severe punishment. An individual officer deciding to cite for only consuming in public instead of including the possession of the cannabis, is similar to an officer deciding to issue only the speeding ticket and not including the citation for no proof of insurance. I argue that discretion also best accounts for the lack of larger downward slope in convictions between 2014 and 2015. The decrease during this time is by fifty convictions in 2015, then plateaus near 150 convictions a year following this (see Figure 4).

Figure 2

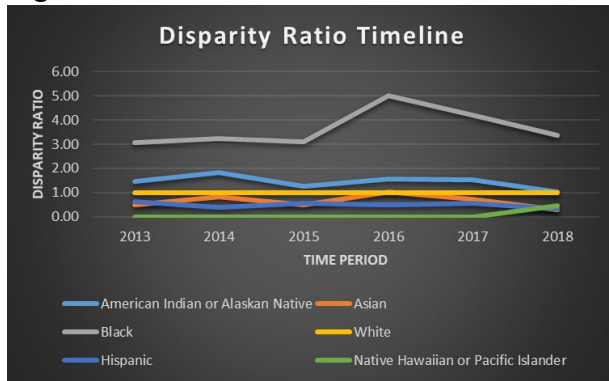
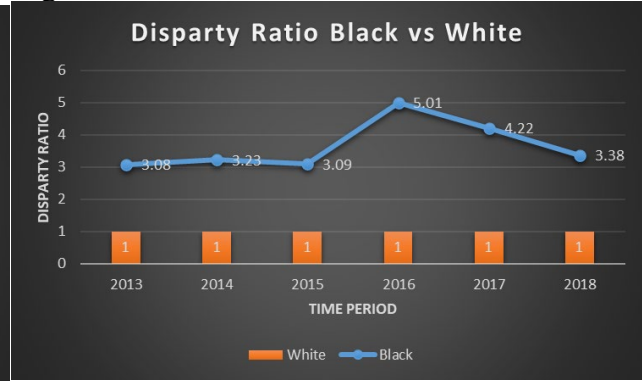


Figure 3



6.1.2 Year: 2016

In 2016 a major shift happened in who was receiving a conviction for cannabis possession. After three years, the Black population suddenly was receiving 27% of the total convictions (a 7% increase), while the White populace was only receiving 62% (a 9% decrease) of convictions (See Table 4).

Table 4

2016 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	3,276 (1)	3,813 (1)	7,089 (2)	1.08% (1.36%)	1.55
Asian	17,185 (4)	26,112 (4)	43,297 (8)	6.58% (5.44%)	1.01
Black	24,717 (35)	19,155 (5) {1}	43,872 (40) {1}	6.67% (27.21%)	5.01
White	246,068 (69) {8}	251,927 (22) {1}	497,995 (91) {9}	75.73% (61.90%)	1
Hispanic***	4,021 (5)	4,876	8,897 (5)	8.58% (3.4%)	0.48
Total:	295,267 (115) {13}	305,883 (32) {2}	601,150 (147) {15}		

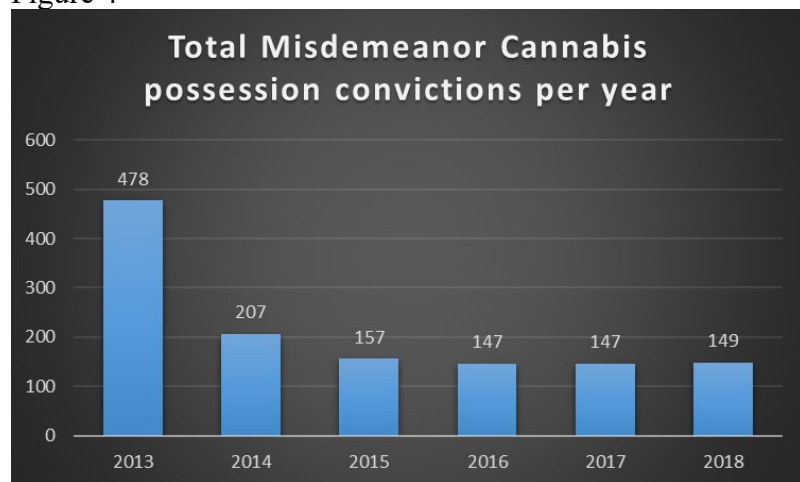
*The cannabis possession convictions are recorded within () of the population columns for each racial category.
 Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the court records. For this reason, Hispanic ethnicity will be recorded in { } below () convictions in racial categories where it was recorded. *Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as (). In 2016 this left one conviction without a corresponding population group that is only included in the total column.

This sudden shift in convictions created a higher disparity rate for Black individuals, raising it from a rate of 3 to 1, to 5 to 1 that year. The difficulty with determining the cause of this shift is expanded when comparing it to larger trends. As reported by the ACLU and the Drug Policy Alliance, arrests for cannabis possession rose nationally in 2016, yet Pierce County had fewer convictions in 2016 than in 2015.⁹¹ If you look at Figure 2, the Black disparity rate is the only one that has a momentous change in 2016 (and therefore a larger negative impact on the community). This change between White and Black convictions the following year moves in the opposite way, not continuing a larger disparity, but decreasing it until it is 3.377 in 2018 (Figure 3).

With 2016 being a national election year, I believe that if a researcher looked at the political rhetoric around crime, drugs, and race in the media, a correlation could be found. To determine it was not a fluke, I would recommend examining possession convictions and the same political rhetoric for all elections since 2000 (6 years).

6.1.3 Six year trends (2013-2018)

Figure 4



⁹¹ Ibid, (Newman, Tony 2017)

The entire six years of convictions that I reviewed highlighted that Black individuals are convicted at a greater rate in Pierce County than any other demographic group and it is at a greater rate than the arrest disparity that exist between Whites and Blacks. This meant that each year the Black population made up more than 20% of the convictions and never saw a decrease that would show a favorable change in conviction rates. For a favorable change to exist the portion of convictions the Black populace was receiving would have been decreasing steadily. For that to happen though, either two things needed to take place: fewer convictions needed to happen proportionately across demographic groups, or a clear policy concerning the negative impact on the Black community needed to be implemented. Neither action happened though, and I am confident that without a direct approach, the disparity rate will remain at or above the 2018 rate for the near future.

6.1.4 Data Transparency

As stated at the beginning of this analysis there was four aspects I planned to discuss. I have thus far covered the three hypotheses concerning the disparity rates and the negative impact the current policy is having on the Black community. Now, I want to address the concerns with record keeping and transparency. As mentioned earlier there are similar issues with requesting court records as with examining the UCR arrest data collected by the FBI. The first is that of the coding of race, and the use of an unknown category. In the review of the possession convictions there fifteen individuals that were left without a coding of a known race or ethnicity. An additional individual also had an unknown gender. These individuals deserve to be counted with their demographic groups yet, instead due to an out of date style of data collection they become unknowns. Hispanic individuals were often classified as having an unknown race, and with ethnicity only being tracked as Hispanic or not, individuals that do not meet that strict definition for records become an unknown ethnicity. These individuals could provide valuable understanding if properly accounted

for. To address these issues a commitment to complete transparency has to take place, which would result in a change to how we collect personal identifiers. These changes allow policy makers the ability to address the needs of the populace easier and help local law enforcement understand the impact they are having on individual communities. Using an unknown category further indicates a lack of understanding around ethnicity, race, and gender and how the law is impacting specific groups.

7 Conclusion

Early on in this thesis, I posed the personal question about my use of cannabis in public and why I was never approached. The review of cannabis possession convictions provides a basis while that I may not be above the law, as a white male cannabis user, I move easily into the law's blind spot. I am able to benefit more easily for the legalization of recreational use. When I revisit the thesis question—did recreational legalization make cannabis legal to possess? — the answer is yes, primarily for the White populace, though, and not for the Black populace. The question then shifts to what needs to happen to rectify the past and stop the continued disparity going forward?

7.1 Recommendations

I put forth the following suggestion for the Social Equity in Cannabis Task Force, the task force created in 2020, by Governor Inslee is tasked with addressing the inequality in the cannabis market and included members from several social justice organizations, as well as members of the Liquor and Cannabis board.⁹² While the Social Equity task force is primarily looking at how to improve the ownership and stake of Black individuals at every level of the recreational cannabis market, equity cannot be made if we also do not address the issues in convictions. To start, I recommend

⁹² *ibid*

that the task force examine the disparity that exist in the issues of infractions for RCW 69.40.445, consuming cannabis or having an open container in a public place. Examining this RCW in connection with the work completed here will highlight discretion in issuance of the citation and provide information in regard to disparity rate, location of impact, and determine departmental cost of issuing the citation (e.g., are resources being spent citing homeless individuals for smoking in public or is it a secondary citation included in traffic stops).

The next recommendation is the deployment of a survey focused on misdemeanor cannabis convictions. I had issued a survey during the first two months of 2021 that had little engagement, and I attribute this primarily to the wording of the advertisement and the focus of the survey which was on expungement for cannabis possession. With the ability to request expungement of cannabis possession coming into effect in 2019, and the impact of the Covid pandemic, the survey was ill-timed, and misfocused. A survey focused on having the conviction and the impact of the conviction on the individual and their community would provide an understanding of the larger costs of conviction. This information is important to understand how the cannabis possession law is being used and the public's awareness of the law's ramifications.

These recommendations allow the public and policy makers to understand the impact of the current policies on different communities. The following suggestion for the task force allows Washington to address the ongoing disparity in convictions and rectify the past impact of criminalization of cannabis. I make these suggestions based not only on the review of the convictions following recreational legalization, but on the basis that in March 2020, Governor Inslee deemed that the cannabis industry was essential for the wellbeing of the state during the beginning of the Covid Pandemic.⁹³ If the industry is essential then we must stop punishing individuals that are in

⁹³ (WA Essential Critical Infrastructure Workforce, 2020)

possession of cannabis. I recommend the removal of the following statutes: 69.50.4014 and 69.50.445 and a change to statute 69.50.4013(5).⁹⁴

The removal of 69.50.4014 directly impacts the ongoing disparity in convictions, which translates to a disparity in financial security. The statute essentially keeps possession of cannabis illegal and only legal to purchase to provide the state with taxes and a primarily white industry with wealth. If the task force is going to address the issue in the cannabis business, they must include addressing who is being punished while supporting the market. This removal would have an impact not just on the state residents, it would impact tourism in a positive way, because it would allow a clearer understanding for visitors of the states cannabis laws. Statute 69.50.445 is a statute I deem as unnecessary, as we do not enforce cigarette or vaping laws yet to a point that it makes an impact on individuals moving away from the doorway. As a society we have moved to a point that a majority of individuals respect not smoking anything in certain locations, that to issue an infraction still for smoking of one substance and not the other is a poor use of the state's resources. I recommend a change to statute 69.50.4013(5) for the simple reason that a felony record for being under 21 and in possession of cannabis is a barbaric practice and maintains a school to prison pipeline. Yes, we need an age limit for recreational consumption and an action should take place if an individual is found in possession/manufacturing/or processing cannabis and underage. That action needs to consider the facts of why the individual was violating the statute and then address those concerns and help provide the individual with a path of success through mentorship programs within the cannabis market. If a review of 69.50.4013(5) convictions was completed for the same period, I expect a similar rate of disparity would be found between Black young adults and White young adults.

⁹⁴ ibid

The last recommendation is a small allocation of tax revenue to go to the process of providing expungement to individuals with a misdemeanor cannabis possession conviction and any connected conviction that did not result in harm to another individual. If we do not address the harms caused by the current negative policy and the prior stance on cannabis use, we continue as a state to harm the communities most negatively impacted.

In closing, I want to point to this fact: As an adult you can purchase a 0.5 gram joint for \$5 at most recreational stores and receive a conviction for that same joint costing you at a minimum of \$250, a day in jail or both. The full cost of a conviction per individual can be daunting, and with the ongoing disparity since recreational legalization, it serves as a reminder of social acceptance of an act for White individuals only to enjoy.

8 Appendix

Table 3

2015 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	3,803 (2)	3,109	6,912 (2)	1.07% (1.27%)	1.27
Asian	18,129 (5)	25,562	43,691 (5)	6.75% (3.18%)	0.5
Black	23,861 (26) {1}	20,110 (5)	43,971 (31) {1}	6.8% (19.75%)	3.09
White	242,981 (84) {7}	246,320 (28) {3}	489,301 (112) {10}	75.63% (71.34%)	1
Hispanic***	28,479 (6)	25,872 (1)	54,351 (7)	8.4% (4.46%)	0.56
Total:	317,253 (123) {14}	320,973 (34) {4}	638,226 (157) {18}		

*The cannabis possession convictions are recorded within () of the population columns for each racial category. **Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the court records. For this reason, Hispanic ethnicity will be recorded in { } below () convictions in racial categories where it was recorded. ***Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as ().

Table 5

2017 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	3,540 (1)	3,648 (1)	7,188 (2)	1.06% (1.36%)	1.52
Asian	18,622 (6)	25,860	44,482 (6)	6.58% (4.08%)	0.73
Black	24,824 (30) {3}	21,782 (6)	46,606 (36) {3}	6.9% (24.49%)	4.22
White	251,263 (74) {9}	255,923 (19) {1}	507,186 (93) {10}	75.06% (63.27%)	1
Hispanic***	31,584 (6)	28,492	60,076 (6)	8.89% (4.08%)	0.54
Total:	329,833 (120) {18}	335,705 (26) {1}	665,538 (147) {19}		

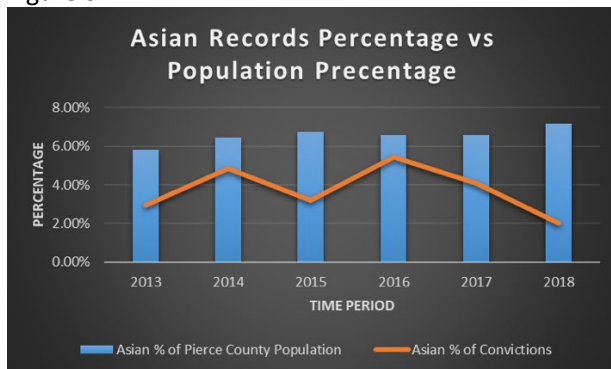
*The cannabis possession convictions are recorded within () of the population columns for each racial category. **Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the court records. For this reason, Hispanic ethnicity will be recorded in { } below () convictions in racial categories where it was recorded. ***Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as (). In 2017 this left three convictions without a corresponding population group and one conviction that was also coded unknown gender that are only included in the total column.

Table 6

2018 Pierce County Adult Population and Misdemeanor Cannabis Possession convictions by Race and Gender*					
Race**	Adult Male Population	Adult Female Population	Total Adult Population	Total Adult Population Percentage	Disparity
American Indian or Alaskan Native	4,023 (2)	5,397	9,420 (2)	1.36% (1.34%)	1.04
Asian	21,720 (2)	28,062 (1)	49,782 (3)	7.19% (2.01%)	0.29
Black	25,741 (29) {1}	20,656 (3)	46,397 (32) {1}	6.70% (21.48%)	3.38
White	254,125 (81) {5}	259,631 (24)	513,756 (105) {4}	74.19% (70.47%)	1
Hispanic***	32,793 (4)	29,821	62,614 (4)	9.04% (2.68%)	0.31
Native Hawaiian or Pacific Islander****	5,202	5,271 (1) {1}	10,472 (1) {1}	1.51% (0.67%)	0.47
Total:	343,604 (119) {10}	348,838 (30) {1}	692,441 (149) {11}		

*The cannabis possession convictions are recorded within () of the population columns for each racial category.
 Ethnicity is only recorded as Hispanic/non-Hispanic or unknown in the court records. For this reason, Hispanic ethnicity will be recorded in {} below () convictions in racial categories where it was recorded. *Courts maintain an unknown category also where Hispanic is often recorded as the ethnicity if known, for those recorded by the court in the unknown category marked as Hispanic are included here as (). In 2018 this left two convictions without a corresponding population group that are only included in the total column. ****2018 is the only year that included a conviction coded for the Native Hawaiian or Pacific Islander demographic.

Figure 5



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