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Social Equity: Will the Cannabis Industry Choose to Overcome Its Lack of Diversity?

Dana Oviedo

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Social Equity: Will the Cannabis Industry Choose to Overcome Its Lack of Diversity?



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SOCIAL EQUITY: WILL THE CANNABIS INDUSTRY CHOOSE TO OVERCOME ITS LACK OF DIVERSITY?

[October 18, 2021](#) by [Dana Oviedo \(he/él\)](#) [comments \(0\)](#)



[Terre Di](#)

[Cannabis](#) from [Pixabay](#).

In the world of legal cannabis, a new phrase has taken over: [Social Equity](#). What does this really mean? Social Equity in the cannabis industry is an attempt to level the playing field for individuals who were negatively impacted by the prohibition of cannabis.

Long before the re-legalization of cannabis began to spread across the United States, Black and Brown folks were and continue to be [disproportionately arrested and locked up for cannabis related](#)

offenses. Those most impacted by the War on Drugs have historically been Black and Brown individuals from low-income communities. Militarized policing targeted to these low-income communities has led to generations of Black, Brown, and poor white folks being pushed into the criminal justice system and denied social mobility.

This legacy lives on today, reinforced through the governmental and financial structures that continue to systematically exclude those most harmed by the United States' failed War on Drugs. These structures of the War on Drugs continue to broadly deny communities of color the opportunities that cannabis re-legalization now bestows on mostly white folks without criminal records, while new white-owned cannabis businesses are physically placed into the same communities of color that are often excluded from its economic benefits.

MOST CANNABIS BUSINESSES ARE OWNED BY WHITE FOLKS

The numbers say it all. Over 81% of legal cannabis businesses in the United States are owned by white individuals, and only 27% of those individuals are women. While there are people of color in the industry, most of them work in the lower echelons of the business, not in management or ownership. Breaking into the cannabis industry as a person of color is difficult as it is, but when that same person has a criminal record it is nearly impossible.

This is where social equity comes into the cannabis industry. Cannabis social equity programs are a response to criticism of the continued success of the cannabis industry's overwhelmingly white ownership in the face of the massive disparity of historical and continuing cannabis related convictions of Black and Brown people. Among the proposed strategies to repair the damage of

the [War on Drugs](#) are social equity programs. These cannabis social equity programs are intended to assist individuals disproportionately harmed by the War on Drugs, but more specifically the [War on Cannabis](#). To do this, social equity programs attempt to help these individuals by affording them [special access to the licensing process, fee waivers, loans, and application assistance](#). Although social equity programs are a growing reality, critics question [the ability of cannabis social equity programs](#) to address past harms.

VICTIMS OF THE WAR ON CANNABIS FIGHT BACK AGAINST BIG BUSINESS

Even with these criticisms, communities of color have been outspoken about the need for social equity laws. After years of the glaring inequities within the cannabis industry, [cannabis activists have pushed back](#) against laissez-faire regulations of cannabis business ownership in both emerging markets such as New York and even in more established markets, like that of Colorado.

Activists are concerned that those most impacted by the War on Cannabis have been systematically pushed out of the re-legalized cannabis market. In response, state and local lawmakers created cannabis social equity programs, by creating a new category of applicant: the [Social Equity Applicant](#). Even so, the programs and regulations currently in place, both on the state and local levels, often [miss the point](#) and are filled with legal, financial, and social pitfalls.

In most social equity programs, applicants can apply if they meet [certain qualifications](#) such as: residency in a historically low-income or high crime rate area and a low household income. Most

social equity programs also apply to individuals who have a [previous cannabis conviction](#) or who have family members with a previous cannabis conviction.

Even though [most experts agree](#) that race is a central factor in disproportionate policing, race is not considered as a factor in most social equity programs. Lawmakers have seen [social equity laws struck down](#) and in response, have steered away from race-based qualifications because of the [Fourteenth Amendment's](#) requirement of equal protection under the laws, which prevents the government from broadly singling out any race for preferential treatment. This limitation means that lawmakers must be strategic in crafting targeted regulations to address the impact of the War on Drugs within Black and Brown communities. However, [according to stakeholders, lawmakers have not strategized accordingly](#).

As a result, there are [significant gaps](#) in the social equity programs that shareholders need and the programs that have been implemented by state and local lawmakers across the nation. These failures to adequately fund or target social equity programs to assist Black and Brown folks and other victims of the War on Cannabis have led to [claims of abuse and outright failure](#) in some jurisdictions. Even basic issues common to most social equity applicants such as [long application processing wait times and expensive licensing requirements](#) have been overlooked in many social equity schemes.

THERE ARE MANY DIFFERENT APPROACHES TO CANNABIS EQUITY



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Most cannabis equity laws in the U.S. attempt to address past harms and level the playing field for social equity applicants, but the laws vary widely in form and function from state to state and even within a state. [California](#), for example, allows for a local equity license and relies on local counties or cities to create the rules for these licenses. This has led to experimentation in many cities. For example, in Los Angeles, the city's [cannabis social equity program](#)—like many in the nation—requires that 51% of the cannabis business must remain in the control of a social equity owner. While this may [cause issues in finding financial backers](#) willing to give capital to a social equity owner who may be inexperienced in business ownership, this majority ownership requirement recognizes true social equity lies within ownership and control of the business. While this regulatory limitation can be, and is, easily sidestepped by creative business structuring and contracts, the policy goal of true ownership remains the driving force in the face of applicant complaints and [lawsuits](#).

Los Angeles' approach differs from the one taken by [San Francisco's equity program](#), which allows cannabis equity applicants to be interest owners with no control of the business, leaving them minimally connected to the final operation. Consequently, cannabis equity applicants become nothing more

than placeholders for well-funded white owners in the city's approval pipeline.

Finding adequate funding and real estate is an ongoing issue for social equity applicants. Although some programs like [Oakland's social equity program](#) do provide [loans or grants](#), most programs do not provide real estate assistance or help social equity applicants find suitable locations for cannabis businesses. Only [Detroit Michigan's social equity program](#) has language that creates a path for the city to transfer public property to individuals to use for their cannabis business. Detroit's program allows for the redevelopment of the city while simultaneously addressing a major barrier to social equity applicants.

In Colorado, some private cannabis businesses are developing their own approach to cumbersome social equity laws. For example, Denver based [MedPharm](#) started a social equity brand that rotates partnerships with different equity groups throughout the year and expects to change the way established cannabis businesses augment the social equity programs in their communities. The program, [Aware-N-Us](#), was unveiled in February of 2021 to coincide with Black History Month, support the [Black Cannabis Equity Initiative](#), and support other cannabis social equity organizations in the future by donating a portion of sales directly to the rotating partners.

[Albert Gutierrez](#), CEO of MedPharm was the driving force behind the new social equity brand. Gutierrez, who is one of the few executives of color in the cannabis industry, stated in a telephone interview with the author of this blog, that MedPharm wanted to "put our money where our mouth is" when it comes to social equity issues. While MedPharm is also participating in [Denver's social equity accelerator program](#), Gutierrez wanted to have an impact on social equity in the industry as quickly as possible, especially in Denver's local [industry that has less than 6% owners of color](#). For Gutierrez and MedPharm, this meant going outside of Denver's

lengthy social equity program application process and developing a plan to quickly get money directly into the hands of those communities that were disproportionately impacted by the War on Drugs.

By embracing Denver's new social equity accelerator program while simultaneously developing a brand to specifically donate funds to cannabis social equity organizations, MedPharm is currently one of the firms exploring the cutting edge of the cannabis industry's move toward a more equitable industry.

THE FUTURE OF CANNABIS SOCIAL EQUITY IS STILL TO BE WRITTEN

As the cannabis industry begins to face new competition from social equity applicants, and as [cannabis re-legalization gains support in states that have not legalized cannabis](#), issues of applicant and program exploitation will continue to occur. Without adequate reflection accompanied by conscientious modifications, this type of exploitation will become part of the cannabis law landscape by institutionalizing social equity applicants as legal loopholes used as a means to access a limited business opportunity.

Cannabis law issues are growing. In the 2020 elections, voters pushed [four states to join the re-legalization movement](#); in June 2021 [New Mexico](#) legalized adult use cannabis through legislative action; and increasingly more jurisdictions that re-legalize cannabis, such as [Virginia, are adding social equity provisions](#) to their laws from the beginning. Now it is the local politicians and regulators turn to craft regulations that have the ability to create change and to put into effect the intent of social equity laws without overburdening those whom the laws are trying to help.

Cannabis stakeholders such as current business owners, prospective owners—both those affected by the War on Drugs and those who were not—lawmakers, and community members need to look to novel ideas. Social equity should be a fertile ground for innovation for an industry that is accustomed to moving before the government acts, and where novel approaches to problems continue to propel the industry.

The future of social equity in cannabis is not clear, but what is clear is that there remains lasting damage from the War on Drugs and more specifically, the War on Cannabis. This damage must be mitigated through thoughtful lawmaking that amplifies the voices and addresses the needs of victims of the War on Drugs. To do this, lawmakers must seek out leadership from communities of color to understand what community members are asking for. Leadership must be sought not just from the business owners, but from the people that were most harmed by the War on Drugs— those who were arrested for cannabis crimes. Until we have the victims of the War on Cannabis at the table providing input and making the decisions there will not be an equitable cannabis industry. It will still be an industry where people who were never arrested for cannabis are able to gain massive wealth while the individuals who have been working in this industry for decades are excluded.

The re-legalization of cannabis may turn out to be one example of how to address current systemic bias. It may be the remedy to past intentional targeting of minority groups. The future is still unwritten on how we construct an equitable playing field for those legacy folks who were in the cannabis business before it was legal. The remedy seems clear, place individuals who have been targeted by the War on Drugs at the front of the line and give them access to inexpensive capital from cannabis taxes.

The question remains: Is the cannabis industry ready to change?