

2021 D.C. CRIMINAL JUSTICE FORUM SERIES

SEPTEMBER 15, 2021

Confusion and Exclusion

*Impacts of the Hazy State of
D.C. Marijuana Legalization on
People with Criminal Records*

Report by the Council for Court Excellence
on behalf of the Office of the District of Columbia Auditor



Acknowledgements

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Introduction and Executive Summary

What follows is an edited transcript of a virtual public forum held on September 15, 2021, by the Council for Court Excellence (CCE) and the Office of the District of Columbia Auditor (ODCA), highlighting issues presented by the partial legalization of marijuana in the District of Columbia. This event was the last of four forums focused on timely criminal justice issues in the District. Each forum featured a panel of experts, local stakeholders and impacted individuals brought together to address barriers to effective policy, explore whether community needs are being addressed, and review options for action on each forum topic.

Here we share the discussion from the fourth forum, “Confusion and Exclusion: Impacts of the Hazy State of D.C. Marijuana Legalization on People with Criminal Records,” focused on marijuana law and policy in D.C., the risks and barriers posed to people with criminal records, and the opportunities to transform our system moving forward. Participants provided thought-provoking commentary, constructive criticisms, and concrete policy proposals. The edited transcript allows readers to consider the nuances of each expert’s perspective and their real-time responses to one another’s ideas.

Martin Austermuhle, a reporter and editor with WAMU 88.5 who frequently reports on the cannabis industry and local government, moderated the forum. The discussants included:

- **Queen Adesuyi**, a policy manager at the Drug Policy Alliance;
- **Corey Barnette**, owner and CEO of both District Growers LLC and Kinfolk Dispensary;
- **The Hon. David Grosso**, a partner at Arent Fox LLP, previously served on the D.C. Council as an At-Large Member from 2013-2021 and was an early proponent of marijuana decriminalization;
- **Emily Gunston**, Deputy Attorney General for Legislative Affairs and Policy for the D.C. Office of the Attorney General; and
- **Crystal Marshall**, returning citizen and member of the Community Family Life Services Speakers Bureau.

The panelists opened by discussing the history of cannabis law and policy in the District, and the jurisdictional issues presented by Congressional oversight. Each year since 2014, the House of Representatives has included a budget rider forbidding the D.C. Council from enacting any tax or regulatory structure related to recreational marijuana use,

which has prevented the District from fully legalizing the sale of cannabis. D.C. is left in limbo: possession and private use of small amounts of marijuana are legal but purchasing and selling marijuana remain illegal. Plus, because the federal government controls D.C.'s pre-trial supervision, probation, parole, and supervised release, people under correctional supervision are still at risk of violating the terms for their supervision for legal use of cannabis.

D.C. was one of the first jurisdictions in the United States to legalize medical marijuana use. Given the devastating impact of the “War on Drugs” on Black and Brown individuals, families, and communities, panelists noted that D.C. was at the forefront of social- and racial-justice oriented cannabis laws passed over the last 20 years. Panelists discussed the ways in which the District has prioritized Black and Brown people and communities in the medical cannabis industry including those who are patients and those who own, operate, and staff dispensaries.

The discussants agreed that the racial equity goals of marijuana laws—to close wealth gaps among racial groups, to reinvest in those communities of color hit hardest by the “War on Drugs,” and to ultimately end discrimination in enforcement of drug laws more broadly—have not yet been met. Several panelists mentioned the necessity of a tax-and-regulate structure that would enable D.C. to collect proceeds from marijuana sales and, most importantly, reinvest those proceeds in social, educational, employment, and other programs to support members of historically marginalized Black and Brown communities.

A particular focus of this discussion was the impact of D.C.'s perplexing marijuana laws on people in the District who have criminal records including marijuana-related charges. The panel described the personal toll that such confusion can take: it can lead those with criminal records to fear any interaction with cannabis, even interactions that are legal in D.C., because of the potential an arrest or conviction poses to their housing, employment, or immigration status. The disproportionately Black and poor District residents with criminal records are also prohibited under the current law from participating in the medical cannabis industry, depriving them of the opportunity to capitalize on economic benefits that other D.C. residents are free to pursue. Panelists also discussed the ways in which the Metropolitan Police Department's enforcement of the complicated laws can impact crime, safety, and the economy.

Participants cited cause for optimism, however, and shared their views on proposed legislation that would change the status of legal cannabis in D.C.: the MORE Act and the Cannabis Administration and Opportunity Act in Congress, and two bills proposed by Mayor Muriel Bowser and by Chairman Phil Mendelson of the D.C. Council. The panelists agreed that any new law should prioritize investment in Black and Brown

communities and preserve the robust medical marijuana industry that has grown in D.C. Specific suggestions included removing the Congressional rider on the D.C. budget; establishing designated “use sites” for those in public housing or other housing that prohibits marijuana use; granting special business licenses to individuals who were directly harmed by the War on Drugs; funding industry training specifically for people with criminal records; and reframing marijuana as a medical and recreational aid, rather than a vice.

The bibliography provides further reading on marijuana law and policy, local control of the District’s criminal justice system, the impacts of both on people with criminal records, and other issues discussed throughout the forum. Biographies of the discussants are also included at the end of this report. Finally, a full video of the panel can be found at: <https://youtu.be/uFV6SNeuHv0>. The transcript in this report has been lightly edited for length and clarity.

Forum Participants

Moderator

Benjamin Davis, *Committee on Human Services, D.C. Council*

Martin Austermuhle, *Reporter and Editor, WAMU 88.5*

Discussants

Queen Adesuyi, *Policy Manager, Drug Policy Alliance*

Corey Barnette, *Owner and CEO, District Growers LLC and Kinfolk Dispensary*

The Hon. David Grosso, *Partner, Arent Fox LLP*

Emily Gunston, *Deputy Attorney General for Legislative Affairs and Policy, D.C. Office of the Attorney General*

Crystal Marshall, *Returning Citizen, Community Family Life Services Speakers Bureau*

Confusion and Exclusion: Impacts of the Hazy State of D.C. Marijuana Legalization on People With Criminal Records

The Forum convened virtually via Zoom at 7:00 p.m on September 15, 2021.

Opening Remarks and Introductions

Martin Austermuhle: Welcome. My name is Martin Austermuhle. I'm a reporter with WAMU and *The DCist*. I've been a reporter in the District for probably 10 or 12 years. Just a quick background of how my professional career and marijuana collide: I remember 10 years ago, I was covering the slow emergence of the District's medical marijuana program, which already had been delayed by Congress by many, many years. And we'll get to this, but I remember even going to Advisory Neighborhood Commission (ANC) meetings and civic association meetings with Corey Barnette, one of our participants, where they were hashing out where exactly dispensaries and cultivation centers were going to go. There was a lot of uncertainty about this. There was a lot of fighting. A lot of places did not want these dispensaries or cultivation centers, because they didn't know what they were going to do, what they were going to produce, or what it would mean for the city.

Jumping ahead to Initiative 71 in 2014, and now moving into the world that we're in currently, lots of other places around the country have jumped ahead. They've legalized not only possession and personal use of marijuana, but they're moving ahead on sales. I mean, the fact that now Virginia could potentially be moving ahead of the District in legalizing the sale of recreational marijuana is something I never thought would happen. Now, admittedly, it's not all the District's fault, but we'll get to that. But still, this is the world that we're in right now.

We have a great panel of people who have lots of expertise in the area of marijuana law and policy. I will let you, the panelists, introduce yourselves.

Queen Adesuyi: Thank you, everyone; I appreciate the invitation. My name is Queen Adesuyi, I use she/her pronouns, and I'm a policy manager with the Drug Policy Alliance in our National Affairs Office. So I lead on marijuana justice work, marijuana regulation, and drug decriminalization both on the Congressional level and locally in the District Columbia.

Corey Barnette: Hi, I'm Corey Barnette, the owner and operator of both District Growers and the Metropolitan Wellness Center, which is now Kinfolk Dispensary here in Washington, D.C. I've made it a point to be very active with the D.C. City Council and work to reform not only the decriminalization of cannabis, but also to advocate for a better, totally regulated marijuana market here in Washington, D.C. My work spans from the medical marijuana side to envisioning the legalization of adult use in Washington, D.C. Happy to be here, and thank you guys for having me.

David Grosso: Good evening, everybody. I am David Grosso. I am a partner at Arent Fox, where I do a lot of policy work in the areas of cannabis regulation and education. In my previous life, I was an at-large councilmember in the District of Columbia where I championed the tax and regulation of marijuana starting in 2013 as a criminal justice matter. I thought the District needed to stop putting people in jail for the war on drugs and start to recognize that the drug of marijuana is not as harmful as people made it out to be.

Emily Gunston: Good evening, everybody. I'm Emily Gunston. I am the Deputy Attorney General for Policy and Legislative Affairs at the D.C. Office of the Attorney General. I advise D.C.'s Attorney General Karl Racine on a range of policy and legal matters and manage our interactions with the D.C. Council. And I think many of you know, the attorney general is a strong proponent of self-determination for the District of Columbia and of a marijuana market that is safe and equitable and works to undo some of the harms of past drug policy.

Crystal Marshall: Good evening. My name's Crystal Marshall. I am a returning citizen and member of The Community Family Life Services Speakers Bureau. I am a small business owner—I'm a black female that is trying to get her small business on, I guess you could say. But more so, I hope to enlighten the people that are coming out of incarceration with more advocacy about employment and marijuana usage. I hope to add substance to the conversation.

The Current State of D.C.'s Marijuana Law and Policy

Mr. Austermuhle: Thank you to everybody for being here. This is going to be fantastic. I'm excited for this conversation. I'm sure many people here, including the participants, know the state of D.C.'s marijuana policies, laws, and practices. But for the general public, this topic can be a whirlwind. I mean, there are a lot of people who assume that marijuana is fully legal in the District without knowing that there are a lot of caveats, gray areas, and nuances to the situation. So I want to catch up quickly on what the state of legal marijuana is in of the District generally.

I'll turn to David first. Like you mentioned, you're a former D.C. Councilmember; you served on the Council when medical marijuana was emerging in the late 1990s to the early 2000s and then through Initiative 71 in 2014, and you introduced a number of bills on that. But just catch us up. What's the state of marijuana law in the District right now?

Mr. Grosso: I think the state of marijuana of the District is very confusing. Let's just be very clear: D.C.'s marijuana law and policy is confusing because we are not a state. But for Congress trying to influence

D.C. policy by putting riders¹ on our budget to stop us from doing things, D.C. would have a tax and regulation program up and running. We'd have better control over the market and of what's happening in our city. But what happened from a Council perspective was to first pass decriminalization laws—we called it “decrim”—right off the bat, with Tommy Wells taking the lead on that.² Then we got Initiative 71³ done, and I never felt like that was enough. I said we needed to pass “Tax and Regulate” as well, so I introduced that bill in 2013.⁴ About two months after I introduced it, Andy Harris from Maryland, a member of Congress, introduced a rider on the D.C. budget, prohibiting us from regulating marijuana or really any controlled substance in the District of Columbia. Since marijuana is still a Schedule 1 controlled substance,⁵ we are not allowed to do anything to try to change the way it's regulated, which means we can't fully legalize it in the sense that we can't create our own tax-and-regulate system.

So we are in this weird space where people are allowed to possess up to two ounces in accordance with Initiative 71. They can't get arrested—at least, they aren't supposed to be arrested—for possessing marijuana in the city. They're allowed to buy it in medical dispensaries, but they have to first get a medical card from a doctor to get cannabis from medical dispensaries in the District of Columbia. But what people may not know is that a lot of ways of purchasing marijuana in the city, such as pop-up shops unrelated to medical dispensaries, are just flat out illegal. These shops are not allowed to sell a t-shirt and give you some marijuana. That's illegal. They're not allowed to go out and advertise it, which they do all the time. So I think both members of the public and those pop-up shops have to be careful out there even though the police are not enforcing these things.

There are many reasons the police are not enforcing the marijuana laws on the books; they'll tell you it's because they don't have enough police officers, but former police Chief Cathy Lanier actually made it a

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- 1 A “rider” is a provision added to an appropriations (funding) bill, generally to restrict an agency's ability to use funding for some purpose that the individual who introduced the rider disapproves of. See American Council on Education. “Congressional Appropriations.” A Brief Guide to the Federal Budget and Appropriations Process. 2021. <https://www.acenet.edu/Policy-Advocacy/Pages/Budget-Appropriations/Brief-Guide-to-Budget-Appropriations.aspx>. Throughout this report, the specific rider that panelists refer to is one that has been attached to D.C.'s annual budget by members of Congress to prohibit the District from using any of its funds to create a tax-and-regulate system for the sale of recreational marijuana to adults, even though D.C. voters have approved such a system. For more details, see Kurzius, Rachel. “D.C. Is One Step Closer to Recreational Marijuana Dispensaries.” DCist. June 12, 2019. <https://dcist.com/story/19/06/12/d-c-is-one-step-closer-to-recreational-marijuana-dispensaries/>.
 - 2 D.C. decriminalized—meaning the city removed criminal sanctions from—the possession and use of marijuana in March 2014. See Madden, Patrick. “D.C. Council Gives Final Approval to Marijuana Decriminalization.” WAMU. March 4, 2014. https://wamu.org/story/14/03/04/dc_council_set_to_give_final_approval_to_bill_decriminalizing_marijuana/.
 - 3 Initiative 71 was a referendum passed by D.C. voters in November 2014 that legalized possession, consumption, and cultivation of small amounts of marijuana, but did not legalize the sale of cannabis for recreational use. See Cohen, Matt. “D.C. Votes to Legalize Marijuana.” DCist. November 5, 2014. <https://dcist.com/story/14/11/05/dc-votes-to-legalize-marijuana/>; Cohen, Matt. “Marijuana Is Now Legal* In D.C.” DCist. February 26, 2015. <https://dcist.com/story/15/02/26/marijuana-is-now-legal-in-dc/>.
 - 4 See Chester, Chris. “Bill to Legalize, Tax Marijuana Introduced In D.C. Council.” WAMU. September 18, 2013. https://wamu.org/story/13/09/18/bill_to_legalize_tax_marijuana_introduced_in_dc_council/.
 - 5 United States Drug Enforcement Administration. “Drug Scheduling.” https://www.dea.gov/drug-information/drug-scheduling_.

priority to decrease the enforcement of cannabis laws in the District.⁶ We'll get into that more as we move forward because of the impact that it's had still on our Black and Brown communities at a higher rate. But I think it's just important to note that it's not legal to buy and sell marijuana in the District of Columbia outside of a medical dispensary. People need to know that.

Mr. Austermuhle: I'd also like to consider D.C.'s situation within the national context. Queen, could you give us a sense of how things have changed in the past decade or so? I know D.C. wasn't the first to decriminalize recreational marijuana or legalize medical marijuana, but it was on the front edge of things. Now it's a totally different world out there. So what can you tell us about the national context with legal marijuana, both recreational and medical?

Ms. Adesuyi: I want to start off by saying that D.C. was a first, in some ways. D.C. wasn't the first place to pass an initiative to decriminalize marijuana. But more importantly for me, I think D.C. was the first place to actually frame the reason why we need to legalize cannabis through a racial justice lens. That framing is critical to keep in mind because the decriminalization campaigns that happened prior to D.C.'s did not center racial justice or acknowledge the racial disparities with cannabis-related arrest and incarceration. These other campaigns didn't really get into the meat of why it really matters to legalize cannabis. So in a lot of ways, D.C. actually led on that front. The ways that D.C. legalized cannabis are similar to the way that Congress is addressing marijuana reform now. Last December, the House of Representatives passed the MORE Act, which is the Marijuana Opportunity Reinvestment and Expungement Act.⁷ The MORE Act is the House's way of ending marijuana prohibition, by de-scheduling it.⁸ It included provisions for expungement of marijuana-related convictions, re-sentencing based on the changes to convictions, and a robust conversation about acknowledging and rectifying the harms of the drug war and the war on marijuana in particular. So that's one way that D.C. actually led the country, in its really important framing.

Outside of D.C., we've seen several states move to decriminalize marijuana and to set up regulatory systems, which we unfortunately haven't been able to do locally. The confusing status of cannabis in D.C. means that we can't reap the benefits of legalization and regulation as folks would have wanted. Not only the justice reform benefits, but also the public health benefits—things like making sure that folks have access to tested products, opening the conversation about accessibility and equity in the industry, and ensuring that native Washingtonians, formerly incarcerated Washingtonians, and other community members are benefiting from legalization. Whatever system we build must acknowledge that not

6 See Hermann, Peter. "D.C. police chief signs 'special order' for officers on legalized marijuana." The Washington Post. February 25, 2015. https://www.washingtonpost.com/local/crime/dc-police-chief-signs-special-order-for-officers-on-legalized-marijuana/2015/02/25/838d3d9a-bd00-11e4-b274-e5209a3bc9a9_story.html.

7 See Sutton, Matt. "Marijuana Opportunity Reinvestment & Expungement (MORE) Act Reintroduced in the House." Drug Policy Alliance. Press Release. May 28, 2021. <https://drugpolicy.org/press-release/2021/05/marijuana-opportunity-reinvestment-expungement-more-act-reintroduced-house>.

8 "De-scheduling" a substance means removing it from the U.S. Drug Enforcement Administration (DEA) categories (or "schedules") of controlled substances so that it is no longer criminalized or enforced as a dangerous drug with no accepted medical use and a high potential for abuse. For a detailed report on why marijuana should be de-scheduled, see Drug Policy Alliance. *Removing Marijuana from the Schedule of Controlled Substances*. January 2019. https://drugpolicy.org/sites/default/files/marijuana-scheduling_january_2019_0.pdf.

everyone impacted by marijuana arrests wants to own a dispensary, but there should be tangible ways that whole neighborhoods will benefit from the profits of legal marijuana.

Medical Marijuana as a Precursor to Full Legalization

Mr. Austermuhle: Queen, you brought up a critical issue at the center of this discussion: the relationship between marijuana and race. When decriminalization and legalization happened in the District, there was an ACLU report that showed that marijuana arrests were eight times higher amongst Black and Brown communities than there were amongst white communities, even though usage was pretty much the same.⁹ That racial disparity is the focus of this discussion, and we should always keep that disparity in mind.

Corey, you've been on the medical side of the D.C. marijuana industry from the beginning. Like I said, I remember seeing you at ANC meetings trying to explain to folks what this was, what you were going to do, and why this wasn't going to attract crime or be bad for the communities where it would be located. But again, the medical world has also changed in the District. From the perspective as a Black business owner, what was it like when you first came in compared to where it is now?

Mr. Barnette: Sure. And I'll actually go back a little bit farther than that. I started in San Diego as an owner and operator, and I got to see how the Southern California market developed, which was right around the time that D.C. was considering passing the law. And then shortly after that, I worked with David Grosso on the decriminalization bill, and Queen is absolutely right: D.C. using the social justice platform to get the community over the hump and understand what the fight is really about is a very, very important thing. Since D.C. has done it, almost every market that has passed a law in the country has used social justice as one way of moving primarily Black and Latino communities over to the pro-legalization side of the argument.

But unfortunately, we've had a harder time leveraging that argument to make sure that we engage in repairing some of the damage associated with the war on drugs the way we would've liked to. Here in Washington, D.C., we have a Council that is very accessible to the citizens. As a result of that, I think citizens have been able to fight a different battle when it comes to the medical marijuana program. And with the social equity provisions in the medical marijuana laws and regulations, one of the things we've been able to accomplish is a more significant level of ownership than you see anywhere else in the country by minorities. I think it's still the case that the majority of the dispensaries currently in Washington D.C. are majority owned by African Americans.

At the time the medical marijuana bill passed, I was the only minority owner in Washington, D.C., and almost everyone that was African American or Latino worked for me. Almost every woman that was

9 See Shinn, Annys. "D.C. marijuana study: Blacks far more likely to be arrested than whites, ACLU says." The Washington Post. June 4, 2013. https://www.washingtonpost.com/local/dc-marijuana-study-blacks-far-more-likely-to-be-arrested-than-whites-acclu-says/2013/06/04/fa0d83d2-cd40-11e2-8f6b-67f40e176f03_story.html?itid=ik_inline_manual_22.

not related to the owner or the owner herself worked for me. It wasn't too long after we gave away the first licenses here that I sat before the Council and the Committee on Health and made the case that the District should change some of the licensing provisions and begin to think about who we're giving the licenses to, making sure that they truly do have D.C. at heart by prioritizing minorities and women.

We've had some great winners that have come along since then, but there's still a lot of work to be done. The medical program has evolved. When we first gave away medical marijuana licenses in D.C., the community was... I'll be straight up and honest with you, the community was somewhat against it. Everyone was for decriminalizing and legalizing marijuana for medical purposes, but no one wanted these entities right next to their home. There was a huge fight in Ward Five associated with where we put cultivation centers because the majority of the industrial infrastructure in the city is in Ward Five. A deal was struck such that no more than five cultivation centers could be there, and no dispensaries are currently there. That had wide, sweeping effects across the rest of the city. Later on, there were provisions passed that said no ward would have more than two dispensaries in it. It'll be interesting to see how the community's mindset has changed as we begin to introduce the concept of adult recreational use in Washington, D.C.

In my opinion, the city did a great job in locating the existing operators and making sure that we were not too close to schools, recreational areas, or places where kids are likely to convene en masse and for long periods in time. The city in many ways did a great job making sure that the regulations were such that we could get the businesses up and off the ground and actually begin to service patients. But that was not without its own series of trial and error. I think over the last nine years now, we've actually had five or six different changes via bills passed by the Council associated with changing the medical marijuana program, and I envision we'll have to do the same should we ever introduce an adult use legislation here in Washington, D.C.

So it's been a journey. Certainly, it is the case that we have, in my opinion, a great program here in Washington, D.C., but Initiative 71 has put a lot of threats in place when it comes to the medical marijuana program. The confusion that exists in the marketplace right now has put a lot of pressure on the medical marijuana program and hasn't allowed it to thrive. And then a reticent sort of Department of Health, in my opinion, for a number of years, passed regulations or put regulations in place that stifled the growth of medical marijuana operators like me.

One such regulation, as an example, would be around edibles. D.C. is one of the only markets in the country that considers medical marijuana edibles to be food rather than medicine. And as a result of that, in order to put an edible on the shelf, it has to go through a series of food safety tests and things like that. The unfortunate side of that is that there are no food safety labs in Washington D.C., and we can't send it out of the District to get those products tested the way that they should because it's a serious violation of federal law to send a cannabis infused edible across state lines. I think the entire industry wants to be able to make sure that we have the proper food safety testing and good and safe edibles, but that kind of a regulation just basically says no edibles.

Overall, the city's learning; the program is developing. There's still a significant amount of enthusiasm about the program, but it has been a roller coaster ride of victories and losses along the way.

Using Marijuana Legalization to Promote Racial Equity and Social Justice After the War on Drugs

Mr. Austermuhle: Later in the conversation, we'll get to the idea of adult use, how that industry could be built up, how we can learn from what medical legalization looked like and how it developed, and what we could do differently to address some of the problems that may have developed in the medical system.

Queen, Corey, and David have mentioned the issues of social justice, racial equity, and the fact that more Black and Brown folks were getting arrested for marijuana than white folks. Given that—going back to Decrim in the 90s through Initiative 71 in 2014—D.C. has always framed the issue around racial justice, how do you think D.C. has done? Have we lived up to the lofty social justice goals of decriminalizing marijuana to direct more funding and services to communities of color that are still coming back from the War on Drugs in order to make sure that Black and Brown folks are not arrested at higher rates, are not shut out of jobs, and are not suffering all those consequences? I'd love to hear from everybody on this one.

Mr. Barnette: I think comparatively speaking, if we look at life before “Decrim”, before Initiative 71, and before the medical marijuana program, certainly things were way, way worse off than they are today in terms of arrests and things of that nature. But if we talk about what the actual goal is to have a market that is working for everyone the way that the constituents of the city want, I think that we can all argue that there is a lot of work yet to be done.

It is the case right now that I think we all agree—or at least, I would hope we all agree—that the war on drugs was ill fought and unsuccessful. Yet we have people that have been victims of that war that can't get jobs inside of dispensaries, can't get jobs in the industry. And if I put just my sort of general economics hat on, to me that feels a lot like sort of job displacement and wealth reallocation. Whether legal or illegal, the reality is that some people were feeding families and making a way in life through the illicit sale of Cannabis. And when we set up a market and we lock them out of the market, yet allow others to get into the market, you can argue that what we've done is effectively take a job from one person and give it to another person, be it legal or illegal, or otherwise. And so I think we have a lot of work to do to really sort of think about what we want to accomplish. And I'd be very interested in hearing what other people think as well.

Ms. Gunston: I also think that there are some gaps built into the way that the law has been formulated, that continue to create racial disparities in the way marijuana is sold in the district, and used in the district, and the way law enforcement interacts with people who are engaging with marijuana, right? So of course, if you're under 21, you can't possess marijuana of any amount. If you're over 21, you can use marijuana in private, but you still cannot use marijuana in public. And of course, you can't buy or sell any amount of marijuana even though it's legal to possess some amounts of marijuana. And so I think, that has created some racial disparities in who can safely acquire marijuana, who can buy and sell marijuana in a way that doesn't endanger their safety or endanger public safety, who has a place to use marijuana that doesn't subject them to interaction with law enforcement. And of course, marijuana is still illegal under federal law. And you can't use marijuana on federally funded housing. And so as long as those things continue to exist, they will continue to be racial disparities in who has contact with

law enforcement. And then who continues to suffer consequences as a result of those contacts with law enforcement.

Ms. Adesuyi: If I could add a minor critique about how things were framed during the campaign time. The popular slogan of “legalization to end discrimination”—I think that claim is just inaccurate. Legalization of cannabis is not going to end racial disparities in policing, which is a broader issue. So of course, we saw a significant decrease in marijuana arrests broadly and overall after decriminalization, but racial disparities, as was said earlier in this discussion, still exist because of broader policing problems. We have also seen upticks in arrests for possession with intent to distribute and upticks in arrests of people under 21 because it’s not decriminalized for young people.

Speaking to the question about whether we’ve accomplished social justice, it’s important to note that we haven’t been able to have the conversation about what to do with revenue due to Congressional restrictions. Because we don’t have revenue from taxes being generated outside of the medical program, it’s difficult to say that we’ve met our social justice goals, especially because, at least for me, part of the goal of legalization is to reinvest in communities. We can’t really do that in the ways that we promised during the campaign without actually being able to have those taxation and regulation conversations.

The Effects of Current Cannabis Policy on People with Criminal Records and the Barriers to Progress

Mr. Austermuhle: Crystal, we’d love to hear from you on this one as a returning citizen who works with other returning citizens.

Ms. Marshall: It’s kind of hazy because I am a person that is currently on probation. Every three months, I’m tested for drugs, and I think my state of incarceration, which isn’t D.C., includes marijuana in those tests. So it’s always a hazy state for me. I cannot be comfortable thinking that marijuana is indeed legal when my interactions with the justice system would be intensified if that were found in my system. It’s scary. For one end, I feel it’s unfair because everyone around me is able to reap the benefits of the medicine as it’s used for anxiety, for depression, for physical aches and pains. But I’m withheld from that entire venue, and so is everyone that’s like me. Because if you are a person who’s been incarcerated, you don’t want to be reincarcerated. You do everything you can do to stay away from walking the line. You try to stay well away from the bounds of where your actions can be confused for something illegal.

Ms. Adesuyi: I think what Crystal’s speaking to is really important. That’s why the “Decrim” campaign was not enough: just removing criminal penalties is not enough because the drug war has infiltrated so many different systems. It’s not just about a person’s arrest and incarceration. It’s about everything that happens post-conviction, post-release. Housing security is impacted by a person’s use of cannabis. There are immigration consequences that people are still facing in the District because of cannabis. There are workers who are drug tested outside of even the justice system who have lost their employment because they’re medical patients. All of these things need to be rectified, but we haven’t been able to address these issues comprehensively, again, because of Congress.

I think there is a desire to actually address these barriers to people with criminal records, especially amongst community members, and I know there are Councilmembers who prioritize this. But again, I'm really looking forward to the fall where hopefully we'll be able to engage in these conversations about what all of these structural changes should look like. I believe AG Racine has reinterpreted the Congressional rider to allow for D.C. Council to actually hold a hearing and move a bill to address all of these issues for people with criminal records and those without. But unfortunately, until we're actually able to do that, we're in a weird place locally.

Mr. Grosso: Everyone's made a lot of great points, but I want to remind folks that it's not just the federal government that's put these barriers up. These have also come from local government over the years. When we tried to decriminalize cannabis in the District of Columbia, at first, the bill did not have a provision in it that prohibited public use. That was added at the last minute, and there wasn't anything anybody could do to stop it.

I remember being there and speaking out against that provision against public use, saying that the racial disparities in arrests were just going to continue, and they have. I think what that amendment failed to recognize is that there are a lot of people who live on top of each other in really dense neighborhoods or multifamily buildings who don't have anywhere else to go to smoke than outside. But the fact of the matter is that you're not allowed to smoke marijuana outside and you're not allowed to smoke in public housing. There are all these restrictions that disparately affect poor people, and I felt like it was a real injustice. Plus, the prohibition on public use didn't even work. Everybody is walking down the street smoking weed. You know it's there; you can't help but smell it. That was true when I was a kid, and that's true now that I'm an adult. So to say that making public use illegal is going to make a difference is, I think, a failed approach.

Now, I also just want to note that we have to move forward from these injustices not just by recognizing that we've had failures in the past, but by recognizing that we have to do better going forward. And that means we have to eliminate a lot of the laws that lead to social and racial injustice in the first place. We have to change the way that we address people and engage with people. Ignoring the problem—which is, I think, what the police have done for the past nine years—is not going to work either. So this is a tough time, and I think we have a lot of work to do to get past these disparities in arrests.

Mr. Austermuhle: I just want to jump on that part, David. You were on the council for eight years, and there were lots of times that you introduced bills that dealt with marijuana, and those bills either didn't even get to a Council hearing or they got voted down. Now D.C. is a Democratic city (though whether it's progressive or not is an ongoing debate), so I imagine if bills like this were introduced now, they'd almost seem like no-brainers. But when you were talking about marijuana decriminalization and legalization early in your tenure, what was the reaction from folks on the Council with you?

Mr. Grosso: I introduced three bills in September of 2013. Right after we'd gotten back from recess, so right about early September, I had read Michelle Alexander's "The New Jim Crow" over the summer. It really provoked me to think differently. I introduced one bill that passed very quickly, which was saying that you can't put shackles on pregnant women, especially when they're giving birth. I mean, it really was

a no-brainer, but we got that passed. The second bill I introduced was the tax and regulation of marijuana, which got no co-sponsors and got no co-introducers in September of 2013. The council period is two years, so I reintroduced that bill every two years. By the time I left the council, everyone was clamoring to be on the bill and the mayor had her own bill. So in that little eight-year period, sentiment on Council changed dramatically.

The third bill I introduced, which also passed, was to seal the records of anyone who had been arrested, convicted, or served any time in jail for a marijuana offense. It has been impactful, but not as much as it should be because the courts were not totally on board with that bill. We also had a problem with the fact that, a lot of times when you're arrested for weed, you also have a lot of other things that they tack onto there, right? They'll add on charges of assaulting a police officer, resisting arrest, all these other things that still impact you. So even though your record might be clear for the cannabis offense, it's never going to be totally clear and going to be hard to get that clear, unless we do a more deliberate, broader approach to sealing and expunging records.

Public Safety and Law Enforcement in the Context of Hazy Marijuana Laws

Mr. Austermuhle: Let's get into public safety and policing. So much of the debate centers around the fact that police have historically been involved in, if not in charge of, enforcing these marijuana laws that impact people differently based on race. I want to quickly turn to Emily [Gunston] about the work that you do on marijuana and what's coming in front of you in the Attorney General's office. The D.C. Attorney General obviously has some responsibility of criminal justice in the district, though not full responsibility because of the District's non-state status. What sorts of marijuana cases come to your office?

Ms. Gunston: That's a really good question. Like marijuana law more broadly, it's confusing because of our non-state status. Most adult crime in the District of Columbia is not prosecuted by a local prosecutor; it is prosecuted by the U.S. Attorney's Office, a federal unelected prosecutor.¹⁰ The D.C. Office of the Attorney General does have authority to prosecute some minor adult crimes in the marijuana context, particularly public consumption of marijuana. The Office of the Attorney General also brings the cases of law violations against juveniles in the District of Columbia. So we would have authority to prosecute any marijuana offense against a juvenile through the juvenile prosecutors for D.C. So, our office doesn't see that many arrests of adults for public consumption of marijuana. The police department has a general policy of what's called "post and forfeit" for public consumption of marijuana, where somebody pays a \$25 ticket and that's the end of it.¹¹ We do get some of those cases, but we tend not to prosecute very many of them. There's usually something else going on if our office prosecutes them where public consumption of marijuana is not the only charge or issue.

¹⁰ D.C. Code § 23-101(c). <https://code.dccouncil.us/us/dc/council/code/sections/23-101>

¹¹ See Metropolitan Police Department. "Resolving a Field Arrest Citation." DC.gov. <https://mpdc.dc.gov/61D>

For juvenile cases, our responsibility for all juvenile matters is to assess the individual case and make a determination about what is best for the youth. I would say that we tend not to paper¹² most cases like this; instead, we would divert them¹³ or no-paper¹⁴ them. If a juvenile is having multiple arrests or it looks as if there's something else going on, we might take a closer look at the case and try to make an individualized determination about how to rehabilitate the youth.

Mr. Austermuhle: So like David mentioned earlier, possession of two ounces or less is legal in D.C., and the police are not going to stop you for that. But there are cases where people are charged with possession with intent to distribute and other related offenses that toe the line between what is legal in D.C. and what is not. A lot of times those charges occur in the context of marijuana pop-up shops that get busted by the cops. Do those sorts of things come before you?

Ms. Gunston: No. Those cases, at least for adults, go to the U.S. Attorney's Office for them to prosecute. Those types of cases would come to our office for juveniles, though.

Mr. Austermuhle: It sounds like a dumb question, but does the U.S. Attorney care about those possession with intent to distribute cases? Or do they see them "small fry" for them? The U.S. Attorney deals with everything from national security spies to murder. Do they really have to be dealing with possession with intent to distribute?

Ms. Gunston: I don't know the answer to that question. I don't know how many cases like that come before the federal courts because our office doesn't have access to data on the cases that the U.S. Attorney's Office prosecutes. The courts would have data on the cases that are actually prosecuted, but they wouldn't have data on the cases that are not prosecuted. It's one of the many peculiarities about our non-state status, that prosecutorial authority is split between federal and local entities. Because that split is uneven in favor of the U.S. Attorney's Office, the people making most prosecutorial decisions for adults in the District of Columbia have not been elected by District of Columbia voters.

Policing

Mr. Austermuhle: This takes us to another broad question to the whole panel now that we're talking about policing. Again, in theory, it's legal in most cases to possess a certain amount, to use it in your own home—provided you're not in federally funded housing—and to grow a certain number of plants in your own home. But how much is marijuana still factoring into policing? The criticism initially was that you could be a white student at Georgetown smoking marijuana, and police weren't doing much about it, whereas in neighborhoods east of the river that have proportionally larger Black and Brown populations, it was a very different experience. I remember former Police Chief Cathy Lanier always used to say,

12 To "paper" a case in this context means to continue to prosecute the case or matter.

13 To "divert" a case means to pursue disciplinary or remedial action outside of the juvenile court system, such as sending a juvenile to a mental health treatment or rehabilitation program, among other options.

14 To "no-paper" a case means to discontinue prosecution of the case or matter. See District of Columbia Courts. "What Does 'No Paper' Mean?" 2017. <https://www.dccourts.gov/node/559>

“We’re just responding to phone calls, and we go to where the phone calls are telling us to go,” implying perhaps that there was not a racial element to enforcement of marijuana laws. Now it’s a different legal environment, but how much, if at all, is marijuana still impacting policing and policing disparities in the District? Anyone can take this one. [Pause while no one volunteers to speak] There’s no way that no one has an opinion a thought on this.

Mr. Grosso: No one wants to share it with you, Martin. I mean, this is tight stuff right here. There are a lot of assumptions out there about what goes on behind closed doors, but I don’t think we all really know. I don’t think the police are that upfront about how they handle enforcing marijuana laws. I think there was a real commitment to deprioritize enforcement under the past few police chiefs at least. But unfortunately, I think the police didn’t entirely move away from enforcement because they didn’t have the authority to do that either based on the current state of the law. You don’t hear a lot about enforcement out there, which may be for a lot of reasons.

But I think partly the reasons are political. Police are motivated by politics, just like everyone else is. When the political world is shifting, and police are starting to see that people don’t think that hard-line “law and order” is the appropriate response to drugs and the use of drugs anymore, then I think the police understand that. But I don’t think we should ignore the fact that police probably still use the confusion surrounding marijuana laws here as a pretense, or as a way to get you for something else. They also still have drug-sniffing dogs out there, and they still threaten you with arrest if you have marijuana on you even though they probably can’t arrest you for that. So there’s a lot of stuff goes on out there that I think, many of us who live in a very comfortable home with few police interactions cannot really understand what’s happening on a personal level.

Ms. Adesuyi: To add to that, again, the confusing state of whether and how cannabis is actually legal here adds to the fact that policing is still an issue even just around possessing. Obviously again, the number of marijuana-related arrests have significantly decreased since decriminalization in 2013,¹⁵ but anyone who participates in the pop-up culture¹⁶ in D.C. knows that MPD [the Metropolitan Police Department] is still very much enforcing and running down on those parties and events.¹⁷ And I think the police are in a weird, peculiar place because there is an active adult cannabis market outside the medical context. People assume marijuana is fully legal here, but there’s no real legal access to adult use. Those pop-ups are fulfilling a need outside of the medical dispensary industry. So I think it’s going to be important for the D.C. Council to consider what it would look like to incubate those providers, to bring folks who are

15 While the total number of marijuana-related arrests declined by more than half after 2013, the proportion of Black people arrested for marijuana-related charges remains disproportionately high compared to other races: as of 2019, about 90% of people arrested for marijuana charges in D.C. are Black, while Black people make up about 45% of D.C.’s population. See Schwartzman, Paul and Paul D. Harden. “D.C. Legalized Marijuana, But One Thing Didn’t Change: Almost Everyone Arrested on Pot Charges Is Black.” *The Washington Post*. September 15, 2020. https://www.washingtonpost.com/local/legal-issues/dc-marijuana-arrest-legal/2020/09/15/65c20348-d01b-11ea-9038-af089b63ac21_story.html.

16 For an extreme example of marijuana pop-up culture, see Kurzius, Rachel. “Infamous Dupont Party Mansion Tuned Into Weed Pop Up, Per Police.” *DCist*. October 2, 2019. <https://dcist.com/story/19/10/02/infamous-dupont-party-mansion-turned-into-weed-pop-up-per-police/>.

17 See Metropolitan Police Department. “Marijuana Pop-Ups.” *DC.gov*. <https://mpdc.dc.gov/page/marijuana-pop-ups>.

currently in the gray market over to the regulated market when it's time to figure out what taxation and regulation looks like instead of just giving folks the hammer. But until we actually have a regulated market, we're going to continue to see policing and law enforcement impact on people who are engaging, and using, and selling on this gray market.

Pop-Up Cannabis Shops, Industry Culture, and Safety

Mr. Austermuhle: On the subject of pop-ups, I don't know if everyone saw, but earlier this summer [of 2021] after a shooting down on 14th Street, Chief Contee was speaking to the media at the scene. He was making a link between the illegality of what happens surrounding marijuana pop-up shops and the recent uptick in violence in the city more broadly.¹⁸ Now, you could disagree with him, but there have been stories where someone has a pop-up at their house and they get robbed by people with guns who know that that house is going to be full of cash and drugs. It's a relatively easy score. What did you think of Chief Contee's message? Was there any concern about hearing him say that, or what more that could mean?

Ms. Adesuyi: I'm ready to take this. I had a lot of feelings about what he said. I actually interpreted what he was saying to be blaming the plant itself. I don't even think he blames pop-ups. He blames marijuana and reforms from marijuana for the increase in violence, which I think he's not the only policymaker or government official that's tried to make that correlation. But it's a tired and overused link that is not speaking to the actual underlying issues. I think that kind of reasoning relies on failed War-on-Drugs tactics to blame drugs themselves for actual upticks in violence, or at least perceived upticks in violence. Hearing his comments, I felt like he was trying to say that because of marijuana reform, he feels like his hands are tied around certain things.

More broadly, I think it speaks to why so many people in the District are calling for the defunding of the MPD—not to leave a blank slate in terms of how we address violence and crime in the city, but to actually reinvest in Black and Brown communities and invest in services and resources that we know actually keep people safe, that actually keep people in a place where they won't be as likely to commit crimes. So, I thought it was unfortunate that he tried to make that link and that he tried to blame marijuana use for violence; I'm not sure he actually has citations for that claim itself. But it really, again, speaks to old and antiquated thinking about drugs as the actual problem when there are other issues that need to be addressed.

Mr. Grosso: I totally buy into what you're saying, Queen. But in addition to that, the reality is that MPD has lots and lots and lots of excuses for why the violence is increasing. Each one of them I think has a grain of truth to it, but none of them are the sole reason for why we have all the problems we have, because the causes of violence in the city go deeper than that. It has to do with our education system. It has to do with equality and access. It has to do with housing issues. It has to do with all these things.

¹⁸ See Ogadhoh, Jaelen. "D.C. Police Chief: Marijuana 'undoubtedly' connected to violent crime surge." *Yahoo!* July 24, 2021. <https://www.yahoo.com/now/d-c-police-chief-marijuana-182206928.html>

I think for Chief Contee to have a knee-jerk reaction and say that these pop-ups are the reason for violence misses the point. Pop-up shops do happen to have violence associated with them at times, just like you mentioned, Martin. But they aren't the actual cause of the violence. And I think the police and the city could do a better job trying to find ways to shut these events down so that they are not there and not a menace to the community, et cetera, et cetera, without arresting everybody to do it.

One of the ways the city could have brought about change would have been to support legislation that would have allowed for "use sites"—where people could have gone and legally used marijuana if they couldn't do it in their public housing spaces or for whatever other reason—but that legislation wasn't supported by the Council. Even though I don't think these pop-ups are legal and they shouldn't be operating, I wouldn't say that it's all the time that there's major violent acts that happen around them, that there's robberies going on or any of that.

I think for Chief Contee to extrapolate from that analysis and say, "Marijuana and pop-up shops are the cause of our violence and the city" is kind of typical for MPD. To be honest with you, they say that about a lot of different things. "We don't have enough police." "We don't have enough other resources." "We can't do jump outs anymore." I mean, look, change is hard. It's going to take time. Sometimes, you've got to be a little patient when you are the police force because you're not the policymakers. You have to implement the law, not make it up on your own.

Mr. Barnette: I'm probably going to get some pushback from my industry, but I want to hop in here briefly to defend Police Chief Contee. I have had an opportunity to sit in on several forums where this very issue in that very statement was discussed. If you speak to the police chief offline and when it's not a 15-second sound bite that comes across the news, I believe you walk away—or what I walked away with at least—was that he meant that he does not have a direction from the city or from the laws on the books, and marijuana is being traded around the city in a lot of these illicit CBD shops that are also selling cannabis. Attackers know that if they attack that place, that's a place that is probably not licensed, that the government is likely not watching, and that is not being required to have certain levels of security, and they are a more apt target as a result of that—same thing with a lot of the pop-ups. Because the people who operate these shops are not going to file an insurance claim; they're not going to go running to the city or the police and say, "Hey, they robbed me" and different things like that, so what's happening is that there is a rise of those occurrences that go unaddressed by law enforcement.

So, while Chief Contee was ill-stated in terms of the way that he framed the argument, I think that what he was trying to do was to say aloud how police need direction from the city, that police need clear prioritization of what they need to go after so that they can try to get their arms around some of the crime that's taking place. I don't think that he articulated all that in his statement, but at the end of the day, the community has made it very clear that they do have concerns around pop-ups. They do have concerns around illegal dispensaries. They do have concerns around where these are located and where children are playing and different things like that. Because of the passion around this subject and the desire to make sure that we are not engaging in over-incarceration and over-policing, we've created almost a complete opposite pendulum swing. There is a propensity for violence to occur in these places, but police are being told to deprioritize those kinds of things. And even if you arrest these people, a lot of times, nothing

is necessarily going to happen. And so, police are spending their time elsewhere. And so, it's not until violence actually occurs that law enforcement then begins to get motivated.

That's the unfortunate reality that we find ourselves in, just like David said and others have alluded to. Without regulation and without proper direction from the city government itself, you're going to continue to have, at least that portion of crime element, take place in the city. I know dispensary operators that have been robbed that did not call the police and different things like that. When that sort of thing happens and there isn't an adequate police response, it's just giving more incentive to up the pace at which these crimes are occurring in this context. And so, the police chief could have stated it better, but the unfortunate reality is that he was not at a panel discussion around what it was he was doing. He was on a 15-second sort of soundbite and was inarticulate in the way that he said it versus the way he later stated his actual feelings to be.

Ms. Adesuyi: I think either way, I want to see more recognition from Chief Contee, and the police more generally, that the current violence in the drug market is directly related to the fact that we don't have regulation of the industry. It's a policy failure that these things are happening. It's not marijuana that's the issue, and I think that focusing on the plant itself is flawed. But again, we can actually legislate and implement policies that would mitigate these issues. The cash-only business issue around public safety is something that businesses are feeling across the country, but cannabis businesses largely are being discriminated against in terms of not being able to actually access financial services and that is a larger issue. That's a congressional issue. But in terms of trying to mitigate crime and violence in the city related to drug markets that are not regulated, that is a policy failure on a local level.

Mr. Barnette: Right.

Allowing People with Criminal Records to Participate in the Marijuana Industry

Mr. Austermuhle: All right. So we've talked a lot about the way things are. Now, let's start talking about the way we'd like things to be. There's a lot of legislation floating around in the Council, and there's obviously stuff in Congress that has to happen before the District can really move on anything. But one thing I wanted to focus on first is one bill specific to the medical side of things that would let folks who have criminal records—who were involved in the criminal justice system at some point—get into the emerging medical cannabis businesses or the established medical industry.¹⁹ When medical first passed, the rules were very strict around who can participate in the industry, and those rules are still in place today. Basically, if you want to work in one of these places or own one of these places, if you want to do anything in a medical dispensary or cultivation center, you cannot have been involved in the criminal justice system. So I would love to hear from both Corey and especially Crystal on why that's an important thing to focus

¹⁹ See Williams, Elliot C. "Returning Citizens Can't Work in D.C.'s Medical Cannabis Industry. A New Bill Would Change That." *DCist*, October 14, 2020. <https://dcist.com/story/20/10/14/dc-council-returning-citizens-medical-cannabis-industry-legislation/>.

on now. Specific to medical cannabis, why this is something that legislators should be looking at?

Mr. Barnette: Crystal, I'll yield to you. You go ahead and go first.

Ms. Marshall: I don't know that, that point of view has been brought to the table in a way that is impactful. We can talk all day about my feelings and the feelings of the constituents that are returning citizens, but the bottom line is that people with criminal records are barred from so many great-paying jobs including in the medical industry. So, if we start the conversation there, we can continue it for days, but ultimately until the social justice system is reformed and until there isn't this disparity between justice-involved individuals and the regular working Joes who are actually Black people that live in low-income communities, we won't have solutions.

As we move forward, I hope that conversation is just brought in to do more and more, and we engage it in a way that is not just fair to people's feelings and fair to your general wellbeing as a person, but equitable and open. Speaking for myself, I would like to increase my awareness in that market, but I cannot. I feel barred, I feel scared, I feel if I go that way, then Mr. Policeman is going to come knocking on my door and say, "Hey." What makes my situation even more confusing is that my probation is supervised in D.C. but is managed in Virginia, so the regulations for supervision and for marijuana that apply to me come out of a place where I do not even live. If one person can dictate how numerous individuals are living their lives, especially outside of state lines as is my situation, I guess it's just not fair to me. I don't know how to take that. I think that we could talk about it more.

Mr. Barnette: I've been an entrepreneur and business owner since 2003 and I can tell you that everyone who's owned a business would probably agree that there is nothing more valuable than a passionate employee—an employee that truly loves an industry and wants to be active in an industry. If nothing else, someone who has been willing to take risks to be engaged with this plan, is at a very minimum passionate about this industry and want to be active in it. For us to sit back and say to someone who has been passionate and has been expressive and has taken action, that because we had a punitive system that should not have been in place the way it was in the first place, that they cannot have a job and support themselves after they've so-called "paid their debt to society" is asinine. It's stupid; it doesn't really make sense.

If anything, that should be a very fertile market for where we recruit, right? People with criminal records are certainly capable. They're certainly intelligent. They're certainly passionate, but because of a mistake—that they've paid for—we can't go out and we can't hire them. I have tried to make this case actively with several of our Councilmembers. I have cut checks to try and elevate this discussion to more people. Equitable participation in the industry is something that we have to address if we're going to have a healthy market here in Washington, D.C., along with what we do with the funds. I do believe that there should be certain types of licenses that give advantages to people that have suffered as a result of the War on Drugs. I'm not just talking about the returning citizens there, because we also have to realize that when someone is incarcerated, their entire family—and in many ways, their entire community—is actually impacted, right? Children are stigmatized. Parents are stigmatized, and there are wide reaching ramifications and repercussions as a result of the incarceration of someone. And so, as we look to when our family members, brothers, sisters, friends, and allies are coming back to the marketplace and to our

communities, it would serve us well to provide places and opportunities that allow them to engage their passions, whatever that is.

To the degree that that passion is the medical marijuana industry or the marijuana industry or what have you, then there should not only open doors that allow them to get access, but there should be active channels put in place where we're actually saying, "Hey, please come. You have a skillset, and we want to give you the opportunity to benefit yourself and your family and your community constituents with that skillset." That's just smart, right? No other place in any other industry would ever exclude people in the way that the medical marijuana industry has in D.C. There have been software engineers that have hacked major government institutions that then ended up working for the FBI. We've had all kinds of situations where people have broken laws or stood against society, however you want to term it, that have come back in and actually sat on the other side. That should certainly be the case for marijuana or cannabis, period.

Mr. Grosso: I agree with everything that Corey and Crystal said. I want to add some context to this going back and the reasons why I think the provision excluding people with criminal records was in the law originally, since somebody asked about this in the chat. D.C. passed a referendum—I remember working on it in the late nineties—that would have created a medical marijuana program in the District of Columbia.²⁰ There was a hold put on our budget in Congress to stop that from being implemented, so, the medical marijuana infrastructure didn't get implemented for nine or ten years after the initial referendum.²¹ When it was finally pulled off the budget—I remember Jose Serrano, a Congressman from New York, actually pulled it off our budget²²—Council, I think, was still not a hundred percent on board with cannabis and everyone using it all the time even if it was restricted to medical use. I was on Council at the time, and I didn't want to be putting a medical cannabis bill forward that would then immediately be struck out by Congress again. Councilmembers were afraid of the congressional overlords, so to speak, telling them what to do, so they put a number of restrictions on the medical marijuana bill to make it more palatable to Congress. And so, not only did Council not allow people who've been previously involved in the criminalized cannabis industry to be involved, but they also did not allow more than six conditions for medical purposes, which we've had to expand to make it whatever it is between you and your doctor that you think is necessary. They also only allowed, I think, was it a hundred plants? Corey would remember, but I think it was a hundred plants to be grown in a cultivation center at the beginning.

Mr. Barnette: It was 95 plants.

20 See Stein, Perry. "The highs and lows of D.C. marijuana legalization." *The Washington Post*. February 4, 2015. <https://www.washingtonpost.com/news/local/wp/2015/02/04/the-highs-and-lows-of-d-c-marijuana-legalization/>.

21 See Bhattarai, Abha. "Washington's first medical marijuana dispensary prepares to open next month." *The Washington Post*. March 24, 2013. https://www.washingtonpost.com/business/capitalbusiness/washingtons-first-medical-marijuana-dispensary-prepares-to-open-next-month/2013/03/22/9902dd22-8da7-11e2-b63f-f53fb9f2fcb4_story.html?itid=ik_inline_manual_2.

22 "House members issue joint statement on D.C. pot legalization." *The Washington Post*. February 25, 2015. https://www.washingtonpost.com/local/house-members-issue-joint-statement-on-dc-pot-legalization/2015/02/25/61e2d1ea-bd38-11e4-8668-4e7ba8439ca6_story.html.

Mr. Grosso: 95 plants. I mean, it made no sense. So I guess all I'm trying to say is contextually speaking, the medical marijuana system in D.C. came at a time when the Council was very nervous about being struck down by Congress again and wanting to get something done, so they put in these restrictions that limited the ability of people to participate in the medical marijuana industry either as operators or as consumers. Many of these restrictions still haven't been undone. They should be undone, which was why I put a law in after law and after law just try to make the medical program successful. This is one key component that hasn't happened yet that needs to get done.

The Congressional Rider Preventing a Tax-and-Regulate Program in D.C.

Mr. Austermuhle: Real quick—and we'll get to more bills currently in the Council in a moment, especially on the recreational side—but one critical thing that's always been hanging over us is the issue of Congress. Congressman Andy Harris' rider after Initiative 71 still exists. It was removed by the House in 2019, but it hasn't passed in the Senate, so it's still floating around and stopping D.C. from enacting a tax-and-regulate program.²³ When the rider was first put on in the mid-2010s, I think the D.C. Attorney General at the time said the Council couldn't even have a hearing on legalizing adult cannabis or else we would be breaking federal law because we would be violating the rider.²⁴ Emily, can you quickly talk about what the Attorney General is saying now? Even if this rider sticks around, could the Council just start talking about taxation and regulation in a more formal way, or is that still a no-go?

Ms. Gunston: Yes, the Council can hold hearings to discuss next steps of adult legalization. There's actually an opinion by the Government Accountability Office (GAO)²⁵ based partly on a memo from the Attorney General's Office that says the prohibition in the rider is on "enacting legislation." And so, the question for our purposes is, what does "enact legislation" mean? What we've argued and what GAO found is that there are all kinds of reasons why the Council would engage in discussion on policy matters and vote on laws to educate the populace about what their views are and to think through what policy matters should be for the District of Columbia by holding hearings. None of those things are "enacting laws." So the Council is free to continue to hold hearings, to have discussions about this topic, and to debate it. What we can't do is have the mayor sign recreational adult marijuana into law and send it over to Congress; that is how our office and the GAO have interpreted the rider most recently.

So I think what the Council has been doing is to spend this time to really think through what our regulation should look like when the rider is gone. Things like: what rate should cannabis be taxed? Who can participate? How are we going to expunge records? I think all of the bills currently being debated in Council, which have support from the D.C. Attorney General, include provisions that would expunge the

23 See Kurzius, Rachel. "D.C. Is One Step Closer to Recreational Marijuana Dispensaries." DCist. June 12, 2019. <https://dcist.com/story/19/06/12/d-c-is-one-step-closer-to-recreational-marijuana-dispensaries/>.

24 See Davis, Aaron C. "D.C. Council backs down on marijuana hearing after attorney general warning." *The Washington Post*. February 9, 2015. https://www.washingtonpost.com/local/dc-politics/dc-council-warned-not-to-move-forward-on-marijuana-legalization/2015/02/09/2c1593aa-b067-11e4-827f-93f454140e2b_story.html.

25 For the full report, see Armstrong, Thomas H. *Government of the District of Columbia—Application of an Appropriations Act Prohibition and the Antideficiency Act to a D.C. Bill*. Government Accountability Office, File No. B-331312. March 8, 2021. <https://www.gao.gov/assets/b-331312.pdf>.

criminal records of those with convictions for marijuana-related offenses that would no longer be illegal under the new adult recreational use law. The thinking behind those provisions is that we should be making sure whatever law we eventually enact is equitable. We should make sure people have equitable access to the product and the industry. We should tax it and we should regulate it so that that funding stream can be used to undo some of the harms that have been done by previous drug policy. We can reinvest that money in communities that need it. We can use it to the extent that we're worried about the harms of marijuana on young people, we can regulate it to make sure that it's not advertised to young people, and we can use the taxes to help young people not use it, and to help people with all kinds of social ills that we're trying to address as a city.

So the council has been using this time to develop bills, to debate those bills. As you mentioned, Chairman Mendelson has a bill, and the mayor's introduced a bill.²⁶ What we'll all need to decide as a populace is what do we think it should look like and get ourselves sort of on the same page and ready to go when Congress removes the rider from our budget.

Mr. Austermuhle: Mendelson's bill and the mayor's bill are the big bills that would create a recreational sales industry with taxation and regulation. In other states that have legalized recreational cannabis, there is lots of debate about equity and bringing about social justice, and the two bills here in D.C. are designed to address some of those concerns. These bills are very different in some ways. Generally speaking, they have the same purpose, but different means of execution and implementation. I'm curious to hear from everybody here what you think of these two bills from two different lawmakers that provide different ideas of how to create an equitable recreational marijuana industry. What do you think of these proposals?

Ms. Adesuyi: Quickly before I talk about the bills, I did want to add just a quick update on how we feel about lifting the rider and where we are. DPA (the Drug Policy Alliance) has been working to try to lift the rider since it was implemented. I would say that we feel cautiously optimistic that it will be eliminated soon. I think since the House started to remove the rider—really, since Andy Harris stopped introducing the rider—there isn't really a congressional member that owns it in the same way as Andy Harris did. On the Senate side, it doesn't seem like they're as committed to keeping it in.

I think it's unfortunate that President Biden kept the rider in his budget, despite lifting all other riders.²⁷ I think it's a sign of where he is on cannabis as it is. I mean, he claims to support statehood, but hates cannabis so much that he actually kept the rider in. I don't think that's a good thing, but in terms of our chances of lifting the rider, it really is dependent on the Senate. We will know more later in the year. It's going to be dependent on if we have a continuing resolution or we're actually able to pass a budget. We feel cautiously optimistic at our chances. I don't know if David wanted to add anything on that.

26 See Ryals, Mitch. "Mendelson and Bowser introduce Dueling Marijuana Bills." *Washington City Paper*. March 1, 2021. <https://washingtoncitypaper.com/article/509852/mendelson-and-bowser-introduce-dueling-marijuana-legalization-bills/>.

27 See Flynn, Meagan. "Biden budget lifts restrictions on D.C. using local funds for abortions, keeps ban on marijuana sales." *The Washington Post*. May 29, 2021. https://www.washingtonpost.com/local/dc-politics/dc-abortion-marijuana-biden/2021/05/28/fe4218c0-bfd4-11eb-83e3-0ca705a96ba4_story.html.

Mr. Grosso: No, I think you explained it brilliantly. The only thing I'll add is that Senator Schumer, who is the majority leader in the Senate now, has had a complete turnaround on cannabis. I think it has a lot to do with progressive politicians that are challenging folks in New York, but that's fine with me. Schumer drafted a bill called the Cannabis Administration and Opportunity Act with a few other senators that they have not yet formally introduced, but it's out there for public comment.²⁸ That's a huge shift from his or any other senator's previous stances on federal legalization of marijuana. And so, hopefully we'll end up in a space where the majority leader, the head of the budget committee, and others will fight any kind of opportunity to put the cannabis rider back on. I think the entire Schedule 1 prohibition really needs to come off; it's not just cannabis.

I think it's important to note, too, that the rider impacts all of the policies that we want to enact to try to promote a harm reduction approach in the District of Columbia. I'm not going to go first on responding to the question about the two bills; I have a strong opinion because I essentially wrote a lot of one of them. When I was a councilmember, it was something like five times I introduced that bill or something similar. And so, I'm excited to see that there's a lot of interest and I'm really happy that they're debating it finally.

I do wish we could have a hearing. I'll just make one note on the ability of Council to have hearings on this topic, and I mean no disrespect to the Attorney General's Office or Karl Racine. One of my bills had a hearing scheduled. It had been referred to three committees, four maybe, and I had corralled all of them to hold a hearing on this bill. We had a hearing date set. We were in the chairman's office, on the morning of the hearing, when we got this notice that the AG had said that we couldn't even hold a hearing. Apparently, Congress was upset with us for holding a hearing, which I think was only brought to their attention for certain reasons. And so, my colleagues all decided not to do it. I thought it would have been a brilliant opportunity to engage in civil disobedience: to actually have the hearing and challenge folks to come in and arrest us for doing what we were, I think, brought to the Council to do. I could not convince my colleagues to do that for some reason, so we have not had a hearing. So I'm thrilled that it's moved beyond a place where even discussing the issue of full legalization was considered illegal. Now, we can actually hold hearings, we can actually debate something, and councilmembers can continue to do our jobs in the District.

Potential Solutions to D.C.'s Confusing and Exclusionary Marijuana Systems Local Legislation

Mr. Austermuhle: Maybe the only fringe benefit of having the rider in place is that the District has had a lot of time to look at other jurisdictions developing their systems and learn lessons from them in terms of what works and what doesn't, what helps promote racial equity and what doesn't. Do these bills (one drafted by Mayor Bowser and the other brought to Council by Councilmember Mendelson) reflect "best practices" of progressive thinking? Do they consider the lessons learned from the states that have already

28 See Kaufman, Greg. "Federal Taxation of Cannabis Under Proposed Legislation." *Bloomberg Tax*. August 30, 2021. <https://news.bloomberglaw.com/daily-tax-report/federal-taxation-of-cannabis-under-proposed-legislation>. The proposed legislation would remove marijuana from Schedule 1 of the DEA's controlled substances list.

legalized marijuana, or are we repeating some of the same mistakes? Are we just going to fall into the same traps that other places fell into when it comes to equity, inclusion, diversity, and making sure that the law targets the people who were impacted the most?

Ms. Adesuyi: I'm happy to take a stab at this. I think it's going to be important that the Council starts with Mendelson's bill, which is an updated version of Grosso's bill for several reasons. Mainly, because I think Mendelson's bill does a better job at addressing a lot of the life-long and collateral consequences of arrest. For example, it requires that 50% of licenses are reserved for social equity applicants and that 50% of revenue goes to community reinvestment. Those community reinvestment grants would be overseen by a board that includes community members and former incarcerated folks—folks who should really be determining where money should go in the community, which I think is going to be important. Mendelson's bill also addresses folks on probation. I think the issue with parole is a larger issue just because of statehood²⁹. Hopefully if D.C. gets local control of that, we can update our policies to also address folks who are on parole.

But there were at least a couple things in the mayor's bill that I would like to see added to Mendelson's bill, including language around food access, food deserts and money towards access to nutritious food, which I think is a brilliant idea in Ward Seven and Ward Eight. That said, I think Mendelson's bill is the best bill to start with.

Everywhere that has legalized cannabis for recreational adult use has essentially served as an experiment in social equity. Plenty of people in California alone can talk about the pros and cons of Prop 64³⁰ and whether or not the social justice intent was actualized. D.C. has been benefiting from the fact that other places have been trying to do this in a socially and racially equitable manner, so we can hopefully take lessons learned from folks who have been doing this work. For example, the work of Shaleen Title in Massachusetts³¹ and folks in California and in Illinois towards racial justice and cannabis.³² There are a lot of case studies, but I'm not sure we have the best answers in terms of how to get towards these things because we're flying a plane while building it. But I think it's important that we at minimum start with the intention of trying to do this the right way and making sure we're making evidence-based decisions about policy.

Mr. Barnette: I don't think it's a good idea to pit one bill against the other. If nothing else, regardless of how late in the game we are, I think we should applaud both the chairman and the mayor for putting

29 For an in-depth argument about why D.C. needs a locally controlled paroling authority (rather than the current system wherein the U.S. Parole Commission, an unelected and federally managed body, controls parole of D.C. citizens), see Thomas, Misty C. "D.C. needs a local paroling authority." Opinion, *The Washington Post*. July 19, 2021. <https://www.washingtonpost.com/opinions/2021/07/19/dc-needs-local-paroling-authority/>.

30 Proposition 64 was a ballot measure passed by voters in California in 2016 which legalized marijuana in the state. For more details, see Drug Policy Alliance. *The Adult Use of Marijuana Act (Proposition 64): Frequently Asked Questions*. https://drugpolicy.org/sites/default/files/documents/AUMA_Prop%2064_Frequently_Asked_Questions.pdf.

31 See Adams, Dan. "Q&A with outgoing cannabis commissioner Shaleen Title." *The Boston Globe*. Updated December 29, 2020. <https://www.bostonglobe.com/2020/12/29/marijuana/qa-with-outgoing-cannabis-commissioner-shaleen-title/>.

32 See Illinois Department of Commerce & Economic Opportunity. "Illinois Adult-Use Cannabis Social Equity Program." 2021. <https://www2.illinois.gov/dceo/CannabisEquity/Pages/default.aspx>; Cannabis Equity Illinois. <https://cannabisequityil.org/>.

some real thought behind how a bill should work. I think that both bills, have some good and both bills need some work.

One of the things that I really like about both bills is the focus on local employment. When considering employment for this kind of industry, you have to ask yourself, where is that employment actually going to come from? Certainly Wards Four, Three, Two, One, and to a certain degree, Six, have lower unemployment rates. We see from some of the existing markets that do have a legal cannabis program that we're going to need a lot of people to get this off the ground. So when you say, as these bills do, things like 60% of your employee base has to be a District resident and 60% of your ownership has to be district residents, you're simultaneously igniting employment and entrepreneurship across a lot of different sectors. I'm looking forward to seeing a lot of those jobs come out of Wards Five, Seven and Eight, which I think is something that our entire city is going to benefit from. So, hats off to both the chairman and the mayor for accomplishing that.

I think the big battle ultimately will be fought around the bills in terms of what do we do with the proceeds. Personally speaking, I would like to see a significant portion of those proceeds go to building entrepreneurs in our city. Entrepreneurs can create jobs; those jobs give hope; that hope changes communities. And there is a residual and ongoing impact associated with building up entrepreneurs. Not just in the way of funding businesses, but funding programs that help bridge the gap between, on the one hand, people who are currently working a job and want to be entrepreneurs or want to try their hand at owning and operating in this space and, on the other, people who need training so that they can get jobs in this space, people who want to be a part of the industry and can have resources there that help them do and make that transition. I think that that's very positive.

The practical side of me says that we have a Council that is made up of individuals who have their own constituent priorities. As a result of that, there's going to be a heated battle on what happens with these funds. If the mayor wants housing and if Mendelson wants whatever Mendelson wants, then that's going to play into what ultimately ends up happening with these funds. Hopefully, we can organize communities to make sure that the community's voice is heard at these hearings so that we can have the kind of programs that do things like benefit returning citizens, benefit entrepreneurship, rebuild communities in the way that constituents want their communities built.

In my conversations with both the mayor's office, the mayor herself, and with Chairmen Mendelson or Chairman Mendelson's office, one of the things I'm pleased by is that they do have an open ear and they do want to actually make sure that they put a good bill in place. To the degree that we are able to marshal organizations like Drug Policy Alliance and other community-based organizations that have the heart of the community in mind, as well as constituents that have a personal interest, I think we're going to get a good outcome. Those bills are going to be reconciled. And, to the degree that we make these points the way that they should be made, we can get a good outcome.

In terms of learning from social equity programs around the country, I think that a lot of lessons have been learned, but the unfortunate reality is that in my opinion, no state has gotten it right. But, I can already see some learning in both the chairman's bill as well as the mayor's bill in that they are getting

rid of strawman provisions. I don't think I've ever read in any state's actual legislation, the restriction around strawman provisions. And for people who may not know, a "strawman" in this context is when one cannabis company comes into a city or state, picks someone from the community, and gives them a small piece of equity in the business, but that person doesn't ever really make any real money and doesn't have any sort of operational participation in the business. They're just there as a "strawman" to make it seem like this is a social equity-oriented business. The fact that the District has spent so much time putting language in both bills to restrict that type of behavior by companies bodes well to making sure that we truly do maintain a homegrown industry that will benefit our communities the way we want it to.

Bringing the Voices of Community Members, Including Returning Citizens, to the Table

Mr. Austermuhle: So, Crystal real quick on this issue. It's always one thing to say that we want to incorporate returning citizens, but from your experience, what else has to be done to make sure that returning citizens are incorporated into the industry when it's built up? What sort of steps, what sort of infrastructure, what sort of resources have to be put towards actually making that a reality?

Ms. Marshall: I think that just making sure that returning citizens are invited to the table to have the conversations. The opinions of those citizens that have returned from incarceration—from my interactions and from a lot of the studies that I've seen—is that they feel ignored. They feel unheard. They don't have access to the ears that will give them the results that they want. I think that sums up where I want to go: making sure that we as returning citizens have access. We also need for policymakers and activists to reach returning citizens where they are in regards to workforce programs directly related to the things that they're passionate about. I really like what Mr. Corey Barnette said about making sure you address the passions of all folks who may work in this field, all of these bodies, to make sure that they can self-actualize and that we can actualize ourselves as a community.

Closing Remarks: The Future of Cannabis Law & Policy in D.C.

Mr. Austermuhle: We are down to our last five minutes, and there's one last question I want to ask everybody to take on. Looking forward beyond whatever is going to happen with these bills, do you feel positive about what the future's going to bring for the District in terms of marijuana policy, particularly in terms of bringing about equity? Do you feel cynical? Jaded? Are you waiting at sea? Are you pessimistic? Let's close out on how you are feeling about the future when it comes to marijuana policy in the District, and why you're feeling that way.

Mr. Grosso: I'll go first just to get it out of the way, because you guys are much more thoughtful than I am on these things. I'm pretty optimistic about it. I think we are moving in the right direction. We've come a long way. We've got these two bills that I think are both decent and can actually move us to the right place. The one thing I worry about, and I worry about a lot, is the impact of a new adult use market on the current medical cannabis marketplace. The folks that have set up these dispensaries and cultivation centers have really rode through some tough waters and gotten to where they are, and they have to struggle to stay afloat.

I don't think that we should ignore the fact that there are people out there that will always prefer to legalize marijuana only for medicinal purposes. We should respect that, and we should lift up the businesses that have been here and we should give them every opportunity to succeed. That's the only thing I really worry a lot about. I think the rest of this will have a lot of public involvement, so we'll be really pressed to not do right by everybody in the city. But I think that's the one area where I worry is that we might undercut or hurt some of these businesses that have really been great for us for all these years.

Ms. Adesuyi: I would say I'm optimistic about the mayor, D.C. Council, and folks in the community and their enthusiasm around the issue. I do feel like we're actually going to address the subject of cannabis policy, which is an important first step. I'm really nervous about how bringing on the adult use market may impact medical access. I think it's going to be important to incentivize medical access, to make sure that patients don't end up losing out on access to critical medicines in exchange for a really huge adult use market that may not really cater to the specific needs of patients and people living with different conditions.

I'm also nervous about what enforcement may look like for the unregulated market; I don't want a Prohibition 2.0. I want to make sure that we are really intentional about not adding new or additional criminal or social penalties to using marijuana, and I want us to be thinking creatively about how we can actually have a thriving regulated market that is equitable and does not leave people behind.

Also, I think that neither bill really addresses low level sales. I think in both bills what's considered "micro" is really not that micro. So I would like to see whatever version of a bill moves forward actually be intentional and creative about what it will look like to expand homegrown and lower-level sales to create business opportunities for people who don't want to own a dispensary. Owning a dispensary is a huge ordeal that not everyone wants to do, but they still may want to work in the industry. It's also limiting in terms of D.C. and how many people will be able to actually benefit from dispensary ownership. So I think we have to be creative about what job opportunities in the adult use industry looks like and building jobs across all levels because the industry's going to need that. It's not just about business owners in particular, so I want to make sure that we're going to be creative about that.

Mr. Barnette: Yeah, I think that we have a great start. Regardless of which bill is used as the basis, when I compare these bills to the dozens of pieces of legislation that I've read from around the country, I think we have a great start in either one of these bills. Much like what's already been stated, I would like to see both bills go farther in protecting the medical marijuana program. I, for one, think that medicines should not be taxed; I think that people who have medical need should not be profited on by the city. I know that's one of the things that I will be working very hard to do as part of this next phase.

Secondly, I think that both bills are silent on what Queen was getting at, which are the numerous opportunities to license other types of businesses, specifically to make sure that the industry has the right kind of backbone to grow and to be a real contributor to our city. For example, marketing companies, event planning companies, food markets, and different things like that—whether or not you'll be able to actually have cannabis at those types of events and as part of those kinds of businesses should be something that is more clearly addressed. As of now, it's kind of passively addressed in both the bills, and we should

go a little bit farther there because those present huge opportunities for us in the business world.

But I do believe that the community is galvanized and that people are making their wishes known. As a result of that, I think we're going to get over some of those hurdles. Whether we get over them or not, there's going to be a lot of discussion around them. So I'm looking forward to it, and I think we're going to ultimately come out with a bill that's a lot better than where most other markets have started.

Ms. Gunston: I would just add I feel really excited that this is the place where the conversation is starting from, right? This is so much further along than it was in the past; we have Chairman Mendelson and Mayor Bowser all talking about how we can regulate marijuana, how we can make sure it's fair, and how we can make sure returning citizens get to participate. What we're having in this moment is a really nuanced conversation about the most effective way to do that and to make sure it goes far enough. And that's a really exciting place to begin the conversation.

Mr. Austermuhle: All right, Crystal, you've got the last word.

Ms. Marshall: Well, I appreciate the last word. I'm very honored to be here. I'm nervous about the state of the law. I'd love to see a congruency in the system of probation as it relates to marijuana. With the expansion of the market moving forward, I expect it will give access to returning citizens. Eventually, everybody wants to be everybody's friend. We want success for the community, and ultimately that's where we're going. I love having these conversations. And again, I want to highlight the fact that if we focus on marijuana as a medicine and not as a drug, the conversations are a little bit more positive and this perspective is a little bit received better.

Ms. Adesuyi: It's also just more accurate. Marijuana is a medicine. It was criminalized as a vice. And if we don't change how we think about cannabis, we're going to continue to treat it as a vice, which is unfair and just not accurate. It does not maximize public health if we continue to think like that.

Mr. Austermuhle: All right, well that unfortunately is all the time we have. I want to first thank all the speakers who brought your expertise and your thoughts to this conversation. Everything you said was thought provoking and as interesting as I and the attendees could have hoped for. So thank you to you.

To those of you who tuned in, thank you for watching; we appreciate it. Thanks to the Council for Court Excellence and the Office of the D.C. Auditor for putting on this event. And thanks for having me along. I appreciate it.

Emily Tatro: Thank you, Martin, for moderating for us tonight, and thank you to everyone for participating and attending on behalf of the Council for Court Excellence and the Office of the D.C. Auditor. We don't have time for a formal Q&A, but if panelists want to stick around and if there are any questions that attendees want to drop in the chat or in the Q&A box, we can unmute and ask those.

Question & Answer

Ms. Tatro: I saw one question in the chat: how would local control of parole, that is, abolishing the U.S. Parole Commission and having some form of a parole authority here in D.C., change the racial disparities? And how could that affect how using marijuana impacts people who are on active supervision?

Ms. Adesuyi: Local control over parole was actually something that Mendelson's team was looking to address, but they couldn't because of the scope. Once D.C. does have control over the parole system, we'll have more power to reform it and make sure that people are no longer impacted by marijuana consumption while on parole. But Mendelson's bill does include language around probation, which is something that we can do given that D.C. does have some local control over our probation system.

Mr. Grosso: Yeah. I think this is a core question around statehood as well. Obviously, we would need to take back control of the courts entirely at some point as well. And local control of parole is one step towards doing that, which could have a real impact because we could then begin to pass policy through Council at the local level and the mayor's office to change the way that parole people are taken care of. Emily, you know more about that than we do; why don't you weigh in?

Ms. Tatro: I think we absolutely need to be able to make our own rules, right? About anything and especially about this. There are too many people who are incarcerated at the D.C. Department of Corrections (DOC) right now because of violations of probation or parole, mostly for technical (rather than substantive) violations, and the vast majority of those technical violations are due to dirty drug tests. I absolutely know people in D.C. who have been pulled back into incarceration just for marijuana, and it has a huge impact on people's lives.

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Biographies

Queen Adesuyi, *Drug Policy Alliance*

Queen Adesuyi is a policy manager at the Drug Policy Alliance's (DPA) National Affairs office in Washington, D.C., where she works to advance several of DPA's legislative priorities on the federal level, including marijuana legalization with a racial justice focus, drug decriminalization, and eliminating collateral consequences for drug use and previous convictions. She also advocates for equity/racial justice in plans for the District of Columbia's emerging marijuana industry, in addition to advancing overdose prevention measures and harm reduction in the District.

While at DPA, Ms. Adesuyi saw through the introduction of the Marijuana Justice Act, Congress' first marijuana reform bill that addressed racial justice and justice reform issues. She helped convene and co-leads the Marijuana Justice Coalition. Under her co-leadership, the Marijuana Justice Coalition has worked on the introduction and the historic passage of the Marijuana Opportunity Reinvestment & Expungement (MORE) Act by the U.S. House of Representatives in the 116th Congress.

Ms. Adesuyi, a first-generation Nigerian-American who hails from the Morris Heights section of the Bronx, is an alumna from Georgetown University, where she majored in American Studies. Prior to joining DPA, Adesuyi worked with the Georgetown University Prisons and Justice Initiative and the National Reentry Network for Returning Citizens.

Martin Austermuhle, *WAMU 88.5 & WAMU.org*

Martin Austermuhle is a reporter in WAMU's newsroom. He covers politics, development, education, social issues, and crime, among other things. Austermuhle joined the WAMU staff in April 2013 as a web producer and reporter. Prior to that, he served as editor-in-chief for DCist.com. He has written for the Washington City Paper, Washington Diplomat and other publications.

Born in Switzerland, Austermuhle lived throughout Latin America before coming to the U.S. to attend Pennsylvania State University. He received a master's degree in Latin American Studies from Georgetown University. He lives in the Washington neighborhood of Michigan Park with his wife Carolina, a school teacher, and their two daughters.

Corey Barnette, *Kinfolk Dispensary & District Growers LLP*

Corey Barnette is the founder and Chief Executive Officer of District Growers, LLC, a licensed full service grower and producer of cannabis, cannabis concentrates and cannabis-infused products. Mr. Barnette is also the owner of Metropolitan Wellness Center, a licensed full service dispensary in Washington, D.C. Both District Growers and Metropolitan Wellness were ranked in the top 100 cannabis businesses in the cannabis industry by Cannabis Business Executive Magazine in 2015 and 2016. Having operated dispensaries and cultivation operations since 2008, Mr. Barnette has extensive experience designing, securing, operating and expanding licensed cannabis operations.

Previously, Mr. Barnette served as the Director of the nonprofit San Diego Medical Collective, founded and served as the Director of Chi Holistic Collective, owner and operator of Primary Physicians Research, and Vice President of the Small Enterprise Assistance Funds. Mr. Barnette received an MBA from Duke University's Fuqua School of Business and a Bachelors of Science of Mechanical Engineering from Tennessee Technological University. Finally, he is a proud husband to his wife and father to his ten year-old and twelve year-old daughters.

David Grosso, *Arent Fox LLP*

David Grosso is a partner at Arent Fox LLP. At Arent Fox, Mr. Grosso provides practical guidance to clients in businesses where the federal and District of Columbia governments intersect. Previously, Mr. Grosso served on the D.C. Council as an at-large member, representing residents in all eight wards. Mr. Grosso chaired the Education Committee and sat on several other committees, including Finance & Revenue; Human Services; Health; Transportation and the Environment; Judiciary; Labor and Workforce; Government Operations; and the Committee of the Whole. His efforts resulted in historic progress and fundamentally changed how D.C. schools prepare students to succeed, how District families balance their work and home lives, and how the D.C. government and elections operate more ethically.

Mr. Grosso has also previously served as chief counsel to Congresswoman Eleanor Holmes Norton and as CareFirst BlueCross BlueShield's Vice President of Public Policy. He currently serves on the Board of DC SCORES and on the Advisory Committee for the Georgetown Project on State and Local Government Policy and Law.

Emily Gunston, *D.C. Office of the Attorney General*

Emily Gunston serves as Deputy Attorney General for Legislative Affairs and Policy at the Office of the Attorney General for the District of Columbia. She advises the Attorney General and Chief Deputy Attorney General on a range of policy and legal matters and has primary responsibility for the office's legislative and intergovernmental efforts. Ms. Gunston previously served as Deputy Legal Director at the Washington Lawyers' Committee for Civil Rights and Urban Affairs where she directed the Committee's criminal legal system reform work. In that role, she developed and led complex civil rights lawsuits and engaged in policy advocacy in the areas of police accountability, prison conditions, parole and compassionate release, and the criminalization of poverty.

Prior to joining the Committee, Ms. Gunston served for nine years in the U.S. Department of Justice's Civil Rights Division where she helped lead the Division's group conducting pattern or practice investigations of police departments. Ms. Gunston led the investigations of the Chicago and Cleveland police departments and the enforcement of the agreement to reform the New Orleans Police Department.

Ms. Gunston began her career as a public defender in Contra Costa County, California, where she tried over 40 cases. She received her law degree from the University of California, Berkeley and her bachelor's degree from the University of Maryland, College Park.

Crystal Marshall, Community Family Life Services Speakers Bureau

Crystal Marshall is a member of the Community Family Life Services (CFLS) Speakers Bureau. Ms. Marshall is a passionate advocate for women returning from periods of incarceration. As a formerly incarcerated LGBTQ woman, she uses her experience to empower people returning from incarceration and direct community resources to the needs of formerly incarcerated people. Ms. Marshall has previously served as a workforce development specialist at the DC Central Kitchen. Ms. Marshall has also been a guest on the One in Four podcast (S2 E1) and spoken at the More than Conference: Anyone can be an Advocate Workshop and October 2020 CFLS Women Centric Criminal Justice Discussion. She has also testified before D.C. Council and was featured in a Get out the Vote video.

The CFLS Speakers Bureau allows women to speak professionally on their lived experiences. Through the Speakers Bureau, CFLS provides a platform for survivors of trauma such as domestic violence, human trafficking, and incarceration to learn public speaking skills, progress in their healing journey, and become agents of change. Members of the Speakers Bureau, such as Ms. Marshall, communicate their lived experiences to educate lawmakers, service providers, law enforcement, nonprofits, private organizations, and community stakeholders.



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