



## **Nevada County Cannabis Equity Assessment**

Abstract: The legalization of cannabis creates remarkable business opportunities in the future, however not everyone who has made a living in the past is able to thrive in the legal industry. The California Center for Rural Policy (CCRP) and the Humboldt Institute for Interdisciplinary Marijuana Research (HIIMR) at Humboldt State University collected primary and secondary data to create the cannabis equity assessment. The assessment provides a summary of data and recommendations for a local equity program that will provide assistance to community members that experienced harm from decades of criminalization of cannabis and poverty to support their successful participation in the legal cannabis industry in Nevada County.

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## **Section 1. Executive Summary**

The California Center for Rural Policy (CCRP) at Humboldt State University (HSU) partnered with Nevada County and the Board of Supervisors to create a Nevada County Cannabis Equity Assessment (CEA) to:

- Provide a data-informed look at the history of impacts of poverty and cannabis criminalization on the community.
- Provide policy recommendations to guide the county in the development of a Local Equity Program to help community members most impacted by criminalization and poverty to enter and thrive in the legal cannabis workforce.
- Make recommendations for future research that will help assure that there is equity and diversity in the emerging cannabis industry.

In order to accomplish this, CCRP collaborated with the Humboldt Institute for Interdisciplinary Marijuana Research at HSU and Nevada County stakeholders to create the CEA.

The Board of Supervisors has authorized staff to create, and update as needed, the Nevada County Cannabis Local Equity Program which will be informed by the results of this study. Nevada County is committed to including equity as a key consideration as the state of California transitions the cannabis industry to legal status. Nevada County needs an equity program that makes sense for residents and considers the unique needs and assets of the community.

### 1.1 Key Takeaways from the Equity Analysis

- Nevada County has a deep history of cannabis criminalization as a significant hub for countercultural “back to the land” migration and attendant cannabis cultivation in the 1970s especially to the remote San Juan Ridge, which to this day has especially high rates of rural poverty.
- The county was one of the first California jurisdictions subject to militarized aerial surveillance and eradication efforts in the early 1980s.
- The county was subject to relatively less CAMP eradication focus in the late 1980s and 1990s, attracting migration from other parts of the state, especially the Emerald Triangle, where eradication was more intense.
- Law enforcement eradication efforts increased briefly in the mid 1990s but receded substantially between 1996 and 2011. This allowed communitarian (nonprofit and organic) medical cannabis activity to flourish but also created a ripe environment for commercial, profit-oriented cannabis activity to proliferate.

- The ubiquity of cultivation throughout the county combined with the statewide law enforcement reaction against a new Green Rush associated with the commercialized medical cannabis cultivation, distribution, and retail created conditions for political reaction focused on excluding commercial cannabis activity rather than a move towards sensible regulation that could accommodate communitarian cannabis livelihoods.
- Between 2011 and 2016, the county passed highly restrictive ordinances, eventually moving to ban all outdoor cultivation by initiative in the county and the politics of reaction in the county were derived especially from Homeowner Associations. Noncommercial medical cannabis activists led efforts to resist the county's characterization of all county cannabis cultivation as commercial, with limited success.
- Noncommercial medical cannabis activists were targeted in the subsequent crackdown, which was especially intense between 2013 and 2016. Allegations of unprofessional and sometimes illegal enforcement practices are supported by significant court cases and news reports.
- The crackdown, in combination with a wholesale cannabis price crash during this same time period, created significant hardship especially for small-scale cultivators in the county.
- The political climate shifted dramatically after the Board of Supervisors' proposed outdoor cultivation ban was rejected at the ballot box. After which, the county worked with a new trade association, the Nevada County Cannabis Alliance, to establish workable regulations in the new environment, as legalization loomed.
- The new regulations established Nevada County as one of the smallest scale cultivation permittees in the State, meaning that anyone transitioning to legal cannabis cultivation in the county was doing it for livelihood reasons rather than wealth accumulation. This fit the communitarian, and later nonprofit, ethos of the county's legacy countercultural and medical cannabis communities.
- The county has a substantial population with cannabis cultivation, breeding and medical product formulation expertise but minimal formal education or experience in the formal economy, with few job prospects outside of regulated or unregulated cannabis markets.
- The county's unregulated cultivation landscape, which remains substantial, has a mix of small, medium and large-scale cultivation that has attracted local youth with little formal education, under conditions of rural poverty and weak non-public sector economic development.
- Challenges facing legacy cultivators in Nevada County are similar to those found in other rural counties: they may own land, but lack the capital needed to make that land's infrastructure compliant with modern building, road, water and other codes. Infrastructure improvements through permitted cannabis cultivation would provide a net collective benefit to the county's historically unpermitted and underdeveloped infrastructure. The land they own may also not be compliant with new zoning related to legal cannabis.

- Between 2010-2019, drug offenses made up 26.2% of all felony arrests in Nevada County. This translates to an average of 201 drug-related arrests per year over a ten-year period.

## 1.2 Key Findings/Recommendations

For the complete set of findings and recommendations, please see Section 7.

**Finding #1: Equity program eligibility factors should focus on specific targeted populations. There are generally applicable eligibility criteria, and Nevada- County-specific eligibility criteria. Eligibility criteria should link to equity assessment data wherever possible.**

Specific recommended eligibility criteria are included in Section 7. Generally, eligibility criteria can include:

- Low income status and/or demonstrated financial need.
- Conviction history associated with non-violent cannabis related offenses.
- Immediate family member with a conviction history associated with non-violent cannabis related offenses.
- Residency consideration.
- Ownership consideration.
- Geographic consideration.
- Past Participation in the Caladrius Network, Nevada County’s historic medical cannabis network for children with catastrophic illnesses.

**Finding #2: Ensure that applicants meeting equity program eligibility factors have adequate opportunity to take advantage of the program. Consider incentivizing ongoing support for equity applicants.**

- Prioritization: Consider a prioritized permit process for equity applicants.
- Ratios: Consider mandating a requisite number/percentage of equity applicants during permitting.
- Provisional Approval: Consider allowing for provisional approval of permits to allow equity applicants to overcome financial barriers. Provisional approval may provide potential investors with more certainty and willingness to provide capital investments.
- Amnesty Program: Consider developing pathways such as an amnesty program to encourage existing nonconforming businesses (such as small operators who qualify as equity applicants) to transition to the legal market.

**Finding #3: All peer jurisdictions who have implemented adult-use cannabis require data collection to understand the impact of the industry.** Consider tracking data on general and equity applicants on an ongoing basis to measure the success of the equity program.

**Finding #4: Create specific services/programs for equity applicants that address/mitigate barriers to entering the legal cannabis market.** Specific recommendations are included in Section 7.

**Finding #5: Nevada County should consider the creation of an incubator program that can connect equity stakeholders with experienced permit seekers or license holders.** Specific recommendations are included in Section 7.

**Finding #6: Nevada County should consider utilizing cannabis tax revenue to ensure that county staff managing cannabis permitting are at full staffing levels and are trained and educated on the cannabis permitting process.**

**Finding #7: Nevada County staff should explore and promote a diversity of permit types in addition to cultivation.** Nevada County has a history strongly linked with cannabis cultivation. Currently 100% of permits in Nevada County are for cultivation. However, the legal industry offers many other permit types in addition to cultivation. Other successful business opportunities with less barriers could be easier for disadvantaged populations to create. A local equity program that helps legacy cultivation participants should address cultivation but may add much more local ownership opportunities for equity stakeholders that can diversify the County's legal cannabis license landscape.

**Finding #8: Cannabis revenues can be directed to community reinvestment programming to rebuild/restore communities adversely affected by the past criminalization of those involved in the cannabis industry.**

**Finding #9: All cannabis operators should provide equitable employment opportunities.** These opportunities should include hiring those with past non-violent cannabis convictions, local residents, and other historically-disadvantaged populations, and providing a living wage to employees.

**Finding #10: Update the Nevada County Equity Assessment and use it to inform improvements to the Local Equity Program every 3 years afterwards to:**

- 1) monitor and share progress of the Equity Program,
- 2) monitor and share trends in the emerging legal cannabis industry,
- 3) identify areas for course correction and/or unexpected consequences, and
- 4) demonstrate an ongoing commitment to data-informed decision making and strategic planning to ensure Nevada County's strong transition to a legal cannabis industry.

**Finding #11: Nevada County should explore how to connect local equity applicants with equity applicants in surrounding counties to create links between cultivators and distributors.**

## **Section 2. Background**

In 2018, the State of California enacted SB 1294 (Bradford) the California Cannabis Equity Act. The purpose was to ensure that persons most harmed by cannabis criminalization and poverty be offered assistance to enter the multibillion dollar cannabis industry as entrepreneurs or as employees with high quality, well-paying jobs.

According to SB 1294, “during the era of cannabis prohibition in California, the burdens of arrests, convictions, and long-term collateral consequences arising from a conviction fell disproportionately on Black and Latinx people, even though people of all races used and sold cannabis at nearly identical rates. The California Department of Justice data shows that from 2006 to 2015, inclusive, Black Californians were two times more likely to be arrested for cannabis misdemeanors and five times more likely to be arrested for cannabis felonies than White Californians. During the same period, Latinx Californians were 35 percent more likely to be arrested for cannabis crimes than White Californians. The collateral consequences associated with cannabis law violations, coupled with generational poverty and a lack of access to resources, make it extraordinarily difficult for persons with convictions to enter the newly regulated industry.”

“Cannabis prohibition had a devastating impact on communities across California and across the United States. Persons convicted of a cannabis offense and their families suffer the long-term consequences of prohibition. These individuals have a more difficult time entering the newly created adult-use cannabis industry due, in part, to a lack of access to capital, business space, technical support, and regulatory compliance assistance.”

“It is the intent of the Legislature in enacting this act that the cannabis industry be representative of the state’s population, and that barriers to entering the industry are reduced through support to localities that have created local equity programs in their jurisdictions.”

“In order to accomplish this goal, SB 1294 created a fund for local jurisdictions which have created cannabis equity programs to apply for funding to assist local equity applicants and local equity licensees gain entry to and to successfully operate in the state’s regulated cannabis marketplace.”

### Section 3. Overview

Located in the northeastern region of California, Nevada County has a population of 99,755<sup>1</sup>. Approximately 32% of the population lives in Truckee, Grass Valley, and Nevada City, the three incorporated areas of the County. The remaining majority of 68% live in outer unincorporated areas of the County.<sup>2</sup> Nevada County includes the following residential zip codes: 95945 & 95949 (Grass Valley), 95946 (Lake Wildwood), 95959 (Nevada City), 95724 (Norden), 95960 (North San Juan), 95975 (Rough And Ready), 95977 (Smartsville), 95728 (Soda Springs), 96161 (Truckee), 96111 (Verdi), and 95986 (Washington).

Nevada County has a land area of 958 square miles. The county is rural and is mainly known for its historical significance as the heart of the California Gold Rush of 1848. According to the *2018 Nevada County Economic and Demographic Profile*, nearly half of the reported earnings of the County derived from the government, construction, or health care sectors. Nevada County's population has a median age of 50.1 years and a median household income of \$63,240 for 2018. For comparison purposes, the 2019 median household income of California is \$80,440.

According to the U.S. Census Bureau (2019), 84.7% of the population identifies as White, 9.8% of the population identifies as Hispanic or Latino, 1.3% of the population identifies as American Indian and Alaska Native, and 3.1% identifies as Two or More Races. In addition, 1.5% are Asian, 0.6% are Black or African American, and 0.2% are Native Hawaiian and Other Pacific Islander.

The past criminalization of cannabis adversely impacted communities in Nevada County in a manner unique to its location and as an area with historic countercultural cannabis cultivation and, post-1996, legacy medical cannabis advocacy, cultivation, breeding, and product formulation area. Nevada County has a disproportionately large demographic of people with requisite knowledge and skill to otherwise succeed in the market, especially as medicine makers and small-scale organic cultivators, and contribute to the county's long-term economic development. Cannabis legalization presents a challenge and an opportunity for thousands of skilled cannabis market actors in Nevada County. They have the experience and knowledge to succeed legally, but they lack the means to overcome barriers to entry and contribute formally as successful members of a regulated future.

The legalization of commercial medical and adult use cannabis in California has dramatically shifted the economic climate for small-scale organic and medicinal cannabis stakeholders that Nevada County is known for. Without significant changes in, and support for what is now significantly a multigenerational local cannabis industry, the county economy and population is

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<sup>1</sup> <https://www.census.gov/quickfacts/nevadacountycalifornia>, accessed January 18, 2021.

<sup>2</sup> Nevada County Executive Office. *2016-2017 Nevada County, California Demographic Report*.

at risk of suffering irreparable harm. A cannabis equity program presents an important opportunity to create an environment where those adversely affected by past policies can operate and thrive in a legal manner.

The Board of Supervisors has authorized staff to create and update as needed the Nevada County Cannabis Local Equity Program, informed by this study. The County of Nevada and CCRP will create a Cannabis Local Equity Program that will use local funding as well as grant funding from the State of California to assist local equity applicants and licensees through its local equity program for commercial cannabis activity.

The County of Nevada intends to adopt the Nevada County Local Equity Program Manual to focus on inclusion and support of individuals and communities in Nevada County's cannabis industry who are linked to populations or regions of the county that were negatively or disproportionately impacted by cannabis criminalization and poverty. Nevada County seeks to focus its local cannabis equity program on assisting smaller scale cannabis cultivators to overcome these barriers to entry, and to build support for long term economic vitality for the county.

These included an ever-widening segment of the local population looking for sustainable rural livelihoods, pathways out of rural poverty, as well as new actors that did not always share the ecological ethics and scale of the communities from which local cannabis livelihoods emerged. The county economy's long-term entanglement with cannabis cultivation created, however, a political and cultural infrastructure that is well-disposed to help traditional market participants transition to a sustainable future with help from an equity program focused on addressing rural poverty.

Nevada County has a disproportionately large cultivation population. In 2016, the County worked with the Nevada County Cannabis Alliance to produce an estimate of 3500 cultivation sites identified through aerial surveillance. The county therefore has a large demographic of people with requisite knowledge and skill to otherwise succeed in the market and contribute to the county's long-term economic development. Very few are currently attempting to transition to the legal market: at the time of this writing, 74 cultivation permits have been issued with 39 in process. Cannabis legalization presents a challenge and an opportunity for thousands of skilled cannabis market actors in Nevada County. They have the experience and knowledge to succeed legally, but they lack the means to overcome barriers to entry and contribute formally as successful members of a regulated future.

Nevada County seeks to focus its local cannabis equity program on assisting smaller scale cannabis cultivators to overcome these barriers to entry, and to build support for longer term

viability through activities such as formation of cooperatives for processing, distribution, and marketing, and for road maintenance associations.

Identified barriers to entry included: road infrastructure in particular, bottlenecks in the permitting process, business incubation, and abatement of provisionally permitted farms. These are discussed in more detail in Section 6.

The legalization of commercial medical and adult use cannabis in California has dramatically shifted the economic climate. A cannabis equity program presents an important opportunity to create an environment where those adversely affected by past policies can operate and thrive in a legal manner.

## **Section 4. Equity Analysis**

### 4.1 Methodology

The goals of the Nevada County Cannabis Equity Assessment (CEA) are to:

- Provide a data-informed look at the history of impacts of poverty and cannabis criminalization on the community.
- Provide policy recommendations to guide the county in the development of a Local Equity Program to help community members most impacted by criminalization and poverty to enter and thrive in the legal cannabis workforce.
- Make recommendations for future research that will help assure that there is equity and diversity in the emerging cannabis industry.

To achieve these goals, a combination of primary and secondary data sources were utilized for the report. Primary data was collected through interviews with key stakeholders in Nevada County. Interviews were conducted by phone and zoom. Approximately 40 interviews were conducted between June and December of 2020. Stakeholders represented the following sectors:

- Elected officials;
- Local government departments engaged in cannabis-related work;
- Private stakeholders (non-cannabis);
- Cannabis special interest groups;
- Lawyers with expertise in cannabis-related cases;
- Communities impacted by cannabis criminalization;
- Law enforcement.

In addition, secondary data was reviewed and analyzed from a variety of sources, including data provided by the County of Nevada and publicly available data related to cannabis. County-specific secondary data sources reviewed by CCRP included:

- Nevada County Economic & Demographic Profile, 2018.
- 2019 Community Health Needs Assessment/Community Health Assessment of Nevada County.
- Nevada County Cannabis Conversations.
- Annual Cannabis Permit Renewal Application.
- Cannabis Administrative Development Permit Application Packet.
- Commercial Cannabis Permit Application Packet.
- Final CAG Report, 2018.
- Nevada Cannabis Background Timeline, 2018.
- Final Environmental Impact Report Vol. I & II, 2019.
- Nevada County Ordinance No's.
  - 2339, 2349, 2405, 2416, 2447, 2450, 2456, 2464, 2465, 2467, 2470, 2476.

## 4.2 Historical Context of Cannabis Criminalization in Nevada County

The past criminalization of cannabis adversely impacted Nevada County communities in a manner unique to its location as a legacy cultivation area dating from the “back to the land” movement of the 1960s and 1970s, shaped by the world-renowned countercultural pioneers of the organic and natural foods movement that settled there; and a well-documented center of medical cannabis activism, breeding, cultivation and medicinal product formulation since 1996. There is some generational overlap in the two populations but both were directly impacted by distinct periods of intensified law enforcement. Indirectly, legacy organic and medical cannabis operators were also far less, if at all, profitable than those who pushed the envelope during California’s medical cannabis era, leaving them without the financial means to transition into the legal market. This group of stakeholders is also significantly more female by demographic, and if they do own land, they often do not own enough of it to qualify for County cultivation zoning, which starts at five acres.

Nevada County was also adversely impacted by direct and indirect impacts of criminalization shared by other rural Northern California counties that experienced decades of economic decline following periods of intense resource extraction. Cannabis cultivation created significant opportunities for segments of Nevada County’s rural poor, often descended from Gold Rush mining families, who were otherwise mired in multigenerational poverty. These stakeholders are concentrated in the poorest parts of the County, which include but are not limited to the San Juan Ridge, Grass Valley, and Penn Valley. Without a pathway into the legal market, they face an unsustainable future.

Like other rural communities, all potential stakeholders dealt with significant indirect impacts of cannabis criminalization: a significant “Green Rush” between the mid-2000s and 2016 consisting of a wide array of new migrants many of whom came with speculative rather than communitarian intent. Many of the new settlers came for similar reasons to those of the first countercultural migration, and many came to grow cannabis with mostly commercial intent. These speculative interests drove up rural real estate prices and made poor-enough neighbors to spark a political and law enforcement backlash against any kind of cannabis cultivation in the County. The rural Green Rush went bust between 2015 and 2018, due to rapidly declining wholesale cannabis prices. The new commodity bust, combined with a brief but intense increase in law enforcement activity that swept small-scale and medical actors up in a reaction to the proliferation of large-scale, commercially oriented actors in the area. Therefore, the financial costs of becoming compliant were and remain especially challenging in rural areas, where the path to compliance runs through the challenge of modernizing building and road infrastructure that is generally at least 50 and sometimes more than 100 years old.

In this narrative, we identify direct and indirect impacts to Nevada County’s communities in three parts. The first part reviews the emergence and development of criminalized cannabis markets in the County in a deep historical context (1960s-1996; and 1996-2007). The second part reviews the modern history of cannabis criminalization and its impacts on medical cannabis communities between 2007 and 2016. The third part reviews the dramatic reversal of County cannabis politics and attitudes towards using criminal law enforcement to gain compliance with civil codes in 2018, when the County ended its practice of involving law enforcement with code compliance, effectively decriminalizing cannabis regulation in the County.

### Part I: Countercultural roots of cannabis cultivation communities and their criminalization in Nevada County (1960s-1996; and 1996-2007)

The deep history of cannabis cultivation communities in Nevada County started, as it did in other rural California legacy cultivation counties, with the emergence of the “back to the land” movement which in Nevada County was centered on the remote backroads of the San Juan Ridge. The back to the land movement was an element and offshoot of the turbulent 1960s, when countercultural elements of the anti-war movement became political targets of “law and order” politics pioneered by Richard Nixon nationally and Ronald Reagan, who was governor of California at that time.

The “law and order” playbook initiated by the Nixon administration in the early 1970s used the broad criminalization of drugs to selectively repress political dissidents and people of color. Anti-war hippies had become political targets of the Nixon administration, grouped with people of color through the drug war as scapegoats to gain political capital. This was explicitly spelled out in 1994 by former Nixon aide John Ehrlichman in an interview with journalist Dan Baum:

We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news.<sup>3</sup>

The criminalization of cannabis by the Nixon Administration required a new legal approach, given that the Supreme Court ruled the 1937 Marijuana Stamp Act unconstitutional in 1969. Nixon accomplished this by provisionally placing cannabis in Schedule I of the 1970 Controlled Substances Act, as a controlled substance with high potential for abuse and no medical value. The provisionality of the placement became permanent when the president refused to accept the 1973 recommendation of the Shafer Commission, the commission he appointed to study the matter, that cannabis be decriminalized. This is especially relevant for Nevada County, since its

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<sup>3</sup> Baum, Dan. “Legalize it All.” *Harper’s Magazine*. April 2016.

activist communities became renowned in the early 2010s for breeding and formulating medicinal cannabis for children with catastrophic medical conditions, and experienced direct law enforcement impacts as a result. The County's medical cannabis actors contributed significantly to materially challenge Nixon's 40-year old medical basis of cannabis criminalization in the state, and the country.

Nixon's War on Drugs used the criminalization of ethnic and countercultural minorities to gain political power, not simply by disrupting their communities but by stirring up a moral panic against his critics through the use of mass media. This playbook was so successful that it was adopted by a bipartisan generation of politicians that institutionalized the drug war and drove the expansion of police budgets, asset forfeiture, joint and local task forces dedicated to crop eradication in rural areas, no-knock raids, and a historically unprecedented expansion of the criminal justice system. The most significant waves of criminalization, nationally, emerged well after the Nixon administration, through bipartisan national "tough on crime" legislation passed in 1984, 1986, and 1994 during the Reagan and Clinton administrations. In the 2000s, a new law enforcement orthodoxy called "broken windows" policing intensified the use of low-level cannabis arrests, especially against people of color in urban areas.

Since the publication of Michelle Alexander's book *The New Jim Crow* in 2010, the general public has become aware of the political, rather than rational, foundation of the drug war through its racially disproportionate impact, particularly in urban areas. In rural California counties such as Nevada County, the war on cannabis disproportionately impacted populations associated with two expressions of hippie counterculture: environmentally activist homesteaders and later, noncommercial medical cannabis activists and small-scale medical cannabis producers, processors and distributors. These communities historically experienced two kinds of direct cannabis criminalization impacts: exposure to law enforcement and exposure to criminal elements that located in remote rural areas to extract prohibition profits by growing large-scale, often with little regard for the environment. Indirectly, multigenerational cultivators and later waves of environmentally sensitive migrants were caught up in enforcement practices that did not always distinguish between commercial extractivists and homestead livelihood cultivators embedded in local communities.

In Nevada County, this story played out especially clearly on the San Juan Ridge, one of the poorest and most remote parts of the jurisdiction that became known for its environmental activists and, relatedly, anti-industrial organic agricultural practices. In the 1970s "The Ridge" became home to one of the literary stars of the 1960s counterculture, Pulitzer Prize-winning poet Gary Snyder<sup>4</sup>, as well as one of the pioneers of the national organic food movement, "Amigo"

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<sup>4</sup> Snyder originally bought his property with two land partners, one of whom was Allan Ginsburg, an even more famous poet who organized the first cannabis legalization demonstration in 1964 and founded the first legalization organization in the United States, LEgalize MARijuana (LEMAR).

Bob Cantisano. Snyder helped form the San Juan Ridge Taxpayers Association in 1975, whose primary purpose was to keep mining out of the area. Cantisano's influence on the national natural and organic foods market was chronicled in the *New York Times* in 1996.<sup>5</sup> By the 21st century, Nevada County was a hub for deep ecology literature and the arts; environmental activism; and organic farming practices, attracting a new generation of migrants that shared these countercultural values as well as an affinity for cannabis cultivation as a cash crop that allowed many to pursue their otherwise low-impact, eco-friendly homesteading livelihoods.

In the 1980s, cannabis cultivation was absorbed into the wider culture, as deeply historical local families that had been employed in declining extractive industries, particularly mining, adopted the practice. Historian Ray Raphael described an experience common to rural legacy cannabis cultivation counties as “a phenomenon that is common to the American experience: the melting-pot syndrome<sup>6</sup>.” Cannabis cultivation as a livelihood strategy, and sometimes more, became much more common across the County in the absence of other economic opportunities. In the remote rural town of North San Juan, cannabis revenue built enduring community institutions such as the school, the library, the volunteer fire department, and environmental nonprofits. Although countercultural and legacy mining families alike engaged in livelihood cultivation, one interviewee noted that the children of the former tended to go off to college while the children of the latter tended not to attain levels of educational attainment that could help them into alternative livelihoods. To this day, the Ridge is socioeconomically diverse, home to extreme poverty and relatively gentrified homesteads alike.

According to a local defense attorney who arrived in 1986, California's earliest cannabis eradication efforts combined with local law enforcement had already disrupted local communities who had their “homes taken, livelihoods destroyed.” A culture of fear and secrecy developed in cultivation communities, especially on the Ridge. One of our interviewees, a neighbor of Snyder's on the Ridge from an old mining family in the region, recalled growing up in the 1980s around cultivation: “People's parents would do it around me. When they started their meager cultivation, they would tell me to not tell anyone. As children, we were living in fear for a tiny bit of cannabis ... I was so scared; we grew up in fear of it [enforcement]. But also knowing it was putting food on the table.” Her stepfather, who she recalled seeing being chased by law enforcement, was incarcerated in the 1990s for felony cultivation.

Another interviewee who graduated in 2002 from Nevada Union High School recalls first identifying a cannabis plant in his mother's personal garden as a pre-teen. She was president of the Nevada County Bar Association at the time. He recalled a narcotics sting at his high school in

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<sup>5</sup> Klinkenborg, Verlyn. 1996. “Amigo Cantisano's Organic Dream” *New York Times* March 10, page 48. Url: <https://www.nytimes.com/1996/03/10/magazine/amigo-cantisano-s-organic-dream.html>, accessed December 16, 2020.

<sup>6</sup> Raphael, Ray. “Green Gold and the American Way.” Chapter 12 in *West of Eden: Communes and Utopia in Northern California*, p 193. Oakland: PM Press.

2000, which mostly caught “kids of lower income.” This correlates with a common impression given by interviewees who lived in Nevada County during that time: the enforcement environment between 1996, when Proposition 215 passed, and the mid-2000s was not intense across the county but it tended to be concentrated in areas of poverty like the Ridge and Grass Valley, disproportionately focused on people of lower income.

The current Nevada City Police Chief also grew up in Nevada County and confirmed the underground “open secret” nature of cannabis markets before the mid 2000s.

It was still clandestine in Nevada County as opposed to what it is today ... When I got into my law enforcement job in 2005, it was part of the culture and all in the streets ... unless it was a big cultivation amount, we didn't really enforce it.

The Police Chief, who emphasized the connection between intergenerational poverty and cannabis criminalization, also identified Grass Valley, Penn Valley, and small towns like North San Juan and Washington, as locations where the loss of blue collar jobs pulled youth into cannabis market activities.

In the 1990s, Nevada County also received a wave of migration, countercultural and otherwise, from areas of the state where CAMP activities were most intense. Efforts to evade detection drove cultivation indoors, using diesel generators off the grid; outdoors, to public land; in the shade; and even up trees to avoid detection. One of our interviewees who moved to Nevada County in 1991 to get away from the intensity of CAMP eradication in Humboldt and Mendocino Counties, was arrested shortly before Proposition 215 passed when hikers noticed wet spots on the ground beneath plants suspended from tree branches. The location was staked out, and he was caught, convicted for felony cultivation, and sentenced to several years at Lompoc Federal Penitentiary.

That said, the culture of secrecy, “blending in,” and use of remote areas for cultivation kept Nevada County under the radar relative to its Northern California peers. It rarely appeared in the CAMP reports, although according to our interviewees aerial surveillance followed by local task force action was not uncommon. The Nevada County Fire Marshall, a lifelong resident, could not recall any encounters with cannabis issues growing up. A local journalist, who arrived in 2008 to cover the law enforcement beat, was not initially aware of the significance of cannabis in the county until going up in a helicopter in a ride-along. One of our second generation interviewees who recalled periods of intense enforcement before 1996, described the early 2000s as a time when “there was more of a blind eye to it,” except for obviously commercial operations. “That’s when people started to move here,” they said.

Part II: Medical cannabis, the Green Rush (2007-2016), and law enforcement reaction (2011-2016)

Most of our interviewees agreed that Nevada County’s relatively lax approach to enforcement had the unintended consequence of attracting waves of new migration to the area, which began intensifying around 2007. Some were medical cannabis breeders and activists who, along with locals, developed significant access networks for catastrophic patients, including children with epilepsy. Some were the younger generation’s version of the original countercultural settlers, attracted to the country from the city to live off the land amongst and alongside environmental activism, organic farming, a vibrant art and music scene, and hippie values. Some were refugees from the 2007-2010 financial crisis, a common “push factor” in the explosion of commercial medical cannabis in California and across the country. Some were victims of gentrification, due to the explosive rise in the cost of living in the Bay Area and surrounding counties especially after the financial crisis. Some were cannabis cultivation veterans from other counties, pushed out by intensifying enforcement or pulled by Nevada County’s reputation as a less commercialized cannabis culture. Some were, as mentioned previously, speculative outsiders that bought or rented property especially in the County’s remote areas including the San Juan Ridge. Some were organized crime elements that grew on public lands, with significant environmental impacts.

The explosive growth in cannabis cultivation included all kinds of elements, including locals, as it did almost everywhere in California and indeed the West Coast, and like most other rural jurisdictions it prompted a political backlash from many including conservative demographics, especially from Homeowner Associations (HOAs), that partnered with local law enforcement and County Supervisors in a belated effort to defend the local order they saw as significantly disrupted by the ubiquity of outdoor cannabis gardens and associated odors that were increasing every season as they bloomed between August and November.

The political reaction was led by a Nevada County member of the Alta Sierra HOA who was also a founding Board member of Project SAM (Smart Approaches to Marijuana<sup>7</sup>). Project SAM is the leading national neo-prohibitionist organization in the United States, which to this day lobbies against cannabis legalization in the U.S. and more recently, internationally. The ubiquity of cannabis gardens as Nevada County cultivation moved out of its underground phase was said to threaten property values due especially to its strong odor. The Project SAM Board Member lobbied the County to push a Nuisance Ordinance, 2349, in 2011, with the support of the Sheriff who had recently been elected President of the California State Sheriff’s Association.

The sheriff introduced the ordinance as a “template” for regulating Prop 215 cannabis cultivation. The ordinance faced opposition, but was passed in May 2012, with stringent conditions for compliant rural and residential medical cannabis cultivation, respectively. Rural parcels were permitted to cultivate outdoors up to 150 square feet if they were under 2 acres; 300

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<sup>7</sup> <https://learnaboutsam.org>, accessed January 18, 2021.

square feet if between 2-5 acres; 400 square feet between 5-10 acres; 600 square feet between 10-20 acres; and 1000 square feet if over 20 acres. In residential areas, outdoor cultivation was limited to 75 square feet or six plants if the property was over 2 acres, and 6 mature plants in 25 gallon contiguous pots if under 2 acres. All parcels were allowed 100 square feet of indoor cultivation, maximum. It was a dramatic shift for the County, impacting owners of small parcels the most. The previous medical cannabis guidelines in the county allowed for 6 plants per patient, up to 6 patients (36 plants, or about 360 contiguous square feet), regardless of parcel size.

Opposition to the ordinance, and the general county shift against cultivation, was led by the Nevada County chapter of Americans for Safe Access (ASA), a struggle that was meticulously documented by Cornell University researcher Sara Keene in her doctoral dissertation<sup>8</sup> “Cultivating Illegibility: Governing the Margins of Rural Marijuana Production” (2017). Keene found that the landscape of County politics had, up until the ordinance, maintained a blind eye to cannabis cultivation as long as it stayed out of view in a way that allowed the County to reap the economic benefits of ubiquitous and deeply historic cultivation by its communities while maintaining a conservative public order that otherwise condemned cannabis market participation in prohibition terms, as an immoral drug if not in strict compliance with its fairly unrealistic new medical cannabis regulation. The Americans for Safe Access (ASA) chapter that fought the county’s ultimately utopian<sup>9</sup> regulatory efforts did so by staying, representationally, within the medical-good/drug-bad dichotomy, exclusive of the livelihood and often commercial character of the County’s cultivation markets.

The ordinance was strategically opposed, less because it was unrealistic and made little sense given how valuable cannabis was to so much of the County culturally and economically, but because it restricted patient access. The restriction of patient access was certainly true, as Keene and many of our interviews made clear. It lacked practical efficacy for several other reasons, though, given the prevalence of criminalized livelihoods it supported regardless of medical intention in the County. Politically, the ASA chapter represented the least economically successful elements of Nevada County cannabis: people who were doing genuinely nonprofit, compassionate work for very little or no pay. These were also the people that were willing to go public to resist totalizing representations of cannabis cultivation and people in the County as the work of bad criminals only interested in maximizing profits through untaxed commercial activity.

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<sup>8</sup> <https://ecommons.cornell.edu/handle/1813/47685>, accessed January 18, 2021.

<sup>9</sup> We use “utopian” here to signal the vast gulf between what the ordinance tried to do and the County’s ability to make that happen through abatement, given that so many permanent residents and community members were so far out of compliance.

The issue they were fighting, though, was the beginning of a process that would later tend to benefit those who did better, economically, when it came time to finance transition to the legal market; or those who did better economically and will never become compliant. It also lacked efficacy because it was fairly easy for the County to deny the community values (economic, environmental, cultural and medicinal) of the County's cultivation and declare it *all* bad for the County, despite its relatively enormous value to an otherwise poor, rural county, that was created by people with deeply ecological and communitarian values. It was easy to deny because what the Sheriff said was clearly not false: it was a partial representation of a situation that would get more and more intense across the State leading up to 2016, when wholesale cannabis prices plummeted, all but removing the profit incentive for cultivation especially at smaller scales.

The county created a marijuana task force set to work the next four years enforcing the nuisance ordinance in a more aggressive fashion. Although enforcement was supposed to be complaint-driven, we interviewed multiple people who alleged encounters with law enforcement seemed politically driven and legally questionable. The most clear example of this, with respect to ASA activists involved in nonprofit medical cannabis activities, was the arrest of a key volunteer advocate<sup>10</sup> in September 2014, who was beaten badly and accused of resisting arrest. The charges were later dismissed.

The advocate, a co-founder and the vice-chair of the ASA chapter, was a Department of Defense engineer who became a medical cannabis activist in the late 1990s when his wife developed an aggressive form of cancer, soft tissue sarcoma, that caused her to lose a third of her body weight. Cannabis, said the advocate, was “the only thing that helped her” sleep and eat. She died in 2000, but the experience made him a devoted medical cannabis activist. The advocate's professional job supported his volunteer, unpaid work cultivating and cloning high CBD<sup>11</sup> chemotypes for many of Nevada County's patients. He was especially involved in what would later become the Caladrius Network, a group of medical cannabis activists led by a parent whose young son suffered from a rare, catastrophic form of epilepsy called Lennox-Gastaut Syndrome that at the time was causing over 2,500 seizures a month. The advocate worked with the parent to identify cannabinoid and terpene cultivar profiles tailored to the son's condition as well as those of many other catastrophic patients.

Shortly after publicly clashing with the Sheriff at an HOA meeting, the advocate said he was woken up by “nine guys with AR-15s” pounding on his door saying they had a search warrant. According to him, the advocate stepped outside and asked to see the warrant. The officers responded that they didn't need a warrant. According to him, when he insisted that they did and

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<sup>10</sup> Hecht, Peter. May 31, 2016. “The Silas Project.” *The Sacramento Bee*. <https://www.sacbee.com/news/local/health-and-medicine/article80497572.html>, accessed January 18, 2021.

<sup>11</sup> Cannabidiol (CBD) is the second most common cannabinoid found in cannabis plants, after tetrahydrocannabinol (THC). “High CBD” refers to cultivars that contain at least an equal ratio of THC:CBD, and often contain only trace amounts of THC at all.

tried to go back inside to get his phone to document the encounter, he was accused of resisting arrest, slammed to the concrete and beaten with batons. According to the advocate, they “entered the house, destroyed everything in it, dumped out every bag of flour, punched holes in the sheet rock” and found 500 small clones that were part of a non THC-dominant chemotype sift for the child with Lennox-Gastaut syndrome. These were destroyed as well. The charges were eventually dismissed, but the advocate lost his security clearance and therefore his job as a Defense contractor. The medical cannabis activist would later register 3500 voters for the 2016 Sheriff’s election, which he lost by about 3000 votes, according to the advocate.

During this time period, one Nevada County police officer became infamous for allegedly manufacturing search warrants and unprofessional conduct in the course of abatement against small scale cultivators, according to our interviews, leading many cases to be dismissed. The Nevada County District Attorney’s office opened an investigation into the officer’s conduct based on a case that emerged in 2015. When the DA’s office cleared the officer, the Assistant District Attorney resigned rather than sign off on that clearance<sup>12</sup>. The officer continued to be involved in controversial cases through 2017, after which he was reassigned from the narcotics task force.

Between 2012 and 2016, as cannabis cultivation surged throughout the county, the Sheriff worked with County Board members on an increasingly restrictive ordinance agenda. As the State legislature moved to regulate and tax medical cannabis cultivation in 2016, the County faced a choice: default to State regulations, or continue to try to put the cultivation genie back in the bottle. They initially chose the latter. This culminated in 2016, when the Supervisors ran an initiative for an ordinance, Measure W, that would have imposed a total ban on outdoor cannabis cultivation. The measure failed decisively, followed by the Sheriff’s failed bid for another term, and the County’s political climate towards cannabis shifted dramatically towards reforming local regulations in accordance with new State guidelines rather than prohibiting outdoor cannabis cultivation altogether.

### Part III: Enforcement in the leadup to legalization, and the County flips the script

The last major case associated with the officer above involved a medical cannabis cultivator, a member of the then-fledgling Nevada Cannabis Alliance (NCA) Board member who was involved in the Community Advisory Group formed to advise the County on post-2016 medical cannabis regulations. According to him, a day and a half after speaking up about the economic value of cannabis cultivation in the County, officers showed up at the gate to his parcel, saying they had a file on him and wanted to talk. The cultivator agreed to schedule a compliance check, per County ordinance. Shortly after that, while away from the property, he got a call from his

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<sup>12</sup> Riquelmy, Alan. “Candidate alleges problems in the DA’s office.” February 8, 2018. *The Union*. [http://cnpa.com/cja2018/print/2018\\_California\\_Journalism\\_Awards\\_Print\\_Division/General/05\\_Investigative\\_Reporting\\_\(DC\)/Fifth\\_Place\\_The\\_Union\\_5/Attachment\\_02.pdf](http://cnpa.com/cja2018/print/2018_California_Journalism_Awards_Print_Division/General/05_Investigative_Reporting_(DC)/Fifth_Place_The_Union_5/Attachment_02.pdf), accessed January 18, 2021.

employees: “five men in tactical gear who held them at gunpoint and bound them with zip ties before stealing about 40 totes of marijuana cola on the stem and a GreenBroz trim machine” (Kellar 2019<sup>13</sup>). As soon as his employees freed themselves, they called the cultivator, who called 911. According to the cultivator, the officer and another police sergeant showed up. Instead of investigating the home invasion and robbery, the officers told the workers to go home while they obtained a search warrant. According to the cultivator, whose paperwork was in order and was not charged, they failed to obtain a search warrant and instead “broke in and took 300 pounds of product as well as everything else.” The cultivator had been cultivating for the Caladrius Network as well as his own medical cannabis collective. The cultivator sued the County for damages, and the case is still in pending resolution at the time of this writing.

Since 2016, Nevada County has recognized and, by historical comparison, embraced the prospective economic value of small-scale<sup>14</sup> cannabis cultivation to the area. Its primary community partner in this effort has been the Nevada County Cannabis Alliance (NCCA), formed by stakeholders in search of livelihoods that did not have to fit into the increasingly restrictive box of Proposition 215’s nonprofit, strictly medical sphere of activity. Many, like the cultivator, had participated in the County’s medical activism especially through donations to patient networks organized by the ASA chapter. The advent of State efforts to regulate, and eventually legalize, commercial cannabis markets allowed those interests, which had been stigmatized with criminality for so long, to be represented in public. The Alliance represented a form of professionalization of cannabis advocacy in the County, representing commercial stakeholders, working with rather than against regulatory efforts.

The NCA is relatively unique in the California cannabis trade association landscape, demonstrating more-than-commercial values as it represents stakeholders trying to transition to the legal market. It is one of five legacy cultivation county/area<sup>15</sup> trade associations that make up Origins Council<sup>16</sup>, a group that promotes cannabis appellation marketing by celebrating values of compassion, small-scale livelihood production, and environmental responsibility associated first with the back-to-the-land movement that took root in rural areas of Northern California in the 1970s; consolidated in the compassionate practices that flowered after 1996; and remained alongside and entangled with the post-2007 Green Rush commercialization as well as the law enforcement reaction. Working with the NCA, Nevada County’s legal cultivation regulations created the smallest scale permits system in the State, allowing for 2500 square foot gardens on parcels between five and 20 acres, and 10,000 square feet on parcels over 20 acres. Law

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<sup>13</sup> Kellar, Liz. April 30, 2019. “Nevada County Sheriff’s Deputies Raided a Cultivator’s home after responding to a robbery. Now, they’re being sued.” *California County News*. <http://www.californiacountynews.org/news/2019/04/nevada-county-sheriff-s-deputies-raided-cultivator-s-home-after-responding-robbery-now>, accessed January 18, 2021.

<sup>14</sup> The County’s largest cultivation permit size is California’s smallest cultivation permit, 10,000 square feet.

<sup>15</sup> Trinity, Mendocino, Sonoma, Nevada Counties and Big Sur.

<sup>16</sup> <https://originscouncil.org>, accessed January 18, 2021.

enforcement has been removed from the abatement process completely, creating the State's first decriminalized code enforcement regime. NCA members that we spoke with were also often trained locally in organic farming practices, and all were deeply committed to minimizing potential environmental impacts associated with legal cultivation. Unlike many other trade associations in the State, the NCA offers a mentoring program to help those on the fence about applying and those struggling through the complicated process of becoming compliant.

But as is the case throughout California, stakeholders without the means to afford compliant property, upgrade antiquated roads and building infrastructures on existing properties, afford expert consultants to walk them through the permitting process, or even have the basic business training necessary to run a legal business, have slipped through the cracks. The owner of the only legal retail location permitted in the county<sup>17</sup>, struggles to find local products to stock his shelves. We spoke with half a dozen women, elders of the community, and newer migrants, whose primary interest was making medicinal products and doing patient education and outreach rather than cultivation, necessarily. Several of the women had become involved in medical cannabis through partnerships with landowning men that fell apart in the mid and late 2010s, when the market crashed and/or their partners decided not to try to transition.

The County's cannabis regulation runs through the Community Development Agency (CDA) now, instead of law enforcement, and it is staffed by a younger generation whose outlooks on cannabis are shaped by practical considerations rather than the stigma of cannabis criminalization. The County has not, however, formally addressed the legacy of cannabis in the area as a force for communitarian and environmental values. It also has not been focused on protecting and improving patient access, like most other jurisdictions in California since that time<sup>18</sup>. Legalization in this state has been primarily driven by the prospect of public and private revenue. Ironically, California used the legacy of medical cannabis when the COVID pandemic arrived, in spring 2020, to make sure cannabis revenue kept flowing, when it declared legal cannabis businesses essential since cannabis is used as medicine.

An equity program in Nevada County can begin the process of formally recognizing and empowering formerly criminalized stakeholders, particularly small scale cultivators facing capital barriers to entry outlined in Section 6 that are struggling in the permit process or discouraged from attempting to transition for financial reasons. They were disproportionately impacted by enforcement between 2012 and 2016, as well as indirectly impacted because they were financially left behind by a Green Rush that rewarded profit-oriented rather than

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<sup>17</sup> The retailer's shop won the single retail permit allowed in Nevada City. Retail locations are otherwise banned in unincorporated parts of the county and Grass Valley, at the time of this writing.

<sup>18</sup> "Surveyed patients [in California] continue to report concern over the inconsistent quality of medicine, limited supply of popular cultivar, and the high costs of medical cannabis, especially after taxes. This is causing many to turn to the illegal market for medicine." *Americans For Safe Access 2020 State of the States Report*, p. 56. Online document [https://american-safe-access.s3.amazonaws.com/sos2020/StateoftheStates20\\_Spreads.pdf](https://american-safe-access.s3.amazonaws.com/sos2020/StateoftheStates20_Spreads.pdf), accessed 12/20/2020.

communitarian behavior. There are other impacted populations in Nevada County that would also benefit from support to transition, for cultivation and other types of permits which the County lacks, especially manufacturing for medical products and specialized cultivation for medical cultivar breeding and nursery purposes. Our interviews indicated that women, in particular, with expert knowledge in medical product formulation, often lack the means and technical skill to secure such permits. In Nevada County, between 1980 and 2019, women were 25% more likely to be arrested for drug crimes compared with the rest of the state (see Figure 3). These stakeholders are particularly valuable to the county as vectors of communitarian, environmental, medicinal, and even spiritual values that seek a sustainable future rather than a commercial fortune. The equity program seeks to support small businesses struggling through the permitting process; stakeholders who participated in Nevada County’s substantive medical cannabis access networks; and the transition into legal markets of stakeholders with ecologically sustainable principles and practices that characterized the particular history of cannabis agriculture in Nevada County.

#### 4.3 Disproportionality and Drug Arrest Rates in Nevada County: Race, Gender, Age

Public data related to drug-related arrest rates was obtained from the California Department of Justice. Between 2010-2019, drug offenses made up 26.2% of all felony arrests in Nevada County. This translates to an average of 201 drug-related arrests per year over a ten-year period. Felony arrests for drug offenses went down starting in 2015 and those trends continued through 2019, the last year for which data is available.

### Felony Arrests for Drug Offenses per 100,000 people in Nevada County and California, 2010-2019

Source: OpenJustice Crime Statistics: Arrests, 2010-2019

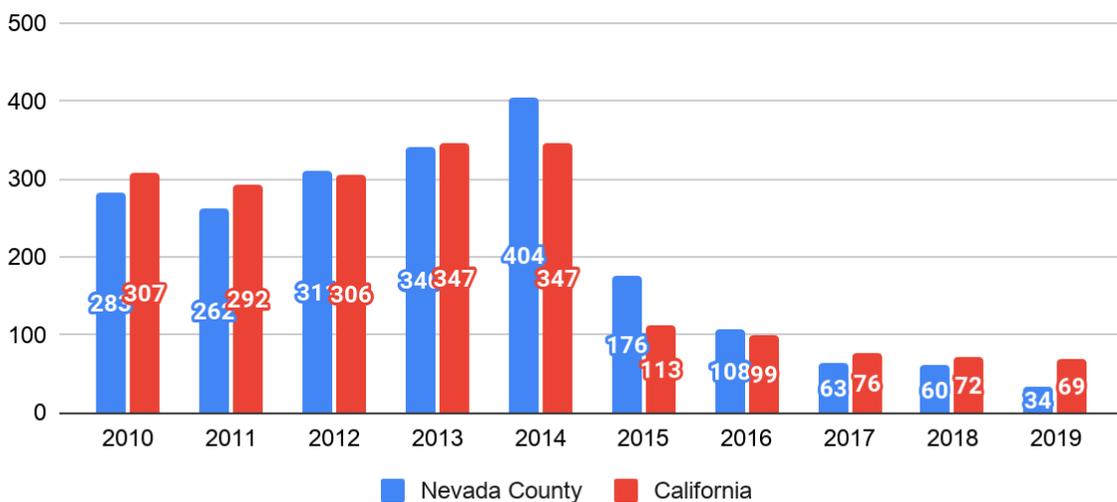


Figure 1. Number of Felony Arrests per 100,000 people for both the County of Nevada and the State of California, 2010-2019

As can be seen in Figure 1., Nevada County during the last decade has had relatively similar felony arrest rates compared to the state average. Both the state and Nevada County had their highest rates around 2014, while dropping significantly the year after Proposition 47 was passed. Proposition 47, also known as The Safe Neighborhoods and Schools Act, implemented three broad changes to felony sentencing laws. The stark drop in the amount of felonies was a result of drug possession offenses under Health and Safety code sections 11350, 11357(a), and 11377 being reclassified to be strictly misdemeanors and not felonies.

The below figures show drug arrest data for Nevada County by race, gender and age group from 1980-2019.

## Racial Breakdown of County Population vs. Marijuana-Related Arrests

Source: *When The Smoke Clears (2020)* published by UC Davis and PHA. pg. 53

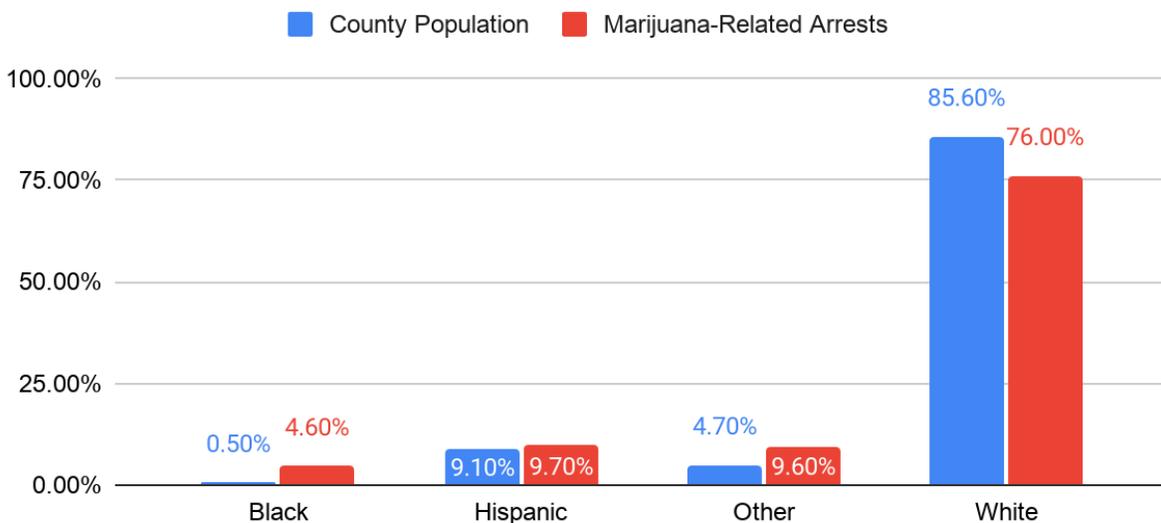


Figure 2: Adapted from PHA Report *When the Smoke Clears* (2020: page 53).

Racial disproportionality in cannabis enforcement is an issue for Nevada County, like it is in the rest of California. Information on racial inequities in regards to cannabis arrests was obtained from *When the Smoke Clears*, a report commissioned by Public Health Advocates and formed by the Center for Regional Change (CRC) at UC Davis (2020). Like other rural counties with small Black populations, overall arrests have been declining but racial disproportionality remains an issue (see page 53 of the report). Nevada County’s Black arrest ratio during this period was 6.89, comparable to that of Los Angeles County (6.69) and Mendocino County (7.28) (page 23). Due to much lower overall arrest rates, however, Nevada County’s Black arrest rate was 684.61 per 100,000 people. This was much lower than some of its rural peers like Mendocino (4106.58) but more than twice as high as Los Angeles County (296.51).

Data from this report showed that even though Black individuals comprise less than 1% of the population of the county, 4.6% of these individuals were arrested for marijuana-related offenses between 2000 and 2016 (see Figure 2, above).

### Drug Arrests by Gender, comparing Nevada County & California, 1980-2019

Source: OpenJustice Crime Statistics: Arrests, 1980-2019

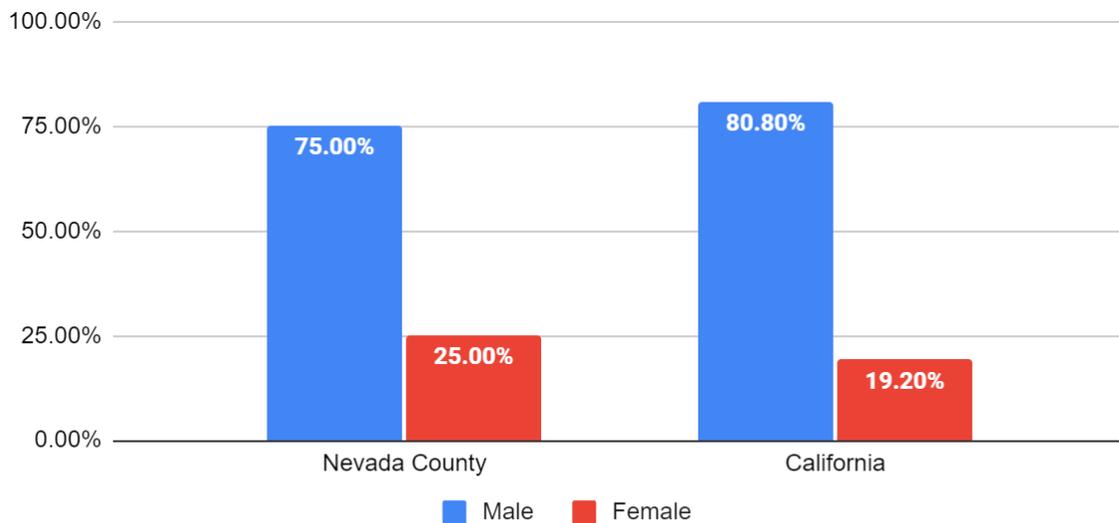


Figure 3. Comparison between County of Nevada and State of California for number of drug arrests by gender, 1980-2019

For all drug arrests, Nevada County has disproportionately impacted women relative to the state average, approximately 25% more (see Figure 3). We do not have cannabis-specific arrest data broken down by gender, but data from OpenJustice Crime Statistics for all drug arrests suggests

that Nevada County may have a gender disproportionality issue when it comes to cannabis and other drug criminalization, or the “war on drugs.”

## Drug Arrests by Age, comparing Nevada County & California, 1980-2019

Source: OpenJustice Crime Statistics: Arrests, 1980-2019

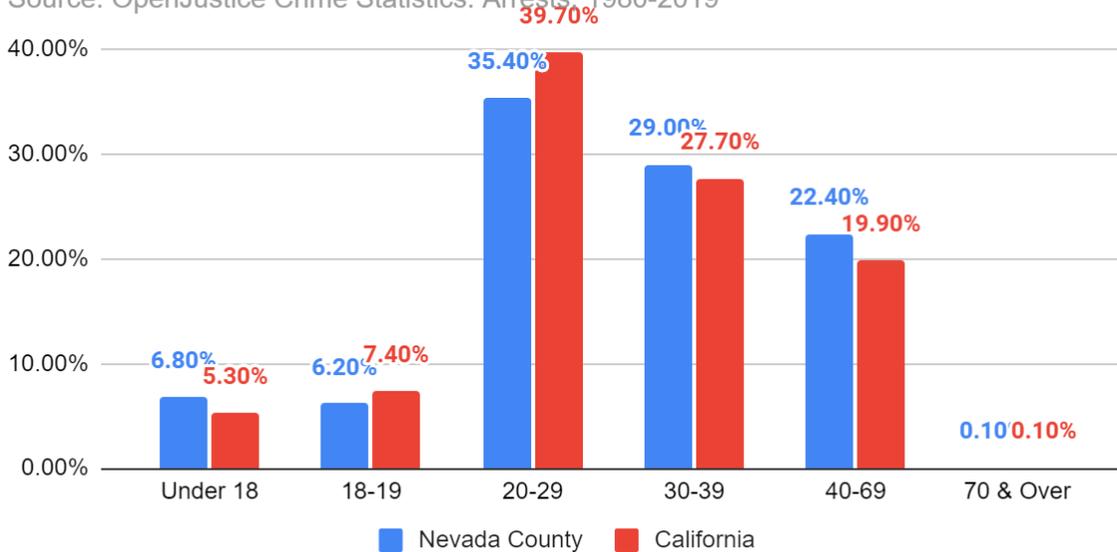


Figure 4. Comparison between County of Nevada and State of California for number of drug arrests by age, 1980-2019

Nevada County has had a majority of drug arrests fall on the age ranges of 20-29, 30-39, and 40-69 (see Figure 4). The youngest of the aforementioned categories has the highest proportion of arrests. Nevada County’s numbers are similar to the state in drug arrests by age. Again, we do not have data broken down by cannabis arrests, specifically, but the data suggest that Nevada County drug criminalization may disproportionately impact its older population relative to the state average, to some degree..

### 4.4 Underground Economy, Underground Violence for Vulnerable Populations

Rural California’s long history of cannabis cultivation and the nature of an underground cannabis economy has led to violent crime and victimization of vulnerable populations. For example, women in the cannabis industry who experienced violence or assault were unlikely to report those crimes. In December of 2019, a man was charged with kidnapping, false imprisonment, and the intent to commit sexual assault against a 29 year old woman tending to a cannabis grow

on the San Juan Ridge. It was determined later that there was another accomplice to these charges.<sup>19</sup>

Problems for vulnerable populations have historically been concealed in the underground cannabis industry. According to Reveal, a news source from The Center for Investigative Journalism, communities in the counties of Nevada, Humboldt, and Mendocino put together and distributed lists of safety tips for “trimmigrants” (2016). A group out of Nevada County set up an emergency hotline, safe house, and ride system for trimmigrants that have experienced sexual abuse.

Paula Arrowsmith-Jones with the North Coast Rape Crisis Team references that when people have “their living situation and their financial situation all being kind of linked together, those who are assaulted may not come forward for fear of reprisal or fear of being tagged as someone that brings law enforcement into marijuana production” (Lost Coast Outpost online article by Emily Hobelmann, August 11, 2013).

Multiple articles have been written on this topic as women have spoken out about their experiences. According to an article titled *The Weed Industry Responds to Accusations of Rampant Sexual Assault* by Gabby Bess in 2016, “the problem of rape and sexual harassment in an industry that operates in seclusion is ongoing. In many circumstances, victims rarely report their sexual assault to the police either out of fear or the belief that law enforcement won't do anything to help them. The environment cultivated around marijuana grows, however, makes it even harder for rape victims to speak out.” In the same article, the California Growers Association executive director, Hezekiah Allen, wrote that the void of regulation has allowed illegal grows to proliferate in the grey area. “It is no secret that criminal behavior lingers in the shadows cast by prohibition and regulatory vacuum.”

### *California and the United States*

The Center on Juvenile and Criminal Justice (CJJC) has published several reports that demonstrate patterns in drug arrest rates in California that disproportionately affected people of color. Starting in the 1990's, arrests in California for drug possession increased dramatically. Cannabis possession rates increased by 124% while other categories of serious crime showed decreased arrest rates. Rates of arrest per 100,000 population rose much faster for African American, Hispanics, those under the age of 21 and European Americans over the age of 40.

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<sup>19</sup> Kellar, L. December 15, 2019. “One arrested, others sought in San Juan Ridge rape investigation.” *The Union*. <https://www.theunion.com/news/crime/one-arrested-others-sought-in-san-juan-ridge-rape-investigation/>, accessed January 18, 2021.

Though a majority of states allow medical cannabis use, cannabis leads drug-related prosecutions in the United States. According to New Frontier Data, over 650,000 people were arrested for cannabis-related offenses in 2016. Cannabis accounted for 42% of all drug-related arrests in 2016, with cannabis possession offenses specifically accounting for 37% of all arrests. For comparison, heroin and cocaine accounted for 26% of arrests nationally.

According to a report from the ACLU titled *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*<sup>20</sup> (7.1.2020), “there were more marijuana arrests in 2018 than in 2015, despite the fact that eight states legalized marijuana for recreational use or decriminalized marijuana possession in that timeframe. Marijuana arrests made up 43% of all drug arrests in 2018, more than any other drug category. The overwhelming majority of marijuana arrests- 89.6%- are for possession only.” The report also includes a finding that states “extreme racial disparities in marijuana possession arrests persist throughout the country and have not improved since 2010.”

A report from the Justice Department Inspector General in 2017 found that ‘the DEA seized more than \$4 billion in cash from people suspected of drug activity over the previous decade, but \$3.2 billion of those seizures were never connected to any criminal charges.’ Research has also indicated that civil asset forfeiture disproportionately impacts low-income and minority communities. Relying on the suspicion of a crime allows law enforcement to seize cash and property almost entirely without accountability, often under the pretense of thwarting drug-related activity.

#### 4.5 History of Cannabis Policy Reforms in California & Nevada County

##### *California*

In 1996, California passed Proposition 215, the Compassionate Use Act. Nevada County also supported the measure. California was the first state in the United States to legalize cannabis for medical use.

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<sup>20</sup> <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>, accessed January 18, 2021.

## State of California Prop 215 Election Results

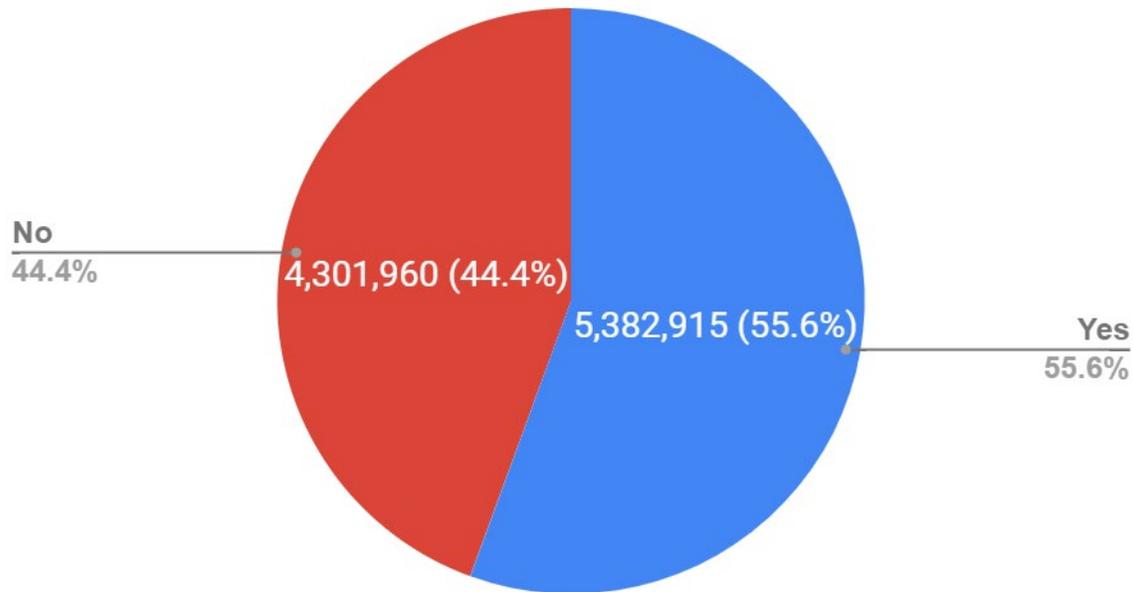


Figure 5. Proposition 215 Election Results for the State of California

## Nevada County Prop 215 Election Results

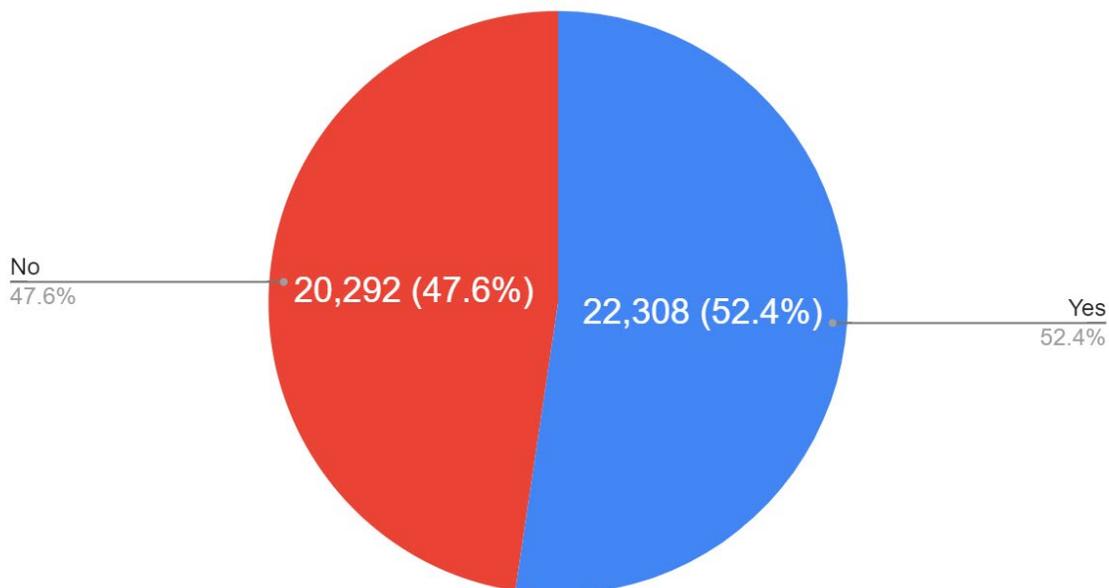


Figure 6. Proposition 215 Election Results for the County of Nevada

The Compassionate Care Act made it possible for patients and qualified caregivers to cultivate and possess cannabis for personal use. No regulatory structure was put in place. California voters continued to push for policies to decriminalize drug use, as evidenced by the voter-approved

Substance Abuse and Crime Prevention Act in 2000, which allowed the state to offer eligible offenders convicted of drug use and/or possession treatment instead of jail time.

In 2016, California established a legal framework to regulate and monitor cannabis dispensaries after the passage of the Medical Marijuana Regulation and Safety Act. On November 8, 2016, California voters passed Proposition 64, the Adult Use Marijuana Act. Proposition 64 legalized the distribution, sale, and possession of cannabis. Proposition 64 decriminalized the possession, use, cultivation and sale of adult-use cannabis. It also provided for the expungement of low-level drug offenses and training for cannabis careers, grants and loans. It passed with 57% of the vote statewide and 52.9% in Nevada County.

In June of 2020, Nevada County took a large step in the removal of a significant barrier to entry into the legal cannabis market. The Nevada County District Attorney’s Office received data from the California Department of Justice on criminal history records for every individual convicted of Health & Safety Code 11357, 11358, 11359, or 11360 in Nevada County since the 8th of April, 1973. After a review of these convictions and the applicable criteria based upon changes to the law as a result of Proposition 64, the Nevada County District Attorney’s Office automatically expunged 597 marijuana-related convictions and reduced 52 prior felonies to misdemeanors. Nevada County’s expungement window doesn’t have an expiration date as the District Attorney’s Office welcomes those who weren’t already expunged to have their cases reviewed.

## State of California Prop 64 Election Results

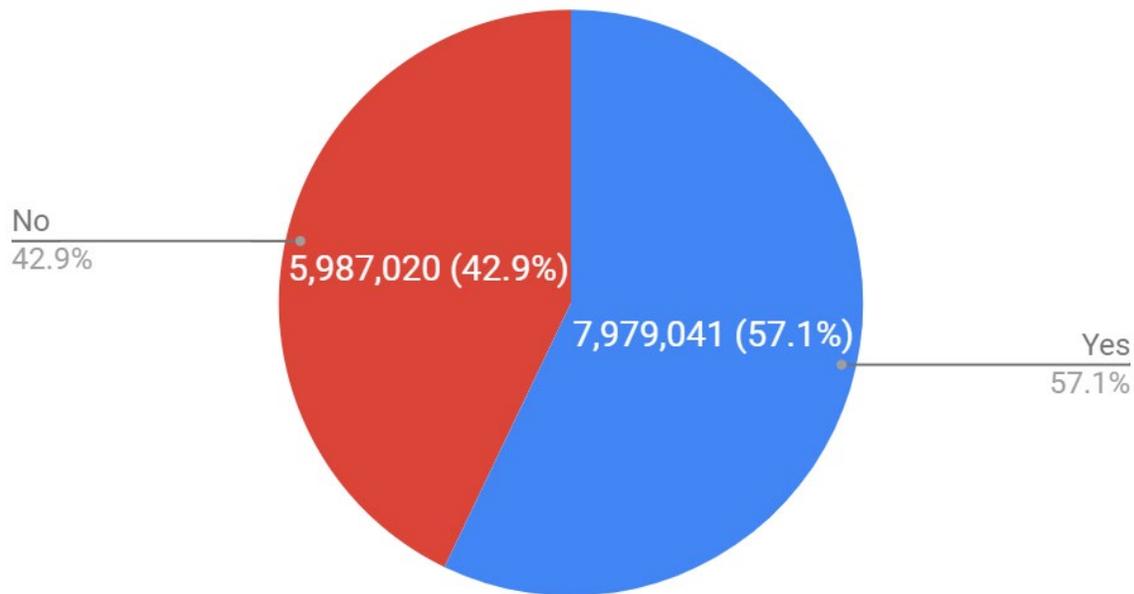


Figure 7. Proposition 64 Election Results for the State of California

## Nevada County Prop 64 Election Results

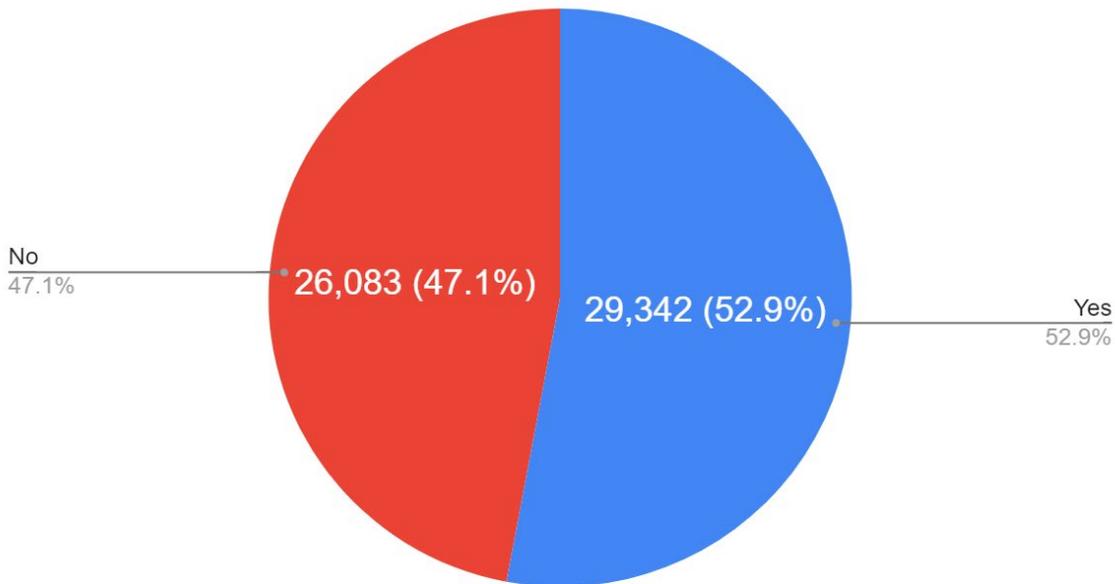


Figure 8. Proposition 64 Election Results for the County of Nevada

### *Nevada County- History of Cannabis Regulation*

Nevada County had been working to provide direction on the cultivation of medical marijuana since 2011. In May of 2012, Nevada County passed Ordinance 2349 which established preliminary regulations for the cultivation of medical marijuana. After a couple years, uncertainty was growing about AB21 and MMRSA's deadline, so the County passed Ordinance 2405 in January of 2016. 2405 effectively banned outdoor cultivation and limited indoor cultivation. In June of that year, Measure W failed to pass and the Board agreed to repeal the ban. Not a month after Measure W failed to pass, new restrictions were created, including allowing outdoor cultivation once again.

Nevada County's ordinance was not in compliance for long after that as Proposition 64 passed in November of 2016. The Board of Supervisors needed to make minor adjustments to be compliant with state law following the passage of Proposition 64. On April 11<sup>th</sup>, 2017, SR 17-0228 was passed approving an agreement between the County of Nevada and MIG, Inc. for services related to the formation and facilitation of the Cannabis Community Advisory Group (CAG). CAG met ten times and presented their final report of recommendations on January 9<sup>th</sup>, 2018. Their recommendations addressed policy on the following levels:

- Personal Outdoor Cultivation;

- Non-Remuneration (gifting for medical purposes only);
- Commercial Cultivation;
- Other Commercial Activities;
- Setbacks;
- Cannabis Permitting;
- Inspections, Monitoring, and Enforcement.

Taking CAG’s recommendations into consideration, a draft ordinance was approved by the Board of Supervisors in May of 2018. Soon after, a contract with Kimley-Horn and Associates was approved for the preparation of an Environmental Impact Report regarding the cannabis ordinance. The Final Environmental Impact Report (EIR) was completed in April of 2019. In late May of 2019, the Board of Supervisors took final action on both the Commercial Cannabis Cultivation Ordinance as well as the Final Environmental Impact Report, adopting the EIR and approving a resolution to adopt an Urgency Ordinance for Commercial Cannabis Cultivation.

Since implementing the local commercial cannabis permitting ordinance and compliance program, Nevada County has taken steps to address feedback from applicants and to remove barriers to a smooth transition into the legal market. Some of the local barriers that have been addressed include:

- Flexibility and clarification of disabled accessible parking not associated with permitted commercial structures.
- Development of options for restroom, waste disposal, and septic standards for commercial cannabis projects.
- Development of flexibility for allowances of agriculturally exempt structures with minor electrical allowances.
- Options for issuance of building and grading permits prior to cannabis land-use permit finalization and issuance.
- Streamlined permit applications and inclusion of submittal checklists.
- Implementation of pre-application staff consultations.
- Creation and implementation of online permitting interfacing/communication.

Parking standards and requirements for different land use types are based upon the amount of square footage of structures, use types of structures, and activities occurring within the structures. Considering that commercial cannabis operations are not specifically listed in these land use tables as well as the challenges permanent parking lots and wheelchair accessible (ADA) parking spaces provide to businesses on rural parcels, the County deemed a use specific interpretation as relevant. Standards for accessible parking as of Nov. 2, 2020 are based upon the total number of parking spaces provided for the facility. The relevant chart that these standards are based upon can be found in Chapter 11B of the California Building Code.

Commercial cannabis operations with employees on site necessitate sanitary facilities that provide for sustainable sewage disposal and access to clean water. The CDA requires the installation of distinct and separate sewage disposal facilities and water sources commercial operations for wherever employees are located. These requirements have proven to not be financially sustainable for these operations, especially in rural zoning designations. For this, Environmental Health explored alternative solutions that meet the intent of minimum standards and practices. Dependent on specific operations and number of employees, other options such as permissible use of portable waste disposal facilities can meet standards.

The section below provides a high level summary of Nevada County's cannabis-related measures and programs from 2011 to the present.

**Date:** 7/12/2011

**Title:** Ordinance No. 2339

**Summary:** Amending the Nevada County land use and development code, zoning regulations to add a definition of "Medical Marijuana Dispensary" and to amend tables to show medical marijuana dispensaries as a not permitted (NP) use in all zoning districts.

**Date:** 5/8/2012

**Title:** Ordinance No. 2349

**Summary:** An urgency ordinance adding Article 5 to Chapter IV of the Nevada County general code regarding medical marijuana cultivation. The purpose and intent of this Article is to implement State Law by regulating the cultivation of medical marijuana in a manner consistent with State Law. The purpose and intent of this Article also includes establishing reasonable regulations regarding the manner in which marijuana may be cultivated. Cannabis cultivation limits depended on gross land area. The limits for any area zoned primarily for rural uses are as follows: All gross land areas of any size are limited to 100 contiguous square feet of Indoor Cultivation (a) gross areas of less than two acres are limited 150 contiguous square feet of Outdoor Cultivation (b) gross areas between two and five acres are limited to 300 contiguous square feet of Outdoor Cultivation (c) gross areas between five and ten acres are limited to 400 contiguous square feet of Outdoor Cultivation (d) gross areas between ten and twenty acres are allowed 600 contiguous square feet of Outdoor Cultivation (e) gross areas of more than twenty acres are allowed 1000 contiguous square feet of Outdoor Cultivation.

**Date:** 1/12/2016

**Title:** Ordinance No. 2405

**Summary:** An urgency ordinance amending the title and sections G-IV 5.2 through G-IV 5.5 of Article 5 of Chapter IV of the Nevada County general code regarding restrictions on marijuana cultivation. The purpose of this amendment is to outline the newly enacted AB 266, SB 643, and AB 243 which respectively regulate commercial marijuana cultivation, establish standards for

the issuance of medical marijuana prescriptions, and regulation of medical marijuana cultivation. Section G-IV 5.3 included corresponding updates to definitions. Section G-IV 5.4 included further clarification on cultivation restrictions as well as Section G-IV 5.5 amending land use guidelines. This ordinance included provisions which banned outdoor cultivation and set indoor cultivation limits for medical marijuana to a maximum of 12 plants regardless of plant maturity.

**Date:** 7/26/2016

**Title:** Ordinance No. 2416

**Summary:** An urgency ordinance adding and amending subsections to Article 5 of Chapter IV, of the Nevada County general code regarding marijuana cultivation regulations. Both indoor and outdoor cultivation on parcels less than or equal to two acres was prohibited. For parcels greater than two and less than five acres, cultivation could not exceed a maximum of 6 plants outdoors. Between five (5) and ten (10) acres, a maximum of 12 plants could be cultivated both indoors and out. Between ten (10) and twenty (20) acres, the total cultivation count was 16 plants with a limitation of 12 plants for indoor cultivation. Lastly, for parcel sizes greater than twenty (20) acres, a total of 25 plants are permitted with a limitation of 12 plants for indoor cultivation.

**Date:** 3/13/2018

**Title:** Ordinance No. 2447

**Summary:** An ordinance amending Chapter II of the Nevada County land use and development code, tables L-II 2.2.1.B and 2.3.D of Article 2 and Section L-II 3.3 of Article 3 to establish a definition and permitting standards for agritourism (ORD17-2). The purpose and intent of this amendment is to encourage agriculture and to promote a strong and sustainable local agricultural economy through agritourism. Agritourism uses include, but are not limited to, marketing events, farm tours, educational classes and lectures, seasonal celebrations, and other gatherings.

**Date:** 5/22/2018

**Title:** Ordinance No. 2450

**Summary:** An urgency ordinance amending subsection G-IV 5.4.E.3 of, and adding subsection G-IV 5.4.O to Article 5 of Chapter IV of the Nevada County general code regarding temporary medical commercial cannabis permits. Subsection G-IV 5.4.E.3 was amended to prohibit any commercial cannabis activity in any amount or quantity on property located within unincorporated territory of Nevada County. Subsection G-IV 5.4.O was added to permit persons 21 years or older to temporarily cultivate/transport commercial cannabis for medical purposes in accordance with this subsection. Further clarification is included within the ordinance. No changes to cultivation limits were made.

**Date:** 12/11/2018

**Title:** Ordinance No. 2456

**Summary:** An ordinance adding Article 8 to Chapter 5 of the general code of the County of Nevada establishing a cannabis business tax. Every person who is engaged in commercial cannabis cultivation, excluding nurseries, in the unincorporated area of the County shall pay a cannabis business tax either: (a) at a rate of up to ten dollars per square foot of commercial cannabis cultivation area per growing cycle (b) At a rate of up to eight dollars per ounce of cannabis or cannabis product sold, bartered, exchanged or otherwise transferred between a cultivator and other persons with State license and County permits, per fiscal year (c) at a rate of up to ten percent of the Gross Receipts per fiscal year.

**Date:** 4/9/2019

**Title:** Ordinance No. 2464

**Summary:** An urgency interim ordinance of the County of Nevada imposing a temporary moratorium on the cultivation of industrial hemp within the unincorporated areas of the County of Nevada. This interim ordinance was intended to provide Nevada County staff time to determine the impact of locally unregulated hemp cultivation as well as to determine whether mitigating such impacts is possible.

**Date:** 4/23/2019

**Title:** Ordinance No. 2465

**Summary:** An interim ordinance extending the temporary moratorium on the cultivation of industrial hemp within the unincorporated areas of the County of Nevada for an additional ten months and fifteen days period.

**Date:** 5/14/2019

**Title:** Ordinance No. 2467

**Summary:** An urgency ordinance adding section L-II 3.30 to Article 3 of Chapter II and amending tables L-II 2.2.1.B, L-II 2.2.2.B, L-II 2.3.D, L-II 2.4.D, L-II 2.5.D, and L-II 2.6.F of Article 2 of Chapter II of the Nevada County land use and development code regarding cannabis cultivation. No changes to cultivation limits were made.

**Date:** 9/24/2019

**Title:** Ordinance 2470

**Summary:** An urgency ordinance amending section L-II 3.30 cannabis cultivation by adding subsection L-II 3.30(C)(34.1) processing definition and subsection L-II 3.30(D)(12) Offsite processing to Chapter II zoning regulations, Article 3 specific land uses. No changes to cultivation limits were made.

**Date:** 2/25/2020

**Title:** Ordinance 2476

**Summary:** An interim urgency ordinance extending the temporary moratorium on the cultivation of industrial hemp within the unincorporated areas of the County of Nevada for an additional one year.

### *Nevada County Cannabis Related Measures*

#### **Measure G**

The Nevada County Board of Supervisors unanimously placed Measure G on the November 6, 2018 ballot. Measure G imposes a tax on cannabis-related business activity, including but not limited to cultivating, transporting, distributing, manufacturing, processing, storing, packaging, delivering, testing, dispensing, and selling cannabis, cannabis products, or ancillary products. Measure G was passed by voters and is categorized as a general tax.

#### **Measure F**

The Nevada County Board of Supervisors placed Measure F on the June 5, 2018 ballot. Measure F imposed a tax on cannabis businesses to fund general municipal expenses such as police, fire, streets and recreation at annual rates not to exceed \$7.00 per canopy square foot for cultivation, 8% of gross receipts for retail cannabis businesses, and 6% for all other cannabis businesses. Measure F generates approximately \$120,000 to \$135,000 annually.

Nevada County has had a high level of interest in understanding and navigating the path to legalization because there is a shared belief that legalization will undermine and negatively affect the local economy.

### **Section 5. Current Socioeconomic Conditions in Nevada County**

According to the *2019 Community Health Needs Assessment/Community Health Assessment of Nevada County*, conducted by Sierra Nevada Memorial Hospital and the Nevada County Public Health Department, reviews of primary and secondary data identified the following significant health needs:

- Access to basic needs such as housing, jobs, and food.
- Access to quality primary care health services.
- Access to mental/behavioral/substance abuse services.
- Injury and disease prevention and management.
- Access to specialty and extended care.
- Active living and health eating.

Social and economic factors are commonly known to have reciprocal relationships, meaning that they influence and are influenced by other factors. One factor that heavily impacts others is educational attainment. Nevada County is in good standing when it comes to its adult

population's levels of educational attainment. Data from CHIS (California Health Interview Survey) shows that 4.2% of respondents reported having a PhD or equivalent and 11.6% reported having a masters degree (2011-2019). The highest proportion of respondents categorized themselves as having a bachelor's degree at 24.7%. The chart below demonstrates education attainment among adults living in Nevada County compared to the state of California.

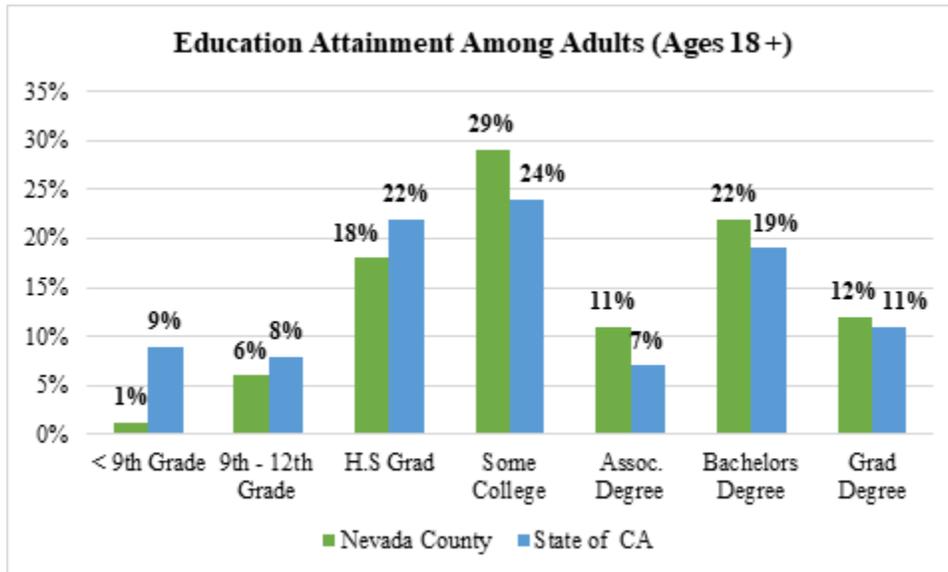


Figure 9. Educational Attainment rates among adults (18+) comparing Nevada County and California. Source: Nevada County Economic Development Plan 2016

The recent data for education attainment among youth (ages 18 and under) demonstrates a different story for youth residents in Nevada County compared to adults.

From 2016 to 2019, Nevada County consistently maintained a disproportionately high percentage of high school dropouts compared to the rest of California. During the school year of 2018 to 2019 about 48% of students dropped out of high school. In other words, about half of the high school student population in Nevada County dropped out of high school during the 2018-2019 school year. The chart below demonstrates high school dropout rates from 2016 to 2019 in Nevada County compared to the state average.

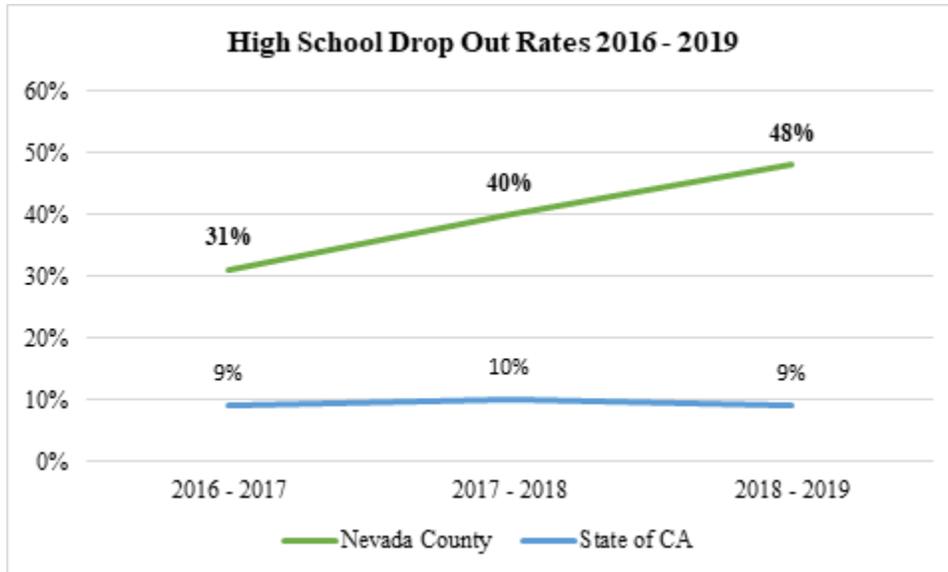


Figure 10. Comparison of Nevada County and California’s high school dropout rates between 2016-2019. Source: Ed-data.org

In 2019, about 46% of high school students graduated (Ed-data.org). About 48% of Nevada County students dropped out of high school in 2019 (Ed-data.org). According to Ed-data.org, the percentage of high dropouts have been increasing over time. The percentage of Nevada County students dropping out of high school is disproportionately higher than the state of CA (Ed-data.org). The chart below compares the Graduates and Dropouts in Nevada County from 2016 to 2019.

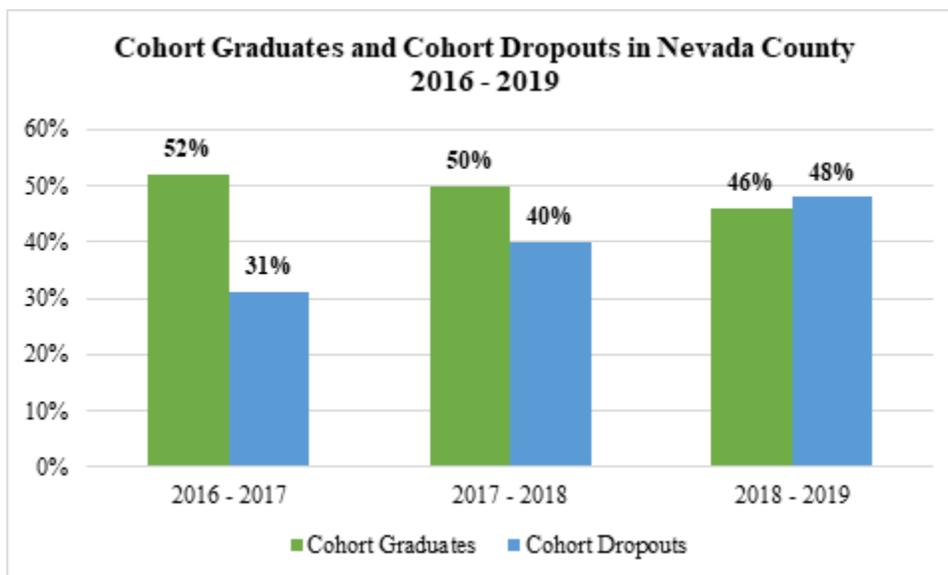


Figure 11. Cohort graduates and cohort dropouts in Nevada County during 2016-2019. Source: Ed-data.org

According to the CA Department of Education, only 31% of high school graduates met the UC/CSU course requirements for transferring into a public university in California in 2019.

### 5.1 Youth Cannabis Use in Nevada County

A higher proportion of Nevada County’s 7th graders, 9th graders, 11th graders, and non-traditional students use cannabis than that of each group's respective state average<sup>21</sup>. There is also an unusual workforce issue since technically Prop 64 allows adults aged 21 years or older to possess and use marijuana for recreational purposes, but most people in Nevada County enter the workforce by the time they are 18. Youth cannabis use is still illegal and therefore they still may be adversely impacted.

Higher rates of youth cannabis use is commonly seen in the upper high school grade levels, comparatively to their lower grade level counterparts. As trends such as this are well known, what isn’t all that well known are the statistics for non-traditional students relative to students in the system.

#### Nevada County School Age Youth Cannabis Use (Last 30 Days)

Source: Nevada County Community Health Assessment, 2016

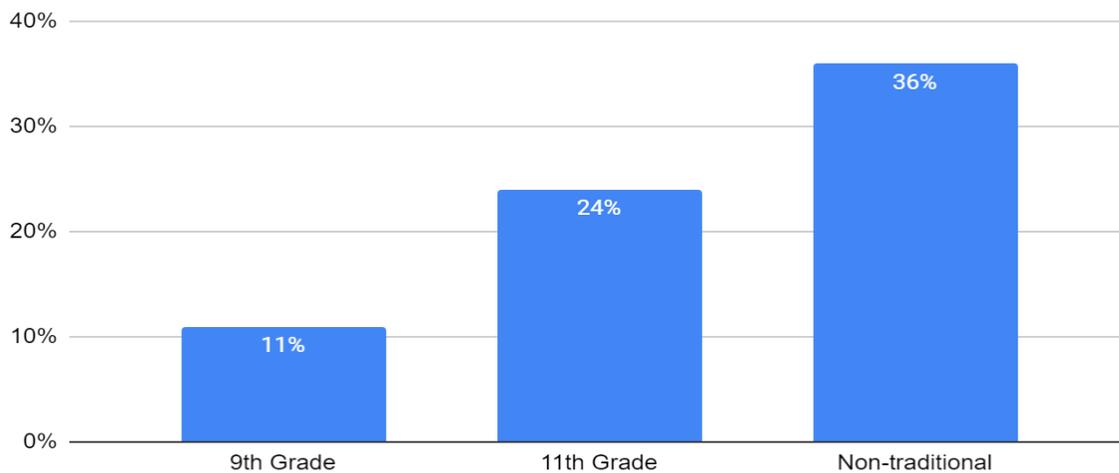


Figure 12. School age youth cannabis use in the last 30 days for Nevada County

Non-traditional schools that include continuation, community day, and other alternative school types appear to have a significantly higher proportion of students using cannabis (see Figure 12).

<sup>21</sup><https://www.kidsdata.org/topic/608/marijuana-lifetime-grade/table#fmt=826&loc=2,334&tf=122&ch=69,305,306,431,748,616,617,618,1004,1005&sortColumnId=0&sortType=asc>, accessed January 19th, 2021

## Percentage of Marijuana Use by 11th Graders, 2015-2017

Source: Kidsdata.org, Marijuana use in lifetime by gender and grade level, 2015-2017

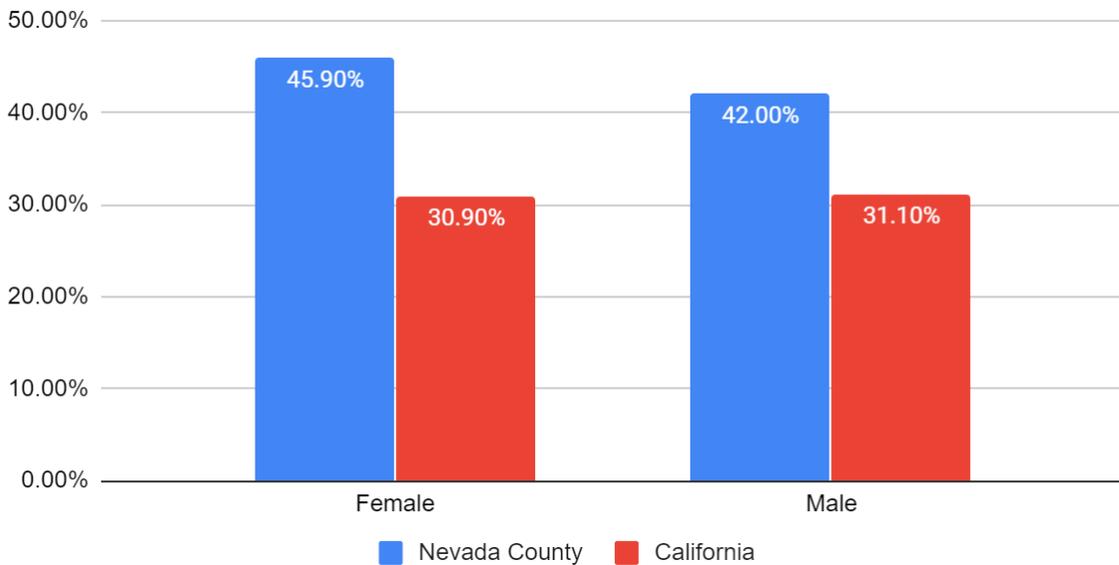


Figure 13. Comparison between percentage of 11th graders in Nevada County and California who have used marijuana, 2015-2017

### 5.2 Poverty in Nevada County

In Nevada County, 11.4% of the total population lives below the federal poverty level (FPL\*). Nevada County's poverty level lies just below California's which is 11.8% of the population. The race/ethnicity with the highest percentage of poverty is the "other race" population (23%). The Asian population has the lowest percentage of poverty (7%). Conversely, the total number of people in poverty is highest in the white population (8,789) and lowest in the Native Hawaiian and Other Pacific Islander population (28), thus it is important to look at both the percentage and the actual numbers.

## Nevada County: Percent Population below Federal Poverty Level within each Race/Ethnicity, 2018

Source 2018 ACS 5-Year Estimates Subject Tables

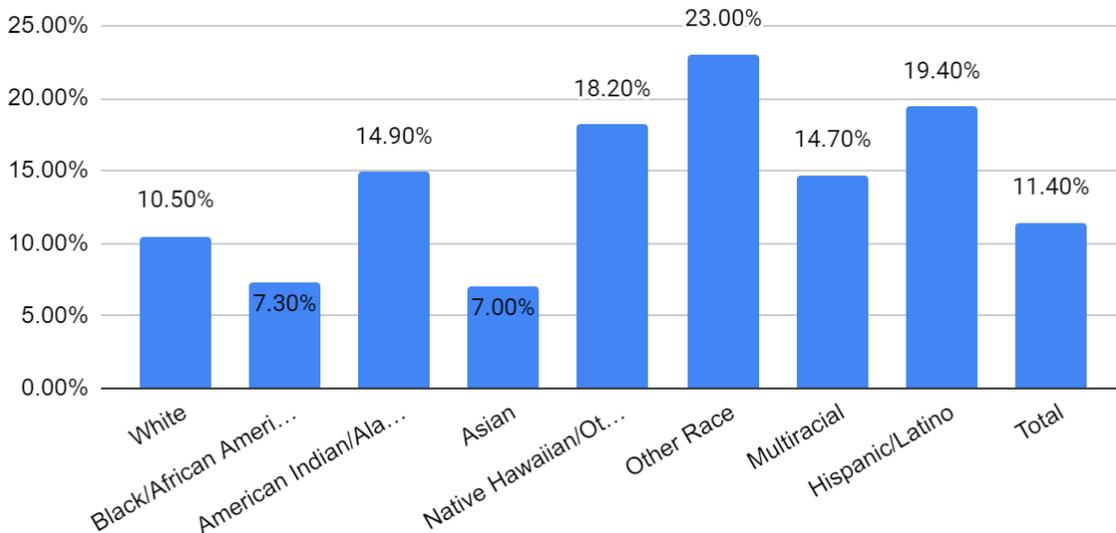


Figure 14. Percentage of the population below the FPL between each race/ethnicity in Nevada County, 2018

According to the CHIS (California Health Interview Survey), in 2019, approximately 54.2% of Nevada County's households earned less than 300% of the poverty level. The state average for households earning less than 300% of the poverty is the same at 54.2% of the population. Following this, 19.4% of households in Nevada County earned between 200-299% of the poverty level, whereas the state average was much lower at 13.3%. Continuing, 19.2% of Nevada County households earned between 100-199% with the state average lower at 17.5% of households. Lastly, 7.2% of Nevada County households earned below 99% of the poverty level, comparatively to the states 15%.

Nevada County has an estimated median household income of approximately \$63,240, which is less than \$80,440, the median household income in the state of California.

The employment rate for Nevada County is 51.5%. Comparing this to the state average rate of 59.3%, it can be seen that Nevada County has a lower overall rate of employment than that of California. CHIS survey data from 2019 supports this as the state rate for full-time employment is 53.2% and Nevada County's rate is 33.9%. The rest of Nevada County's employment rate comes from a wider pool of part-time workers at 16%, compared to the states 9.6%.

The map below illustrates the geographic distribution of poverty by zip code in Nevada County.

## Nevada County, CA Percentage of Residents Living in Poverty by Zip Code

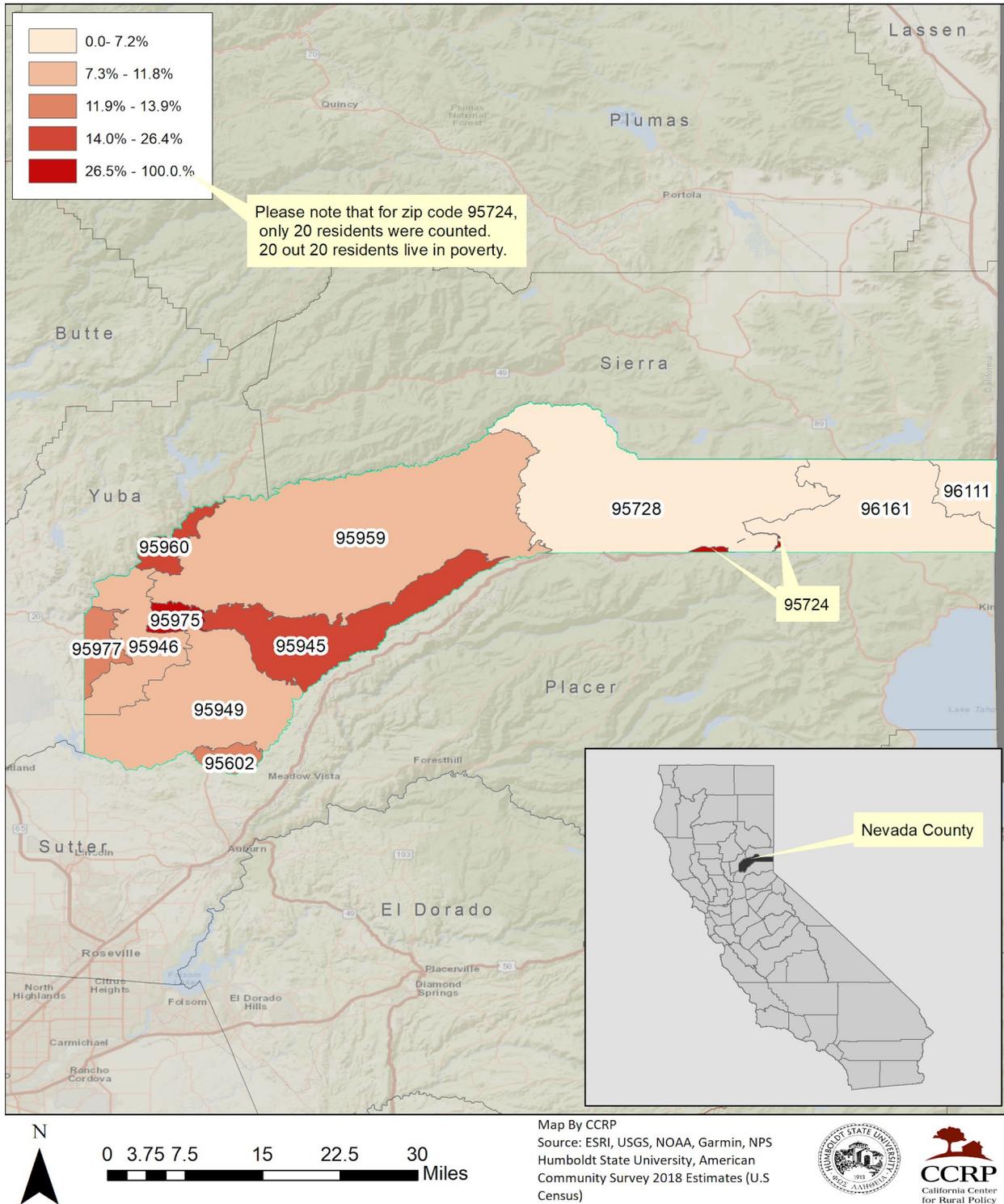


Figure 15. Residents living in poverty by zip code, Nevada County.

Free-Reduced Priced Meal (FRPM) enrollment percentages are an indicator of children living in poverty. In Nevada County, about half (50.2%) of the student population are enrolled in the FRPM program. The table below shows the percentage of students enrolled in FRPM by school district.

<b>District</b>	<b>Enrollment (How Many Students)</b>	<b>Number Eligible for Free &amp; Reduced- Price Meals</b>	<b>Percent Eligible for Free &amp; Reduced- Price Meals</b>
Chicago Park Elementary	200	83	49%
Clear Creek Elementary	180	67	37%
Grass Valley Elementary	1931	1010	57%
Nevada City Elementary	868	281	38%
Nevada County Office of Education	5206	1985	63%
Nevada Joint Union High	2934	1216	44%
Penn Valley Union Elementary	672	315	55%

Figure 16. Nevada County school district students by number and percent who qualify for free and reduced-price meals<sup>22</sup>

### 5.3 Overview of Nevada County Cannabis License Process & Applicants

Proposition 64 provided local governments the option and ability to regulate, control, permit, license, and tax activities surrounding the use, cultivation and sale of marijuana. According to an article titled *Getting Worse, Not Better: Illegal Pot Market Booming in California Despite Legalization* by Thomas Fuller in the New York Times (4.27.2019), “California gives cities wide latitude to regulate cannabis, resulting in a confusing patchwork of regulation.”

Many California counties continue to update and amend local policy related to the regulation and taxation of cannabis. Nevada County has approved cultivation, manufacturing, and retail cannabis for the county. A detailed description of the ordinances and measures in Nevada County is included in this report.

Nevada County’s commercial cannabis licensing process is located within the Community Development Agency (CDA). The Community Development Agency provides counseling and coordination services for land planning and development activities throughout the county. The CDA comprises six (6) departments including building, planning, environmental health, public works, administration, and agricultural commissioner. County staff estimated that since the first application window opened, most of the applications have been from established locals.

Interviews with county staff illustrated that Nevada County had 136 estimated applicants as of September of 2020. Among those applicants, 65 were approved at the time and all were applications for cultivation licenses.

The two maps below illustrate the geographic distribution of applicants seeking all types of cannabis licenses and those seeking just cultivation licenses in the county. To complete commercial cannabis cultivation activities, Nevada County requires all applicants to get an Annual Cannabis Permit (ACP) and either an Administrative Development Permit (ADP) or a Commercial Cannabis Permit (CCP). ADPs are for applicants planning on cultivating with canopy sizes from 2,501 sq ft to 10,000 sq ft. CCPs are for applicants planning on cultivating with canopy sizes 2,500 sq ft. and under. As of December 1st, 2020, there were 136 total land use permits. Out of the total, 85% of the permits were ADPs and the remaining 15% were CCPs.

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<sup>22</sup> \*Source: 2019-20 Student Poverty FRPM Eligibility, California Department of Education. No data available for: Cherokee Elementary and North San Juan Elementary

# Nevada County, CA Permit Applicants

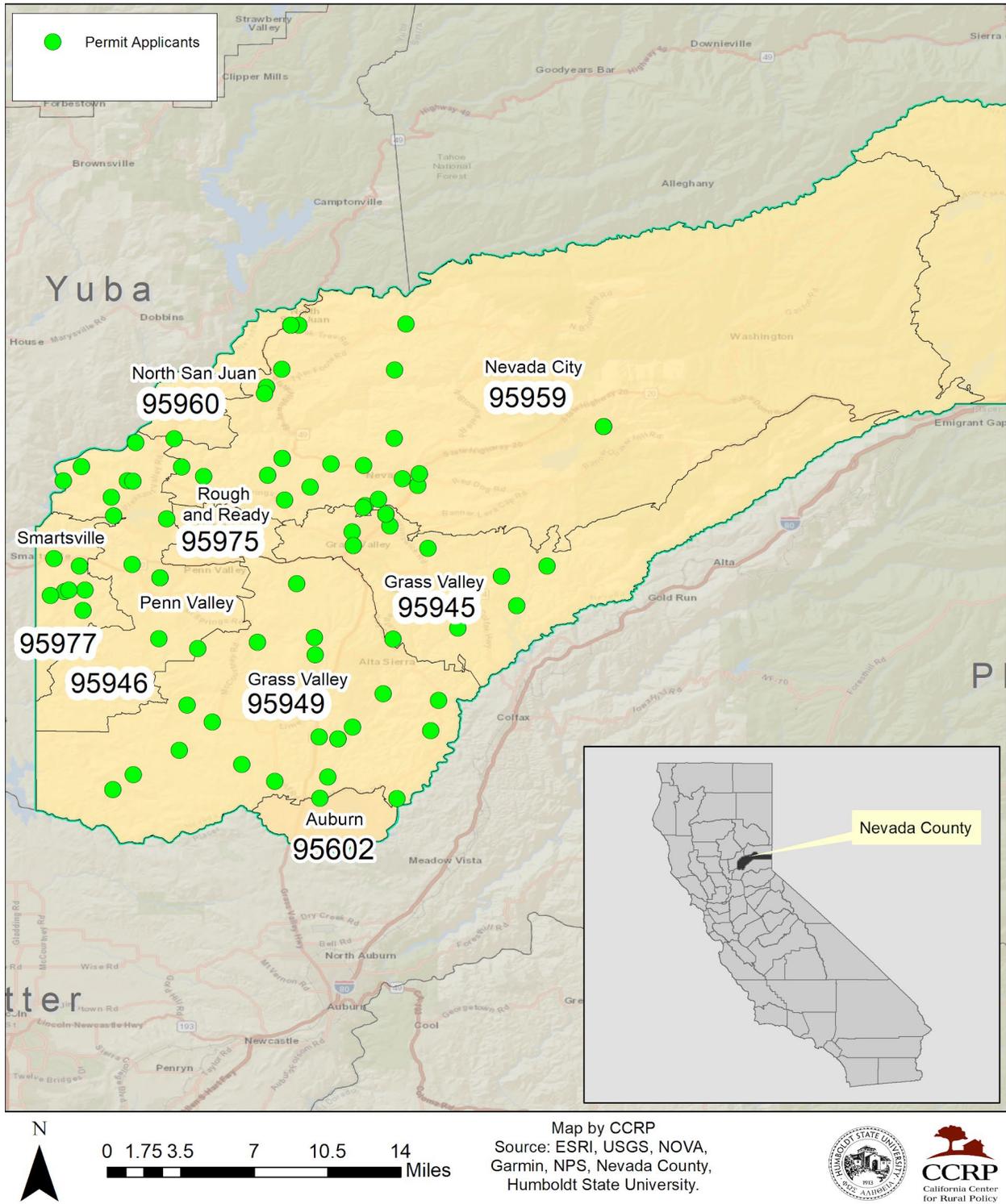


Figure 17. Permit applicants by zip code in Nevada County, California.

## Nevada County, CA Permit Applicants

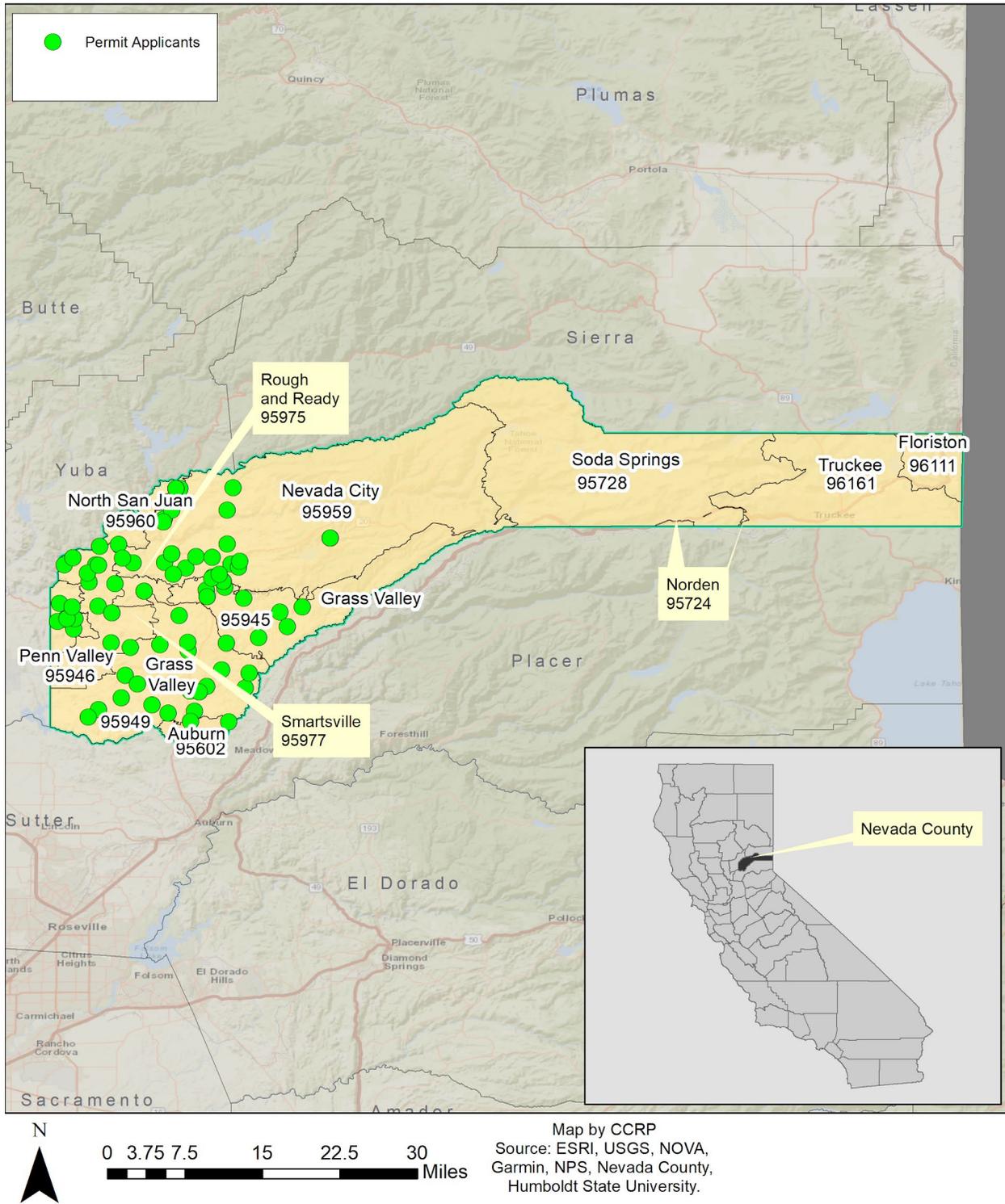


Figure 18. Permit applicants by zip code in Nevada County, California (Zoomed Out).

## Percentage of Residents Living in Poverty by Zip Code with Permit Applicants. Nevada County, CA

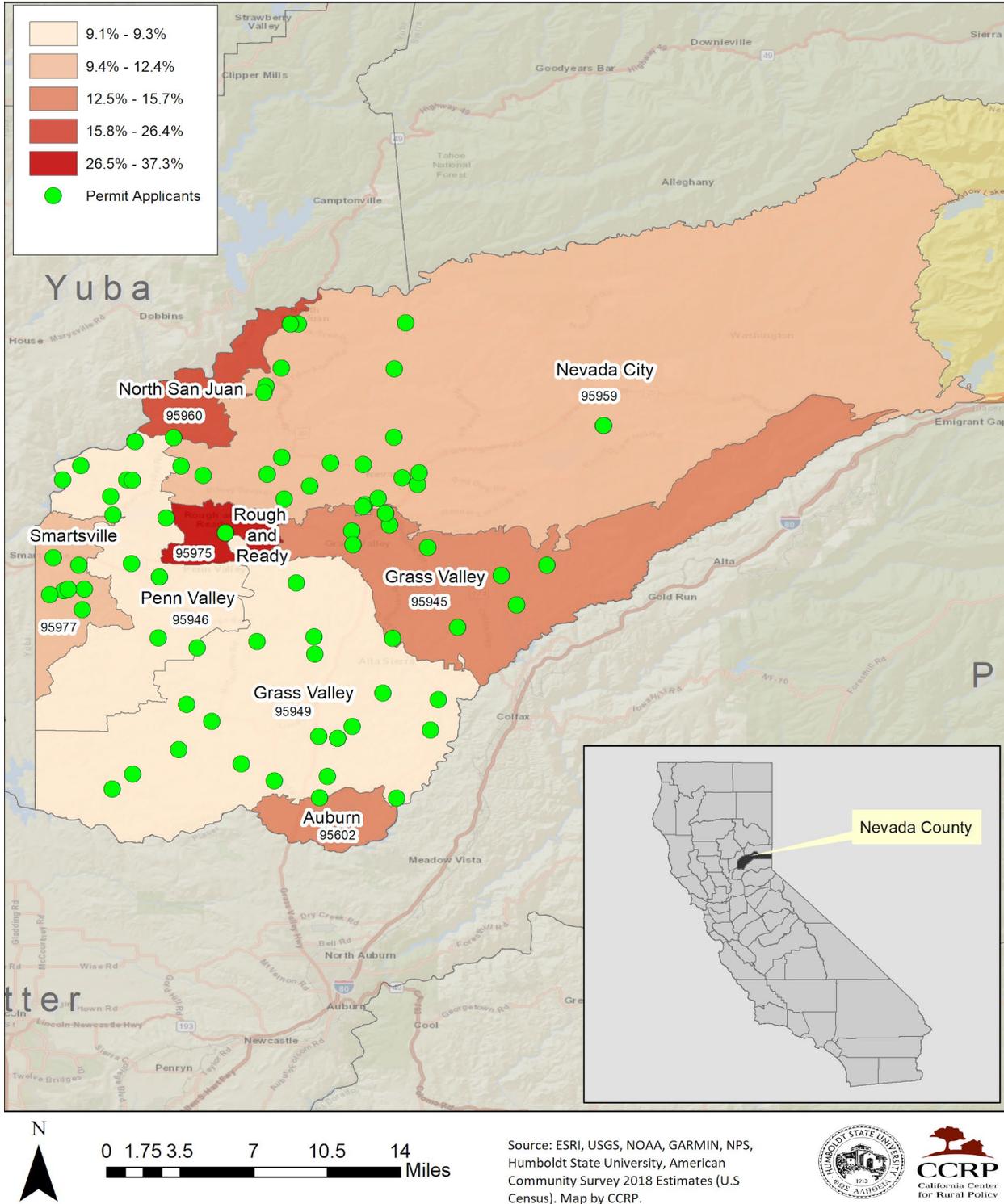


Figure 19. Permit applications and residents living in poverty by zip code

Out of 136 applicants in Nevada County, about 78% (n = 106) are Nevada County residents. About 5% of applicants in Nevada County reside out of state. Figure 20 demonstrates the geography of applicants in Nevada County.

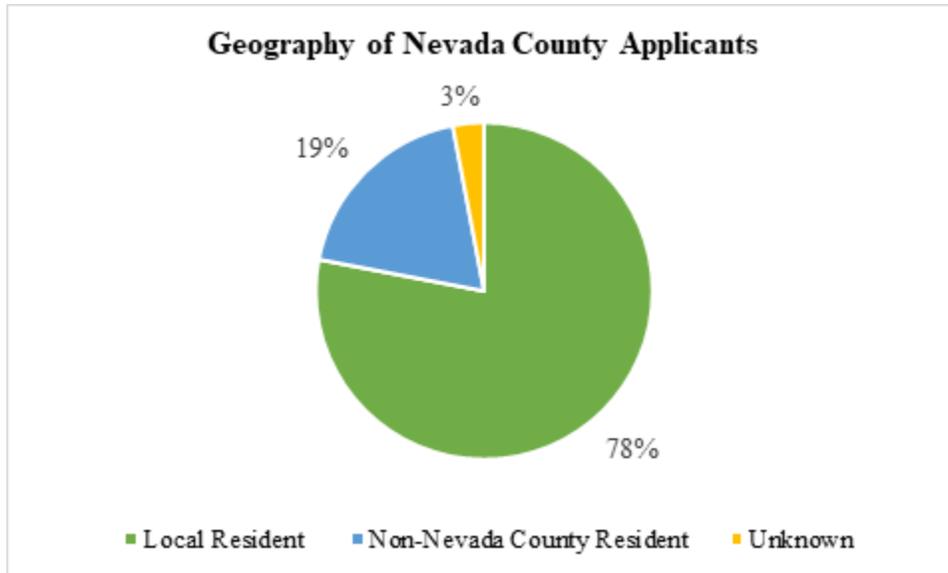


Figure 20. Nevada county applicants by geographic area

The majority of applicants (72.8%) are located in district 4. The chart below demonstrates the location of applicants/cultivation by supervisor district.

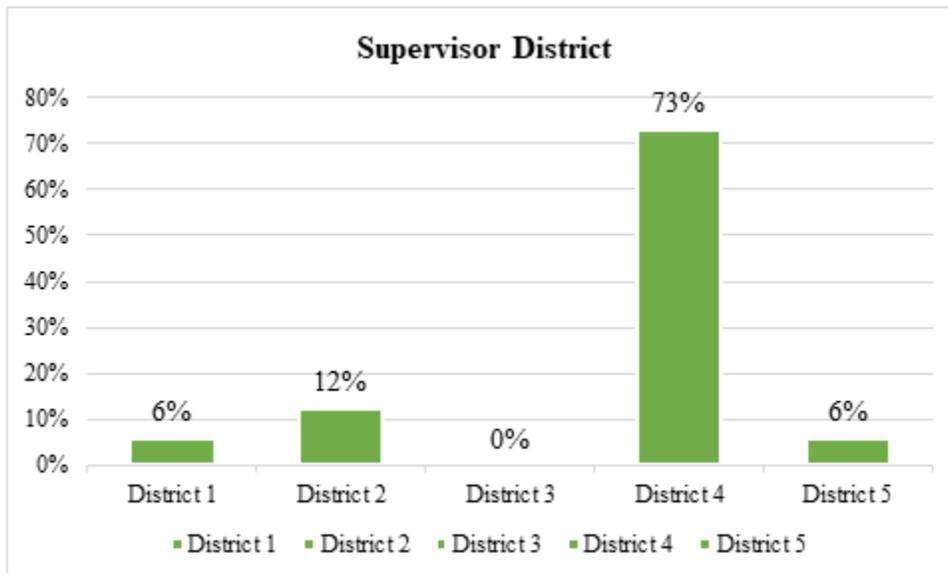


Figure 21. Distribution of applicants by supervisor district in Nevada County

A little bit more than half (57%) of the applicants in Nevada County were approved, with 30% of the applicants currently in review. The chart below demonstrates the current status of Nevada County permit applicants.

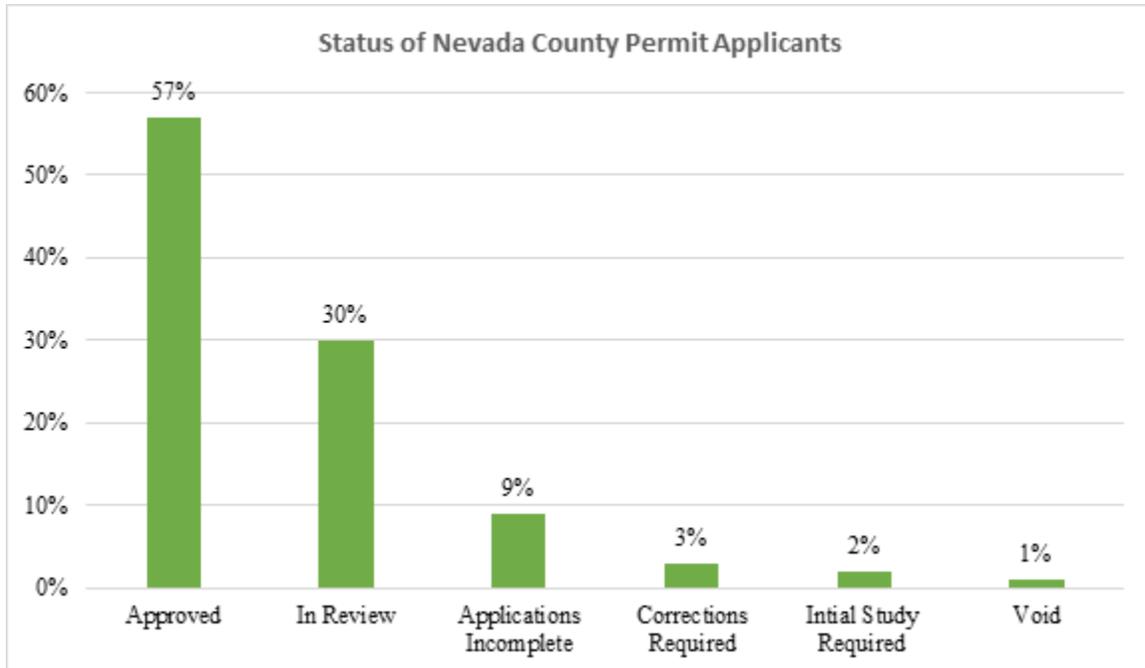


Figure 22. Status of Nevada County Permit Applicants

Out of 135 applicants, about 58.1% include outdoor cultivation and 47% included mixed light. The table below shows the type of cultivation included in Nevada County applicants. *Please note some of the applicants include both indoor and outdoor cultivation or both mixed light and outdoor cultivation.*

Cultivation Type	Percentage
Outdoor Cultivation	58.1%
Mixed Light	47.1%
Indoor Cultivation	1.5%

Figure 23. Distribution of applicants by cultivation type

Out of 135 applicants, about 63% do not include full time employees. About 22% include 1-2 full time employees. About 76% of applicants do not include temporary employees. The chart below demonstrates the percentage of full time and temporary employees.

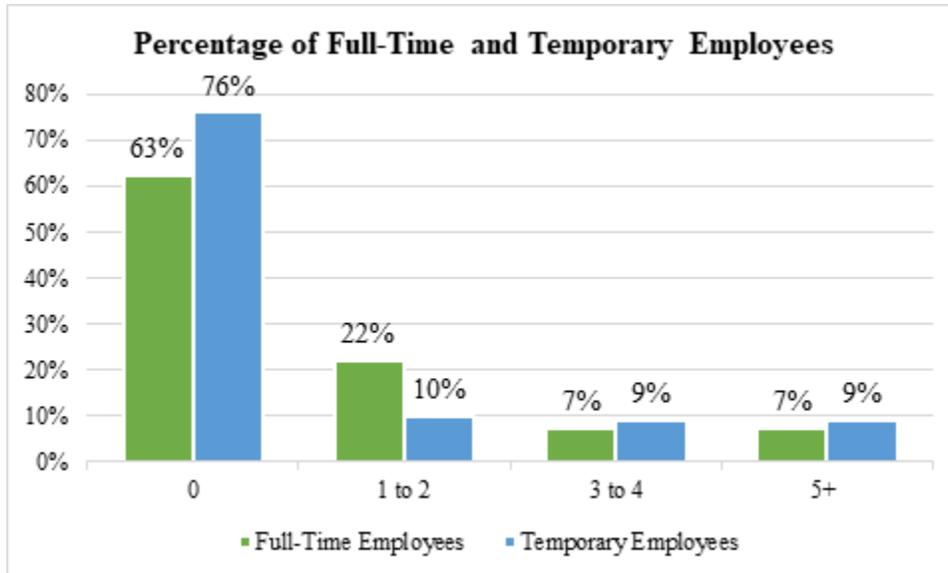


Figure 24. Percentage of full-time and temporary employees included in permit applications.

About 38% of permit applicants include zone AG-10 or AG -20. The table below shows the percentage of applicants per zoning type.

Types of Zoning for Permit Applicants	
Zone	Percent of Applicants
AG – 10	22.1%
AG – 20	16%
AG – 40	12.2%

AG-5	12.2%
AG – 30	11.5%
AG - X	11.5%
FR – 40	7.6%
FR - 160	1.5%
FR – 40 – PD	1.5%
FR - 40 - ME	1.5%
AG 10 - PD	.8%
AG - 30, AG - 10	.8%
AG - 40, TPZ	.8%

Figure 25. Percentage of applicants per zoning type.

### Section 6. Barriers to Entry

This section includes an overview of barriers that can make it difficult to enter the cannabis market, especially as a rural outdoor and mixed-light cultivator (all of Nevada County’s permits are for cultivation at the time of this writing, and only 1.5% of those are for indoor facilities -- see Figure 24). Nevada County’s equity program should have components designed to mitigate these barriers. The primary capital barrier to entry is for upgrading road infrastructure and

longstanding unpermitted building improvements, infrastructure that has rarely, if ever, been subject to review from the county for code compliance. The costs can run into the hundreds of thousands of dollars, and hold up or prevent permit-seekers from making it through the process. Many lack formal business training and cannot afford to hire competent consultants to help them through the process, leaving them stuck in the process while better-funded applicants sail through.

According to an article in *The Madera Tribune* on July 10, 2019, UC Berkeley is conducting research to understand why cannabis farmers are not joining the legal market. Cannabis growers were asked to participate in a survey about their experiences with the regulated market. The survey closed on August 1, 2019.

Preliminary survey results showed the following:

1. Small farmers have a hard time getting permits
2. Nearly half of people who have applied still have their permits pending with CDFA
3. Everyone (those with permits, those without, those who did not apply) were confused by the process
4. Many of those who did not apply for permits were on land zoned such that they could not apply
5. Many of those who did not apply for permits had other income sources; cannabis was used to supplement income

According to a recent article by Bodwitch *et al* from the UC Berkeley Cannabis Research Center,<sup>23</sup>

[t]he CalCannabis Division of the California Department of Food and Agriculture (CDFA) issues cannabis cultivation licenses. To cultivate for legal markets for recreational (or medical) use, cannabis growers are required to get a CDFA cultivation license and comply with State Water Resources Control Board (SWRCB), California Department of Fish and Wildlife (CDFW) and Department of Pesticide Regulation (DPR) requirements; all county and local regulations, including land use ordinances; and any additional mitigation stipulations necessary to obtain California Environmental Quality Act (CEQA) approval (CDFA 2019) ... Depending on farm location and cultivation practices, growers may also require road development permits, water diversion permits, wastewater discharge permits and CDFW lake and streambed alteration agreements.”

### *Financial*

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<sup>23</sup> Bodwitch, Hekia, et al. 2019. “Growers say cannabis legalization excludes small growers, supports illicit markets, undermines local economies.” <https://pdfs.semanticscholar.org/2394/c87ebadc45edd9c914083e58e6bc0633d918.pdf>, accessed January 18, 2021.

All new businesses face financial requirements to enter a new market. For individuals adversely affected by historical criminalization of cannabis, financial barriers can be difficult to overcome. The application fees, fees for professional studies of environmental, water supply, road engineering issues, and the cost of compliance with mitigation measures are significant barriers for smaller scale operations and/or socio-economically disadvantaged populations.

### *Banking*

According to an article by Josh Adams for New Frontier Data (6.21.2020), “Since cannabis remains federally prohibited, access to dependable and consistent banking services is limited, resulting in cannabis businesses being cash-intensive.” The American Bar Association (*Cannabis Banking: Proceed with Caution*, James J. Black, Marc-Alain Galeazzi, 2.6.2020) adds that “this state of legal limbo greatly increases the risks to which these businesses are exposed in that they must deal with vast amounts of cash, thereby increasing the risk of robbery and making it difficult to render payment to others.”

### *Administrative/Technical*

Applications require an understanding of and compliance with complex requirements from multiple local and state agencies. In rural counties where cultivation comprises a bulk of cannabis permits, there are considerable administrative/technical barriers to entry. These are time-consuming, resource-intensive, and require significant technical knowledge and/or skill.

For example, cultivators must navigate CEQA (California Environmental Quality Act), a process which requires evaluation to understand environmental impacts and the development of measures to reduce these impacts. According to CEQA, if an individual wants to obtain a permit to engage in any activity that may impact the environment (such as participating in commercial cannabis cultivation), the permitting agency must follow the CEQA process. These processes are especially daunting for the smaller, family-based, cultivators. Cannabis cultivation applicants also need to secure a water board permit from the State of California before pursuing a county license.

The UC Berkeley article referenced above included a quote from a grower in a rural California county that stated, “Often, one agency will approve a project, and the other agency involved doesn’t. Then, you are in violation with the approving agency if you don’t do the work, and in violation with the other agency if you do the work.”

### *Infrastructure*

In rural counties such as Nevada County, cultivation is happening in remote areas with little to no existing infrastructure that meets permitting requirements. An example of this is the roads leading to more remote areas are not up to the necessary standards. They are in many cases unpaved and lack proper drainage. Individuals navigating legalization may require extensive

mitigation and/or infrastructure to meet regulatory codes, and for those who have experienced criminalization and/or poverty, these are significant barriers to entry in the legal market.

The UC Berkeley article included a quote from a small grower in rural California stating that “my situation is totally standard: well-fenced area, no environmental impact. I grow tomatoes, etc. in hoop houses, and now, because I applied for a license, I suddenly must get a permit for hoop houses that have been here for 15 years.”

#### *Business Acumen*

The skills needed for participation in a highly regulated marketplace, including business planning, human resources management, accounting and inventory controls can be significant barriers to entering a new market. Well-resourced and highly educated applicants will have significant advantages to succeed in the emerging legal industry and a level playing field is necessary to ensure that those impacted by criminalization and poverty have both the resources and expertise to compete with more resourced and highly educated applicants.

#### *Distrust of Government*

As was mentioned above, eradication by county task forces, CAMP raids and the experience of cannabis growers during the era of criminalization of cannabis have left many individuals in the industry with a deeply ingrained sense of distrust and fear of government.

## **Section 7. Cannabis Equity Program Recommendations**

### 7.1 Review of Other Jurisdiction’s Effort to Promote Equity in Cannabis Implementation

Other jurisdictions’ in communities and states with a legal cannabis industry have developed and/or implemented programs to improve equity. Nevada County has worked closely with the Rural County Representatives of California (RCRC) and CSAC to understand the impact of legalizing cannabis on rural counties in California.

### 7.2 Findings & Recommendations

**Finding #1: Equity program eligibility factors should focus on specific targeted populations. There are generally applicable eligibility criteria, and Nevada- County-specific eligibility criteria. Eligibility criteria should link to equity assessment data wherever possible.**

Generally, eligibility criteria can include:

- Conviction history associated with cannabis-related offenses
- Immediate family member with a conviction history associated with cannabis-related offenses
- Low income status
- Residency consideration
- Ownership consideration
- Geographic consideration

Nevada County-specific considerations:

- Cultivation permits that are stuck in the process for lack of funds to address county and state code compliance issues
- Prior participation in the Caladrius Network, Nevada County’s historic medical cannabis network for children with catastrophic illnesses
- Location on the San Juan Ridge and other areas identified as local pockets of rural poverty
- Those seeking license types that contribute to the availability and affordability of medical products, including but not limited to cultivation.

<b>Criteria</b>	<b>Recommendation</b>
Conviction history	Have been arrested for or convicted of the sale, possession, use, manufacture or cultivation of cannabis (including as a juvenile), or been subject to asset forfeiture between 1971 and 2016.  Have a parent, sibling or child who was arrested for or convicted of the sale, possession, use, manufacture or cultivation of cannabis between 1971 and 2016.
Low income status	Household income at or below 80% of Nevada area’s median income.
Residency consideration	Give additional consideration to those who have resided in Nevada County for at least five years between 1971-2016.
Ownership consideration	Any stakeholder that owns at least 51% of a cannabis-related business.
Geographic consideration	Lives within a Nevada County zip code with at least 10% of the population living in poverty.

Figure 26. Description of individual eligibility criterion

**Finding #2: Ensure that applicants meeting equity program eligibility factors have adequate opportunity to take advantage of the program. Consider incentivizing ongoing support for equity applicants.**

- **Prioritization:** Consider a prioritized permit process for equity applicants.
- **Ratios:** Consider mandating a requisite number/percentage of equity applicants during permitting.
- **Provisional Approval:** Consider allowing for provisional approval of permits to allow equity applicants to overcome financial barriers. Provisional approval may provide potential investors with more certainty and willingness to provide capital investments.
- **Amnesty Program:** Consider developing pathways such as an amnesty program to encourage existing nonconforming businesses (such as small operators who qualify as equity applicants) to transition to the legal market.

**Finding #3: All peer jurisdictions who have implemented adult-use cannabis require data collection to understand the impact of the industry.** Consider tracking data on general and equity applicants on an ongoing basis to measure the success of the equity program. Collect demographic data from equity program participants in accordance with guidance from the State

of California. Demographic data requested by the state includes: Race/Ethnicity, Gender, Sexual Orientation, Income Level, Prior Convictions, Military Service, Age, and Disability Status.

Although completion of an annual demographic questionnaire would be completely voluntary, program participants should be encouraged so that the County can assure that funding is leading to the creation of job opportunities and wealth for those affected by past criminalization.

Recommended Metrics:

- Number of equity applicants to apply
  - Types of drug-related offenses
  - Income status
  - Race
  - Ethnicity
  - Gender
  - Sexual Identity
  - Residency Status
  - Ownership Structure
- Workforce characteristics
  - Total number of employees
  - Number of local employees
  - Employment status (full-time, part-time, etc.)
- Equity program-specific data
  - Number of applicants eligible for equity program
  - Number and types of services provided to equity applicants
  - Number of equity program applicants to receive licenses

**Finding #4: Create specific services/programs for equity applicants that address/mitigate barriers to entering the legal cannabis market.**

Barrier	Recommendation
Financial	<ol style="list-style-type: none"> <li>1. Waive fees for application assistance trainings</li> <li>2. Grants for infrastructure improvements necessary to become compliant with county codes</li> <li>3. Deferral of payment of application fees for zoning and special use permits</li> <li>4. Waive or defer fees for trainings and certifications required by law</li> <li>5. Grants to incentivize businesses that mitigate adverse environmental effects of cannabis cultivation</li> </ol>

Administrative/Technical	<ol style="list-style-type: none"> <li>1. Technical assistance for formation of cannabis cooperative associations</li> <li>2. Technical assistance to ensure public and private road access to cannabis operations</li> <li>3. Provide training and/or technical assistance to assist those with past cannabis convictions get their records expunged</li> <li>4. Work with banking institutions and provide technical assistance to support equity applicants in accessing banking services</li> </ol>
Business Acumen	<ol style="list-style-type: none"> <li>1. Employment skill training for equity participants employed or seeking employment in licensed cannabis operations</li> <li>2. Training/support for business owners to understand workforce rules and regulations. See recommendations below*</li> </ol>
Distrust of Government	<ol style="list-style-type: none"> <li>1. Conduct outreach and education efforts in areas that were focused on by law enforcement for cannabis eradication and cannabis arrests; encourage those individuals to apply for licenses and enter the legal industry</li> <li>2. Create outreach materials that are clear, concise, and accessible to those with low literacy.</li> </ol>

Figure 27. Recommendations on services focused on specific barriers to entry into the legal market

The June 2018 *Workforce Report: Humboldt County’s New Cannabis Landscape* authored by Deborah Claesgens & Michael Kraft on behalf of the Humboldt County Workforce Development Board made a series of recommendations to support cannabis businesses. While this report was produced in Humboldt County, the issues are similar enough in Nevada that some of these can be considered.

Agriculture/Cultivation:

- Access to business planning, low cost loans or investment sources that can assist smaller, often multi-generational family farmers with the costs of legalization, so that income can be spent on hiring, training, growing wages and benefits of a variety of jobs-from farm management to bookkeeping.
- Support for reasonable regulations and zoning that promote and incentivize employers to build good business and workforce development practices.
- Access to standard human resource methods: hiring and orientation, training in proper and regulated land use for farm and field workers, hiring and supervision processes, setting job benchmarks and performance standards, evaluating performance for promotion or wage scale increases.

- Access to business and HR tools: developing HR manuals and procedures, how to frame up a request for a consultant scope, interview and select the right consultant or consultant firm, how to manage a consultant scope.
- Developing, securing and increasing farm management skills in agricultural, biology, land management.
- Access to agricultural extension services to help with the science of plant biology from a medicinal and commercial standpoint, and help feed local graduates in biology and environmental sciences into the industry-much like the timber industry has done.

### Manufacturing/Production

#### *Large Scale/Well-Financed Startups*

- Access to supervisory skills, consistent HR policy development (hiring and termination, teamwork) across jobs and between employees.

#### *Artisan Size Businesses*

- Access to business planning (business startup strategy: how to build and manage a detailed startup business plan that can scale up and include facilities, marketing, tax and regulation, payroll, human resources hiring and supervision, and teamwork).
- Access to incubation and manufacturing hubs that can hire, cross train and job share positions between small entrepreneurs.

### Retail

- Access to comprehensive business and marketing strategies that connect cannabis retail to tourism, related workforce development (hiring, training, presentation, customer service, job readiness and supervisory skills).
- Access, training or mentorship in general business supervisory, customer service, workplace norms (the Big Five),and software skills.
- Evaluate the specific need and content for a program that certifies front line positions (bud tending, security, track and trace, manufacturing and packaging personnel).

### Testing

- Increase the hiring of biology and chemistry degree graduates trained in laboratory protocols by building those skills into certification and degree programs.
- Training in customer service, workplace norms (the Big Five), software, and lab methods.

**Finding #5: Nevada County should consider the creation of an incubator program that can connect equity stakeholders with experienced permit seekers or license holders.** Nevada County’s incubator program could provide all of the following:

- Mentorship in business skills

- Technical assistance
- A reporting system to monitor and ensure neither equity licensee nor business mistreat the other
- A system that allows equity licensees and businesses to anonymously provide suggestions and complaints about the existing program.

**Finding #6: Nevada County should consider utilizing cannabis tax revenue to ensure that county staff managing cannabis permitting are at full staffing levels and are trained and educated on the cannabis permitting process.**

**Finding #7: Nevada County staff should explore and promote a diversity of permit types in addition to cultivation.** Nevada County has a history strongly linked with cannabis cultivation. Currently 100% of permits in Nevada County are for cultivation. However, the legal industry offers many other permit types in addition to cultivation. Other successful business opportunities with less barriers could be easier for disadvantaged populations to create. A local equity program that helps legacy cultivation participants should address cultivation but may add much more local ownership opportunities for equity stakeholders that can diversify the County’s legal cannabis license landscape. Type 4 Cultivation (Nursery) and Type 1 Manufacturing Level 1 (nonsolvent or nonvolatile solvent extraction) seem especially applicable from the information in this assessment.

**Finding #8: Cannabis revenues can be directed to community reinvestment programming to rebuild/restore communities adversely affected by the past criminalization of those involved in the cannabis industry.** A portion of county cannabis taxes can be used to supplement equity funding received from the State of California.

Some potential focus areas include:

1. Youth alcohol and drug prevention efforts
2. Restorative justice programs
3. Neighborhood safety programs
4. Non-profit organizations whose work focuses on health and well-being of residents
  - a. Organizations working to address abuse, assault, and trafficking within the cannabis industry
5. Community development projects

**Finding #9: All cannabis operators should provide equitable employment opportunities.** These opportunities should include hiring those with past non-violent cannabis convictions, local residents, and other historically-disadvantaged populations, and providing a living wage to employees.

- Leverage existing workforce programs such as OEWD Reentry Services Program
- Expand workforce curriculum to support new workforce
  - Support workforce fairs to provide outreach and education
  - Engage individuals who are experienced in the cannabis industry and have transitioned from the unregulated market to the regulated market to ensure curriculum is relevant and applicable
- Consider incentivizing employers to prioritize hiring for local residents, those with past non-violent cannabis convictions, and other historically-disadvantaged populations

**Finding #10: Update the Nevada County Equity Assessment and use it to inform improvements to the Local Equity Program every 3 years afterwards to:**

- 1) monitor and share progress of the Equity Program,
- 2) monitor and share trends in the emerging legal cannabis industry,
- 3) identify areas for course correction and/or unexpected consequences, and
- 4) demonstrate an ongoing commitment to data-informed decision making and strategic planning to ensure Nevada County's strong transition to a legal cannabis industry.

**Finding #11: Nevada County should explore how to connect local equity applicants with equity applicants in surrounding counties to create links between cultivators and distributors.**