

Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

6 – 8 PM on Tuesday, Nov 14th, 2023

Location: Zoom Meetings

ORCA Media recording of the live meeting:

- <https://www.orcamedia.net/show/november-14-2023-rdap>
- <https://youtu.be/chO7LXOJ-pA?si=Ot4pOMaTtNp-2rMu>

- Introductions

1. Erin Jacobsen – Codirector of the Community Justice Division at the Attorney General’s Office
2. Chief Don Stevens – of the Nulhegan Band of the Coosuk, Abenaki Nation
3. Laura Carter – Data Analyst with the Division of Racial Justice Statistics
4. Derek Miodownik – Community and Restorative Justice Executive with the Department of Corrections
5. Xusana Davis – Executive Director of Racial Equity for the State of Vermont
6. Elizabeth Morris – Juvenile Justice Coordinator at the Department for Children and Families
7. Kyle Harris – Commissioner on the Cannabis Control Board
8. Rebecca Turner – Head of the Public Division at the Office of the Defender General
9. James Pepper – Chair of the Cannabis Control Board
10. Angela Arsenaault – State Representative from Williston
11. Jessica Brown – Assistant Professor at the Vermont Law and Graduate School
12. Julie Hulburd – Commissioner on the Cannabis Control Board
13. Jacqueline Rose – Health Equity Director at the Department of Corrections
14. Isaac Owusu – Director of Community Engagement and Support with Vermont Racial Justice Alliance
15. Geoffrey Jones – Former Vermont State Police Trooper
16. Tyler Allen – Adolescent Services Director with the Department for Children and Families
17. Superior Judge Mary Morrissey – Judiciary Representative on the Panel
18. Jennifer Poehlmann – Executive Director for the Vermont Center for Crime Victim Services
19. Shela Linton – Executive Director of the ROOT Social Justice Center
20. Reverend Mark Hughes – Executive Director of the Vermont Racial Justice Alliance
21. ORCA Media

- Announcements

Erin: Etan, Chair of the Panel, cannot be here tonight.

- Approval of minutes

Tyler: Motion to approve minutes from the October meeting.

Shela: Seconded. Great job with the minutes, appreciates all the visuals included.

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Erin: Requests to amend the minutes by removing notes from the end.

Shela: Move to approve the amended minutes.

Judge Morrissey: Seconded.

Motion passed.

- Presentation from the Office of Racial Equity on their review of the Cannabis Control Board's Social Equity Program

Xusana: Please hold questions until the end. Basic information being presented so people can get familiar with the program. This is "point in time" data, so it will continue to evolve. May not be reflective of passed circumstances, and not reflective of future circumstances. Began sharing her screen.

The slide is titled "Cannabis Control Board (CCB) Resource Review". It lists three staff members: Xusana Davis (Executive Director, Office of Racial Equity), Tiffany North-Reid (Data Manager, Office of Racial Equity, Division of Racial Justice Statistics), and Laura Carter (Data Analyst, Office of Racial Equity, Division of Racial Justice Statistics). The slide also includes the Vermont Office of Racial Equity logo and the date "November 14, 2023 | 1".

Statutory Requirement to Report and Collect Data on CCB Social Equity Program

Requirements of this report

7 V.S.A. § 989 states:

§ 989. Reporting
The Cannabis Control Board, in consultation with the Advisory Committee, the Agency of Commerce and Community Development, and the Executive Director of Racial Equity, shall report to the General Assembly on or before January 15, 2023 and biennially thereafter regarding the implementation and application of this chapter, including data on the number of applicants, the number of recipients, the number and amounts of loans and grants, and the identification of continuing barriers to accessing the cannabis market for social equity applicants. This information shall be presented in a manner that can be quantified and tracked over time.

Excerpted from January 2023 CCB report

Laura: This is an analysis of "point in time" data that we received from the Cannabis Control Board, and overarching feedback on intake questionnaires they are collecting. There's a statutory requirement to collect data on the Cannabis Control Board Social Equity Program, and that's what we're here to discuss.

The slide is titled "Enabling legislation for CCB Social Equity Program". It features a large green circular graphic with the text "Cannabis Business Development Fund" inside. The slide contains three paragraphs of text regarding legislative requirements and funding. The Vermont Office of Racial Equity logo is at the bottom left, and the date "November 14, 2023 | 3" is at the bottom left.

Enabling legislation for CCB Social Equity Program

VT Act 164 Sec. 5. (g) "On or before January 15, 2022, the Executive Director of the Cannabis Control Board shall submit to the General Assembly: (1) a summary of its work with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition" (pg 19 of 102)

VT Act 62 Sec. 11. FEES; SOCIAL EQUITY "When reporting to the General Assembly regarding recommended fees for licensing cannabis establishments pursuant to Sec. 4a of this act, the Cannabis Control Board shall propose a plan for reducing or eliminating licensing fees for individuals from communities that historically have been disproportionately impacted by cannabis prohibition or individuals directly and personally impacted by cannabis prohibitions." (pg 21 of 27)

VT Act 62 Sec. 13 SOCIAL EQUITY APPLICANTS; CRITERIA "The Cannabis Control Board, in consultation with the Advisory Committee, the Agency of Commerce and Community Development, and the Executive Director of Racial Equity, shall develop criteria for social equity applicants for the purpose of obtaining social equity loans and grants from the Cannabis Business Development Fund pursuant to 7 V.S.A. chapter 39. The Board shall provide the criteria to the General Assembly not later than October 15, 2021." (pg 23 of 27)

Established by Act 62 (2021) to provide low-interest loans and grants to social equity licensees for expenses associated with starting and operating a licensed cannabis establishment.

The Vermont legislature allocated \$500,000 to the Cannabis Business Development Fund. Additional funding for this program comes from contributions made by integrated licensees. Other licensees with businesses hiring 2 or more employees may opt to contribute to the Fund as a part of their required positive impact criteria for licensure as outlined in Board Rule 1.4.9

The fund is administered by the Agency of Commerce and Community Development (ACCD). To receive grants from the fund, applicants must:

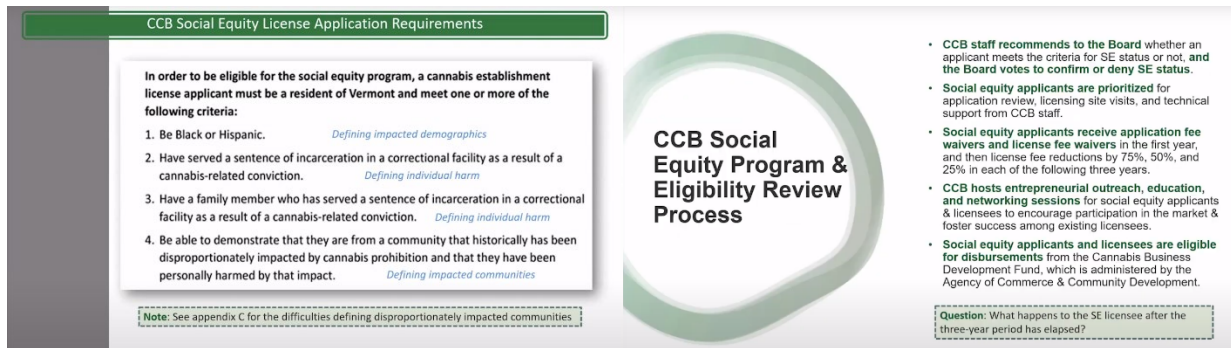
- Apply for social equity status through the cannabis establishment license application.
- Have their social equity status approved by the Board at a publicly noticed meeting.
- Go through the intake process with Roads Consulting, the technical assistance firm with whom ACCD has contracted.

This is what we're here to discuss, the Cannabis Business Development Program. It was established by Act 62 in 2021 to provide low interest loans, grants, and social equity licenses. The fund is administered by the Agency of Commerce and Community Development.

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CCB Social Equity License Application Requirements

In order to be eligible for the social equity program, a cannabis establishment license applicant must be a resident of Vermont and meet one or more of the following criteria:

1. Be Black or Hispanic. *Defining impacted demographics*
2. Have served a sentence of incarceration in a correctional facility as a result of a cannabis-related conviction. *Defining individual harm*
3. Have a family member who has served a sentence of incarceration in a correctional facility as a result of a cannabis-related conviction. *Defining individual harm*
4. Be able to demonstrate that they are from a community that historically has been disproportionately impacted by cannabis prohibition and that they have been personally harmed by that impact. *Defining impacted communities*

Note: See appendix C for the difficulties defining disproportionately impacted communities

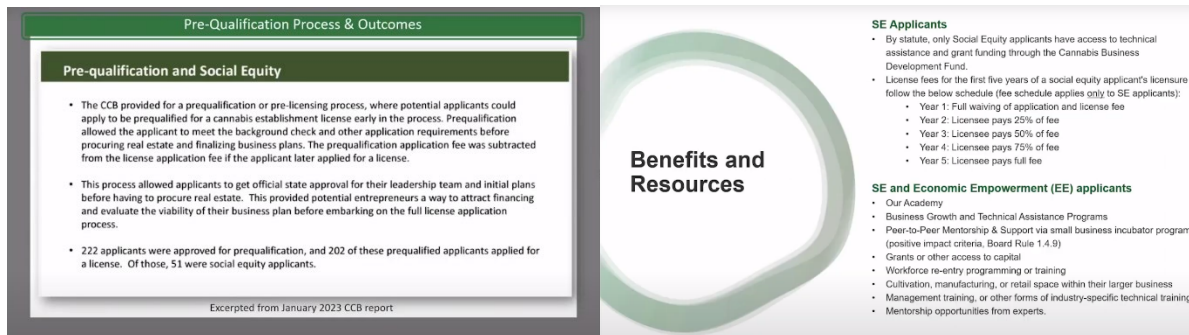
CCB Social Equity Program & Eligibility Review Process

- CCB staff recommends to the Board whether an applicant meets the criteria for SE status or not, and the Board votes to confirm or deny SE status.
- Social equity applicants are prioritized for application review, licensing site visits, and technical support from CCB staff.
- Social equity applicants receive application fee waivers and license fee waivers in the first year, and then license fee reductions by 75%, 50%, and 25% in each of the following three years.
- CCB hosts entrepreneurial outreach, education, and networking sessions for social equity applicants & licensees to encourage participation in the market & foster success among existing licensees.
- Social equity applicants and licensees are eligible for disbursements from the Cannabis Business Development Fund, which is administered by the Agency of Commerce & Community Development.

Question: What happens to the SE licensee after the three-year period has elapsed?

15 minutes

The Cannabis Control Board recommends whether an applicant meets the criteria. The benefits of this program are also receiving application fee waivers and license fee waivers in the first year. The question of what happens to the social equity licensee after the third year period has elapsed with the 25% fee, hearing back that in the fifth year of operation of the social equity licensee the fee will be due upon renewal however the licensee is still prioritized.



Pre-qualification Process & Outcomes

Pre-qualification and Social Equity

- The CCB provided for a prequalification or pre-licensing process, where potential applicants could apply to be prequalified for a cannabis establishment license early in the process. Prequalification allowed the applicant to meet the background check and other application requirements before procuring real estate and finalizing business plans. The prequalification application fee was subtracted from the license application fee if the applicant later applied for a license.
- This process allowed applicants to get official state approval for their leadership team and initial plans before having to procure real estate. This provided potential entrepreneurs a way to attract financing and evaluate the viability of their business plan before embarking on the full license application process.
- 222 applicants were approved for prequalification, and 202 of these prequalified applicants applied for a license. Of those, 51 were social equity applicants.

Excerpted from January 2023 CCB report

Benefits and Resources

SE Applicants

- By statute, only Social Equity applicants have access to technical assistance and grant funding through the Cannabis Business Development Fund.
- License fees for the first five years of a social equity applicant's licensure follow the below schedule (fee schedule applies only to SE applicants):
 - Year 1: Full waiving of application and license fee
 - Year 2: Licensee pays 25% of fee
 - Year 3: Licensee pays 50% of fee
 - Year 4: Licensee pays 75% of fee
 - Year 5: Licensee pays full fee

SE and Economic Empowerment (EE) applicants

- Our Academy
- Business Growth and Technical Assistance Programs
- Peer-to-Peer Mentorship & Support via small business incubator program (positive impact criteria, Board Rule 1.4.9)
- Grants or other access to capital
- Workforce re-entry programming or training
- Cultivation, manufacturing, or retail space within their larger business
- Management training, or other forms of industry-specific technical training
- Mentorship opportunities from experts.

This is the prequalification and outcomes about how people can be prequalified for licenses. This is an excerpt from the January 2023 Cannabis Control Board report, as of that time 223 applicants were approved for qualification. The benefits and resources for the social equity applicants, they have access by statute to technical assistance and grant funding through the Cannabis Business and Development Fund.

Xusana: In addition to there being a separate track for social equity applicants and licensees, there's also a separate track for economic empowerment applicants and licensees. We've already seen the criteria for social equity applicants, whereas for the economic empowerment applicants those are folks who also are underrepresented but who do not qualify to be social equity applicants. This introduces a separate track that is not social equity but is closely related.

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LICENSING DATA

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Cannabis License Recipients

Individuals who own or control CE businesses (applicants & licensees)

Race	Count
American Indian or Alaska Native	4
Asian	10
Black or African American	22
Black	30
Choose not to disclose	7
Latino	1
Native Hawaiian or other Pacific Islander	28
Other	1
White	494

Laura: This is a graph from the Cannabis Control Board's December 2022 report.

Cannabis License Recipients

SE Eligibility as Primary Applicant

- Qualified due to Black/African American or Hispanic/Latino. Totals 46 qualified individuals.
 - 15% with CB incarceration
 - Nearly 1/3 are women
- Qualified due to incarceration alone. Totals 40 qualified individuals.
 - 98% White, non-Hispanic
 - 1 Asian/Pacific Islander
 - 15% are women

Social equity cannabis licenses are intended to benefit individuals from Black or Hispanic/Latino populations and communities who have experienced cannabis-related incarceration.

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In this graph, SE means social equity, EE means economic empowerment, Standard means a regular license. Next, we have a breakdown of the social equity eligibility based on the primary applicant. We wanted to highlight important areas of overlap. Primary applicant is the person applying for the license, or the owner.

James: Usually one person does the application, we have a rule in Vermont where anyone who has day to day control over a business, or has a financial stake of 10% or greater, must be identified. So those are all the owners, affiliates, and primaries.

Julie: The primary applicant must be a 51% owner to qualify for social equity. So, if 2 people apply and 1 person qualifies for social equity, that person must be a 51% owner in the business.

SE Licensees by Demographic Identity

Social equity cannabis licenses are intended to benefit individuals from Black or Hispanic/Latino populations and communities who have experienced cannabis-related incarceration. The following data highlight the breakdown of applicants who qualified for these licenses:

RACIAL/ ETHNIC IDENTITY	TOTAL NUMBER	OVERLAP WITH INCARCERATION	ALSO FEMALE
Non-Hispanic Black (Note: Overlap with CB incarceration or offense included 1 personally and 1 due to a family member for a total of 2).	18	2	6
Hispanic/Latino – Black (No CB overlap)	2	0	0
Hispanic/Latino – White (Overlap: 2 personal)	12	2	3
Hispanic/Latino – Other (Overlap: 2 personal)	12	2	2
Hispanic/Latino – American Indian/Alaska Native (Overlap 1 due to family member)	1	1	0
Hispanic/Latino – chose not to disclose race-ethnicity	1	0	1
White, non-Hispanic due to personal incarceration (includes 2 individuals with disabilities)	27		1
White, non-Hispanic due to a family member	12		5
Asian/Pacific Islander due to family member	1		0

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SE Eligibility via Co-Applicant

- Qualified due to Black/African American or Hispanic/Latino co-applicant. Totals 11 qualified individuals.
 - 18% with CB incarceration
- Qualified due to incarceration history of co-applicant. Totals 10 qualified individuals.
 - 100% White, non-Hispanic

* All 21 primary applicants identified as non-Hispanic White, without CB-related offense. Three were White women. All other White males.

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Laura: We broke down the social equity licensees by demographic identities. Then we have co-applicant data.

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Economic Empowerment Licenses

Qualification: Must be at least 51% owned by a member of a historically disadvantaged community, including:

- Women
- Veterans
- People with disabilities
- Members of the LGBTQIA+ community
- First Nation/Indigenous/Native Americans
- Asian American / Pacific Islander
- Other communities of color not explicitly named in the social equity program.


Source: <https://rcb.vermont.gov/social-equity>

EE Licensees by Demographic Identity

Applicants who do not meet the criteria for the Board's social equity program, but still come from historically disadvantaged communities may be considered economic empowerment candidates. The following data highlight the breakdown of applicants who qualified for these licenses:

DEMOGRAPHIC IDENTIFIER	TOTAL NUMBER
Women	9
Veterans	5
People with Disabilities	24
Members of the LGBTQIA+ Community	3
First Nation/Indigenous/Native Americans	2
Asian American / Pacific Islander	4
Other communities of color not explicitly named in the social equity program	0
CB Offense but not incarceration	17
Other Offense	35
Medical patient/CB advocate	4
Other: biracial marriage, physical appearance, etc.	5

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These are the qualifications to meet the economic empowerment licensing requirements. Next, we have the economic empowerment licenses by demographic. The 4 categories on the bottom aren't qualifiers for an economic empowerment candidate, however we're trying to find and highlight different things to encourage expansion to the economic empowerment licensure.

Questions & Discrepancies

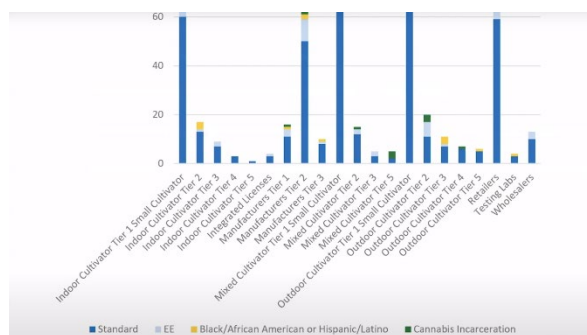
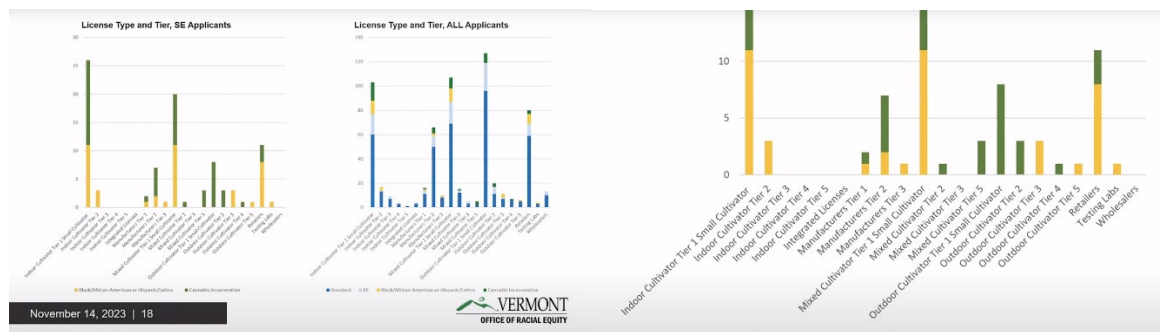
Some applicants' eligibility is unclear to the average reviewer, as the reasons behind their qualification are not explicitly stated in the materials provided. These are primary applicants without any qualifying SE co-applicants.

Awarded SE status but not sure why. Totals 2 individuals.	RACIAL IDENTITY	TOTAL	ALSO FEMALE
	White, non-Hispanic/Latino	1	0
	Asian or Pacific Islander	1	0

Additional applicants are expected to meet the criteria for social equity based on the available data. The breakdown of the estimation is as follows:

Estimations for additional qualified individuals	RACIAL IDENTITY	TOTAL	ALSO FEMALE
	Hispanic/Latino (3 White, 1 Other, 1 Blank or CNTD)	6	2
	Cannabis-related (5 White, 1 American Indian/Alaska Native, 3 Blank or CNTD)	9	2

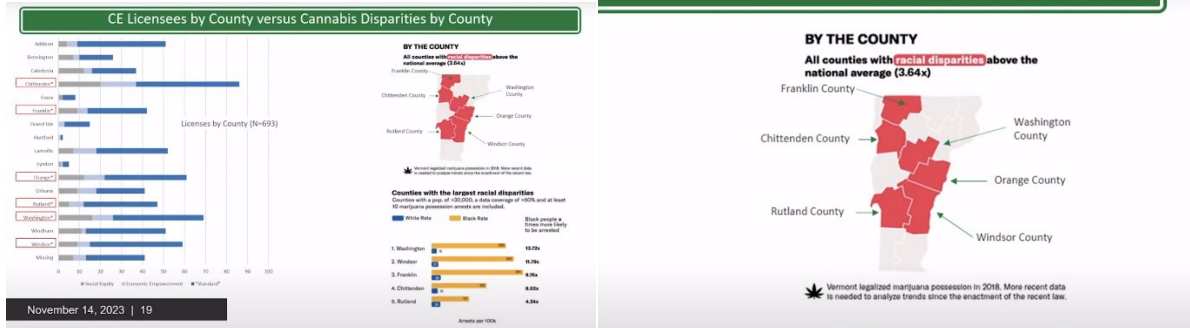
In the queries that we ran we noticed a few discrepancies. The first table is those that were awarded social equity licenses, but we weren't sure why. Later we found that those applications had been dismissed. The second chart is those that we identified that we expected to meet the criteria. The 6 did not apply for social equity in their application, for the group of 9, 3 were denied social equity status because they didn't meet the criteria for incarceration, 2 changed their status, and the remaining did not apply for social equity status.



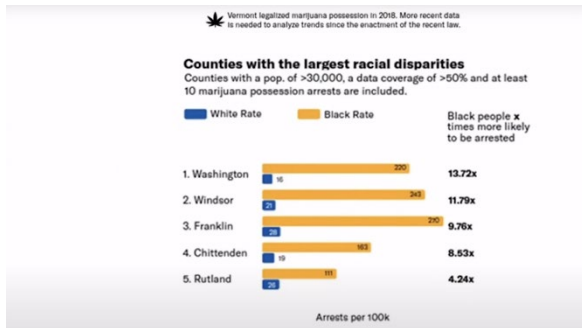
This is a breakdown by race and by license all the tiers and different types. In the chart on the left the yellow represents African American, and the green represents cannabis incarceration. In the chart on the right, the dark blue represents the standard license, the economic empowerment in in light blue, yellow is black or Latino, and green is cannabis incarceration.

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30 minutes

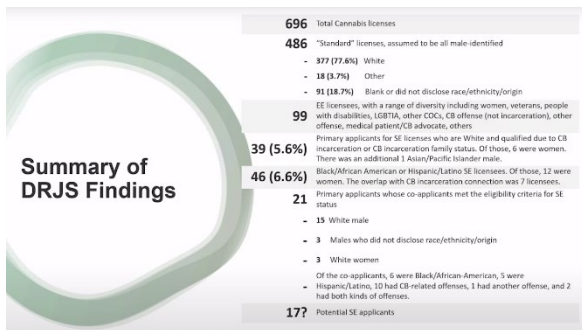


We wanted to highlight county level data also. On the right we have 2 graphics from the American Civil Liberties Union report *A Tale of Two Countries*. This shows the counties with racial disparities above the national average.



This one shows the largest racial disparities within the state. We wanted to show how our county data compares. In the larger bar chart on the left of the slide you'll see the grey bar shows social equity licenses, the light blue shows economic empowerment licenses, and the dark blue is standard licenses. The 6 counties highlighted in red have noted racial disparities in marijuana possession arrests and represent 364 or 52.5% of all the licenses. These

counties have 71 of 131 or 54.2% of the social equity licenses, and 55 of 101 or 54.5% of the economic empowerment licenses.

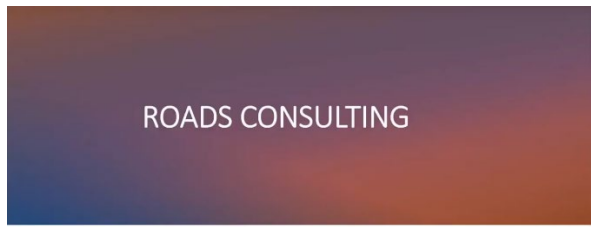


In summation, there are 696 total licenses 486 of which are standard. 99 are economic empowerment licenses, ranging from women and veterans to people with disabilities and LGBTIA. 39 were primary applicants for social equity licenses who are White and qualified due to cannabis incarceration. 46 met the social equity requirements based on being Black or Latino.

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ROADS CONSULTING

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Roads Consulting: Assistance Overview


- Roads Consulting assisted applicants with**
 - Book-keeping: 18
 - Business Strategy: 4
 - Cessation of Operations: 1
 - Grant Application: 4
 - Human Resources: 1
 - Legal: 2
 - Marketing: 20
 - Businesses that Declined Service: 2
- Total number of hours of support by month (2022-2023)**
 - November: 24
 - December: 81
 - January: 24
 - February: 74 (3hrs was completing the assessment)
 - March: 121
 - April: 66
 - May: 6
 - June: 13
 - July: 26
 - August: 48



Roads Consulting: Intake Survey


- Roads Consulting Intake Survey Analysis**
 - Much of the information from the samples were blank or did not contain enough detail.
 - Only as useful to the CCB as there is information in the survey; half of our sample was an individual who couldn't utilize the intake form to its fullest potential because they are not in business (as of the date we received sample).
- General Information Section**
 - What would be the main area we can assist in or what services can we provide to generate value for your business?
 - What sets you apart from your competitors?
 - Tell me about the current marketing plan that you are following today.
 - What social media channels do you use?
 - Do you get any metrics and data about social media?
 - What parts of your business (if any) are you outsourcing?

One of the services is provided by Roads Consulting. We looked at the Roads data collected. Only a quarter of the social equity applicants have done this intake assessment. Much of the information from the samples was left blank or didn't contain enough details for a robust analysis. The blue areas are questions that were mostly left blank, or areas that could be expanded on.



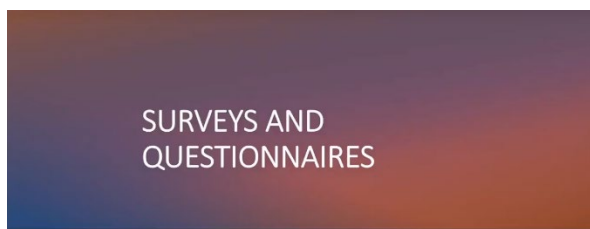
Roads Consulting: Intake Survey

- Customers' Information**
 - Who is your current or target customer?
 - Do you have a cohesive brand voice and copy? (ex. Greeting, elevator pitch)
 - What sort of demographics (age, gender, ethnicity, income, level of education, occupation, among others) do you have for your target profile?
- Business operation**
 - What sort of systems do you use to hold your team accountable?
 - What are the systems that are required in the industry to be utilized?
 - What type of certifications, minority certifications or licenses do you have?
 - Do you participate in any advocacy programs? If so, which ones?
 - Are you involved in any industry organizations, for example Vermont Grower's Association?
 - How do you perform quality control in all your jobs?




Roads Consulting: Intake Survey

- Employees' Information**
 - Is there anything else that we should know about your staff and your company?
 - How do you recruit new employees?
- Compliance Information**
 - What legal and compliance issues are you facing today?
 - Did you have legal counseling or assistance with attaining your current license?
 - What compliance items do you require today?
 - Who is responsible for managing compliance for products?
 - Who is responsible for managing compliance for marketing?
 - What trainings have you offered in the last 12 months?
 - What is the training, processes, procedures, equipment, and any other items that you must possess to have a full-time ready employee?
 - What defects do you experience (if any) with the Vermont regulatory system?
 - Have you had issues or concerns with the illicit market impacting your business?
- Sales Information**
 - What systems do you use for sales?
 - What does your pipeline (sales channel) look like today?
 - Is there anything else that we should know about your staff and your company?
 - Have you attended or participated in trade shows? If so, were they effective?
 - Tell me about the current plans that you have for growth
 - Does your sales manager and team have previous experience? If so, explain.
 - Do you have or are you working on any brand partnerships?



SURVEYS AND QUESTIONNAIRES

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SE Interview Question Analysis

From the Documentation section of the SE Interview Questionnaire
"We talked about a few things today that hadn't come up in the application papers so far. It's really helpful to document those. Can I ask you to look for documents you or your family might have retained concerning [housing, employment, education, legal events, benefits receipt, business history]."

Questions for the Board:

- Does this impact any exempt or private information/if a person were to refuse to provide documentation would their answers to other parts of the interview be enough to push them through to SE status? What are the barriers to accessing this additional information and are there other equitable standards that could be implemented by the Board?
- What do interview answers typically look like based on these questions?
- What part of this interview form has been helpful for the CCB currently in determining SE applicants that do not meet the initial criteria?

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We also looked at the social equity interview question analysis, and we wanted to highlight the documentation section. This top quote is directly from the questionnaire.

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Cannabis ID Card Holder Survey Analysis: (all numbers out of 125 total responses)

Gender Identity: <ul style="list-style-type: none">Male: 63Female: 34'Mostly Male': 2Blank: 17Other responses: 1	Racial Identity: <ul style="list-style-type: none">White: 90Black/African American: 1American Indian/Alaska Native: 12 or more races: 4'I do not wish to answer': 12Blank: 17	License Type: <ul style="list-style-type: none">Cultivator: 64C & Manufacturer: 5C, M & Retailer: 2C, M, & Wholesaler: 3C & Retailer: 5C, Retailer, & Wholesaler: 1Manufacturer: 7M & Retailer: 1M & Wholesaler: 1Retailer: 11Retailer & Cultivator: 1Retailer & Wholesaler: 1Wholesaler: 2Blank: 21
Education Level: <ul style="list-style-type: none">Associates: 10Bachelors: 36High School/GED: 13Technical School: 4Masters: 14Professional beyond Bachelors: 5None: 2'I do not wish to answer': 12Blank: 17	Respondents with Certificates related to the Cannabis Industry: <ul style="list-style-type: none">Yes: 15No: 93Blank: 17	Respondents with Trade Certificates: <ul style="list-style-type: none">Yes: 39No: 69Blank: 17

Another set of data that we looked at were the Cannabis ID Card holder surveys. These responses are from owners only, a total of 125. We were able to identify 28 responses coming from social equity businesses. Gender did not have a drop down while race and education did.

RECOMMENDATIONS FOR REINVESTMENT

Reinvestment Activities In Other Jurisdictions


These recommendations have been collected from other U.S. states related to how to fund and administer both the Cannabis Business Development Fund (to support SE cannabis businesses) and reinvestment in impacted communities. Cannabis reinvestment aims to address the harm caused by cannabis prohibition to disproportionately impacted communities. Reinvestment should be tailored to the unique circumstances and historical disparities and promote social and economic equity.

- Impacted counties
- Impacted demographics
- CB offenses


Recommendations

- Cannabis License Equity Programs
- Expunge Criminal Record/Legal Assistance
- Education and Outreach: on cannabis and its effects, help combat stigma and provide information on responsible use.
- Youth Programs: recreational, etc.
- Affordable Housing Initiatives
- Mental Health and Substance Abuse Services
- Job Training and Employment Assistance
- Small Business Support
- Restorative Justice Programs
- Community Engagement: Involve the community in the decision-making process for reinvestment programs

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These recommendations have been collected from other states. There are several states that have social equity programs. They all have similar recommendations. These are general recommendations.

Recommendations from ORE/DRJS

For Roads Intake Survey

- Have a quarterly or biennial check-in with businesses that have filled out the survey to assess how needs have changed and how the CCB/SE program can continue to support the SE businesses (continuing education, staff opportunities, etc).
- Expand areas of service or support for blue highlights—could the CCB offer training or business classes with the SE fund, or utilize that funding to support businesses who need everything, soup-to-nuts?
- Based on sample of intake questions, it was difficult to identify if there are major trends in areas of focus; with more information we may be able to determine a correlation of needs and make more distinct recommendations.

For Cannabis ID Card Holder anonymous survey

- Those who answered the questionnaire had thoughtful recommendations for job posting boards hosted by the CCB; more training, classes, marketing and brand building workshops; and development of Cannabis 101 course. Such a course would be easily attainable and create additional opportunities for the CCB to continue collaboration with VDH as the industry within VT changes over time.

For SE interview questionnaire

- [Still under deliberation]


General Recommendations

- Establish a lived experience advisory panel to work with the CCB on reinvestment to impacted communities.


Conclusion

This report provides an overview of the qualification criteria for social equity cannabis licenses, presenting a comprehensive breakdown of individuals who met the eligibility requirements. It also highlights the need for further investigation into potential additional qualifications to ensure the fair and equitable distribution for such licenses.


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Having the county level data allowed us to make better comparisons with some of the national data. Agency of Commerce and Community Development still holds the money but thinking of ways we can collaborate there assisting and allocating where that money should go.



Thank you!



References

- Bastomski, S., Dardieu, M., and Sackey, L. Justice Reinvestment in Vermont: Results of Racial Equity in Sentencing Analysis (New York: The Council of State Governments Justice Center, 2022).
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Erin: Thank you, Laura, that was a lot. I'd like to open it up to questions, but also if anyone from the Cannabis Control Board would like to share any thoughts as well.

Chief Stevens: I'm trying to figure out why we are socially beneath Black and Hispanic, and why we are not considered socially equitable. We are on the level with medical cards, and other things. It's baffling to me that we are not included, it's just reinforcing the whole BIPOC that "I" is not...I'm just a little frustrated that the American Indian wouldn't qualify for social equity. I'll just leave it at that.

45 minutes

James: The legislation requiring us to come up with criteria for a social equity applicant gave us two directives. It's people who have been personally affected by cannabis prohibition, and that was relatively easy to deal with. We said, "If you, or a family member, have been incarcerated for a cannabis offense you have been personally impacted by cannabis prohibition." The other more challenging criteria was, you have a social equity applicant who is an individual from a community that's been historically disproportionately impacted by cannabis prohibition. That "by cannabis prohibition" kind of throws things into a bit of a tailspin because there are many communities that have been harmed by government policies or government sanctioned activities.

So, this whole project seemed a little arbitrary to us. We had an advisory committee that walked through all the data that we had and looked at every other state that's kind of had to deal with what is a community that's been disproportionately impacted by cannabis prohibition. No one's figured out a good way to do this. I have a list of how every state defines social equity applicant. Trying to adopt a policy here proved to be very challenging. We do have any number of reports that demonstrate very clearly that the data is poorly collected in Vermont. It does clearly show that Black and Brown people have been pulled over at higher rates for cannabis offenses, they've been charged at higher rates as opposed to ticketed or sent to diversion.

When you think about trying to determine what a community is, we must meet a high constitutional bar to use non race neutral language in a rule or regulation. We had to demonstrate that there was a compelling interest, that there was a compelling need, and that this solution which isn't perfect could at least be defended if challenged. We realize there are communities that aren't going to be captured as social equity applicants. You can come to the Cannabis Control Board and say that you are from a community, however you want to define it, by geography, by race, by ethnicity, by origin, gender whatever you want; if you can demonstrate that you have been disproportionately affected by cannabis prohibition you are immediately a social equity applicant.

So as far as using kind of race specific language, we all acknowledge that it's not right, and this is essential to the work that this Panel is commissioned to do. You might be wondering why you're getting this information about the cannabis industry, it's because this Panel is being asked to define community for the State. You've been asked to do this for the sake of appropriating money from the cannabis excise tax. The consequences for this Panel are even higher now because giving someone a cannabis license is not a systemic approach to what was a systemic problem initially.

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It isn't a golden ticket, it's a potentially high reward, but more often a high failure industry. People in the cannabis world don't have bankruptcy protection, they don't have lines of credit, they can't get a loan from a bank. So, the people that get into this industry are pretty much risking everything that they have in order to participate.

Julie: We did have a recent rule change, which defines community a little bit more clearly. It includes people who qualified for the Federal Distribution Program on Indian Reservations, well that doesn't include Vermont's first peoples. We also added people who qualified for Supplemental Nutrition Assistance Program benefits. More recently I've been in touch with the Cannabis Indigenous Association. How can we define and better understand the harm that has impacted indigenous peoples?

Kyle: If we look at social equity programs in cannabis markets across the country, it's where a lot of the legal challenges lie. As James alluded to, when making race-based determinations in a government context you must be careful of the record that you're creating. We started where we thought we could build that record, and had people approach us if they thought they had a community that would qualify.

Geoffrey: I am at one emotionally with what the Chief is saying. It's hard to imagine a community geographically that's been more damaged by settlers traditionally. As a former state trooper, I can tell you that they were stopped and abused more frequently than people understand. Aside from that, I am hoping that people are thinking about the security of the demographics of that license. All you have to do is drive over to New York state, and if that stuff comes up on a car stop and you've got the criminal conviction, and you've got the license for marijuana, you're going to get jacked up. So, I hope someone is thinking about the security of the dissemination of those applications.

James: All our licensees are not allowed to cross state lines with any of their cannabis.

Geoffrey: I'm not talking about them crossing, I'm talking about them being harassed because the information may not be held as closely as it should be in areas where it's illegal. I'm not talking about them having dope in their cars, I'm talking about having the information pop up when somebody runs a plate.

Julie: In terms of information being held closely, do you mean the fact that they have a cannabis license? Or cannabis ID card?

Geoffrey: I'm concerned that the fact that people have cannabis licenses, I'm hoping that that information is held closely. Particularly if it's a license and a previous conviction.

James: We do have to walk a fine line as a state agency, we need to be transparent about who we are licensing. A lot of that information is public. Your concern is a good one. That cohort of our licensees may be targeted.

1 hour

Xusana: The whole reason we presented this today is because our team volunteered to assist with this Panel meeting its report mandate. This Panel is specifically asked by the legislature to report on cannabis. From Act 65, section 24-A: "The Panel shall collaborate with local and national stakeholders to study the administration and funding of the cannabis business development fund, gather qualitative and

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quantitative data informing the establishment and funding of community reinvestment for individuals and communities disproportionately impacted by the criminalization of cannabis.” I just wanted to remind everybody that the underlying driver of this Panel is that we’re asked to report to the legislature on the business development fund and how to reinvest in communities that have been harmed.

Shela: What is our directive for tonight? How should we be asking the questions or answering these concerns that will also achieve the goal that you mentioned to us just now?

Xusana: We pulled together some info that the Cannabis Control Board gave us on the social equity program and tried to package it in a way that would be useful to this Panel. So that the Panel could say “This is what should be done with this money.” Or “This is how we think communities should be reinvested in.” We’re not asking this Panel to endorse anything that we’re putting forward. We want to provide a sample menu of options and for this Panel to decide what it thinks will be best for Vermont.

Shela: Typically, the way I’ve seen this group run since its inception is that we need time to digest and provide thoughtful feedback, our lived experiences, and our opinions. I will add to what the Chief and Geoffrey said earlier, I was astonished when I saw that. The only thing I could think of was “Is this about color?” “Why aren’t native American people mentioned?” It keeps coming up that it’s an erasure. We keep on saying there’s not enough numbers to report, or something. Constantly having this conversation where they don’t qualify. I’m very concerned across the work that we do that indigenous people aren’t being included. They are the group that’s been most greatly impacted but we may not know that because we’ve only been around for a few years.

The other thing I’m trying to digest is the difference between social equity and economic empowerment. What I saw was a bunch of White folks being able to access the economic empowerment licenses, and that’s disproportionately having an overcast effect of the social equity licenses. So, we have social equity licenses where indigenous people aren’t being recognized or being recognized as a subcategory. Then we have the economic empowerment licenses with a lot of White people who are getting it due to other factors. It seems like a lot more White people are gaining qualification criteria, and access disproportionately to people of color. I thought the reason why this Panel is here is for it to not be that.

Erin: I wanted to highlight what you said that we need time to digest all this information. We need to really think about what we’ve heard tonight. We need to think about the analysis that the Office of Racial Equity did, and we need to come back to our December meeting with recommendations considering what we’ve learned.

Judge Morrissey: I think it said that if people qualify for a social equity license or an economic empowerment license, that for the first year the fee is waived, and the second year they must pay 25%, and the third year it goes up to 50%. What is the range of these licensing fees? Does that schedule for the increase in the fee make sense?

James: The most expensive license we have is \$10,000 for a retail license. The most inexpensive license that we have is \$750 which allows someone to grow 125 plants. The thing that the Cannabis Control Board got hung up on was this “communities that have been disproportionately impacted by cannabis

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prohibition.” My suggestion to you all is to ignore that “by cannabis prohibition” and use a proxy of “by government policies” or “by sanctioned activities”.

Kyle: We certainly got hung up on that, that’s why I stressed some of the sentiment of we just made sure we could make decisions based on the record we could build. We don’t have the same kind of ability to make changes that could alleviate some of the concerns I’ve been hearing here today.

Rebecca: Is this the first we’re hearing about this? Did I miss a previous discussion on this?

Xusana: No, this Panel has not previously discussed this.

Rebecca: Echoing concerns raised by the Chief, Geoffrey, and Shela. I’m reading Act 65 right now, and it requires this Panel to “meet not less than four times” on this subject, prior to making recommendations. I think that given the calendar right now, I don’t see how we can meet that. I would recommend tabling this topic now.

Erin: I’m not the Chair of the Panel, I’m just filling in for Etan. I agree that we cannot come up with recommendations about this matter now. We are running out of time; the calendar is intimidating right now. We have three other heavy topics to dive into tonight as well.

1 hour 15 minutes

Xusana: We’ve made the Division of Racial Justice Statistics able to assist on this. So, if there’s something you think we can contribute while the Panel is thinking, then you can let us know.

Erin: Thank you for the work you’ve already done. One thing that came from the legislation is this work, which isn’t really our skillset, so we’re glad the Office of Racial Equity stepped up.

Reverend Hughes: I wanted to chime in because it was us that wrote the legislation. At the same time, I lift up what the Chief and Geoffrey are saying. Not to dismiss it, but to qualify it more as a preexisting condition because that challenge existed before that policy was provided. I want to emphasize that the Marijuana Commission never mentioned equity at all. They did mention prevention and education, that’s the reason why those things were flagged for distribution. Despite our putting forward policies requesting the legislature take a closer look at Act 65 and the language around community reinvestment. Clearly allowing someone to enter the market is not the silver bullet to equity. I want to lift up what James said about systemic racism, and that’s the qualitative look at the work we’re trying to get done here. There’s a stack of money that needs decision making, or it will go to the general fund.

James: The Cannabis Excise Tax is being collected in a special fund right now, and that special fund is stepped to transfer to the general fund. So, if there’s no plan for that money it will go to the general fund. Community reinvestment is dependent upon someone coming in and saying to the legislature which communities have been disproportionately impacted, and how do we use targeted funds to alleviate that. Including the three commissioners of the Cannabis Control Board, no one likes what we did on defining social equity, we tried to follow the law and we tried to make it legally defensible.

- Compiling recommendations from the subcommittees into the full report to the legislature

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Erin: Whatever a subcommittee wants to recommend needs to be able to articulate how it would have a statewide impact. Even if the recommendation is to ask for funding, we need to explain the statewide impact that would have. We need to find a way for everyone's recommendations to go into a shared document that we can spend time reviewing and weighing in on without triggering a quorum for an official meeting. We need to get this done now. We have three subcommittees that have put together various presentations and have proposed written recommendations, and we need to hear briefly from them.

Xusana: Everyone could use the same template, and then send it to a person who can then populate a table of some sort. It's a little clunky and loads a lot of the work onto one person or a small group. I think that's the way to do it to avoid the collaborative documents problem. That's for generating the ideas, once we have them, we could put together a dot voting system. Where each person gets dots for voting up the ideas they want to, and then we decide what we're into as a group.

Erin: I like the dot voting idea. I think there needs to be one or two people that everyone can share their proposed recommendations with. That can go into one document that everyone can see and weigh in on at our next meeting. That will be me (Erin) and Etan. Please send me and Etan what you propose will go into our report. What we cannot do is get into a reply all email chain where we're making changes to the document, and everyone's weighing in.

Xusana: I suggest we use a template, so we don't run into formatting issues when collating everything.

Erin: So, Xusana you're going to send me the template. Then I'll plug in the various draft proposals and share it back out. Two draft proposals came to you this evening, one from the Juvenile Justice subcommittee and one from the Second Look subcommittee. Then we need to hear from the Community Safety Review subcommittee as well.

1 hour 30 minutes

- Community Safety Review subcommittee

Shela: I don't think Wichie is on the call, and I'm looking for clarification on what the Panel is asking for today after our presentation from a few meetings ago.

Erin: We're looking for an overview or bullet points that you would anticipate wanting to see in the Panel's written report to the legislature. What, from your presentation, would you suggest goes into the report to the legislature?

Shela: I don't have anything further to report tonight.

Erin: That's okay, you can just add your draft proposals after you receive the template.

- Juvenile Justice subcommittee

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Elizabeth: An email has been sent to everyone with our bullet points. It's about 2 pages worth of information that's separated into 3 primary recommendations. These are things we believe are already going to be coming up in the next legislative session anyway, and it would be beneficial for this Panel to have an opinion on them. Those include raising the age of minimum court jurisdiction from 10 to 12, requiring race and ethnicity data to be recorded in the Vermont Judiciary database, and that both perception and self-identification should be used to determine race of an individual. Many of these are things that the Council for Equitable Youth Justice is discussing.

Rebecca: Are we including an actual age to raise to?

Elizabeth: H.142 includes the age of 12.

Erin: Regarding this question about whether we're going to specify an actual age, or any questions that we would want to figure out answers to tonight, several of us on this Panel are designees of offices that we would then have to take up to the leaders of those offices. Any potential recommendations need to be brought to them first.

- Second Look subcommittee

Rebecca: Erin sent around a succinct statement of critical points that the subcommittee on Second Look has come up with. We have had several people participate in our monthly meetings. Shared her screen.

RDAP supports Second Look legislation that allows for review and reconsideration of an original sentence.

We should have second look legislation that is:

- Science and data driven.
- Without carveout offenses or age limitations.
- Focused on addressing and correcting racial disparities.
- An embodiment of restorative justice principles and inclusive of reentry supports for both offenders and victims.

We talked at our last meeting about pulling together some overarching ideas about whether we could land on some fundamental principles around Second Look legislation. We wanted to wait until the conference was conducted, I'm glad Jess is here.

1 hour 45 minutes

There was a full day of speakers dropping in to discuss Second Look issues and discussion points. Who gets to be looked at for Second Look? Should certain offenses be categorically excluded? Should only certain people who are convicted and sentenced at a certain age be considered? Should it only be for people serving for 50+ years? 25? We heard from experts at the conference, including a psychologist present on the science of recidivism. We suggest to the panel that whatever is decided be science and data driven, and not political. We also learned that it is inconsequential in terms of recidivism rates whether Second Look is inclusive of violent types of offenses. We also wanted to affirm point number 3,

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focus on addressing racial disparities. The current system of imposing original sentence in perpetuity doesn't serve anybody because the sentence isn't locked in time, people move on. It may be best for everybody involved directly in the case, and for society in general. We wanted the embodiment of restorative justice principles to be part of any Second Look legislation, including reentry support.

Erin: What's next for these bullet points from the Second Look subcommittee?

Rebecca: Most critically, I would like to hear what the thoughts are on those 4 bullet points.

Erin: For example, "without age limitations", a little bit more about what that means.

Jessica: Motion to adjourn.

Tyler: Seconded.

Meeting adjourned.