

# Cannabis Legalization and Racial Disparities in Washington State

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## Introduction

Arguments in favor of cannabis legalization in Washington State (WA) emphasized perpetuation of racial disparities as an important consequence of prohibition. Proponents of Initiative 502 sought to find ways to decrease the disproportionate criminalization of racial minorities, while adopting a public health model that would protect vulnerable populations, particularly youth, from risks associated with a possible increase in cannabis consumption.

This brief report examines the most recent data publicly available on cannabis use and racial disparities in WA State in three areas of interest: criminal justice, youth consumption, and treatment for substance use disorders. Whenever possible, comparison of pre- and post-legalization is presented. In each section, data are presented and followed by a description of known limitations and contextual factors to aid in interpretation.

## Criminal Justice: Impacts of Cannabis Legalization

To date, the evaluation of I-502's impact on criminal justice outcomes has focused on changes in the number of criminal offenses and court filings related to marijuana crimes for adults; studies examining racial disparities after legalization in Washington are still preliminary.

Overall data available show a sharp decrease in *criminal offenses* after legalization (Table 1):

- The number of marijuana criminal offenses (for adults 18+ years) has dropped by 63%.
- Distribution of marijuana offenses by *crime type* has remained relatively the same, with possession accounting for nearly 90% of marijuana offenses.<sup>1</sup>

### Criminal justice outcome definitions

**Criminal offenses:** An offense occurs when a criminal incident is investigated and reported by law enforcement. An offense can include minor crimes that result in a citation to more severe misdemeanor and felony crimes. Data on marijuana-related offenses for the entire state of WA are currently available from 2012 to 2015.

**Court filings:** A criminal offense that results in a person being referred to the criminal judicial system. The number of court filings is smaller than the number of offenses because some offenses may be dropped or do not warrant an appearance in court. For this report, court filings were specific to misdemeanor and felony level crimes. Court filing data are available prior to legalization and our report contains data from 2009 to 2013.

**Table 1. Marijuana offenses in Washington state by crime type, 2012–2015**

	2012	2013	2014	2015
<b>Total Count of Offenses</b>	6336	2689	2326	2313
<b>Offenses by Crime Type</b>				
<b>Possession or Consumption</b>	5786	2373	2103	1999
<b>Distribution or Selling</b>	327	194	126	198
<b>Cultivating or Manufacturing</b>	127	84	62	47

Source: Forecasting and Research Division, Washington State Office of Financial Management. *Monitoring Impacts of Recreational Marijuana Legalization: 2016 Update Report*. Olympia; 2017.

Prior to the passage of I-502 in 2012, the number of *court filings* for marijuana possession among adults 21+ years was decreasing: from 7,964 in 2009 to 5,531 in 2012. After legalization of adult possession (21+ years), court filings continued to drop -- hitting a historical low of 120 in 2013.<sup>2</sup>

***How has the decline in cannabis-related criminal outcomes impacted people of different races?***

Publicly data available to date suggest that the sharp decline in cannabis-related criminal outcomes have impacted people of all races and ethnicities in unequal ways.

Before legalization, African American/Blacks were 2.8 times more likely to be arrested for marijuana possession than Whites, in WA State (3.8 times nationwide)<sup>2</sup>. Most of these arrests (88%) were for cannabis-possession-only, yet adult marijuana use was similar across racial and ethnic groups.<sup>3</sup>

After legalization, analysis from the Washington State University Crime, Cannabis & Police Research Group<sup>4</sup> indicated that disparities between African American/Black and white adults varied by the type of crime committed. The relative disparity in arrests for selling marijuana has more than doubled since legalization while there was a small decrease in possession-related disparities.<sup>4</sup>

Preliminary evidence suggests that legalization has impacted White and Black adults differently.

The disparity in court filings for marijuana possession among African American/Black adults has remained unchanged after legalization. African American/Black adults are nearly three times more likely to be prosecuted for a low-level marijuana possession offense than white adults after legalization.<sup>2</sup>

***Factors to consider when interpreting criminal justice data use data***

- Currently, marijuana-specific statewide criminal offense data are only available from 2012–2015. No statewide data is available for marijuana-specific criminal outcomes prior to adult legalization. This makes assessing the impacts of adult legalization on criminal justice outcomes rather difficult given that the statewide patterns of marijuana-specific criminal justice outcomes are unknown prior to 2012.<sup>5</sup>
- No evaluation of I-502 on juvenile justice outcomes has been conducted in WA State. In Oregon, the number of marijuana-related criminal offenses among youth has increased after legalization: from 1,397 in 2010 to 1,705 in 2015 which was the year following adult legalization.<sup>6</sup>
- Data collection of Latinx ethnicity is not required in national criminal justice reporting (for FBI) and data collection varies greatly between law enforcement agencies.<sup>7</sup> This limits analysis on disparities among this historically targeted group.

- Racial and ethnic identity data is not necessarily generated by self-report and may vary between law enforcement agencies. This can cause racial misclassification, impacting results when examining race-specific criminal justice trends.

## Youth Use: Impacts of Cannabis Legalization

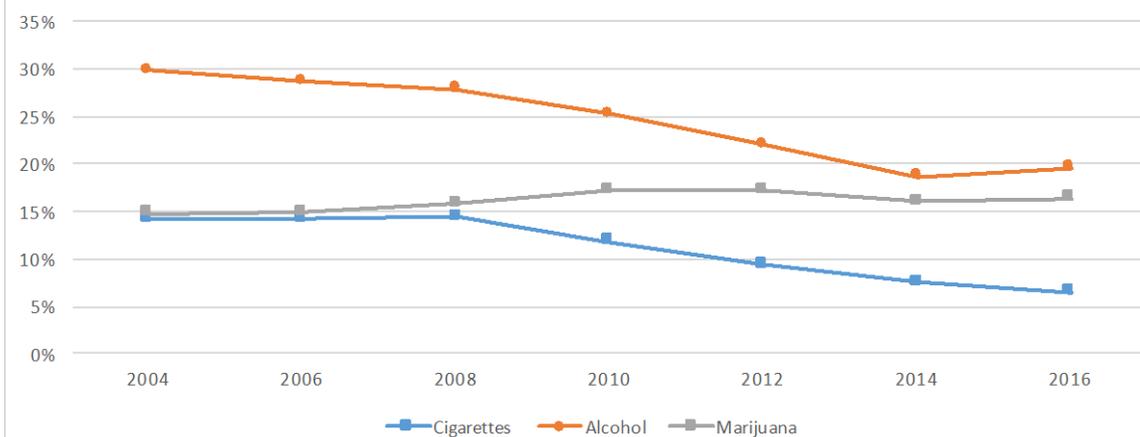
Data on current cannabis use (defined as self-report use in the last 30 days) among WA youth enrolled in school has been collected since 2004 on the biennial Washington State Health Youth Survey (HYS).<sup>8</sup> Analysis of HYS data offers many insights into how current use of cannabis has changed over time and among WA state youth of diverse backgrounds.

### ***Has cannabis legalization impacted cannabis use?***

Cannabis use among youth has varied over time, with a peak in 2012.<sup>10</sup> Comparisons between reported cannabis use before (2010-12) and after legalization (2014-16) shows no evidence of statewide increase after legalization among WA youth enrolled in school.<sup>9</sup> Preliminary data from 2018 HYS suggests that marijuana use continued flat among students.

This lack of significant change in cannabis use over time contrasts with a sharp decrease in alcohol and cigarette use among 12<sup>th</sup> graders statewide (Figure 1).

**Figure 1. Trends in substance use among Washington state 12<sup>th</sup> grade students, 2004–2016**



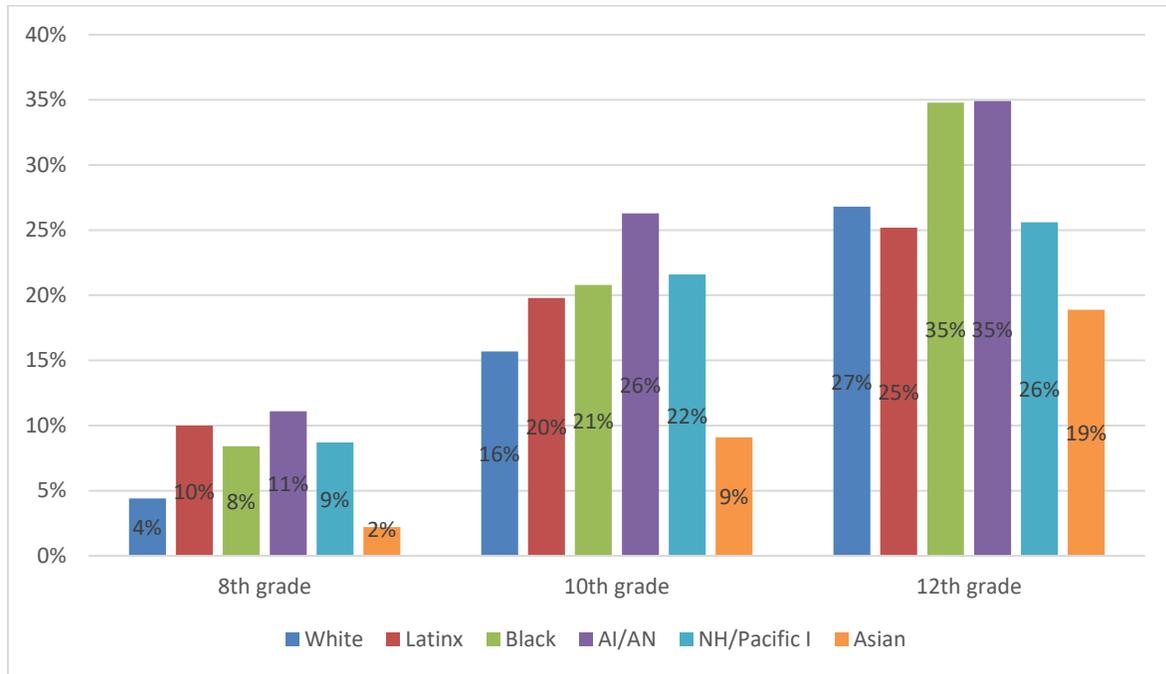
*Data from the Washington Healthy Youth Survey, 2004–2016, provided by the Center for the Study of Health and Risk Behaviors, University of Washington, Seattle*

### ***Has cannabis legalization impacted cannabis use disparities?***

A HYS data analysis conducted by researchers at the University of Washington<sup>10</sup> suggests that cannabis use disparities are prominent in all grades and have persisted overtime. However, there is no evidence so far that adult cannabis legalization has impacted racial/ethnic disparities in cannabis use among WA youth.

Current disparities: The most recent data on current cannabis use in WA State are from 2016.<sup>10</sup> As can be seen in Figure 2, cannabis use increases with age/grade for all groups and disparities in use are present across grades. Asian students report the lowest use of all racial groups, in all grades. White students report the second lowest cannabis use in 8<sup>th</sup> and 10<sup>th</sup> grade, catching up with other groups by 12<sup>th</sup> grade. African American/Black and American Indian/Alaska Native youth reported the highest cannabis use of all groups.

**Figure 2. Current marijuana use among WA 8<sup>th</sup>, 10<sup>th</sup> & 12<sup>th</sup> graders by race/ethnicity, 2016**



*Data from the Washington Healthy Youth Survey, 2004–2016, provided by the Center for the Study of Health and Risk Behaviors, University of Washington, Seattle.*

**Projected trends in use and disparity**

The relative stability over time in overall cannabis use in WA State (Figure 1) and race/ethnic differences in cannabis use (Figure 2) will most likely evolve in the next few years given the complex and rapid changes in cannabis policies and societal attitudes around its consumption. Of note, perceived harm of cannabis use has been declining markedly among 8<sup>th</sup> graders in WA, and to a lesser extent among 10<sup>th</sup> and 12<sup>th</sup> students.<sup>11</sup> This may signal a future increase in cannabis use, as low perception of harm has been associated with increased cannabis use among youth.<sup>12</sup>

No increase in cannabis use among youth has been detected in Washington since cannabis legalization.

Also of note is that – while overall cannabis use has been stable since legalization– it has been significantly increasing since 2004 in one segment of students: 12<sup>th</sup> graders. Among them, cannabis use in the last 30 days went from 19% in 2004 to 27% in 2016.<sup>10</sup> This increase was not uniform, being most accentuated among Latinx youth (from 13% to 25%), followed by Asians (from 9 to 19%) and Whites (from 20 to 27%)<sup>10</sup>. These differences may accentuate disparities in cannabis use in the future.

**Factors to consider when interpreting WA youth cannabis use data**

Data Source

The data used in this section are estimates from the Washington Healthy Youth Survey (HYS), an anonymous, school-based survey of 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> graders. HYS is the primary information source in WA State about health behavior among youths. HYS samples youths in public schools to provide results generalizable to youths attending public schools statewide.

### Year of data collection

HYS is administered every even-numbered year across Washington State. Data just released from HYS 2018 continue to show an overall flat prevalence of cannabis use, but data on race and ethnic differences have not been made available by the time this report was developed (March 2019)

### Youth representation in HYS surveys

HYS collect self-report data from youth attending school, in the day/week the survey was administered, excluding students who were not present at school during data collection.

Youth who have dropped out of school or are currently institutionalized will also be excluded from HYS. In WA, high school dropout represents 11.5% of school-aged youth. Dropout rates vary greatly by race/ethnicity from 6.1% among Asian youth to 25.7% American Indian/Alaska Native youth.<sup>13</sup>

### Differences in cannabis use estimates between HYS and other sources:

Recent analysis using Monitoring the Future (MTF) data found an increase in cannabis use among 10<sup>th</sup> graders after legalization in WA,<sup>11</sup> which is inconsistent with the findings described in this report. MTF is designed to provide national and US regional information but not state-specific substance use estimates. MTF draws inference from roughly 1500 students in WA State while HYS surveys about 25,000 students biannually. The HYS is designed to capture characteristics of subpopulations of WA students. As reasoned by Dilley et al (2019),<sup>9</sup> the difference in sampling size and methods mean that the MTF sample may be more influenced by unmeasured characteristics of Washington youth. Therefore, HYS is considered a more reliable source of information for WA state specific analysis.

## **Treatment of Substance Use Disorders: Impact of Cannabis Legalization**

### ***Limitations of current data***

Data on treatment of substance use disorders in WA State are limited when assessing racial and ethnic disparities over time for specific substances. These limitations stem from changes in data collection procedures and race/ethnicity categorization that occurred in 2016. To the best of our understanding, these changes in data collection procedures were part of organizational realignment of the Division of Behavioral Health and Recovery (DBHR), formerly under Washington State Department of Social and Health Services (DSHS) and now part of the Washington State Health Care Authority (HCA).

Until 2015, DSHS was in charge of publicly-financed substance use disorder treatment and collected data on race/ethnicity of adults who received treatment within a given year.<sup>14</sup> In 2016, DSHS ceased reporting data on race and ethnicity of individuals receiving services for substance use disorder. In 2017, data reporting transitioned exclusively to a “one-day snapshot of clients in treatment”, and is now managed by WA State HCA-DBHR<sup>15</sup> and categorization of race and ethnicity has appeared to have changed from methods used by DSHS before 2016. Because of these discrepancies, we are unable to describe rates of cannabis-specific substance use treatment by race/ethnicity among DSHS clients or establish trends in cannabis-specific substance use treatment after legalization in WA State.

The content presented in this section relies on a 2017 ADAI report developed by Dr. Jason Williams, comparing cannabis substance use treatment trends from 2002 to 2015.<sup>16</sup>

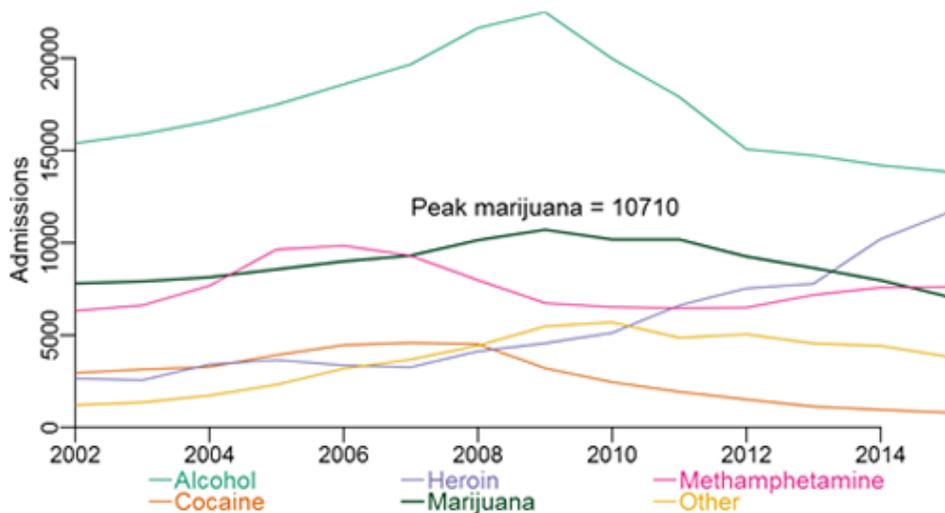
### ***Treatment admissions for substance use disorders***

Treatment admission data for Washington State are shown in Figures 3–5. Caution should be used when interpreting these data, given changes in treatment capacity and funding that impacted the number of

admissions for most drugs after 2010. Therefore, it is important to consider both the absolute (count) and distribution (percentage) of characteristics of interest.

Data are presented by the number of treatment admissions per year. Data included are for people who received publicly funded drug treatment, excluding treatment provided by the Department of Corrections. Those included are disproportionately of low socio-economic-status compared to all WA state residents.

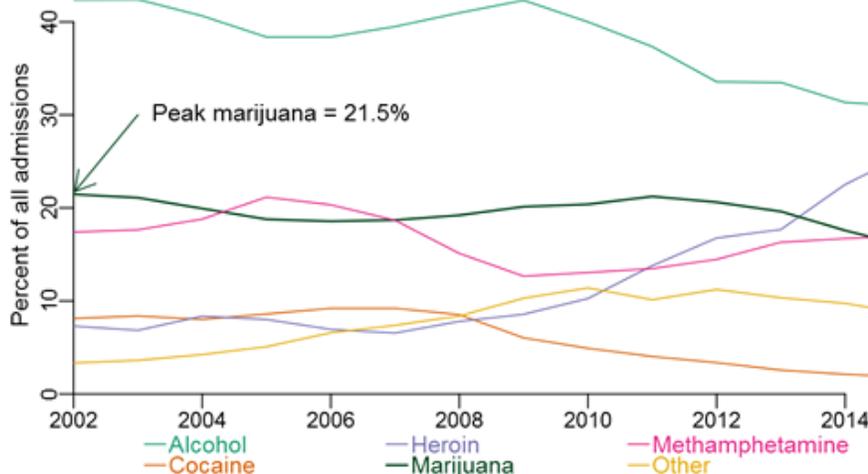
**Figure 3: Counts of publicly funded substance abuse treatment admissions by primary drug**



Source: Washington State Division of Behavioral Health and Recovery Substance Abuse Treatment Analyzer

Total cannabis-primary admissions peaked in 2009 at 10,710, as did alcohol-primary admissions. Heroin admissions and, more recently, admissions for which methamphetamine was listed as the primary substance have increased in recent years while marijuana and alcohol admissions have declined. Comparing the proportion and rank of treatment admissions, marijuana peaked at 21.5% of all admissions in 2002, nearly re-ascended that peak in 2011, and declined to rank fourth in 2015 (Figure 4).

**Figure 4: Treatment admissions by primary drug as a percent of all admissions**

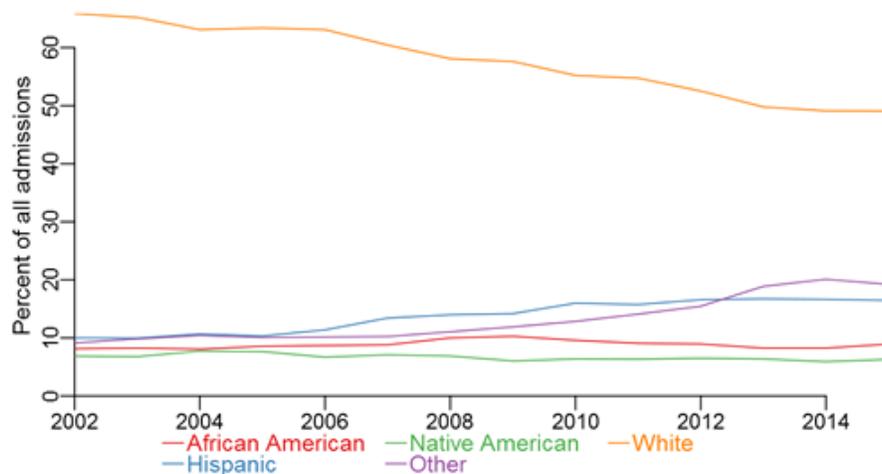


Source: Washington State Division of Behavioral Health and Recovery Substance Abuse Treatment Analyzer

Standardized admissions document the preferred race and ethnicity of each client. The majority of individuals in cannabis-related treatment identified themselves as whites, followed by Hispanics and Other (a category that

includes Asian and Pacific Islander, Multiple Race, 'unknown' and 'unspecified' due to small numbers). The increase in people identifying with multiple races over time, however, resulted in this category growing over time, limiting trend comparisons

**Figure 5: Race/ethnicity of clients admitted for cannabis-related problems**



Source: Washington State Division of Behavioral Health and Recovery Substance Abuse Treatment Analyzer

### **Factors to consider when interpreting WA cannabis treatment data**

- Changes on race and ethnicity classification (as reported above) greatly limits treatment disparities analysis.
- Publicly funded treatment data reflects not only demand for treatment but is highly dependent on the availability of services for those seeking them.
- Data on private/self-paid treatment are not publicly available which creates a massive gap in our understanding of drug treatment utilization among WA state residents.

## **Final considerations**

The most important take-away of this report relates to the limitations of data available on which to draw conclusions regarding changes in cannabis legalization and racial/ethnic disparities. More specifically:

- The data are not recent enough: the most current available criminal justice and treatment data are from 2015; school-based survey data are from 2016
- Before legalization, data were not collected to allow for comparisons (as is the case of marijuana-specific criminal outcomes prior to adult legalization)
- Classification and collection of race/ethnicity has changed, not allowing for comparisons (as is the case for racial categories reported for treatment admissions)

Keeping these limitations in mind, the data available so far allows us to suggest:

- Legalization has had no impact on lowering racial bias in policing and in relative disparities related to particular crimes (like selling or distributing marijuana).
- Changes in cannabis use disparities among youth needs continued monitoring of racial and ethnicity specific trends.

- Legalization does not seem to have impacted uptake of cannabis related treatment among racial/ethnic groups differently but the information available is very limited.

Harmonization of substance use treatment data systems over time will be crucial in order to assess treatment racial and ethnic disparities.

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