



**By Valeria Mogilevich**

**With Mizue Aizeki and Marie Mark  
of Immigrant Defense Project**

**Funded by the Drug Policy Alliance**

**Immigrant Defense Project secures fairness and  
justice for all immigrants in the United States.  
[immdefense.org](http://immdefense.org)**

**© Immigrant Defense Project, 2018**

*THIS DOCUMENT DOES NOT CONSTITUTE LEGAL ADVICE.*

You probably know that people of color, which include immigrants, are disproportionately targeted in marijuana arrests by the police.

You might not know that non-citizens get punished beyond the already harsh consequences of a marijuana conviction. Overnight, the lives they've built in the U.S. over decades can be destroyed. They can be torn from their families and exiled to a now-unfamiliar country.

These four stories illustrate the cruel impact of current drug laws on non-citizens. They are composites of common scenarios for green card holders and undocumented people who have been convicted of marijuana possession and use.

### MARIJUANA USE RATES



### LIKELIHOOD OF A MARIJUANA ARREST



According to immigration law,\* if a green card holder is convicted of possession of ANY amount of marijuana, that is an "inadmissible offense." That means if he ever travels, he can be put in deportation proceedings on his way back to the U.S. The government can imprison him for years while they try to deport him.



*EVEN JUST HOLDING A JOINT  
IN PUBLIC CAN HAVE SERIOUS  
IMMIGRATION CONSEQUENCES.*



*THERE IS NO STATUTE  
OF LIMITATIONS ON THE  
CONVICTION.*

---

*\* 8 U.S. CODE § 1182(a)(2)(A)(i)(II)*

---



*STORY #1*

I have a green card. Ten years ago, I was convicted for smoking a joint in public. This year, I went to the D.R. to visit my dying grandmother. I knew I could be stopped on the way back to the U.S. It was a gamble, but I wanted to give her a hug before she died.

I was arrested at the airport by immigration and put in detention. Now I may never get back to my life, my family, and my friends in the U.S.

According to immigration law,\* when a green card holder is convicted of ANY sale of marijuana (even five dollars' worth), she has engaged in "illicit trafficking." In the eyes of the federal government, that's an aggravated felony.

That means she will automatically be deported and is permanently ineligible for citizenship. The only way she won't be sent to her country of origin is if doing so will violate the Convention Against Torture because the government will torture her.



*IT DOESN'T MATTER HOW LONG SHE HAS  
BEEN HERE, IF SHE SERVED HER TIME,  
OR IF FAMILY DEPENDS ON HER.*

---

*\*8 U.S. CODE § 1101(a)(43)(B)*

STORY #2



My mom came here from Ethiopia. She was granted asylum and then got a green card. My brother was selling weed out of our house, but mom didn't want to kick him out. One day, the cops searched our home and arrested them. They said she wouldn't get jail time if she pleaded to possession with intent to sell. She did.

Five years later, she applied to become a citizen. ICE was waiting for her at her interview. She never came back. Why was she punished twice?



In drug courts, people can participate in treatment programs as an alternative to detention. They plead guilty to the top charge, complete treatment, and then their charges are reduced.

That doesn't help non-citizens. In the eyes of immigration court,\* if a non-citizen initially pleads guilty, that's all that matters. Immigration law does not care if a state court throws out the conviction. That means going through a treatment program can lead to deportation.



*IMMIGRATION LAW  
DOESN'T RESPECT  
STATE LAW.*

---

*\*8 U.S. CODE § 1101(a)(48)(A)*

---



### STORY #3



I was taken in for marijuana possession and offered a chance for treatment through drug court instead of having to go to prison. There was a big graduation ceremony at the end of my program where the judge told me I did a good job and my record was clean.

Eight years later, I heard banging on my door at 5 a.m. I opened it and ICE grabbed me, took me away from my home, and threw me in detention even though I hadn't been arrested again since that first time.



Under the law, an immigration judge can't even consider letting non-citizens out on bond if they have a marijuana conviction that makes them deportable.\*

Detaining immigrants without bond while they wait for their cases to be heard causes uncertainty and trauma for immigrants and their families. In many cases, breadwinners are fired from their jobs and families lose their homes.



*JUDGES CAN'T SET BOND EVEN IF  
THEY BELIEVE THE IMMIGRANT WILL  
WIN HIS CASE.*

---

*\*8 U.S. CODE § 1226(c)*

---

The background of the entire page is a repeating pattern of a prison cell. Each cell contains several rows of metal bunk beds, with a small table and chair tucked under them. The beds are arranged in a grid that recedes into the distance, creating a sense of a large, institutional facility. The color palette is muted, with greys, browns, and a touch of blue.

*STORY #4*

I was convicted of possessing marijuana. I already served my time, but now I'm in immigration jail.

The judge said he can't let me out before my case is over. I've been trapped here for months, so I lost my job and my family had to move into a shelter.

These stories of the immigration consequences of marijuana arrests are just the tip of the ICEberg.

The Immigrant Defense Project is fighting to change marijuana laws to protect both citizens and non-citizens.

To learn more, visit  
[immdefense.org/marijuana](https://immdefense.org/marijuana)



IMMIGRANT  
DEFENSE  
PROJECT

