



## REEFER MADNESS:

# The UNFAIR CONSEQUENCES of MARIJUANA ARRESTS in NY STATE

Despite the fact that New York State in 1977 made possession of small amounts of marijuana a violation – like speeding or ignoring a stop light – thousands of people in all corners of the state are arrested for it every year.<sup>1</sup>

In New York City, year after year it is the most frequent reason a person is arrested. Statewide, New York's marijuana arrest rate of 535 arrests per 100,000 people was the highest of any state in 2010 and double the national average. That year there were 103,698 marijuana-possession arrests in New York State – 29,000 more than Texas, the state with the next highest total.<sup>2</sup>

Black New Yorkers bear the brunt of these arrests despite government research that shows that white people use marijuana at higher rates than black people do.<sup>3</sup> The disparities are stark: Across the state, black New Yorkers are 4.5 times more likely to be arrested for pot than white New Yorkers. In Brooklyn and Manhattan, black people are nine times more likely to be arrested than white people. In Onondaga County (Syracuse), they are almost eight times more likely to be arrested, and in Niagara County they are almost 7.5 times more likely to be arrested.<sup>4, 5</sup>

Although arrests for possession of small amounts of marijuana are common, their impact can be devastating. The consequences are often surprisingly drastic and completely disproportionate to the offense. Every aspect of a person's life can be impacted by a marijuana arrest, including eligibility for public housing and student financial aid, job opportunities, child custody and even immigration status. Marijuana arrests are also financially burdensome, often coming with mandatory court fees, fines, costly legal services and court appearances that require time away from work and school or interfere with paying for child care.

The NYCLU has collected stories of several everyday New Yorkers to help illustrate the immense damage caused by this misguided criminal justice priority. These stories are only a small sample: The injustice is repeated more than 100,000 times every year.



## DEPORTATION

**R.C., 37, Black Male, Brooklyn**

R.C. is a husband and father of two young boys. He is a college instructor and award-winning soccer coach. But he has never applied for tenure at the university where he works because the school would uncover the two marijuana possession arrests that have haunted him for a decade.

R.C. was arrested for possession of marijuana nearly 14 years ago, when he was 23-years-old, and again one year later.

Apart from the challenges R.C. faces with his career, which make it hard to provide for his family, R.C. has a much bigger problem: He has been in deportation proceedings for more than 10 years because of his arrests. Two arrests for marijuana possession – even noncriminal charges – make a person automatically eligible for deportation under federal law. In R.C.'s case, the old marijuana arrests threaten his ability to stay with his wife and children.

Shortly after his second arrest, while traveling back from a routine family visit in Jamaica, R.C. was sent to Immigration and Naturalization Services. There, the immigration agent told R.C. that he was in jeopardy of being deported because of his arrests. The officer confiscated his passport and green card.

A decade later, R.C.'s immigration case is still pending. He does not know where he will end up or what will happen to his family.

"The marijuana arrests hurt my career, and it's not easy living in a studio with my wife and two sons," he said. "But at least I am alive. Lots of people who were sent back to Jamaica are dead in six months."

## FUTURE UNDER THREAT

**R.M., 20, Guyanese American Female, Staten Island**



R.M. is a 20-year-old nursing student from New Jersey. While driving with her friends in Staten Island, she was pulled over by the NYPD. After officers found a marijuana cigarette in the car, R.M. was arrested and taken to the local precinct. She was released from custody with a ticket to appear in criminal court.

In New York State, one drug arrest can affect professional licensure and that determination is at the full discretion of the school or employer. With a drug arrest on her record, R.M.'s dream to become a nurse could remain just that. She is also hesitant to take the exam to become a pharmacy technician – the job she planned to help her pay her way through nursing school – out of fear that the arrest will show up during a background check. R.M. was devastated when she shared her story with the NYCLU.

"This arrest affects my future, and how I will make a living," she said. "This will always follow me."

Luckily for R.M., the judge granted her a tentative dismissal and her attorney was able to get her record immediately sealed so that she could continue on the path to nursing school.<sup>6</sup> Not everyone is that lucky.



## ABUSED BY POLICE

**David Walker, 29, White Male, Cheektowaga**

David heard the sounds of rustling in the woods and thought it was an animal. He had no idea that it was police officers with Tasers and guns pointed at him. David and a friend, a young black man, had just parked his car on the street and went to sit in a park when officers came in after them. The officers allegedly received a call that kids were doing drugs in the park. But David and his friend didn't have any drugs.

After officers knocked David on the ground and pulled him through the woods and out of the park, scraping his face and legs, they handcuffed him and his friend. The search of the car uncovered a marijuana pipe and grinder, paraphenalia that are legal for David to have in his home state of Washington. David and his friend were both arrested and charged with minor marijuana possession.

Since the arrest, David has been back-and-forth to Buffalo twice to deal with the charges. His life has been completely turned around. Before the arrest, David had planned to backpack across Europe – a graduation present for completing his bachelor's degree at Washington State University. Those plans are now postponed. David is still searching for a lawyer and his case is still pending.

"I felt violated, physically and emotionally," he said. "I felt attacked. I was scared for my life."

## CHILDREN AND HOME TAKEN AWAY

### Jamar Jones, 33, Black Male, Manhattan



Jamar never imagined he and his family would end up in a homeless shelter. But that's where he, his wife Jennifer and their 6-year-old son are as a result of his arrest for marijuana possession.

Jamar and his family were staying with his sister and her son in a public housing facility in New York City's Lower East Side when NYPD officers barged into the apartment at 6 a.m. The police said that they received a tip that someone in the home was selling drugs. After searching the entire apartment, they found one marijuana cigarette. Jamar, his wife and his sister were arrested. His son and 2-year-old nephew were taken to the precinct.

As a result of the arrest, Jamar and his family are no longer able to stay in the apartment – one drug arrest can ban you from public housing. And they are overcome with fear about what could happen to their son. The Administration for Children's Services is now investigating whether Jamar and Jennifer are capable of caring for their son.

"Child services visits my son's school during the day and pulls him out of class. To have my parenting questioned is painful, and it's so embarrassing for our son," Jamar said.

Jamar and his family are living in the shelter for now. Both the criminal case and child services investigation are pending.



## MISSED SCHOOL AND BANK ACCOUNT DRAINED

### Sean Loftin, 18, Black Male, Yonkers

Sean and his two friends were in a park in their neighborhood when police officers approached them. The officers told Sean and his friends to get against the wall and searched their pockets. The searches turned up nothing. When an officer saw a marijuana cigarette on the ground close to where the boys were, he threatened that if one of them didn't claim it, they would all be arrested. Out of concern for his friends, Sean took the fall.

At the time of the arrest, Sean was only in town for a few days. He was enrolled in Job Corps for a career in the automotive industry two and one-half hours away. He traveled by bus back-and-forth to make his repeated court appearances, and the travel and court costs were challenging for a young student.

Sean was granted a tentative dismissal from the court partially because his Job Corps leaders wrote to the court on his behalf. Sean feels lucky but still scared.

"I felt ashamed," he said. "I thought it would be on my record for the rest of my life."

His grandmother, the Rev. Emma Loftin-Woods, is even more upset.

"Every time he leaves this house, I am holding my breath until he comes back," she said. "I haven't been able to sleep properly. I don't rest until I hear that key in the door."

She has since become an active advocate for marijuana decriminalization.

## JOB IN JEOPARDY

### Ron C., 44, Black Male, Brooklyn



Ron has been working for New York State for 11 years as an investigator for the Office of Children and Family Services. One day he was called into his boss's office about an important matter. He had no idea that his arrest for marijuana possession a few days prior was what his boss wanted to discuss.

A few nights before, Ron was arrested for marijuana possession even though the police found no marijuana on him or in his car. Officers had approached his vehicle while he was parked outside of his Brooklyn home, saying they smelled pot. They asked him to step outside so they could search the car. The officers found nothing in Ron's car but they still arrested him for marijuana possession.

Ron had to disclose the arrest to his employer. An investigation that will determine if he can keep his job is pending. He still has to appear in court because of the arrest.

As unfortunate as these stories are, the more troubling fact is that these incidents could have been avoided. Forty years ago, the State Legislature took steps to decriminalize marijuana, recognizing that arresting people for pot possession is a huge waste of state resources with terrible consequences for all involved. New York now needs to finish what it started.

Our elected officials can end these discriminatory arrests by passing a law that fully decriminalizes possession of small amounts of marijuana. We are counting on our legislators to fix what is broken and bring common sense to drug laws in our state.

## WHAT CAN I DO?

**You can make a difference!** Contact your elected representatives and tell them that it's time for a change. Tell them that **New York should decriminalize possession of small amounts of marijuana this year.**

For more information about this campaign, visit [www.nyclu.org](http://www.nyclu.org) or call (212) 607-3300.

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[1] See New York Penal Law § 221.05. Possession of 25 grams or less of marijuana becomes a misdemeanor only if it is burning or in public view, otherwise it is a noncriminal violation.

[2] *The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests*, American Civil Liberties Union, June 2013: 169. Available at <https://www.aclu.org/files/assets/1114413-mj-report-rfs-rel1.pdf> (last visited Nov. 3, 2014).

[3] *Id.* at 23.

[4] *Id.* at 169.

[5] Statewide data on Latino New Yorkers is not available. Research shows that in New York City, however, Latino New Yorkers experience marijuana arrest at higher rates than white New Yorkers. For more information, see *Race, Class & Marijuana Arrests in Mayor de Blasio's Two New Yorks: The NYPD's Marijuana Arrest Crusade Continues in 2014*, Marijuana Arrest Research Project and Drug Policy Alliance, October 2014:1. Available at <http://www.drugpolicy.org/sites/default/files/Race-Class-NYPD-Marijuana-Arrests-Oct-2014.pdf> (last visited Nov. 5, 2014).

[6] See New York Criminal Procedure Law § 170.55.



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