

# WHY WE NEED A **NEW WAY FORWARD**

Harsh immigration laws passed in 1996 disproportionately lead to the targeting, jailing, and destruction of families of color. This backgrounder explains how these laws work, the devastation they have caused, and what we can do—illustrated by stories of three people who have lived it.

## **PROBLEM: DISCRIMINATORY POLICING PRACTICES**

Practices like stop-and-frisk, broken windows policing, and racially-driven vehicular stops can lead to deportation. Racial profiling results in unequal rates of arrests—and funnels people into the deportation system.

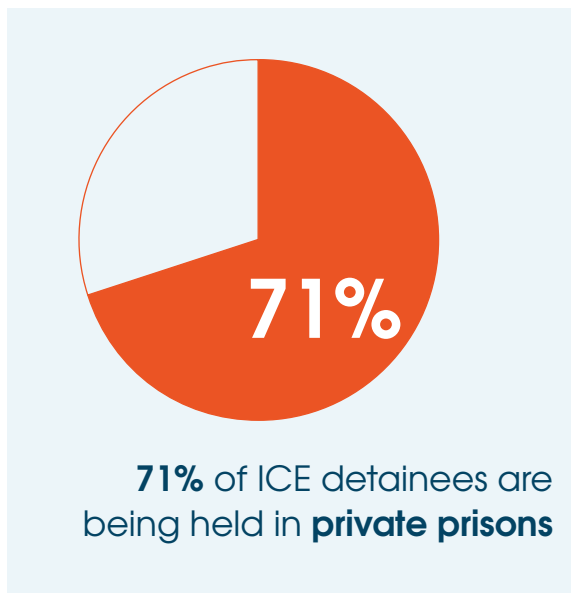
A BLACK PERSON  
IS ALMOST  
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LOITERING, DISORDERLY  
CONDUCT, TRESPASSING,  
MARIJUANA POSSESSION

- Nearly all drug offenses, including marijuana offenses, can result in devastating immigration consequences, including deportation.
- Although only 7% of non-citizens are Black they represent 20% of people in deportation proceedings on “criminal grounds.”
- Latinx are imprisoned at 1.4 times the rate of whites.
- An expunged or sealed conviction is often still a “conviction” for immigration purposes, undercutting the commitment to reentry and rehabilitation that many cities and states are making.
- These injustices are exacerbated when local police are entangled with ICE, which further undercuts confidence in law enforcement.

**SOLUTION:** Convictions, often steeped in racial profiling, should not lead to deportation. And local law enforcement should not act as deportation agents or otherwise carry out deportations with ICE.

## PROBLEM: PROFIT AND PERVERSE INCENTIVES DRIVE DETENTION

Mass detention is mass incarceration: immigrants wear the same jumpsuits and shackles, are subjected to the same coercive techniques including solitary confinement, and suffer physical and sexual violence. Despite broad bipartisan consensus that it's time to reduce mass incarceration, immigration detention has become the fastest growing incarceration system in the U.S.



- ICE has the power to detain many immigrants—often without even a bond hearing—for the duration of their deportation proceedings.
- 195 people have died in immigration detention since 2003.
- In one year, more than 48,800 complaints were filed against detention facilities for a lack of access to legal counsel, sexual violence and abuse, and substandard conditions and medical care.
- 71% of people in ICE custody are held in immigration jails run by private prison companies, criticized for their utter lack of oversight. Corporations are profiting from the destruction of families, and the perverse financial incentives can also extend to local agencies and other contractors.

**SOLUTION:** It's time to end mandatory immigration detention—and facilities that profit off of putting people in cages.

## PROBLEM: JUDGES' HANDS TIED

The 1996 laws tie judges' hands so much that many immigration hearings amount to little more than rubber-stamping an ICE agent's charges.

The 1996 laws frequently prohibit immigration judges from considering:

- Whether an immigrant is a veteran, sole caregiver to minor U.S. citizen children, employer of U.S. citizens, long-term resident, teacher, victim of domestic abuse, patient with severe health problems, homeowner, parent, grandparent, caregiver for elderly parents, community leader, or example of successful rehabilitation.

Many convictions within seven years of entering the U.S. make a green card holder subject to mandatory deportation.

- In these cases, a judge is forbidden from considering any positive factors in the individual's life, including family ties, recent conduct, or rehabilitation.

**SOLUTION:** We need to restore due process and protect people from arbitrary abuses. Immigration judges must have the power to consider the individual circumstances of each person's life and ensure they can stay in the U.S.

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## PROBLEM: ARBITRARY DEFINITIONS, EXCESSIVE PUNISHMENT

The 1996 laws allow and often force judges to deport people based on terms so unfairly expansive they have given rise to constitutional challenge. So-called “aggravated felonies” and “crimes of moral turpitude” can deprive a person of any defense to deportation. The only factor a judge may consider is a conviction, even if it is decades old.



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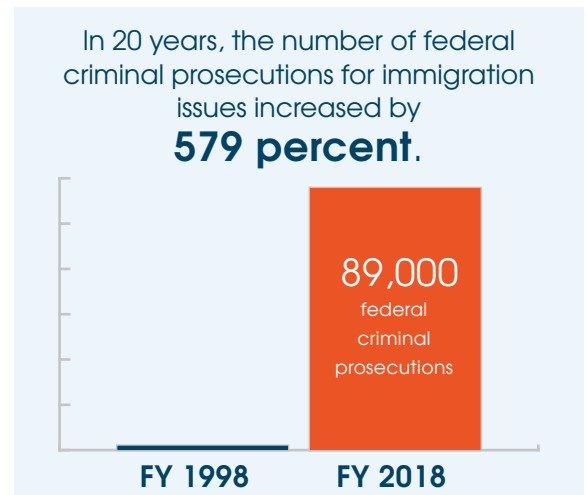
- “Aggravated felony” is a vague term that includes 21 categories, encompassing hundreds of offenses. Many are not even felonies.
- A conviction can count as an “aggravated felony” even if the sentence was suspended, no jail time was required, or the conviction was expunged.
- Unlike other areas of law, people can be targeted decades after a conviction for harsh additional punishment of detention and deportation.

**SOLUTION:** It’s time to repeal these abusive categories. And community members should be able to move forward with their lives without fear that an old conviction could lead to deportation years later. Additionally, people previously ordered deported under these unjust laws should be able to apply for the opportunity to come home.

## PROBLEM: CRUEL PROSECUTIONS, HARSH PRISON SENTENCES

In recent decades, this provision has fueled a sharp spike in federal prosecutions targeting people who cross the border seeking safety, freedom, and opportunity—and people who are coming home after unjust deportation. Federal prosecutions and prison sentences are an extra punishment in addition to unjust detention and deportation through the immigration system.

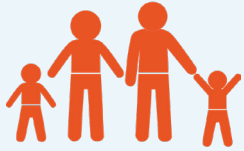
- Prosecutions for immigration violations accounted for more than six in ten of all federal prosecutions in FY 2018. With over 10,000 people in federal custody for such offenses, this has fueled mass incarceration despite growing consensus that it must end.
- These troubling provisions have also enabled “assembly-line” hearings of dozens of shackled people at a time under the past three administrations—and the infamous tearing of children from parents at the border under Trump. People suffer—but the prison industry benefits.



**SOLUTION:** We need to end federal prison sentences for people who cross the border seeking safety and freedom or trying to come home.

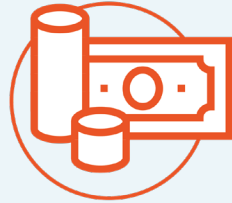
Removing this punitive provision is an important step, but we’ll still have much more work to do. We should honor the vision and voices of border communities, and lift up policies that recognize the humanity of people who are migrating.

## THE DEVASTATING CONSEQUENCES OF DETENTION AND DEPORTATION INCLUDE:



### FAMILIES TORN APART

tens of thousands of U.S. citizen children have a parent who is detained or deported every year.



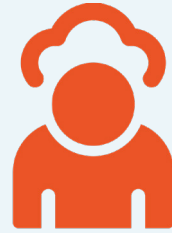
### LOSS OF INCOME

family income drops by 70% on average after an ICE arrest.



### HIGHER RISK OF HOMELESSNESS

and food insufficiency for family members left behind.



### INCREASED RISK OF DEPRESSION

anxiety, and PTSD in children.

**Across the country, community members who have been hurt by detention and deportation are organizing to repair the harm caused by these unjust laws. Following are three of their stories.**



**HOWARD BAILEY** came to the U.S. in 1989 at the age of 17 as a Lawful Permanent Resident with his U.S. Citizen mother. After graduating from high school he joined the navy during which time he was awarded the National Defense Service Medal.

In 1995, shortly after his return from the Persian Gulf, Howard was convicted of a first-time drug offense. With Virginia's strict mandatory minimum sentencing laws for drug crimes, Howard didn't have many options. His lawyer advised him to plead guilty and take 15 months in a state work camp rather than risk going to trial and a much higher sentence.

After completing his sentence, Howard returned to his family and worked hard to rebuild his life. He devoted himself to his loving wife and two children, started two small businesses, and employed seven people. In 2005 Howard applied to become a US citizen, and disclosed his old conviction. In 2010, after five years of delays, his application was denied. At 6AM one morning ICE agents handcuffed and detained him at his home in front of his wife and children.

After two years fighting his case in immigration detention, far away from his family, Howard was deported to a country he hadn't seen in 24 years. Howard lives in constant fear of violence as deportees are stigmatized in Jamaica. He is unable to support his family, his business has shut down, his home is under foreclosure, and his teenage children are struggling emotionally and academically without him. Howard remains in Jamaica, and the current immigration laws provide him with almost no option for an opportunity to return home and be reunited with family.

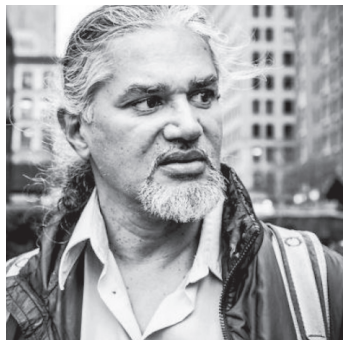
**MR. SON** is a 61-year-old green card holder who has lived in the U.S. for almost forty years. He is facing deportation for a simple misdemeanor that happened over thirty years ago and resulted in no jail time, only probation.

In 1979, at the age of 23, Mr. Son joined other members of his family here in the U.S. as a green card holder after his sister petitioned for him. During his early years in the U.S. Mr. Son lived with various family members and worked hard to support himself and his family in a local football helmet factory, as a kitchen staff at a local army base, and as a handyman. A few years later, he became friends with local college students who introduced him to drugs. He pled guilty to simple drug possession, completed a drug program, and never used drugs again. He started attending church where he found a new faith and inspiration.



Mr. Son has since married a U.S. citizen and fathered three U.S. citizen children in the Bay Area. Mr. Son raised his children by the philosophy he himself now lives by, to work hard, trust in God, take responsibility for his mistakes, and give back to the community. Mr. and Mrs. Son are very proud of their three children. The eldest just graduated from medical school and has started her residency, one son works at Microsoft, and the other is a web engineer. The entire family is extremely involved in their church, volunteering at events, and coordinating youth activities. Committed to being a positive force in his community, Mr. Son is also a regular volunteer at a nursing home in San Jose and at a food bank in Sacramento. All of Mr. Son's friends and family live in the U.S.; he has no one back in South Korea.

In 2012, Mr. Son took a brief trip to South Korea. When he returned, he was stopped and interrogated by ICE. Because his decades-old drug conviction triggers deportation, he now faces separation from his family.



**RAVI RAGBIR** has lived in the U.S. for over two decades and has been a green card holder since 1994. Ravi is the Executive Director of the New Sanctuary Coalition, a group of over 20 faith-based organizations in New York City that advocates for immigrant rights. Ravi has dedicated his life to the dignity and well-being of immigrants.

Ravi was detained and ordered deported in 2006 because of a single fraud conviction in 2001 for which he already served his sentence. Because his conviction was considered an "aggravated felony", he was not able to present evidence to the judge about his character and community ties. For almost two years, he was mandatorily detained without bail, including time spent halfway across the country in Alabama, far from his family.

Since his release from immigration detention, Ravi has challenged the immigration judge's order. He has also become one of the New York's most prominent immigrant rights activists. He trains hundreds of volunteers to accompany immigrants to ICE check-ins, meets with elected officials to discuss detention and deportation policy, and organizes other immigrants. Ravi was recently recognized with the Immigrant Excellence Award by the New York State Association of Black and Puerto Rican Legislators, given to those who show "deep commitment to the enhancement of their community." In recognition of his value to the community, Congresswoman Nydia Velázquez introduced a private bill to allow Ravi to remain here.

Despite his commitment to his family and community, and the support by elected officials, Ravi remains under a deportation order. In January 2018, ICE suddenly arrested Ravi and attempted to deport him. He was able to fight this action and continues to fight his deportation, but every day, his family and friends hope that it will not be the last time they see each other.