

## Immigration Consequences of Criminal Conviction

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## Immigration Status-Major Categories

- 1) Lawful, permanent resident (LPR, or "green card" holder).
- 2) Refugee or asylee.
- 3) Temporary visitor (on student, business, or other visa).
- 4) Undocumented status (e.g. crossed the border without inspection or overstayed visa).

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## Lists of Offenses with Immigration Consequences

- Aggravated Felonies.
- Grounds of Deportability.
- Grounds of Inadmissibility.

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### Examples of Inadmissibility Grounds Based on Crimes

Conviction of:

- Crimes involving moral turpitude (different standard from the CMT deportability ground).
- Controlled substance offenses.
- Two offenses of any kind with an aggregate 5 yr or more sentence imposed.

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### Examples of Deportability Grounds Based on Crimes

Conviction of:

- Crime/s involving moral turpitude.
- Controlled substance offenses.
- Firearms offenses.
- Domestic Violence offenses, Stalking, or Child abuse/neglect/abandonment.
- Aggravated Felonies.

Also, violation of a Domestic Violence protective order (civil or criminal). Conviction not required.

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### “Conviction” Defined (8 USC §1101(a) (48))

1. Formal judgment of guilt entered by a court; or

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**“Conviction” Defined  
(8 USC §1101(a) (48))**

2. If adjudication of guilt has been withheld, when:
- a. Defendant enters a plea of guilty or *nolo contendere* or has admitted sufficient facts to warrant a finding of guilt; and
  - b. Judge orders some form of punishment, penalty, or restraint on the defendant’s liberty.

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**Convictions (cont.)**

- Adjudications in juvenile court are not considered criminal convictions under immigration law.
  
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**Sentence Defined**

“sentence...include[s] any period of incarceration or confinement ordered by a court” **regardless of suspension of imposition or execution.** 8 USC § 1101(a)(48)(B).

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## Examples of Aggravated Felonies

Dozens of minor and serious offenses.

- Any drug trafficking, sometimes drug possession.
- Sexual abuse of a minor (including statutory rape).
- Misdemeanor theft with one year sentence imposed (even if the sentence was suspended).
- Misdemeanor assault and battery with one year sentence.

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## Crime of Domestic Violence

Conviction of and "*crime of violence*" (defined in 18 USC 16), against a person committed by:

- Current or former spouse.
- One with whom the victim shares a child in common
- One similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs.
- Anyone else against a person who is protected from that individual's act under the domestic or family violence laws of the U.S. or any State, Indian Tribal government, or a unit of local government.

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## Other Domestic Violence-Related Offenses

- Crime of stalking
- Crime of child abuse/neglect/abandonment
- Violation or protection order.

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