# IMMIGRATION CONSEQUENCES OF CONVICTIONS SUMMARY CHECKLIST*

<table>
<thead>
<tr>
<th>GROUNDS FOR DEPORTATION [apply to lawfully admitted noncitizens, such as a lawful permanent resident (LPR) – greencard holder]</th>
<th>GROUNDS OF INADMISSIBILITY [apply to noncitizens seeking lawful admission, including LPRs who travel out of US]</th>
<th>INELIGIBILITY FOR U.S. CITIZENSHIP</th>
</tr>
</thead>
</table>
| **Aggravated Felony** conviction  
➢ Consequences (in addition to deportability):  
  ✓ Ineligibility for most waivers of removal  
  ✓ Ineligibility for voluntary departure  
  ✓ Permanent inadmissibility after removal  
  ✓ Subjects client to up to 20 years of prison if s/he illegally reenters the U.S. after removal  
➢ Crimes covered (possibly even if not a felony):  
  ✓ Murder  
  ✓ Rape  
  ✓ Sexual Abuse of a Minor  
  ✓ Drug Trafficking [probably includes any felony controlled substance offense; may include misdemeanor marijuana sale offenses and 2nd misdemeanor possession offenses]  
  ✓ Firearm Trafficking  
  ✓ Crime of Violence + 1 year sentence**  
  ✓ Theft or Burglary + 1 year sentence**  
  ✓ Fraud or tax evasion + loss to victim(s) > $10,000  
  ✓ Prostitution business offenses  
  ✓ Commercial bribery, counterfeiting, or forgery + 1 year sentence**  
  ✓ Obstruction of justice offenses + 1 year sentence**  
  ✓ Certain bail-jumping offenses  
  ✓ Various federal criminal offenses and possibly state analogues [money laundering, various federal firearms offenses, alien smuggling, etc.]  
  ✓ Attempt or conspiracy to commit any of the above | **Conviction or admitted commission of a Controlled Substance Offense, or DHS (formerly INS) has reason to believe individual is a drug trafficker**  
➢ No 212(h) waiver possibility (except for a single offense of simple possession of 30g or less of marijuana) | Certain convictions or admissions of crime will statutorily bar a finding of good moral character for up to 5 years:  
➢ Controlled Substance Offense [except in case 30g of marijuana]  
➢ Crime Involving Moral Turpitude  
➢ 2 or more offenses of any type + aggregate prison sentence of 5 years  
➢ 2 gambling offenses  
➢ Confinement to a jail for an aggregate period of 180 days |
| **Controlled Substance** conviction  
➢ EXCEPT a single offense of simple possession of 30g or less of marijuana | | |
| **Crime Involving Moral Turpitude** [CIMT] conviction  
➢ For crimes included, see Grounds of Inadmissibility  
➢ An LPR is deportable for 1 CIMT committed within 5 years of admission into the U.S. and for which a sentence of 1 year or longer may be imposed  
➢ An LPR is deportable for 2 CIMT committed at any time “not arising out of a single scheme” | **Conviction or admitted commission of a Crime Involving Moral Turpitude [CIMT]**  
➢ This category covers a broad range of crimes, including:  
  ✓ Crimes with an intent to steal as a means to felony, forgery  
  ✓ Crimes in which bodily harm is caused or threatened by an intentional act, or serious bodily harm is caused or threatened by a reckless act [e.g., murder, rape, some manslaughter/assault crimes]  
  ✓ Most sex offenses  
  ✓ Petty Offense Exception—for one CIMT if the client has no other CIMT, the offense is not punishable > 1 year (e.g., in New York can’t be a felony) + does not involve a prison sentence > 6 months | |
| **Firearm or Destructive Device** conviction | **Prostitution and Commercialized Vice**  
Conviction of 2 or more offenses of any type + aggregate prison sentence of 5 years | |
| **Domestic Violence** conviction or other domestic offenses, including:  
➢ Crime of domestic violence  
➢ Stalking  
➢ Child abuse, neglect or abandonment  
➢ Violation of order of protection (criminal or civil) | | |

## CONVICTION DEFINED

“A formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where:  
(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, AND  
(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.”

**THUS:**  
★ A drug treatment or domestic violence counseling alternative to incarceration disposition could be considered a conviction for immigration purposes if a guilty plea is taken (even if the guilty plea is or might later be vacated)  
★ A deferred adjudication disposition without a guilty plea [e.g., NY ACD] will not be considered a conviction  
★ A youthful offender adjudication will not be considered a conviction if analogous to a federal juvenile delinquency disposition (e.g., NY YO)

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*This summary checklist was originally prepared by former NYSDA Immigrant Defense Project Staff Attorney Sejal Zota. Because this checklist is frequently updated, please visit our Internet site at <http://www.nysda.org> (click on Immigrant Defense Project page) for the most up-to-date version.*