

## STEP 2: DOES MY CONVICTION MAKE ME INELIGIBLE FOR CITIZENSHIP?

To be eligible for U.S. citizenship you must:

- Be a lawful permanent resident for five years (three years if married to a U.S. citizen);
- Be a person of good moral character; and
- Pass certain tests, like literacy and civics.

Some convictions permanently bar a finding of good moral character and make you permanently ineligible for naturalization. Other convictions are only temporary bars.

### Convictions that permanently bar naturalization:

- Aggravated felony conviction on or after November 29, 1990
- Murder conviction at any time

### Convictions that bar naturalization for 5 years (3 years if married to a U.S. citizen):

- Controlled substance offense (except for single offense of simple possession of 30 grams or less of marijuana)
- Crime involving moral turpitude
- Two or more offenses of any type and committed at any time for which you received a total (aggregate) sentence of 5 years or more
- Two gambling offenses
- Confinement to jail for 180 days or more.

If your conviction bars naturalization, there is no point in your applying for citizenship (you will be **denied**). If your conviction is only a temporary bar, you should **wait** at least until the period of the temporary bar has passed (that is, five years from the date of conviction, or 3 years if married to a U.S. citizen). Most importantly, remember that even if your conviction does not bar naturalization, it **may still make you deportable** — you must **weigh the risk** of deportation against the benefit of obtaining U.S. citizenship **before** submitting a naturalization application.

## About Us:

Our center has been representing aliens before the Immigration Court since 1990. We are a recognized and accredited center by the [Executive Office for Immigration Review](#), a branch of the Department of Justice, entitled to represent individuals in matters before the [Department of Homeland Security](#), the [Immigration Courts](#) and the [Board of Immigration Appeals](#).

Your consultations are with an experienced Immigration Attorney, who is an AILA member, and has over 26 years of removal (deportation) experience specializing with all criminal aspects of Immigration Law.

Your case will be handled with the utmost attention and confidentiality, and we will keep up abreast of each facet of our review.

This pamphlet is an introductory guide that highlights the unique obstacles facing greencard holders with criminal convictions. It is not intended as a substitute for individualized legal advice. We strongly encourage you to seek assistance from an Immigration Attorney before deciding whether to apply for naturalization, renew your greencard or travel abroad.

## Visit us at:

[www.ircorlando.com](http://www.ircorlando.com)

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# The Immigrants' Rights Center

## LAWFUL PERMANENT RESIDENTS WITH ARREST RECORDS

### *Important Alert:*

- **Before you** renew, replace or amend your Permanent Resident Card,
- **Before you** travel outside the United States or,
- **Before you** apply for citizenship(N-400),

we strongly encourage you to seek assistance from an Immigration Attorney to avoid possible detention and deportation.

Tel: 407 392 4944

## IMMIGRANTS & CONVICTIONS:

If you have a criminal conviction, you may be barred from remaining in the United States. This may be true even though you are a lawful permanent resident (greencard holder), and even though your arrest and conviction happened a long time ago.

Consider **all** of the following before you present your permanent resident card to Immigration Officials, Border/Airport Patrol, or any government agency that will process your Alien Number:

**1. Does my conviction make me deportable?** If yes, presenting your greencard for any type of processing will almost certainly trigger a removal (deportation) case. You must decide whether to take this risk. Depending on your conviction, you may not get a chance to apply for a pardon or other defense to deportation. You may be detained without bond. Even if you are allowed to

apply for deportation relief, the IJ may decide that your case is too weak. If your conviction does not make you deportable, or if you have a good chance of getting relief, then you may decide to present your greencard any-

way – but first seek expert advice to fully assess your risk (See step 1 on next section for details)!

**2. Does my conviction make me ineligible to become a naturalized U.S. citizen?** If yes, you may want to wait to apply for citizenship until you do become eligible. Some convictions are only temporary bars to naturalization. Others are permanent bars (See step 2 on back page for further details).

**3. Before you present your greencard, seek advice** from someone who is an expert on Immigration Law and on crime-related deportation cases.



## STEP 1: DOES MY CONVICTION MAKE ME DEPORTABLE?

If you have a “deportable” conviction and you present your greencard to Immigration, then immigration authorities will almost certainly start proceedings to deport you.

Some people will be able to apply for Cancellation of Removal, which is a one-time pardon from deportation. If you committed an offense within 7 years after you were admitted to the U.S., you may be ineligible for this pardon. If your conviction was for an “aggravated felony” (see below), you will be ineligible for this pardon. But if you pled guilty before April 24, 1996, and have no other offenses, then you may be eligible for a pardon under old laws.



Convictions for the following types of offenses may trigger a deportation case. You cannot always tell if your conviction fits a category just by looking at the name of your offense, so seek expert advice.

### Aggravated Felonies

These include, but are not limited to:

- Murder, Rape, or Sexual Abuse of a Minor
- Illicit trafficking in a controlled substance (may include some drug possession crimes)
- Crime of violence offense for which you received a one-year or longer sentence, even if suspended or you served little or no time
- Theft or Burglary offense for which you received a one-year or longer sentence, even if suspended or you served little or no time
- Certain document fraud offenses for which you received a one-year or longer sentence
- Fraud or Deceit offense in which loss to the victim was more than \$10,000
- Certain prostitution business offenses
- Certain “alien smuggling” offenses

If you were convicted of an aggravated felony, you will have a limited chance of avoiding deportation, especially if convicted after April 24, 1996.

### Firearm Offenses & Controlled Substance

Any firearm or destructive device offense. Any drug offense, other than a single offense of marijuana possession of 30 grams or less for personal use.

### Domestic Crimes & Crimes Against Child

- Crimes of domestic violence, stalking, or child abuse, neglect or abandonment
- Certain violations of orders of protection (civil or criminal court)

Applies to convictions or violations of orders protection on or after Oct. 1, 1996.

### Crimes Involving Moral Turpitude (CIMT)

This category of offenses is hard to define and includes many types of offenses. Examples include, but are not limited to:

- Murder
- Rape and many sexual offenses
- Most offenses requiring an intent to steal or defraud (like theft, larceny, robbery)
- Certain assault offenses



You are deportable for a CIMT if:

- You **committed** the CIMT within the first five years after your admission to the U.S., and this is an offense for which a sentence of one year or longer could have been imposed (even if your actual sentence included no jail time); or
- You committed two crimes involving moral turpitude not arising out of a single scheme at **any time** after admission, regardless of the potential or actual conviction.