

Issue Spotting for Noncitizen Clients with Prior Records

THIS GUIDE IS NOT MEANT TO BE AN EXHAUSTIVE SOURCE, BUT IDENTIFIES SOME OF THE MORE COMMON ISSUES SEEN IN SCREENING NONCITIZENS WITH CRIMINAL RECORDS.

PLEASE CONSULT AN IMMIGRATION ATTORNEY REGARDING EACH SPECIFIC CLIENT'S SITUATION.

Drug-related offenses

Sale, Transport, or Cultivation

Simple Possession

Successful DEJ Program Completion

RED FLAG

A conviction of this type, whether a felony, misdemeanor, or infraction can make any noncitizen deportable and a Lawful Permanent Resident ineligible for discretionary relief and citizenship. An arrest or charges alone related to trafficking can impact some noncitizens.

GATHER MORE INFORMATION

Any drug-related conviction (even some marijuana related) can be a basis for deportability and inadmissibility, meaning it can impact a both person who is out of status or who has lawful status. There may be a remedy or exception based on individual circumstances.

IS IT STILL A CONVICTION?

Immigration law considers a conviction to have occurred if there was a plea or finding of guilt, plus any form of punishment or restraint. For this reason, a dismissal pursuant to Proposition 36 or DEJ generally does not erase a conviction for immigration purposes. However, the conviction may be eligible to be vacated under Penal Code § 1203.43 or § 1473.7(e).

Domestic violence

Conviction for PC §§ 243(a), (e)(1)

Other offense

Violation of a DV protective order

LIKELY SAFE

This is an immigration-safe plea at this time. Check the [ILRC Crimes Chart](#) for any updates.

GATHER MORE INFORMATION

Domestic violence convictions can be the basis for deportability or inadmissibility, meaning it can impact a person who is out of status or who has lawful status. Check the [ILRC Crimes Chart](#) for the specific offense.

CAN BE AN ISSUE

A finding in civil or criminal court that a noncitizen violated portions of a domestic violence protection order that protect against violence or repeated harassment can be a basis for deportation (even if the actual violation did not involve violence or repeated harassment).

Theft or fraud offenses

Loss to victim > \$10,000 OR sentence of one or more years

Other offense

Minor conviction that was expunged

GATHER MORE INFO

Some theft or fraud related convictions become aggravated felonies if one or both of these is true. This can be serious for any noncitizen and has particularly harsh impacts for Lawful Permanent Residents.

GATHER MORE INFO

Domestic violence convictions can be the basis for deportability or inadmissibility, meaning they can impact a person who is out of status or who has lawful status. Check the [ILRC Crimes Chart](#) for the specific offense.

STILL A CONVICTION

Many theft or fraud related convictions are classified as crimes of moral turpitude, which can have case-specific and significant immigration consequences, even if minor. Reference ILRC's Crimes Charts and practice advisory or consult an immigration attorney.

DON'T FORGET TO CHECK FOR OUT-OF-STATE OR FEDERAL CONVICTIONS THAT COULD IMPACT HOW A PERSON'S CALIFORNIA RECORD IMPACTS THEIR IMMIGRATION STATUS