

## IMMIGRATION CONSEQUENCES OF JUVENILE DELINQUENCY<sup>1</sup>

Delinquency Disposition	Immigration Penalty and Waiver
<p><b>Prostitution</b> (being the prostitute, not the customer)</p>	<p>Inadmissible for engaging in a pattern of prostitution.<sup>2</sup> A single act of prostitution does not constitute “engaging” in prostitution. Conduct must involve intercourse.</p> <p>Waivers are often available.</p>
<p><b>Drug Trafficking:</b> Sale, possession for sale, cultivation, manufacturing, distribution, delivery or other drug trafficking offenses.</p> <ul style="list-style-type: none"> <li>▪ If a legal permanent resident (LPR), may not be deported for “reason to believe” unless leaves United States and attempts to reenter. It may impact application for U.S. citizenship for a temporary period of time.</li> <li>▪ Must show knowingly/consciously involved with “reasonable, substantial and probative evidence.”<sup>3</sup></li> <li>▪ Charges must meet definition of “drug trafficking.”</li> </ul>	<p>Inadmissible where DHS/ICE has “reason to believe” participation in drug trafficking.<sup>4</sup></p> <p>No waivers, except for the S, T or U Visa.</p>
<p><b>Drug Abuse or Addiction:</b> Repeated drug findings, finding of abuse (more than one time experimentation in last three years), addiction to drugs.</p>	<p>Inadmissible and deportable for drug addict or abuser.<sup>5</sup></p> <p>Waivers are often available.</p>
<p><b>Behavior showing a mental condition that poses a current threat to self or others:</b> including suicide attempt, torture, mayhem, repeated sexual offenses against younger children (predator), perhaps repeated alcohol offenses (showing alcoholism)</p>	<p>Inadmissible for mental disability posing threat to self or other.<sup>6</sup></p> <p>Waivers may be available.</p>

<sup>1</sup> Much of the information in this chart was drawn from the IMMIGRANT LEGAL RES. CTR., IMMIGRATION CONSEQUENCES OF JUVENILE DELINQUENCY (2010), available at [http://www.ilrc.org/files/cal\\_chart\\_notes\\_16.pdf](http://www.ilrc.org/files/cal_chart_notes_16.pdf).

<sup>2</sup> 8 U.S.C. § 1182(a)(2)(D).

<sup>3</sup> *Barradas v. Holder*, 582 F.3d 754, 762 (7th Cir. 2009) (stating that where the defendant is a legal permanent resident, removal order must be based on reasonable, substantial and probative evidence).

<sup>4</sup> 8 U.S.C. § 1182(a)(2)(C).

<sup>5</sup> 8 U.S.C. § 1182(a)(1)(A)(iv).

<sup>6</sup> 8 U.S.C. § 1182(a)(1)(A)(iii).

## JTIP Handout: Lesson 34 – Immigration Consequences

<p><b>False Claim to U.S. Citizenship:</b> Use of false documents and fraud offenses relating to false claim to citizenship. Examples:</p> <ul style="list-style-type: none"><li>▪ Falsely representing self as U.S. citizen to obtain U.S. passport</li><li>▪ Using false U.S. passport to enter United States</li><li>▪ Using false U.S. passport to obtain state driver’s license.</li><li>▪ Claiming U.S. citizenship on job application.</li><li>▪ Submitting fraudulent ID with an I-9 form to obtain employment.</li></ul>	<p>Inadmissible and deportable for false claim to U.S. citizenship.<sup>7</sup></p> <p>Waivers may be available, <i>e.g.</i>, Special Immigration Juvenile Status (SIJS) and U-Visa.</p>
<p><b>Violations of protective or “no-contact” orders</b> designed to prevent repeated harassment, credible threats of violence or bodily injury.</p>	<p>Deportable where court finds violation of domestic violence protective order designed to prevent repeated harassment, credible threats of violence or bodily injury.<sup>8</sup></p> <p>Some waivers are available.</p>
<p><b>Any Juvenile Adjudication</b></p>	<p>Can be a basis for denial of Deferred Action for Childhood Arrivals (DACA) applications.</p> <p>DACA is a DHS program that allows those who were brought to the U.S. as children to apply for a deferral of their removal. Any juvenile adjudication, even if expunged, will be considered on a case-by-case basis when determining whether an otherwise qualified immigrant is worthy of a DACA deferral from deportation.<sup>9</sup></p>

<sup>7</sup> 8 U.S.C. § 1182(a)(6)(C)(ii), (F).

<sup>8</sup> 8 U.S.C. § 1227(a)(2)(E)(ii).

<sup>9</sup> Department of Homeland Security website: <http://www.dhs.gov/deferred-action-childhood-arrivals> (last visited Feb. 28, 2013).