CRIMES INVOLVING MORAL TURPITUDE (CIMT)

WHAT IS A CIMT?

The courts have held that moral turpitude "refers generally to conduct that shocks the public conscience as being inherently base, vile, or depraved, contrary to the rules of morality and the duties owed between man and man, either one's fellow man or society in general." CIMT includes Offenses with an intent to steal or defraud as an element (e.g., theft, forgery), Offenses 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 offenses), and most sex offenses.

IMMIGRATION CONSEQUENCES OF A CRIME OF MORAL TURPITUDE

The exact immigration consequences of a CIMT conviction or arrest depend on several factors. These include any prior CIMT convictions or arrests, when the conviction or arrest occurred, the age of the individual at conviction, and the length of the potential criminal sentence. **Removal** is possible if there is only one conviction for a CIMT. If the conviction occurred within five years of the date of entering the US and the conviction results in a potential criminal sentence lasting one year or more, then removal is possible. And it doesn't matter how long a sentence the individual serves; all that matters is the length of the potential sentence.

For those trying to enter the United States or those who desire an adjustment of status, such as getting a Green Card, any CIMT conviction can serve as a bar to that goal. A single CIMT conviction in New York or any state can also jeopardize the chance for US citizenship because it can be used as evidence that the individual is not of good moral character. Finally, a conviction of a CIMT is not always required for an individual to be deemed **inadmissible**. If the individual has admitted to elements of a Crime Involving Moral Turpitude, there is potential for that individual to still be deemed inadmissible even without a plea.

A noncitizen is subject to **mandatory detention** who is deportable for conviction of (a) two or more CIMTs after admission that did not arise from a single scheme, or (b) one CIMT, committed within five years of admission if a sentence of one year or more was imposed.

HOW TO AVOID A CONVICTION?

Here are some strategies for you to avoid a conviction, or minimize its immigration consequences:

- You should **seek the assistance** of an experienced criminal defense attorney who understands both criminal law and immigration law, who can evaluate your case, identify potential immigration consequences, and develop a defense strategy aimed at minimizing or avoiding a conviction.
- You may **negotiate** plea agreements with prosecutors to plead guilty to lesser offenses that do not trigger immigration consequences.
- You may **explore alternative dispositions**, such as diversion programs, deferred adjudication, or pretrial diversion, that may allow you to avoid a formal conviction if you comply with certain conditions.
- You have the **right to challenge** the charges against you and the evidence presented by the prosecution.
- You should be **aware of the potential immigration consequences** of your actions and make informed decisions to avoid behaviors that could lead to criminal charges.

POTENTIAL EXCEPTIONS TO THE CONSEQUENCES OF A CRIME OF MORAL TURPITUDE CONVICTION

There are two primary exceptions to the immigration repercussions of a CIMT conviction.

- The first is the petty offense exception. If an individual has just one CIMT conviction, with an accompanying sentence lasting six months or less (and the maximum possible sentence was a year or less), then the individual may be eligible for the petty offense exception.
- The second is the youthful offenders exception. This option is available to those who have just one CIMT conviction that took place more than five years ago, were convicted in regular court (not juvenile court) and were under the age of 18 when committing the crime. Additionally, the prison or jail term, if any, must have also ended more than five years prior.