

# CRIMINALIZATION & IMMIGRATION IN THE US

## Criminalization of Black People in America

Due to legal reforms from the Clinton-era, the criminal legal system and immigration enforcement often work hand in hand to target Black people in America. Through racial profiling and over-policing, Black people who are non-citizens are more vulnerable to deportation on criminal grounds than their non-Black counterparts

More than 1 out of every 5 non-citizens facing deportation on criminal grounds before the Executive Office of Immigration Review is Black. 76% of Black Immigrants are deported because of contact with the police. Black immigrants make up only 5.4% of the undocumented population in the U.S. but make up 20.3% of immigrants facing removal based on criminal convictions. Black immigrants with a criminal conviction have a 76% chance of being deported compared to 45% of the immigrant population overall. If you're Caribbean, it goes up to 83%.

## Types of charges/sentences that result in immigration consequences

Non-citizens who commit certain crimes may be ineligible to enter or remain in the United States.

“**inadmissible**” refers to non-citizens who are generally ineligible to receive visas or otherwise be lawfully admitted into the United States are determined to be inadmissible by the government.

“**deportable**” refers to non-citizens who have been lawfully admitted to the United States but have engaged in activities that render them removable from the country are determined to be deportable by the government.

**Crimes involving moral turpitude (CIMT):** refer to offenses that are considered inherently morally wrong or depraved, such as fraud, theft, or assault. In immigration law, committing a CIMT can have serious consequences, including deportation or ineligibility for certain immigration benefits.

Both guilty pleas and convictions can lead to arrest, detention, or deportation by Immigration and Customs Enforcement (ICE). Pleas can be considered convictions for immigration purposes because they reflect an admission of guilt to a criminal offense, which immigration law often treats similarly to a conviction. Even if the charges are later dismissed or the sentence is completed, the plea itself can have significant consequences for immigration status, including eligibility for visas or potential deportation.

### Consequences of Criminal Convictions:

- Removal (Deportation) From the United States
- Ineligible For Immigration Bond, resulting in “Mandatory Custody” during Removal Proceedings
- Ineligible For Immigration Waivers or Relief
- Ineligible For Citizenship

### Right to Counsel in Criminal Proceedings:

- An individual charged with ANY crime that carries a possibility of jail time (either misdemeanor or felony) has the right to be represented by a criminal defense lawyer.
- This right applies to everyone, both citizens and noncitizens. If the person cannot pay for a lawyer, they will be assigned a public defender by the court.

### Right to know the consequences of a guilty plea:

- Criminal defense lawyers **MUST** advise their clients of the immigration consequences of their criminal charges.
- This right applies to everyone, both citizens and noncitizens. If the person cannot pay for a lawyer, they will be assigned a public defender by the court.

**Post-Conviction Relief** is the process of vacating, appealing, or mitigating a criminal conviction in state or federal court.

- In some cases, fixing a minor mistake on someone's criminal record can make it easier for them to apply for immigration benefits.
- There are three general categories of post-conviction relief mechanisms exist, each with different effects on immigration: (1) Rehabilitative Relief; (2) Sentence Reductions; and (3) Motions to Vacate. **Nonetheless, many of these mechanisms do not remove a conviction for immigration purposes.**
- The state and federal governments can also issue executive pardons to undocumented individuals for their convictions. A pardon forgives an individual for their past crimes.
- Despite the challenges posed by criminal records in immigration cases, individuals may still have recourse to obtain immigration relief through options such as waivers of inadmissibility, cancellation of removal, or other forms of discretionary relief, often with the assistance of qualified legal counsel.

