

# NJSBA Annual Meeting and Convention 2015

## Immigration Consequences in NJ Municipal Court

GROUNDS OF DEPORTATION (Apply to lawfully admitted noncitizens, such as lawful permanent residents (“green card holders”))	GROUNDS OF INADMISSIBILITY (apply to noncitizens seeking admission or those present unlawfully who may someday seek to apply)	ELIGIBILITY FOR US CITIZENSHIP
<p><b>CRIMES INVOLVING MORAL TURPITUDE (CIMT-CONVICTION REQUIRED<sup>1</sup>)</b></p> <ul style="list-style-type: none"> <li>☐ LPR deportable for 1 CMT committed within 5 years of admission into the US and punishable by at least one year in prison</li> <li>☐ LPR deportable for 2 CMTs committed at any time “not arising out of a single scheme”</li> <li>☐ Examples of CMT include:               <ul style="list-style-type: none"> <li>○ Crimes involving intent to steal or defraud as an element (e.g., Shoplifting, theft (less than 200))</li> <li>○ Crimes of violence – (e.g., harassment where the intent is to cause physical harm)</li> <li>○ Property crimes – (e.g., criminal mischief, trespassing) – where there is malicious intent.</li> </ul> </li> </ul>	<p><b>CIMT</b>– Conviction or Admission sufficient</p> <ul style="list-style-type: none"> <li>☐ One CIMT at anytime would cause inadmissibility</li> <li>☐ Will bar admission to US</li> <li>☐ Will cause removal if individual is present unlawfully</li> <li>● <b>PETTY OFFENSE EXCEPTION</b> <ul style="list-style-type: none"> <li>○ No prior CIMTs</li> <li>○ Offense not punishable by more than 1 year</li> <li>○ Actual sentence<sup>2</sup> must be less than 6 months</li> </ul> </li> </ul>	<p><b>CIMT</b>– Any conviction or admission will bar a finding of <i>Good Moral Character</i> (“GMC” necessary element for naturalization) for 5 years.</p> <ul style="list-style-type: none"> <li>☐ Petty offense exception applies</li> </ul>
<p><b>CONTROLLED DANGEROUS SUBSTANCES</b> – Any conviction for CDS offense will result in Deportability finding*.</p> <ul style="list-style-type: none"> <li>☐ Wandering – NJS 2C:33-2.1</li> <li>☐ Possession of CDS – NJS 2C:35-10</li> <li>☐ Possession Paraphernalia – NJS 2C:36-2</li> </ul> <p>EXCEPTION – an offense involving simple possession of 30g or less of marijuana and no prior drug convictions.</p> <p>* Additionally, mandatory custody could result – depending on the manner individual arrives in ICE custody.</p>	<p>Controlled Dangerous Substances - Conviction or admitted commission or ICE has reason to believe individual is drug trafficker</p> <ul style="list-style-type: none"> <li>☐ Waiver available for marijuana less than 30g.</li> <li>☐ Will result in mandatory detention (no bond available during removal proceedings)</li> </ul>	<p>CDS Offenses – Bars finding of good moral character for period of five years.</p>
<p><b>DOMESTIC VIOLENCE</b> – conviction or certain quasi criminal findings can lead to deportability.</p> <ul style="list-style-type: none"> <li>☐ Stalking</li> <li>☐ Child abuse, neglect or abandonment (even findings pursuant to Title 9)</li> <li>☐ Violation of criminal or civil restraining order.</li> </ul>	<p>Same as under deportability</p>	<p>Confinement of 180 days or more will bar good moral character finding for 5 years.</p>
<p><b>DRIVING WHILE INTOXICATED</b></p> <ul style="list-style-type: none"> <li>☐ First time DUI under 39:4-50 – not likely to be found a CMT (under current case law)</li> <li>☐ Driving while suspended for prior DUI 39:3-40 – likely CMT</li> <li>☐ DUI while suspended for prior DUI – likely CMT</li> </ul>	<p>Same as under deportability</p>	<p>DUI involving accident, injury, second DUI, or driving while suspended for DUI – bars GMC for 5 years.</p>
	<p>Prostitution &amp; commercialized vices (gambling offenses)– separate inadmissibility category</p>	
<p><sup>1</sup>Conviction is defined as a formal judgment of guilt of the noncitizen entered by a court or, if adjudication of guilt has been withheld, where: 1.) found guilty by judge or jury, or guilty plea entered or has admitted sufficient facts to warrant finding of guilt AND 2.) judge has ordered some form of punishment, penalty, or restraint on liberty.</p> <p><sup>2</sup> Any reference to <u>sentence</u> is actual sentence imposed or suspended sentence.</p>	<p><b>Diversion Programs/Convictions/Expungements</b></p> <ul style="list-style-type: none"> <li>☐ Conditional Dismissal w/ plea conviction</li> <li>☐ Conditional discharge w/o plea no conv.</li> <li>☐ Deferral for anger management without plea will not be conviction.</li> <li>☐ <b>Practitioner’s Note: EXPUNGEMENTS – DO NOT PROTECT FROM REMOVAL PROCEEDINGS.</b></li> </ul>	