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**CRIMINAL CONDUCT and the INTERNATIONAL STUDENT** – Effects and Consequences on Student Visas and Immigration Status

By: Bernadette Stark, Senior Staff Attorney, Student Legal Services Office

International students can experience a rich opportunity by coming to the United States to study – not just academically, but culturally as well. There are also ample opportunities for socializing with U.S. citizens. However, students who are not U.S. citizens (“non-citizens”) must take extra precautions to make sure they don’t find themselves in a situation where criminal conduct is occurring or can occur. The reason for this is that the consequences for such criminal conduct can be exponentially worse for the non-citizen than for the U.S. citizen. It is possible that any criminal conduct can have a devastating effect not just on a student’s visa, but also on his or her future in the United States, including possible immigration. Such consequences can include removal (formerly known as “deportation”) and possible bans from re-entering the United States. Therefore, it is imperative that if you are a non-citizen charged with a crime, that you speak not only to a criminal attorney, but to an immigration attorney as soon as possible.



**What is your Immigration Status and Why Does it Matter?**

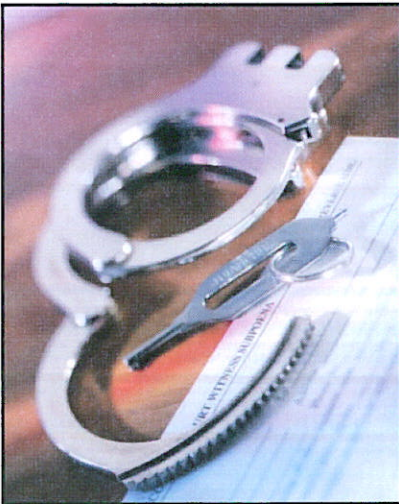
The immigration consequences of your criminal offense depend on many factors: the type of visa you have, the outcome of your case and the crimes you are convicted of committing. If you are in the United States on a temporary visa, such as an F-1 or a J-1 student visa, your risk of removal is greater. Even if you are a Lawful Permanent Resident (green card holder), the consequences can also be different than those of a U.S. citizen. In fact, even if you haven’t yet been convicted of a crime, but you leave the United States while charges are pending against you (i.e., on vacation during school breaks), it could be difficult for you to re-enter the country.

## CRIMINAL CONDUCT and the INTERNATIONAL STUDENT– Effects and Consequences on Student Visas and Immigration Status.....*(continued from page 1)*

### Will All Crimes Result in Removal?

While not all crimes automatically result in removal, there are many types of offenses and crimes which may cause serious trouble for the international student (and which would be more easily disposed of for the U.S. Citizen). If you are convicted of a felony, the risk of removal is very high. (The federal definition of a felony is any charge with a possible sentence of more than one year.) If you are convicted of a misdemeanor (a crime punishable by a year in jail or less), the chances of removal are lower, but you're still at considerable risk if the offense involves drugs, firearms, violence, sex or fraud (dishonesty). Finally, if you are convicted of an infraction (a crime not usually punishable by jail time), there probably will not be any immigration consequences, unless the infraction involves theft or drugs. Any crime involving "moral turpitude" will generally trigger an immigration consequence. While there is no statutory definition of "moral turpitude," generally the term includes crimes involving fraud or "evil intent." Even shoplifting is considered a crime involving moral turpitude because it involves fraud.

### What is a Conviction?



The term "conviction" has a very broad meaning under immigration law. A conviction is not just a finding of "guilty" after a trial. It can also include certain types of plea bargains (including continuances without a finding). Essentially, if there is an order or a plea bargain that includes some form of punishment, penalty or restraint on your liberty (including probation or a suspended jail sentence), that could constitute a conviction under immigration law. For example, in Massachusetts, a disposition under M.G.L. ch. 276 sec. 87 is favorable to a "continuance without a finding (of guilt) – a "CWOFF" because a CWOFF often involves a probationary period, and therefore may be considered a "conviction" for immigration purposes. For this reason, it is imperative to speak with both a criminal attorney, as well as an immigration attorney, if you ever find yourself charged with a crime.

For more information or a free consultation, please contact the **Student Legal Services Office** at 413-545-1995. Since time is of the essence in these matters, you should not delay in speaking with an attorney as soon as possible after your arrest.