



Frequently Asked Questions – for Lawful Permanent Residents who want to apply for U.S. citizenship but have past criminal histories

If you are a lawful permanent resident (“green card” holder) and have ever been arrested – regardless of the outcome of the case – **CONSULT A LAWYER BEFORE APPLYING FOR U.S. CITIZENSHIP!** Applying could put you at risk of deportation or you could be denied because of your criminal history. Below are answers to frequently asked questions about applying for U.S. citizenship (naturalization) with prior arrests or criminal convictions.

Getting screened

What documents do I need to be screened by an expert?

In every place where you have been arrested or given a ticket by police, obtain the following:

- ALL certificates of disposition, even if charges were dropped, dismissed or expunged
- Decline to Prosecute letters

If you are unsure of how to do this, contact the court clerk to request information. **BEWARE:** Even cases that seemed minor, were a long time ago, or where charges were dropped can be a problem!

What should I ask an expert before applying for U.S. citizenship?



BEFORE applying, ask a lawyer:

- **Will my citizenship application lead the government to try to deport me?**
 - If I face deportation, would I be eligible to ask a judge to let me stay in the U.S. and keep my green card? Would I be detained in an immigration jail while fighting my case?
- **Does my criminal history make me ineligible for citizenship?**
- Would vacating the conviction(s) in criminal court or applying for a pardon allow me to get rid of the “deportable” offense(s) or become a U.S. citizen?

What can happen if you apply for U.S. citizenship

How will immigration know about my criminal history?

You have to tell them about any arrests or citations in the application – no matter the outcome of the case. Also, the mandatory background check will show your entire record, including dismissed and sealed cases. Sometimes, they follow up by asking questions during your interview or requesting documents from the case. A lawyer can help you figure out what is necessary to share with immigration.

How can my citizenship application lead the federal government to try to deport me?

Under immigration law, the federal government can try to deport green card holders for certain types of criminal offenses. If you have a “deportable” offense on your record and apply for citizenship, immigration will likely start a deportation case against you. If this happens, they might detain you in an immigration jail and your criminal history may affect your eligibility to ask an immigration judge to stay in the U.S. This is why it is important to talk to an expert *before* applying.

This document is not a substitute for individualized legal advice. Consult a lawyer to find out about your specific situation.

If I don't have a "deportable" offense, how can my criminal history affect my application?

It can affect whether you are granted or denied U.S. citizenship. One of the requirements to become a U.S. citizen is to prove you are a person of "good moral character" at the time you apply *and* during the 5 years (or 3 years if married to a U.S. citizen) before the application. Some criminal offenses bar you from proving "good moral character" temporarily or permanently. While barred, you are not eligible for citizenship, your application will be denied, and you will lose the filing fee. Also, even if you aren't barred, immigration can decide that you do not have "good moral character" because of your criminal history and deny citizenship. Talk to an expert about whether this applies to you.

What types of offenses could lead to deportation or bar me from U.S. citizenship?

Some examples of offenses that could lead to deportation or bar "good moral character" are:

- **Drug crimes** (even violations, misdemeanors, simple possession and marijuana)
- **Theft or fraud offenses** (even minor offenses like turnstile jumping or shoplifting)
- Offenses involving **physical harm to others**, including assault or murder
- **Sex offenses**
- **Pleas in treatment courts**, like drug courts, where a case is dropped after a program

BEWARE: This is not a complete list! Don't rely on the name of your offense to guess if it can hurt you. Even cases that seemed minor, were a long time ago or where charges were dropped can be a problem! You must **meet with an expert** to tell if your case involved a "deportable" offense or bars "good moral character."

Improving your chances

I don't have a "deportable offense" and am eligible for U.S. citizenship, but I'm worried about how immigration will judge my record. How can I show the "good moral character?"

While there are many ways to show "good moral character," it can be helpful to include certificates, letters of support and/or other types of documentation (like photographs) showing your positive involvement in your community (e.g. participation in community groups or trainings, coaching Little League, union membership, attendance at religious institutions, good work reviews, etc.).

Would vacating my conviction in criminal court or applying for a pardon help me avoid deportation or allow me to become a U.S. citizen?

If you have a "deportable" offense or one that makes you ineligible for citizenship, you may have options to remove the negative immigration consequences. You should consult a criminal defense attorney to see if you can have your past criminal conviction(s) vacated based on some legal error in the criminal proceedings. This is sometimes called "post-conviction relief." You may also consider seeking a pardon of your conviction from the President (federal offenses) or a Governor (state offenses). These strategies help some but not all people. So, seek legal advice on your individual case. If your conviction is from New York, contact IDP to see if a pardon or vacating the conviction(s) can help you.

If you have a conviction from New York, Immigrant Defense Project can advise about how it impacts your status or eligibility for citizenship.

Connect with us: 212-725-6422
For more information on citizenship:
immdefense.org/natz

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