

# NAFSA Conference 2010

## WAHDYA NEEDA LOYA FOR?

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Limits of immigration advisement and function  
- When to bring in lawyers?



F-1, J-1, H-1, M-1, LPR and related employment for students of own institutions  
- post grad through placement office?



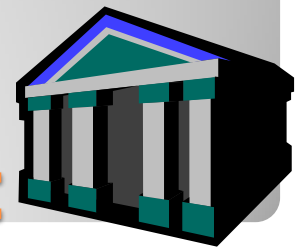
Plans to remain in the US

# Role of Foreign Student Advisor

- Seminar on US legal system
  - Civil/criminal
  - "Gifts"
- Social security, welfare – not welfare state
- Landlord and tenant problems
- Debts – civil/criminal distinction
- Work and compensation issues
- Taxes (illegal work)
- Accidents
- Criminal
  - Aggravated felony
  - 2 Crimes of moral turpitude
  - Criminal Reporting Regulation
- Family/Abuse – family issues, I-360, USCIS fact sheet



## Common Non-Immigration Advisement



1. Murder, rape, or sexual abuse of a minor;
2. Illicit trafficking in a controlled substance, including a drug trafficking crime;
3. Illicit trafficking in firearms or destructive devices or in explosive materials;
4. An offense relating to laundering of monetary instruments or relating to engaging in monetary transaction in property derived from specific unlawful activity in an amount of funds exceeding \$10,000;
5. Explosive materials offenses;
6. Firearms offenses;
7. A crime of violence for which the term of imprisonment is at least one year; \*
8. A theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment at least one year;
9. An offense relating to the demand for or receipt of ransom;
10. An offense relating to child pornography, prostitution...
11. Etc.

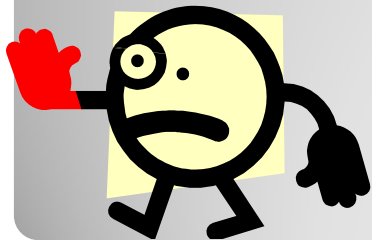
\*Does not require conviction

## **Aggravated Felony**

### **INA 101(a)(43)**



- “Moral turpitude” is defined by case law
  - “Determinations of whether a crime involves moral turpitude are generally made on a case-by-case basis.”
  - Multiple criminal convictions:
    - An alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.



## Crimes Involving Moral Turpitude (CIMT) – INA 212(a)(2)(A) & (a)(2)(B)

- 8 CFR 214.1 (g)
  - Criminal Activity – A condition of a nonimmigrant's admission and continued stay in the United States is obedience to all laws of United States jurisdictions which prohibit the commission of crimes of violence and for which a sentence of more than one year imprisonment may be imposed.
  - A non-immigrant's conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status under [INA 237(a)(1)(C)].
- 8 CFR 214.3 (g)
  - A student *must* inform the DSO and the Service of any legal changes to his or her name or of any changes of address, within 10 days of the change, in a manner prescribed with the school.
  - Students and schools may satisfy the requirement by having the DSO update SEVIS within 21 days of the change.
  - ~ Including change as a result of the student being convicted of a crime.
  - Failure to report will result in loss of accreditation.
- INA 237(a)(1)(C)
  - Violation of nonimmigrant status or condition of entry
  - An alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status, is deportable.

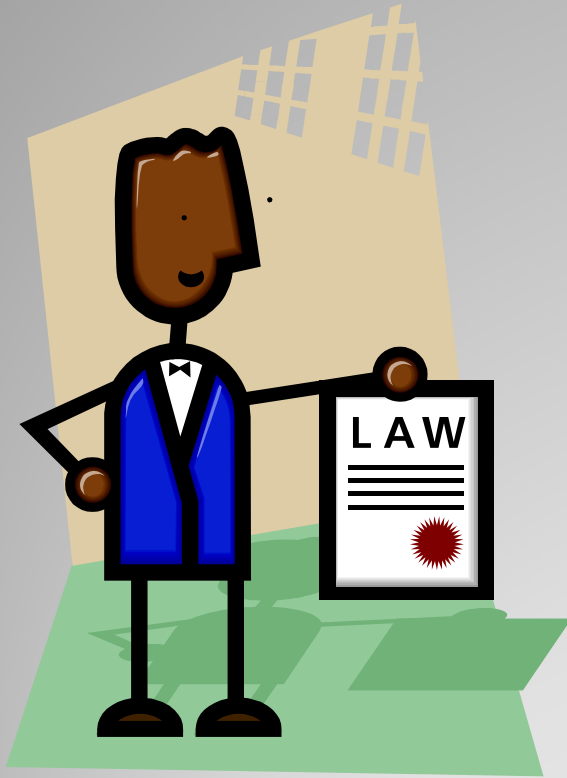


## Criminal Reporting Regulation

- How to find help?
  - Experience with individuals from panels
  - Experience from students/colleagues
  - Bar association referrals – LRS in NYC
  - Not neighborhood lawyer who has multi-talents
  - Law schools' legal clinics
  - Friendly alums
- If university policy is against referrals – throw the students to the wolves (or to the sharks)



# Referrals



- What is a lawyer's role in the U.S.?
- How long has the lawyer been in practice?
- In what concentration?
- Consultation fees?

**What to Tell Students, What to Ask When Calling a Lawyer?**



- What services does the payment include?
- Am I charged every time I speak to you?
- Are you a member of the American Immigration Lawyers Association (AILA)?
- What is your specialization within immigration law?
- Who will actually handle my case?
- What is the best way to communicate with you?

**Other Questions for the Lawyer**

QUESTIONS?

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