SUBJECT-MATTER INDEX

\mathbf{A}	domestic violence offenses, 449,
AAO (Administrative Appeals Office) overview, 25 T status, denial of, 523	employment, 652–653 entry without inspection, 494
Abuse. See Child abuse; Domestic violence	export violations, 465–467, 486–487 failure to register, 459–462, 485–486
"Abuse of discretion" standard of review, 35	falsification of documents, 459–462 firearms offenses, 438–439, 485
ACCA (Armed Criminal Career Act of 1984), 163, 177, 179, 265	forms, fees, and attachments, 652–653
Accessories moral turpitude, crimes of, 246	ground of inadmissibility, 477–480 interview, 642 jurisdiction, 483–484
Acquired citizenship at birth, citizenship at, 548–552 effective dates, 548 relief under, 544–545	LPRs, 96, 480–481, 490–497 mandatory relief, 483 money laundering offenses, 443–445
Adam Walsh Child Protection and Safety Act of 2006 consequences, 469–470 failure to register as sex offender, 404–405	moral turpitude, crimes of, 409–413 nonimmigrant visa holders, 96 not discretionary relief, 483 Notice to Appear, 26–27 parole document, 18
Addicts. See Controlled substance offenses	permanent and nonpermanent residents, availability, 480– 481
Address, change of, 397–398	refugees, 483, 654
Adjustment of status, 477–487 §212(c) waiver in conjunction with, 540–541 §212(h) waiver in conjunction with, 431, 490–491 advance parole, 12, 13, 18 aggravated felony offenses, 427, 484–485 alien smuggling charges, 454–455,	registration offenses, 485–486 removal proceedings, 653 special immigrant juvenile waiver, 481 travel authorization document to TPS beneficiaries, 13 U status, 631–633 USCIS jurisdiction, 641–642 visa fraud, 460–462, 485–486
558–559 arriving aliens, 483–484, 497–500 defined, 96, 477	Administrative Appeals Office (AAO) overview, 25 T status, denial of, 523

discretionary relief, 37, 481–483, 654

Administrative Decisions Under Immigration and Nationality Laws of the United States (I&N Decisions), 45

Administrative orders, challenge to as defense to criminal charge of reentry after removal, 564–565

Administrative Procedure Act of 1946, 147

Admissibility Review Office (ARO) nonimmigrant visa waiver, 643

Admissions to prosecutor, required for diversion

advice to client about, 573 effect of, 55–56

Advance parole, 11–15, 18, 483–484

Adverse immigration consequences, avoiding

federal first offender treatment, 573–574 juvenile delinquency, 574–575 methods to, 571–601 petty-offense exception, 575–576 pretrial diversion, 572–573

AEDPA. See Antiterrorism and Effective Death Penalty Act of 1996

A-file

bond eligibility, officer with control over, 114
FOIA requests, 43
method of agencies locating client, 116
reentry prosecutions, handling, 568
shared between DHS agencies, 19

Agencies, government. See also

specific agencies locating clients with criminal convictions by, 113–118 overview, 19–25

Aggravated assault

moral turpitude, crimes of, 247, 248, 249 pleas, 581, 599, 600

Aggravated felonies. See also specific offenses

212(c) waiver, 534–536, 537 adjustment of status, 427, 484–485 alien smuggling, 261, 333–334, 394–397, 455, 558–560, 586 asylum and withholding of removal, 429–431, 583, 597

attempted possession of stolen property, 331

attempts, 345–346 bail jumping, 336–337 burglary, 261, 327–332 cancellation of removal, 427–428, 596

child pornography, 261 classification of crimes, 259–350 commercial bribery, 262, 536 consequences of conviction, 427– 432, 583–594 conspiracy, 262, 345–346

Convention Against Torture (CAT), 431

counterfeiting, 262, 536 crimes of violence, 305–321, 343–344, 535

deceit, 535 definition of, 259–264, 534–536 denaturalization, 432

deportability or removability, 427, 434–435

drug trafficking crimes, 271–305 embezzlement, 332, 593 explosives, 261 federal, state, and certain foreign

convictions, 260–263 felony requirement, 343–345 firearms offenses, 261, 321–327, 438–443, 599

forgery, 262, 536

Subject-Matter Index

Alien Smuggling

fraud, 261, 329–330, 535	restitution, 338–342
gambling, 261	sabotage, 261
inchoate crimes, 345–350	sentence for, 334–337, 600–601
judicial review of "particularly	term of imprisonment, 89–90,
serious crime"	584
determination, 429-431	sexual abuse of a minor, 536
kidnapping, 261, 332–333	slavery offenses, 261
loss to victim in excess of \$10,000,	statutory rape, 270–271
585–586	subornation of perjury, 262, 334
LPRs and waivers, 490–491	tax evasion, 261, 337, 535, 592
mandatory detention, 428, 583	theft offenses, 261, 327–332, 535
misdemeanors treated as, 343–344	treason, 261
modified categorical approach, 163	U.S. instrument, falsely making,
money laundering, 337, 342, 381–	262
382, 445–446, 535	voluntary departure, 428–429
moral turpitude, crimes of, 246–	Aggravated felons, expedited removal
247	of
murder, 260, 264–265	overview, 101–106
naturalization, 431–432	relief from, 105–106
non-elemental facts, 176	Aggravated fleeing and eluding, plea
obstruction of justice, 262, 335–	bargaining, 582
336, 536	Dai gaining, 302
offenses that depend on amount of	Aggravated stalking
funds involved, 337–342	moral turpitude, crimes of, 248
funds involved, 337–342 offenses that depend on	00
funds involved, 337–342 offenses that depend on "commercial advantage,"	moral turpitude, crimes of, 248
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343	moral turpitude, crimes of, 248 pleas, 582
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246 AILALink, 44, 45 AILA.org, 44 Alien files, 19
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246 AILALink, 44, 45 AILA.org, 44 Alien files, 19
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594 political offense exception, 431	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559 aggravated felony, 261, 333–334,
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594 political offense exception, 431 prostitution enterprises, 333, 380–	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245– 246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594 political offense exception, 431 prostitution enterprises, 333, 380– 381	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559 aggravated felony, 261, 333–334, 394–397, 455, 558–560, 586
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594 political offense exception, 431 prostitution enterprises, 333, 380– 381 racketeering, 261	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559 aggravated felony, 261, 333–334, 394–397, 455, 558–560, 586 asylum and withholding of
funds involved, 337–342 offenses that depend on "commercial advantage," 342–343 offenses that depend on sentence imposed, 262, 334–337 pardons, 65 peonage, 261 perjury, 262, 334, 536 personal use exception, 434–435 pleas to avoid, 583–594 effective plea bargaining to avoid, summary of, 587–594 political offense exception, 431 prostitution enterprises, 333, 380– 381	moral turpitude, crimes of, 248 pleas, 582 Aiding and abetting classification of crime, 173–174 controlled substance offense, 587 moral turpitude, crimes of, 245–246 AILALink, 44, 45 AILA.org, 44 Alien files, 19 Alien smuggling adjustment of status, 454–455, 558–559 aggravated felony, 261, 333–334, 394–397, 455, 558–560, 586 asylum and withholding of removal, 457, 559

Convention Against Torture (CAT),	Amnesty programs
457 crime of, 396–397	adjustment of status, 96. <i>See also</i> Adjustment of status
defined, 395	reinstatement of removal, 111–112
denaturalization, 458	·
deportability or removability, 394–	Antique firearms exception, 210, 324–326, 377–378
397, 455	,
relief absent conviction, 557-	Antiterrorism and Effective Death
558	Penalty Act of 1996
immediate family member,	(AEDPA) §212(c) waiver, 526, 530, 657–658
exception for, 395, 557	key legislation, 46
inadmissibility	lawful admission requirement, 520
adjustment of status, and visa	
eligibility, 454– 455	Appeals
relief absent conviction, 557–	AAO. <i>See</i> Administrative Appeals Office
558	Attorney General review, 24–25, 32
mandatory detention, 456	BIA. See Board of Immigration
moral turpitude, crimes of, 257	Appeals
naturalization, 457–458, 559–560	bond determination, 135
pleas, 586	automatic stay during, 146-
relief, 557–558	150
§212(c) waiver, 559	federal judicial review, 33–35
§212(h) waiver, 559	finality of criminal appeals, 58–59
aggravated felony, 558–560	Office of Chief Counsel, 24–25
asylum and withholding of	petitions for review to Court of
removal, 559–560	Appeals, 37–40
cancellation of removal, 456, 558	removal proceedings, 30–32 T status, denial of, 623
deportability and	U status, denial of, 637
inadmissibility,	Applicants for admission, 92
absent conviction,	,
557–558	AR-11 change of address form, 398,
naturalization, 559–560	399, 465
waiver, 557–560	Arizona, REPAT program, 114
voluntary departure, 456–457	Armed Criminal Career Act of 1984
All Writs Act of 1789 , 76	(ACCA)
American citizens	classification of crimes, 163, 177,
acquired citizenship. See Acquired	179 crimes of violence, 273
citizenship	violent felonies, 265
derivative citizenship. See	,
Derivative citizenship	ARO (Admissibility Review Office)
status of, 3–5	nonimmigrant visa waiver, 643

Subject-Matter Index Attorneys

Arrest failure to register, 464 family members and, 8 at border, 21 upon termination of sentence, 21 filing fee exception, 30 while out in community, 21–22 firearms offenses, 442 immigration status, 8 **Arriving aliens** LPRs, 8 adjustment of status, 483–484, money laundering, 447–448 497-500 moral turpitude, 419 jurisdiction over custody issues, Notice to Appear, 26–27 137-138 referral of petition, 26 nonimmigrant visa waiver, 563 relief under, 508-515 "reason to believe" drug trafficking, S status, 613–616 588 standard of review, 34–35 smuggling. See Alien smuggling temporary protected status (TPS), voluntary departure, 543, 544 10 - 11Arson visa fraud, 464 moral turpitude, crimes of, 249 Visa Waiver Program (VWP), 7 pleas, 581 withholding of removal **Assault** distinguished, 9, 510–514 attempt, 250 Athletes as nonimmigrant visa with deadly weapon, 247, 248 holders, 6 on law enforcement officer, 251 **Attempt.** See also specific offenses moral turpitude, crimes of, 250 aggravated felony, 262, 345-346, pleas, 581 349-350 racketeering purposes, 319–321 assault, 250 **Asylum** controlled substance cases, 305 §209(c) waiver, 504–508 murder, 248 adjustment of status, 96. See also possession of stolen property, 331 Adjustment of status **Attorney General** aggravated felony conviction as bar discretionary waivers, 503–504 to, 429–431, 583, 597 EOIR, 19 alien smuggling charges, 457, 559 review, 24–25, 32 controlled substance offenses and, 437 **Attorneys** Convention Against Torture (CAT) attorneys' fees request, 40 compared, 10 defense and immigration counsel, cooperating witnesses, 599 importance of working as defense to criminal charge of team, 599 reentry after removal, 566 Legal Net, 662 notice of appearance of counsel, 27 defined, 8 removal proceedings, right to, 28 domestic violence offenses, 453– tools and strategies for practice. 454 See Tools and strategies for entry without inspection, 17 export violations, 468–469 criminal-alien law practice

Authority over immigration law enforcement. See Government agencies; specific agencies

Automatic stay during appeal of bond hearing, 146–150

Automobiles. See Vehicles Auto theft pleas, 582

B

Background checks. See Biometrics and background checks

Bad checks, passing of, 236

Bahamas, tourists and temporary workers from, 6–7

Bail, 114–115

Battered child. See Child abuse

Battered Immigrant Women
Protection Act of 2000, 624

Battered spouse

adjustment of status, 96. See also
Adjustment of status
cancellation of removal, 522–523
deferred action, 14
review of petitions, 25
waiver application, 488, 489, 522–
523, 654–656

Battery

on law enforcement officer, 251 moral turpitude, crimes of, 250 non-LPR cancellation, 525–526 pleas, 581

Bermuda, tourists and temporary workers from, 6–7

Beyond reasonable doubt standard for conviction, 48–51

BIA. See Board of Immigration Appeals

Biden Administration

cooperating witness, discretion for, 122

courthouse arrests, 116
DACA program, 15
deputizing of local officers as
immigration agents, 118
Family Reunification Program, 13
marijuana federal convictions,
pardons, 574

Biographic form, G-325, 652

Biometrics and background checks

convictions, 100–101 fees, 30, 644 immigration applications requiring, 115–116, 644–646 locating clients with criminal convictions, 115–116 rules, 644–646

Birth, citizenship acquired at, 3–4, 151, 548–550

Board of Immigration Appeals (BIA)

attorney general review, 24–25, 32 decisions of, 45 divisible statutes, 194–204 EOIR Courts & Appeals System.

See ECAS
notice of appeal requirements, 30–32 online docketing system, 27 overview, 23–24 probation violations, 90 removal proceedings, 30–32 review after BIA appeal, 32–33, 37–40 unpublished BIA decisions, access to, 42–43

Bonds, posting of

ability-to-pay litigation, 119, 145–146 after release, 136–137 agency arrests and detention, 133 arriving aliens, 137–138 automatic stay and, 146–150 client held in detention, 114–115 deportable respondents, 139 entry without inspection, 139
hearings before Immigration Judge
on, 124–125, 133–150
mandatory detention, 124–125
motions, where to file, 134
nonmandatory cases, 133–150
nonmandatory detention cases,
144–150
number of bond hearings not
limited, 135–136
restrictions, 136–137
standards, 131–132
voluntary departure, 545, 546, 547
withholding-only proceedings, 156

Border

arrest at, 21 Customs and Border Protection, role of, 21

Brand X standard, 34

Bribery

commercial, 262, 335, 536 moral turpitude, crimes of, 241– 243 of witness, 262, 536

Burden of proof

adjustment of status, 96 change or maintenance of status, 96 classification of crime, 171 drug trafficking crimes, 281–282 good moral character, 98 LPRs with a post–April 1,1997 convictions, 95-96 nonmandatory detention cases in bond hearings, 119, 144-145 parolees and inadmissibility, 97 persons physically present in violation of law, 97–98 postconviction relief on merits (vacaturs), 72 refugee or asylum status, withholding of removal, 9 removal proceedings, 29-30, 473-477

TPS, 98 visa applicants at American consular posts abroad, 97 waivers, 182–184, 473–477

Bureau of Consular Affairs, visa issuance, 22

Bureau of Industry and Security (Commerce Department), 402, 486

Burglary

aggravated felony, 261, 327–332 aiding and abetting, 327–328 classification of crimes, 162–163 divisible statutes, 190–192, 330–331 moral turpitude, crimes of, 234–235, 578–579 pleas, 578–579, 581–582

Business professionals, 5–6, 560

 \mathbf{C}

Canada

E-SAFE program, 562, 662–663 tourists and temporary workers without visas from, 6–7

Cancellation of relief

prostitution enterprises, 458–459

Cancellation of removal

§212(c) waiver, combined with,
515, 541–542
admission defined, 516
admission gained through fraud
and, 520–521
aggravated felonies, 427–428, 596
alien smuggling charges, 456, 558
battered spouses, 522–523
continuous residence vs. LPR
status, 515
discretionary determination, 37
domestic violence, 452
eligibility for relief and, 515
export violations, 467

failure to register, 462 falsification of documents, 462 firearms offenses, 441 immigration court filings, 659 ineligible individuals, 521 money laundering, 441, 445–446 NACARA §203, 523–525 non-LPR, 525–526 relief under, 416–417, 515–526 special rule, 523–525, 660 stop-time rule, 26, 497, 517–519, 596

CAP (Criminal Alien Program), 23

Caribbean, tourists and temporary workers without visas from, 6–7

CAT. See Convention Against Torture

Categorical approach

classification of crimes, 161–165, 168–171, 175–177, 385–386 defined, 214 foreign statutes, 87 moral turpitude crimes, 194–204, 218–219 non-LPR cancellation, 526 removal proceedings, 473–477

Cayman Islands, tourists and temporary workers from, 6–7

CBP. See Customs and Border Protection

CCA (Child Citizenship Act of 2000), 3-4, 551-552

Change of address card, 398

Change of status, 96–97

Chevron deference, 34, 54, 196, 258, 389, 390–391

Child abuse

battered children cancellation of removal, 522– 523 deferred action, 14
waiver application, 488, 489,
654–656
crime of violence, 387–392, 449,
451, 452
moral turpitude, crimes of, 253–
255
sexual abuse, 253–255, 265–269,
344–345, 591–592
special immigrant juvenile waiver,
481

Child born outside U.S. and derivative citizenship, 3–4, 550–552

Child Citizenship Act of 2000 (CCA), 3–4, 551–552

Child endangerment and deportability, 387–392

Childhood arrivals, deferred action for, 14–16

Child pornography

aggravated felony, 261 moral turpitude, crimes of, 253, 255

Child sexual abuse. See Adam Walsh Child Protection and Safety Act of 2006; Child abuse

CIMT (Crimes involving moral turpitude). See Moral turpitude, crimes of

Circuits

conviction, 49–50 first offender or youthful offender provisions, 62–64 municipal court proceedings, 49–50

Circumstance-specific approach

classification of crimes, 168–172, 363, 385–386 defined, 216

Citizenship. See Acquired citizenship; Derivative citizenship

Citizenship and Immigration Services (USCIS) adjustment of status, 96–97, 641–642, 653 applications for relief, removal proceedings, 30 conviction records, requirement, 648–649 deferred action for childhood arrivals, 14–16 I-246 Form, 271 memoranda of law before, 663 overview, 19, 20–21 parole, 12	modified categorical approach, 163–168, 169– 170, 240, 387 realistic probability test, 173– 175, 213, 253–255 statements during plea colloquy, 165 missing-element statutes, 165–167 moral turpitude, crimes of, 178, 217–218, 226–227 non-elemental facts, 168–172, 216 overbroad statutes, 165–167 overview, 159–160 record of conviction, 216
visa applications, 18	taking a peek, 180, 188, 192, 215
Classification of crimes. See also specific offenses alternative statutory phrases, 179, 180, 184–185, 196–199, 215 alternative statutory provisions, 185–190, 215 beyond moral turpitude and aggravated felonies, 351– 406 burden of proof, 171 conduct-based approach, 181, 216 definitions, 214–216	Clients background checks, running on, 644–645 confirmation-of-appointment letters, 45 determining status of, 1–17 family members. See Family members tools and strategies for practice. See Tools and strategies for criminal-alien law practice Code of Federal Regulations, Title 8,
element, 215 essential elements only, 193 under immigration law, 159–406 least culpable conduct, 216	41, 45 Coercion and intimidation as defense to criminal charge of reentry after removal, 566
means, 215 methodology, 159–216 analyses and terms, 160–179 burden of proof, 171 categorical approach, 161–	Collateral attack and removal proceedings, 566–569 Colombia, parole under Family Reunification Program, 13
165, 168–171, 175–177, 385–386 circumstance-specific	Commerce Department and export violations, 401–403, 486
approach, 168–	Commercial bribery, 262, 335, 536
172, 385–386 minimal (or least culpable) conduct approach, 167–168	Conduct-based approach categorical approach vs., 317–318 defined, 181, 216 minimal (or least culpable) conduct approach, 167–168

Confirmation-of-appointment letters,	asylum and withholding of
45	removal, 437
Consequences of criminal act. See also	Board decisions after Matter of
Removal proceedings	<i>P–B–B–</i> , 357–358
aggravated felonies, 427–432, 583–	circuit conflicts, 297–298
594	cocaine, defined, 365–368
alien smuggling, 394–397, 454–458	conduct-based vs. categorical
controlled substance offenses, 432–	approach, 317–318
438	consequences of, 432–438
domestic violence, 448–454	Convention Against Torture (CAT),
export violations, 465–469	437
firearms offenses, 375–380, 438–	counterfeit controlled substances,
443	208–209
mandatory detention, 408	definition of, 352
money laundering offenses, 443–	denaturalization, 438
448	deportability or removability, 56-
moral turpitude, crimes of, 409–	57, 434–435
427	Dingus, Matter of (2022), 81
prostitution enterprises, 458–459	distribution without remuneration,
visa or passport fraud, 459–465	206, 278–282
ī	divisible statutes, 185–189
Conspiracy	double jeopardy, 354–357
aggravated felony, 262, 345–349	drug abusers and addicts, 375
overt act requirement, 346–	drug paraphernalia, 371–373, 435,
349	487–488
assault for racketeering purposes,	drugs but not controlled substances,
319–321	368–370
drug-related, 587	federal convictions, 271
drug trafficking, 305	federal recidivist statute, 299–305
moral turpitude, crimes of, 245–	first offender/youthful offender
246	provisions, 60–65
Constitutional rights of noncitizens,	guidelines approach, 296–297
33, 35	hypothetical felony approach, 295–
Consular office. See also Embassies	296
	inadmissibility
waiver application, 561	adjustment of status, and visa
Continuous residence	eligibility, 432–
LPR status distinguished, 496–497,	434
515	deportability compared to, 435
minor children living abroad, 516	removability and, as
Contributing to delinquency of minor,	independent
268	grounds for, 351
	waiver, 487–488
Controlled-substance offenses	intent to use, 372
aggravated felonies, 256, 272	111101111 10 400, 512

"look-alike" drugs, 373	personal use exception, 362–365,
Lopez v. Gonzales (2006), 298	434–435
mandatory detention, 436	pleas, 530, 587–588, 598
marijuana offenses	prescription drugs, 292–293
convictions and hemp factor	purchase of amount for personal
before December	use, 293–294
20, 2018, 285–286	realistic probability test, 206–210,
date applicable in comparing	213, 353–354, 358–360
CSA versions,	"reason to believe," 351, 373–375,
284–285	433–434, 588
defined, 56–57, 363–364	recidivist simple possession, 272–
Farm Bill of 2018, 285	273
foreign convictions, 288	second or subsequent offense for
legalization of, 56–57	simple possession, 299–305
mismatched, 290–291	simulated or imitation controlled
pleas, 596	substances, 373
post-December 2018 state	solicitation offenses, 369–370
marijuana	state convictions, 273–274, 294–
offenses, 364	298
state and federal convictions,	state law, 354–357
286–292	state simple-possession offenses,
variations on the personal-use	294–298
exception, 364–	trafficking in, 274–278. See also
365, 481, 487–488	Drug trafficking crimes
waiver of inadmissibility, 487–	voluntary departure, 436–437
488	Controlled Substances Act of 1970
mismatched schedules, 206–210,	(CSA)
282–285, 288–292, 352–362	aggravated felonies, 272-273, 275,
date applicable in comparing	278–288, 291–293, 295–296
CSA versions, 284–285	categorical approach under, 175-
	176
summary of, 362	classification of crimes, 352–353
moral turpitude, crimes of, 256, 351	Convention Against Torture (CAT)
naturalization, 438	aggravated felonies, 431
nature of proceedings, 56–57	alien smuggling, 457
Ninth Circuit variation on first	asylum compared, 10
offender or youthful	controlled substance offenses, 437
offender provisions, 61–62	cooperating witnesses, 599
non-LPR cancellation, 525–526	defense to criminal charge of
other federal circuits on first	reentry after removal, 566
offender or youthful	domestic violence offenses, 453-
· · · · · · · · · · · · · · · · · · ·	
Offender provisions 67-64	454
offender provisions, 62–64 pardons, 65	454 filing fee exception, 30

CONVICTION SUBJECT-MATTER INDEX

judicial review, 35	Ninth Circuit variation on first
money laundering, 447–448	offender or youthful
moral turpitude, crimes of, 422	offender provisions, 61–62
S status, 613–616	nonimmigrant visa holders, 6
visa or passport fraud, 464	pardons, 65–68
withholding of removal under	postconviction relief on merits
aggravated felony convictions,	(vacaturs), 68–82
aggravated felony convictions, 559	pretrial intervention, 54–56
	proof of convictions, 88–89
alien smuggling, 457 controlled substance	record sealing, 60–68
	C.
convictions, 437	suspensions of sentence, 89
criminal activity, 10	withholds or deferrals of
deferral, 514–515	adjudication, 51–54
domestic violence, 453–454	Wong, Matter of (2022), 50–51
firearms offenses, 442	youthful offender provisions, 574–
money laundering, 447–448	575
visa or passport fraud, 464	Cooperating witnesses, visas for,
waiver, 514–515	537–538
Conviction	mandatory detention, 121–123
admissions to prosecutor, required	mitigating factor, as, 599
for diversion, 55–56	overview, 603–604
beyond reasonable doubt standard,	S status, 604–616
48–51	adjustment to permanent
circuit courts, 49–50	resident status,
circuits on, 49–50	under S status,
court-appointed counsel, 49	608–610
courts martial, 57–58	asylum, 613–616
defined, 47–90	CAT, 613–616
<i>Dingus, Matter of</i> (2022), 81	conditions of status, 607–608
diversion, 54–56	deferred action, 14
expungements, 60–68	family members, 610
FFOA expungements, 64–65	I-854 form, 606–607
finality of, 58–59	parole, 612–613
first offender or youthful offender	regulations, 606–607, 610
provisions, 60–65, 573–575	statute, 605–606, 608–609
foreign convictions, 85–88	tips and advice on, 610-613
jury trials, 49	withholding, 613–616
juvenile delinquency, acts of, 82–	written commitment, 611
85, 574–575	T status, 560, 616–623
LPRs, 5	annual cap, 621–622
marijuana prosecutions, 56–57	application procedure, 619–
modification of sentence,	622
postconviction relief, 81–82	battered spouse, 14
municipal court proceedings, 48–51	deferred action, 14
· · · · · · · · · · · · · · · · · · ·	

Subject-Matter Index Criminal Activity

extreme hardship, 618–619 **Country conditions** family members, 622 experts, 44 final order of removal, 621 sources of information, 44–45 nonimmigrant status, issuance Courts martial convictions, 57–58 of, 623 Credit card fraud pending immigration moral turpitude, crimes of, 237 proceedings, 621 pleas, 598 permanent residency, 623 physical presence requirement, Crimes involving moral turpitude (CIMT). See Moral regulations, effective, 617–619 turpitude, crimes of review, 25 Crimes of violence. See Violence, revocation of status, 622 crimes of "severe form of trafficking," Crime victims. See also Cooperating defined, 617-618 witnesses, visas for statute, 617 domestic violence victims, 384waivers of inadmissibility, 386, 594–595, 598 620-621 loss to victim, 338–342 U status, 560, 624-637 Mandatory Victim Restitution Act adjustment of status, 631–633 of 1966, 340 age-out protection, 633–634 nonimmigrant visa holders, 6 annual cap and backlogs, 630 trafficking victims. See Trafficking battered spouse, 14 Victim Witness Protection Act of "criminal activity," defined, 1982, 340 626-627 Criminal activity. See also deferred action, 14 family members, 630–631, Classification of crimes aggravated felons, expedited 637 removal of, 101-106 filing, 628–630 jurisdiction, 637 constitutionality, 104-105 relief from, 105-106 permanent resident status, consequences of, 2–3 634-636 deportability, 98–101 regulation, 624–637 for criminal record holders, removal proceedings, persons in. 631–633 93-96 distinguished from review, 25 statute, 626–627 inadmissibility, 99-101 **Copyright infringement** inadmissibility moral turpitude, crimes of, 234 adjustment of status, 96 **Counterfeiting** admission without inspection, aggravated felony, 262, 536 97-98 currency or securities, 598–599 change of status, 96–97 devices, 341 for criminal record holders, goods, 237 93-96

entry without inspection, 97–
98
"good moral character," 98
naturalization, 98
parolees, 97
temporary protected status, 98
visa applicants at American
embassies, 97
mandatory detention, 106, 119–128
"release from custody," 139–
142

Criminal Alien Program (CAP), 23

Criminally negligent homicide, 249

Criminally reckless conduct

crimes of violence, 247 moral turpitude, crimes of, 247

Criminal mischief, 579, 581

Cuban Adjustment Act of 1966

§212(c) waiver, 541 adjustment of status, 480, 653, 654 review under, 25

Cuban citizens and nationals. See also Cuban Adjustment Act

order of supervision for, 16 parole under Family Reunification Program, 13 unremovable status of, 151

Currency reporting violations, 598–599, 600

Custody rule. See Transition Period Custody Rules

Custom form, false statement in plea, 582

Customs and Border Protection (CBP)

application for waiver, 643 deferred inspections, 117 I-246 Form, 271 overview, 19–21 parole, 12 reentry after trip abroad, procedures for, 117 D

Deadly missile, throwing, 193

Deadly weapons, 599

Deceit. See also **Fraud** aggravated felony, 535

DED (deferred enforced departure), 13–14

Deferrals of adjudication

comparison with pretrial diversion, 572 defined, 51–54 "Final indoment" and particularly

"final judgment" and particularly serious crime bar, 54 penalty phase, 53–54

Deferred action (DACA)

for childhood arrivals ("dreamers"), 14–16 criminal conviction, effect on, 16 defined, 13

Deferred enforced departure (DED), 13–14

Deferred inspections of clients with criminal records, 117

Delinquency of minor, pleas of contributing to, 268

Denaturalization

aggravated felonies, 432
alien smuggling charges, 458
controlled substance offenses, 438
domestic violence offenses, 454
failure to register, 465
falsification of documents, 465
firearms offenses, 443
money laundering, 448
moral turpitude, crimes of, 424–
427
prostitution enterprises, 459
visa fraud, 465

Department of ____. See specific department

Deportability. See also Removal	Deportation (CAR) 22
proceedings	Criminal Alien Program (CAP), 23
§212(c) waiver and, 100, 538–540	in absentia, 27, 567
admission, defined, 414–415	naturalization as defense to, 552–
aggravated felons, 427, 435	557
expedited removal of, 101–106	notice, 567
alien smuggling, 394–397, 455	reentry after, 107–109
relief absent conviction, 557–558	Form I-212 not required, 563–564
burden of proof, 29–30	reapplying for admission,
child endangerment, 387–392	668–671
controlled substance offenses, 434–	stay of, 667–668
435	withholding of removal, 9
inadmissibility compared to, 435	Depositions, 28
criminal activity, 98–101	Derivative citizenship
for criminal record holders, 93–96	at birth, citizenship at, 151, 548–550
distinguished from	children born outside U.S., 550-
inadmissibility,	552
99–101	effective dates, 548
grounds for, 99	LPRs, 2
criminal record holders, 93–96	parents as citizens, 3-4
domestic violence, 382, 450–452	relief under, 544–545
export violations, 401–403, 467	requirements for, 3–4
failure to register, 462	Destructive devices. See also
firearms offenses, 439–441	Explosives
grounds for LPRs, convictions, 5	defined, 375–377
inadmissibility distinguished from,	trafficking in, 261
99–101	
LPRs, convictions, 5	Detainer, persons in penal custody to
money laundering, 445	be provided, 21
moral turpitude, crimes of, 413–	Detention
416	by law enforcement agencies, 115
Notice of Intent, 102	mandatory. See Mandatory
overview, 120–121	detention
pardons, 65–68	during review of final removal
prostitution enterprises, 458	order, 153–154
protection orders, 392–393	DHS. See Homeland Security,
stalking, 382	Department of
unlawful voting, 405–406	•
visa fraud, 462	<i>Dingus, Matter of</i> (2022), 81
voting, unlawful, 405–406	Discretionary determinations. See also specific applications and waivers

adjustment of status, 37, 481–483, 654 federal judicial review, 37, 121– 123, 472–473	consequences of, 448–454 Convention Against Torture (CAT), 453–454 definition of crime of, 383–384,
Diversion, pretrial, 54–56	448–449
Divisible statutes aggravated felonies, 592–593 BIA cases, 194–204	denaturalization, 454 deportability or removability, 382, 450–452
burglary, 190–192, 330–331 Circuit Court cases, 184–193 classification of crimes, 161, 163– 167, 178–179 controlled substance offenses, 185–	divisible statutes, 383 "good moral character," 453, 454 identification of victim through circumstance-specific approach, 171–172, 385– 386
189 defined, 215 domestic violence, 383	inadmissibility, adjustment of status, and visa eligibility, 449
drug trafficking, 275–278 export violations, 189–190 extrastatutory materials under	mandatory detention, 452 moral turpitude, crimes of, 393, 449–450
Shepard decision (2021) and, 182–184 forcible sodomy, 185 gang enhancement, 190 larceny, 192 mens rea, 184–185	naturalization, 454 offenses, 382–393 pardons, 65 pleas, 594–595, 598 protection orders, 392–393 stalking, 449, 451, 452
moral turpitude, crimes of, 226–227, 250, 444–445, 577, 579 realistic probability test and, 195–	victims, 384–386, 594–595, 598 voluntary departure, 453
196	DOS. See State Department
Supreme Court cases, 177–178, 179–184	"Dreamers," deferred action for childhood arrivals, 14–16
throwing deadly missile, 193 use of a communication facility to commit felony, 188–189	Driving under influence. See DUI cases
Docketing system, online, 23, 27	Drug abusers or addicts. See Controlled substance
DOJ. See Justice Department	offenses
Domestic violence. See also Battered spouse; Child abuse	Drug paraphernalia , 371–373, 435, 487–488
adjustment of status, 449, 485 asylum and withholding of removal, 453–454 cancellation of removal, 452 child abuse, 387–392	Drug trafficking crimes. See also Controlled substance offenses aggravated felonies, 271–305

SUBJECT-MATTER INDEX EOIR

attempts, 305
burden of proof, 281–282
charging phase vs. sentencing
phase, 303
conspiracies, 305
conviction, 304–305
federal law, 256, 271–273
felony classification, 294–298
misdemeanors, 274–275
pleas, 590–591
prosecutorial discretion, 303–304
"reason to believe," 373–375
state law, 294–298

DUI (driving under influence) cases moral turpitude, crimes of, 255–

256, 580 pleas, 580, 581

Duress as affirmative defense to criminal charge of reentry after removal, 566

 \mathbf{E}

EAR (Export Administration Regulations) and export violations, 402–403

ECAS (EOIR Courts & Appeals System), 23, 27, 30–31, 134, 641, 653–659

ECF (Electronic Filing System) in federal courts, 41

Electronic monitoring. See also Intensive Supervision Appearance Program

alternative to detention, 136–137, 156–157

Electronic System for Travel Authorization (ESTA), 7

Eligibility for relief

§212(h) and, 596 cancellation of removal and, 515 naturalization, 597 pleas, 595–597
agreement and colloquy, 597–
601
withholding of removal and
asylum, 597

El Salvador. See also Nicaraguan Adjustment and Central American Relief Act of 1997

parole under Family Reunification Program, 13 reinstatement of removal, 111–112, 523–525 special rule cancellation of removal, 523–525 suspension of deportation, 111–112

Embassies

abroad, forms of relief, 641, 662 nonimmigrant visas, 643 visa applicants at, 18, 19, 22, 97 waiver applications, 641, 662

Embezzlement, 332, 593-594

Employment

adjustment of status, 652–653 authorization document, 14, 18 deferred action, 14 EAD, 18 order of supervision, 16 temporary protected status (TPS),

Entertainers as nonimmigrant visa holders, 6, 560

Entry without inspection (EWI)

adjustment of status, 494 asylum, 17 bond hearing, 139 defined, 17 inadmissibility, 98 mandatory detention, 139 removal proceedings, 17

EOIR. See Executive Office for Immigration Review

EOIR-27 FORM SUBJECT-MATTER INDEX

EOIR-27 Form , 31	FOIA requests, 43
EOIR-29 Form, 31	online instructions and information
EOIR-42A Form , 659	271 online monitoring of cases and
EOIR Courts & Appeals System (ECAS), 23, 27, 30–31, 134, 641, 653–659	notice of appearance, 27 overview, 19, 22–23 portal, 27, 31 reentry prosecutions, handling, 568
Equal Access to Justice Act of 1980, 40	rules of procedure, 23
Equities, Section 212(c) waiver, 659–660	Exhaustion of administrative remedies, 144
ERO. See Office of Enforcement and	Expert witnesses, 643
Removal Operations	Explosives
E-SAFE (Electronic Secured Adjudication Forms	aggravated felony, 261 defined, 375–377
Environment) program, 562, 662–663	Export Administration Regulations (EAR), 402–403
ESTA (Electronic System for Travel	Export violations
Authorization), 7	adjustment of status, 465–467,
Evidence. See also Burden of proof corroborating evidence, 666 removal proceedings, 28, 88–89 in support of waiver, 646–651 applicant, evidence relating to, 648–650 extrastatutory materials used under Shepard decision (2021), 182–184 family members, evidence relating to, 650– 651 key cases, 646–647 EWI. See Entry without inspection	asylum and withholding of removal, 468–469 cancellation of removal, 467 consequences of, 465–469 deportability or removability, 401–403, 467 divisible statutes, 189–190 inadmissibility and visa eligibility, 401–403, 465–467 mandatory detention, 467 national security issues, 401–403, 467, 469 naturalization, 469 voluntary departure, 467–468 withholding of removal, 469
Executive Office for Immigration	Expungements, 60–68
Review (EOIR)	Extortion, 248
attorney registration, 28 automated system at, 27 EOIR Courts & Appeals System. See ECAS filing fees, 31	Extreme hardship T status, visas for cooperating witnesses, 618–619 waiver applications, 488, 489, 654–656

F

Failure to appear

on felony change, 262 for service of sentence, 262

Failure to register, 398–399

adjustment of status, 459–462, 485–486

asylum and withholding of removal, 464

cancellation of removal, 462–463 crimes involving, 397–401 denaturalization, 465

deportability or removability, 462 inadmissibility, 459–462

mandatory detention, 463

naturalization, 465 visa fraud and. 3

voluntary departure, 463–464

Failure to register as sexual offender

Adam Walsh Act, 404–405, 469–470

moral turpitude, crimes of, 252–253

Failure to stop and render aid after fatal car accident. 249

False statements

moral turpitude, crimes of, 239–240 pleas, 600

Falsification of documents

adjustment of status, 459–462 cancellation of removal, 462–463 denaturalization, 465 mandatory detention, 463 naturalization, 465 visa fraud. See Visa or passport fraud voluntary departure, 463–464

Family members

alien smuggling, exception for immediate family member, 395, 557

asylum and, 8
evidence in support, 650–651
hardship to, waiver application,
654–656
visas for cooperating witnesses
S status, 610
T status, 622
U status, 630–631, 637
withholding of removal and, 9

Family Reunification Program, parole under, 13

Farm Bill of 2018, 285

Fastcase, 44

Federal Bureau of Investigation (FBI) rap sheet, 41–42, 649

Federal First Offender Act of 1984 (FFOA)

adverse immigration consequences, avoiding, 573–574 expungements, 64–65 state counterparts to, 61–62

Federal Food, Drug and Cosmetic Act of 1938

controlled substance violations, 368–369 prescription drugs, 292–293

Federal judicial review

arriving aliens, 137–138
constitutionality of mandatory
detention, 123–128
constitutional rights of noncitizens,
33
detention during review of final
removal order, 153–154
discretionary determinations, 37,
472–473
habeas corpus petitions, 40–41, 144
jurisdiction, 37
"particularly serious crime"
determination, 510–514
petitions for review to Court of

Appeals, 37–40

REAL ID Act, 36–37 Firearms offenses adjustment of status, 438-439, 485 review after BIA appeal, 32–33 as aggravated felonies, 261, 321– Federal Juvenile Delinquency Act of 327, 439–441, 599 **1938**. 574 ammunition, 378–379 Federal Rules of Civil Procedure, antique firearms, 210, 324–326, habeas petitions under, 377-378 40-41 asylum and withholding of Federal Sentencing Guidelines removal, 442 Manual, 41 cancellation of removal, 441 carrying concealed weapons, 256 Federated States of Micronesia, consequences of, 375-380, 438-E-SAFE program, 562, 662–663 Convention Against Torture (CAT), Fees 442 application for relief from removal crime of violence, 261 orders, 30 cross-reference with aggravated BIA appeals, 31 felony definition, 439–440 biometrics, 30, 644 definition of firearm and destructive EOIR portal, 31 device, 326, 375-377 filing, 644 denaturalization, 443 exceptions, 30 deportability or removability, 439removal proceedings, application 441 for relief, 30 element, must be, 379 special-rule cancellation of federal statutes, 321–322 removal, 660 felon-in-possession statute, 324– waiver, 644 326 **Felonies** "good moral character," 442 aggravated. See Aggravated inadmissibility and visa eligibility, felonies 379–380, 438–439 moral turpitude, crimes of, 221– mandatory detention, 441 moral turpitude, crimes of, 249 motion to terminate removal temporary protected status (TPS), 11 proceedings, 553 naturalization, 442 **Felon-in-possession statute** non-elemental facts, 171–172 firearms offenses, 324–326 non-LPR cancellation, 525–526 FFOA. See Federal First Offender Act pardon, 65 of 1984 pleas, 591, 599 Fifth Amendment due process right, possession by felon, 324–326 35 state firearms offenses, 323–324 Torres v. Lynch (2016), 440-441 Filing fees. See Fees

Fingerprinting. See Biometrics and

background checks

voluntary departure, 441–442

First offender, youthful offender provisions

convictions, 60–65, 573–575 Ninth Circuit variation on, 61–62 other federal circuits on, 62–64

Fleeing and eluding

moral turpitude, crimes of, 249 pleas, 582

Fleuti doctrine, elimination of, 93–95 **FOIA** requests, 43

Food stamps, unlawful use

moral turpitude, crimes of, 237

Force, use of. See Violence, crimes of Foreign Affairs Manual (FAM) online, 45

Foreign convictions

categorical approach, 87 effect of, 85–88 finality, 88 in absentia, 87–88 juvenile adjudication, 86 length of sentence imposed, 86 petty-offense exception, 86–87 political offense exception, 87

Foreign Corrupt Practices Act of 1977 (FCPA), 587

Forfeiture, 342

Forgery, 262, 536

Former Soviet-bloc countries. See also Nicaraguan Adjustment and Central American Relief Act of 1997

reinstatement of removal, 111–112, 525 special rule cancellation of

removal, 523-525

Forms. See specific Form

Fraud

aggravated felony, 261, 329–330, 535

amount of funds involved, 337–342, 585–586 crimes involving, 235–237, 342 pleas, 577, 592–594, 598 theft vs., 329–330 visa fraud. *See* Visa or passport fraud

Freedom of Information Act (FOIA) requests, 43

G

G-28 Form, 645

G-325 Form, 652

G-639 Form, 43

Gambling, 261

Gang enhancement

divisible statutes, 190 moral turpitude, crimes of, 251– 252

Generic crime, defined, 161, 162, 173, 214, 259

"Good moral character"

alien smuggling, 456, 457–458 controlled substance offenses, 438 domestic violence convictions, 453, 454

firearms offenses, 442 money laundering, 447, 448 moral turpitude, crimes of, 418– 419, 423

naturalization

alien smuggling, 457–458 controlled substance offenses, 438

domestic violence convictions, 454

firearms offenses, 442 inadmissibility, 98, 100 money laundering, 448 moral turpitude, crimes of, 423 visa or passport fraud, 465 non-LPR cancellation of removal.

525–526

prostitution enterprises, 459 Hearings visa or passport fraud, 464, 465 bond hearings, 17, 124-125, 133voluntary departure, 418–419, 441– 150 442, 447, 453, 463-464 interpreter, 666 preparation, 666 Government agencies. See also specific removal proceedings. See Removal agencies proceedings locating clients with criminal video, 23, 27, 114, 666 convictions by, 113–118 Webex for video hearings, 23, 27, overview, 19-25 "Green card" holder. See Lawful Hobbs Act Robbery, 318–319 permanent residents Homeland Security, Department of Guatemala. See also Nicaraguan (DHS) **Adjustment and Central** adjustment of status, 488 American Relief Act of admissions, making to officers of, 1997 573 reinstatement of removal, 111–112, A-files (alien files), 19 525 deferred action, 13-14 special rule cancellation of mandatory detention, 121–123 removal. 523-525 overview, 19-22 Guns. See Firearms offenses parole, 12, 13 waiver, 488 H Honduras Habeas corpus petitions parole under Family Reunification exhaustion of administrative Program, 13 remedies, 144 TPS, 11 federal judicial review, 40-41, 144 House arrest, 601 mandatory detention, 132-133, 144 temporary restraining orders with, **Humanitarian efforts** 40 deferred action, 14 parole, 12–13 Haitian Refugee and Immigrant special immigrant juvenile waiver, Fairness Act of 1998 (HRIFA) TPS, 10 adjustment of status, 483, 654 reinstatement of removal, 111-112

Ι

I-94 card **Reunification Program**, 13 defined, 17-18 initial client meeting, 2 **I-130 Form**, 13, 652 extreme. See Extreme hardship **I-131 Form**, 19 to family members, waiver

I-140 Form, 652

Haiti, parole under Family

application, 654–656

Harassment, 248

Hardship

I-191 Form, 529, 657 domestic violence and protection orders covered by, 393, 450 **I-192 Form**, 560, 562, 625, 629, 643, Fleuti doctrine eliminated by, 94– 661 95 I-193 Form, 7 key legislation, 46 LPRs, not retroactive for **I-212 Form**, 110, 668–671 convictions prior to **I-246 Form**, 643, 644, 667–668, 671 effective date, 95 **I-485 Form**, 412, 480, 500, 608, 634, mandatory detention, 119 652, 653, 656, 657 Notice to Appear, 26–27 I-512 Form, 18 reinstatement after removal, 110, 112-113 **I-512T Form**, 13 removability, concept introduced I-589 Form, 9, 10 by, 91 I-601 Form, 654 stop-time rule, 518 suspension of deportation repealed **I-602 Form**, 645, 656, 657 by, 523 **I-797 Form**, 14, 629–630, 653 waiver applicability to LPRs, 490– I-851 Form, 102 491 I-854 Form, 606–607 Illegal procurement of citizenship, criminal prosecution for, I-881 Form, 660 425-426 I-912 Form. 644 "Illegal status," 16–17 I-914 Form, 616, 619 **Immigration Act of 1990 I-918 Form**, 625, 628–629, 630–631, (IMMACT90) 635, 636 §212(c) waiver, 529-530 **I-929 Petition**, 627 aggravated felonies, 431 good moral character requirement, **I&N** Decisions (Administrative 428, 431, 546 **Decisions Under** key legislation, 46 Immigration and naturalization, 556 Nationality Laws of the United States), 45 **Immigration and Customs Enforcement (ICE)** ICE. See Immigration and Customs deferred action, 14 **Enforcement** detention by, 113–115 **Illegal Immigration Reform and** institutional removal cases, 113-**Immigrant Responsibility** 115 Act of 1996 (IIRAIRA) Institutional Removal Program, 23 §212(c), 526–527 local police, 118 aggravated felonies, 259, 490–491, order of supervision, 16 534-536 parole, 12 applicants for admission, 97–98 returning non-American citizen convictions, 51 after successful litigation,

38-39

role of, 19–24	Immigration status
state or federal detention,	American citizen, 3–5
individuals in, 113–115	I-94 card, 2, 17–18
Immigration and Nationality Act	"illegal" status, 16–17
of 1952 (INA). See also	lawful permanent resident (LPR), 5
specific Section	nonimmigrant visa holder, 5-7
aggravated felonies, 259–264	present without inspection or
classification of crimes, 159	admission or overstay, 16-
convictions, 48, 51	17
deportability, 29, 91	protective categories, 8–16
derivative citizenship, 3–4	Imprisonment. See Sentence
evidence at removal proceedings,	•
88–89	INA. See Immigration and Nationality Act of 1952
"good moral character," 98	
inadmissibility, 91, 98	Inadmissibility
juvenile offenders and crimes of	§212(a)(2)(A), application of, 92–
moral turpitude, 85	98
law of nationality and	§212(c) waiver and, 538–540
naturalization, 3–4	adjustment of status, 96 alien smuggling
local police, 117–118	adjustment of status, and visa
loss to victim, 338–342	•
mandatory detention, 119–121	eligibility, 454– 455
nonimmigrant visa holders, 5–6	
refugees, 8	relief absent conviction, 557–558
reinstatement after removal, 109–	
113	applicants for admission, 92
relevant conduct, 338–342	burden of proof, 29–30
source of law, 41	change of status, 96–97 controlled substance offenses
status under, 5–6	adjustment of status, and visa
Visa Waiver Program (VWP), 7	eligibility, 432–
Immigration court. See also Executive	434
Office for Immigration	deportability compared to, 435
Review; specific types of	removability and, as
proceedings	independent
§212(c) waiver, 657–658	grounds for, 351
§212(h) waiver, 655	waiver, 487–488
adjustment of status, 653	for criminal record holders, 93–96
EOIR Courts & Appeals System.	deportability distinguished, 99–101
See ECAS	domestic violence, 449
forms of relief, 642–643	entry without inspection, 97–98
pretrial statements to, 663-667	export violations, 401–403, 465–
Webex for video hearings, 23, 27,	467
666	failure to register, 459–462
witness list, 665	101010 10 1001011, 107 102

Subject-Matter Index

Jus Sanguinis

firearms offenses, 379–380, 438– automatic stay context for, 150 439 bond hearing after release, 136, 137 "good moral character," 98 custody, whether qualifies as, 157 ground of, adjustment of status, Intent. See also specific offenses 477-480 means vs. elements in criminal LPRs, 93–96 statute, 184-185 money laundering, 443-445 moral turpitude, crimes of, 222moral turpitude, crimes of, 409– 226 nonspecific intent crime, 586 national security as grounds of, 564 recklessness. See Recklessness naturalization, 98 violence, crimes of, 306-307 pardons, 65, 66-67 Interpreters, 666 parolees, 97 persons physically present in **Intimidation**, 248 violation of law, 97–98 Intoxication-related offenses. See DUI petty offense exception, 414 cases prostitution enterprises, 458 Investors as nonimmigrant visa protection orders, 392–393 holders, 5, 560 scope of, 91, 120, 121 temporary protected status, 98 Involuntary manslaughter, 249, 251 visa applicants at American IRP (Institutional Removal Program), embassies, 97 23, 114 waiver of, 487-504 **ISAP.** See Intensive Supervision Inchoate crimes, 345–350 **Appearance Program Ineffective** assistance of counsel, J 80-81 "Joseph hearing," 130–133, 137 Initial admission, seven years of continuous residence and, **Joyriding**, 228, 230, 233–234, 328 497, 516-519 Judges. See Immigration court INS (pre-2003), legacy, 19 Judicial review. See Federal judicial **INS Operations Instruction (OI)** review 242.1(a)(22), 14 Jurisdiction Inspection, evasion of, 16–17 adjustment of status, 483-484 custody issues, 137-139 **Institutional Removal Program (IRP)** federal judicial review, 37 immigration court cases of habeas corpus, 123–124 noncitizen prisoners, 23 nonimmigrant visa waiver, 561prisoner removal, 114 564 Intake sheets, 45 prolonged detention, 126 **Intensive Supervision Appearance** stay of removal, 643-644 Program (ISAP) U status, 627 alternative to detention, 156–157

Jus sanguinis, 151

Justice Department (DOJ)	moral turpitude, crimes of, 576
appeals, 23–25	refugee or asylum status, 8, 18–19
overview, 19	seeking admission, 93-96
Juvenile delinquency	status of, 5
adverse immigration consequences,	travel permits, 18–19
avoiding, 574–575	U status, 634–636
convictions, effect of, 82–85	waiver under §209(c), 506–508
first offender or youthful offender	waiver under §212(h)
provisions, 60–65, 573–575	admission, 491–496
foreign convictions, 86	aggravated felony convictions
moral turpitude, crimes of, 85	490–491
not criminal convictions, 574–575	criminal bar language, 492–493
K	non-aggravated felony
K nonimmigrant visas, 670	convictions, 496
9	subsequent reentries, 495–496
Kidnapping , 261, 332–333	Leaving accident scene, 250
${f L}$	Legal authority, sources of, 45–46
Larceny	LegalNet, 662
divisible statutes, 192	Legal writing tips, 639–641
moral turpitude, crimes of, 227–	Legend drugs, offenses involving, 368
234	587, 598
Law enforcement officer, assault or	Legislation, key pieces of, 45–46
battery on, 250	
Lawful admission	Letters, confirmation-of-appointment
defined, 491	45
LPR subsequent reentries treated as	Lexis, 44
"admissions," 494–495	Liberian Refugee Immigration
requirement for permanent	Fairness (LRIF), 483
residence, 519–521	Locating clients with criminal
understanding, 491–496	convictions, 113–118
Lawful permanent residents (LPRs)	A-files, 115–116
adjustment of status, 96, 480–	biometrics and background checks
481, 490–497. See also	115–116
Adjustment of status	courthouse arrests, 116
citizenship by derivation, 3–4	immigration applications, 115–116
continuous residence distinguished,	law enforcement agency detention,
496–497, 515	115
criminal convictions, effect of, 5 defined, 5	local police, 118
inadmissibility, 93–96	probation or parole officers as
lawful admission requirement,	source for, 116–117
519–521	reentry after trip abroad, 117

Subject-Matter Index Minors

sensitive locations, 116 overview, 106 serving time in state or federal prolonged detention, 119, 124-133 detention, 113-115 prostitution enterprises, 459 reasons to hold person without Loss to victim, contesting, 338–342 bond, 144-145 LPRs. See Lawful permanent release following reinstatement and residents reentry, 154-156 "release from custody," 139-142 **LRIF** (Liberian Refugee Immigration Fairness), 483 releases on or before October 8, 1998, 143-144 M statutory ambiguity, 126-127 Transition Period Custody Rules Mail fraud, 236–237 (TPCR), 119–120, 142, 417 Mail service, Notice to Appear, 26–27 visa fraud, 463 Malum in se, 219-220 **Mandatory Victim Restitution Act of** Mandatory detention, 106, 119–128 **1966**, 340 aggravated felony conviction, 428, Manslaughter, 248 432, 583 Marijuana offenses. See Controlled alien smuggling, 456 substance offenses alternatives to, 156–157 arriving aliens, 137–138 Marshall Islands, E-SAFE program, bond hearings, 124–125 562, 662–663 consequences of criminal act, 408 "Master calendar" hearing, defined, constitutionality of, 123-128 29 controlled substance offenses, 436 Medicaid or Medicare fraud, 598 cooperating witnesses, release of, 121-123 Medical evaluations, 44 deportable respondents and Menacing, 248 those who enter without Mens rea. See Intent inspection, 139 domestic violence, 452 Mental health considerations entry without inspection, 139 withholding of removal, 421 export violations, 467 Mexico, tourists and temporary failure to register, 463 workers without visas falsification of documents, 463 **from**, 6–7 firearms offenses, 441 Military service, naturalization and, habeas corpus, 123-124, 144 4, 554–556 legal challenges to, 123–128 money laundering, 446 Minimal (or least culpable) conduct moral turpitude, crimes of, 417, approach, 167–168 576 Minors. See also headings starting with nonmandatory detention cases, "Child" standard for, 144-150 delinquency of, contributing to, for offense not charged on NTA, pleas, 268

142-143

SUBJECT-MATTER INDEX **MISDEMEANORS**

sexual abuse of, 253–255, 260, 344-345, 591-592 special immigrant juvenile waiver, 481

Misdemeanors

aggravated felonies, treated as, 343-344 drug trafficking crimes, 274–275 foreign convictions, 86 moral turpitude, crimes of, 221–

sexual abuse of minor, 344–345 temporary protected status, 11 violence, crimes of, 344–345

Misidentification, defense of, 565

Misprision of felony

moral turpitude, crimes of, 243– 245 pleas, 588–589

Missing-element statutes

classification of crimes, 165–167 defined, 215

Modified categorical approach

classification of crimes, 163–168, 169–170, 240, 387 defined, 214

Money laundering

adjustment of status, 443-445 aggravated felony, 337, 342, 381-382, 448 amount of funds involved, 585 asylum and withholding of removal, 447-448 cancellation of removal, 445–446 consequences of, 443–448 Convention Against Torture (CAT), 447-448 denaturalization, 448 deportability or removability, 445 "good moral character," 447 inadmissibility, adjustment of status, and visa eligibility,

443-445

mandatory detention, 446 moral turpitude, crimes of, 237-239, 444–445 naturalization, 448 pleas, 583, 589–590 "reason to believe," 381–382 state offenses, 444 voluntary departure, 447

Moral turpitude, crimes of. See also

specific offenses accessories, 246 adjustment of status and inadmissibility, 409–413 admission of essential elements, 409-410

aggravated assault, 247, 248 aggravated felonies, 484 aggravated stalking, 248 alien smuggling, 257 arson, 249 assault, 250

asylum and withholding of removal, 419-422 attempted murder, 248

avoiding conviction for crime involving, 576–583 bad checks, passing of, 236 battery, 250

bribery, 241–243 burglary, 234–235, 578–579

categorical approach, 194–204, 218-219

child pornography, 253, 255 classification of crimes, 178, 217– 218

concept of, 217-227 consequences of, 409–427 conspiracy, 245-246 Convention Against Torture (CAT), 422

copyright infringement, 234 credit card fraud, 237 criminally reckless conduct, 247

deference to agency, 220–221	multiple criminal convictions, 415–
defined, 217–218, 576–580	416
denaturalization, 424-427	naturalization, 422-427, 576
deportability or removability, 413–	negligence vs. recklessness, 222-
416	226
divisible statutes, 226–227, 250,	non-elemental facts, 178, 200-201
444–445, 577	obstruction of justice, 243–245
domestic violence offenses, 393,	petty offense exception, 411, 416–
449–450	417, 449, 517
driving under influence, 255–256,	pleas, 576–583
580	political offense exception, 412–
elements of criminal statute as	413, 421–422
controlling, 222	possession of stolen property, 232-
eligibility for LPR status, 576	233
embezzlement, 378	post-Silva-Trevino case law, 201-
failure to stop and render aid after	203
fatal car accident, 249	prostitution, 257–258
false statements, 239–240	realistic probability test, 195–196,
firearms offenses, 249	200, 211–213, 218, 219, 220
fleeing and eluding, 249	recklessness, 222-226, 247, 248,
food stamps, unlawful use of, 237	250, 251, 307
gang enhancement, 251–252	robbery, 232
harassment, 248	scienter, 220
indecency with a child, 210	sexual offender, failure to register
intent, 222–226	as, 252–253
intimidation, 248	shoplifting, 228, 328–329
involuntary manslaughter, 249, 251	specific offenses as crimes
joyriding, 228, 230, 233–234, 328	involving, 576–580. See
juvenile offenders, 85	also specific offenses
kickbacks on government contracts,	stalking, 248
236–237	statutory rape, 253–255
larceny, 227–234	terroristic threats, 248
leaving accident scene, 250	theft, 227–234, 377–378
mail fraud, 236–237	threats of bodily harm, 248
malum in se, 219–220	vandalism, 251–252
mandatory detention, 417, 576	violence, crimes of, 246–251, 307,
manslaughter, 248	579–580. See also Violence,
means vs. elements, 178–179	crimes of
menacing, 248	visa eligibility, inadmissibility,
methodology for determining, 194–	459–462
204	visa or passport fraud, 399–401
misprision of felony, 243–245	voluntary departure, 418–419
money laundering, 237–239, 444–	voluntary manslaughter, 248
445	youthful offender exceptions, 411
	· I · · · · · · · ·

MOTION TO REOPEN SUBJECT-MATTER INDEX

Motion to reopen

postconviction relief on merits (vacaturs), 72–73 removal proceedings, 72–73

Motion to terminate removal proceedings, 552–553

Motor vehicles. See Vehicles Multiple counts, 580–581, 600

Municipal court proceedings

beyond reasonable doubt standard, 48–51 circuits on, 49–50 conviction, 48–51 court-appointed counsel, 49 jury trials, 49 Wong, Matter of (2022), 50–51

Murder

aggravated felony, 260, 264–265 moral turpitude, attempted murder as crime of, 248

N

N-400 Form, 553

NACARA. See Nicaraguan
Adjustment and Central
American Relief Act

Nationality-based legalization program. See specific groups

National security

§212(d)(3) waiver, 564 crimes involving, 403–404 export violations, 401–403, 467, 469 as grounds of inadmissibility, 564

National Visa Center

online instructions and information, 271

Naturalization

after §212(c) waiver, 543 aggravated felonies, 431–432, 584

alien smuggling charges, 457–458, 559-560 controlled substance offenses, 438 defense attorney's obligations, 426 as defense to deportation, 552-557 INA Section 336(b), 556–557 termination of removal proceedings, 552-554 domestic violence offenses, 454 eligibility for relief, 597 export violations, 469 failure to register, 465 falsification of documents, 465 firearms offenses, 442 "good moral character." See "Good moral character" inadmissibility, 98 military service and, 4, 554-556 money laundering, 448 moral turpitude, crimes of, 422– 427, 576 Notice to Appear, 21–22 pardons, effect of, 67 prostitution enterprises, 459 removal and, 554 removal proceedings, 426–427 statute of limitations, 426 termination of removal proceedings, 552-554

Negligence vs. recklessness

visa fraud, 465

moral turpitude, crimes of, 222–226, 249–250 violence, crimes of, 306–307, 309–311

veterans and soldiers, 554–556

New York (state) REPAT program, 114

Nicaragua, parole under Family Reunification Program, 13

Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA)

adjustment of status, 483, 492, 654 reinstatement of removal, 111–112 special rule cancellation of removal, 154, 523–525, 660

Non-elemental facts. See Classification of crimes

Nonimmigrant visa holders

adjustment of status, 96. See also
Adjustment of status
change of status, 96–97
criminal convictions, effect of, 6
defined, 5–6
status of, 2, 5–7
tourists and temporary workers
from Caribbean, Canada,
and Mexico, 6–7
Visa Waiver Program (VWP), 7

Nonimmigrant visa waiver (Section 212(d)(3))

consulate applications, 561, 643
E-SAFE program, 662–663
factors to consider, 564–565
jurisdiction, 561–564
permission to reenter after
deportation, Form I-212 not
required, 563–564
port of entry application, 562–563
relief under, 560–565
security or terrorism, as grounds of
inadmissibility, 564

Non-LPR cancellation of removal, 525–526

Nonmandatory detention cases, 133–150 burden of proof in bond hearings, 119, 144–145

Nonreviewability of consular action, 35

Notice of Appeal, 30–32

Notice of Intent, deportability, 102

Notice to Appear (NTA)

arrest upon termination of sentence,
21
asylum, 26–27
deferred inspections, 117
defined, 17
EOIR Courts & Appeals System
(ECAS), 27
removal proceedings, 26–27, 426–
427
state or federal detention,
individuals in, 142–143
stop-time rule, 26, 497, 517–519

0

Obama administration

DACA program, 14

OBIM (Office of Biometrics Identity Management, U.S.), 43

Obstruction of justice

aggravated felony, 262, 335–336 moral turpitude, crimes of, 243– 245 pleas, 588–589

Office of Biometrics Identity Management, U.S. (OBIM), 43

Office of Chief Counsel

burden of proof, 29 overview, 20, 24

Office of Enforcement and Removal Operations (ERO)

custody determinations, 137 deferred action, 14 I-246 Form, 271 order of supervision, 16 overview, 20–22 parole, 12 stay of deportation, 667–668 stay of removal, 643–644 voluntary removal, 546, 547

withholding of removal reporting, 9

Office of Principal Legal Advisor (OPLA), 146–147, 149, 633

Online filing/applications

Docketing system, online, 23, 27 EOIR Courts & Appeals System. *See* ECAS E-SAFE program, 662–663

Operating vehicle under influence. See DUI (driving under influence) cases

Operation Tarmac, 398
Order of supervision, defined, 16
Overstay, 16–17

P

PACER (Public Access to Court Electronic Records), 41, 42

Palau, E-SAFE program, 562, 662–663

Pardons

conviction, 65–68 foreign, 66, 68 full and unconditional, 67–68 naturalization, effect on, 67

Parole, 12–13

adjustment of status, 480, 492
advance. See Advance parole
arriving aliens, 137
cooperating witnesses, 612–613
Customs and Border Protection
(CBP), role of, 12
definition of, 12
DHS parole authority, 667–668
document, 12, 18
Family Reunification Program, 13
lawful residence, 497
"parole in place," 12
special immigrant juvenile status,
516

Parolees

inadmissibility, 97 parole officers, locating clients with criminal convictions, 116–117

Passport fraud. See Visa or passport fraud

Peonage, 261

Perjury

aggravated felony, 262, 334 subornation of, 262, 334

Permanent residents. See Lawful permanent residents

Petitions for habeas corpus. See

Habeas corpus petitions

Petitions for review to court of appeals

after BIA appeal, 37–40

Petty-offense exception

adverse immigration consequences, avoiding, 575–576 foreign convictions, 86–87 moral turpitude, crimes of, 411, 449, 517

Photographs. See Biometrics and background checks

Physical presence requirement

cooperating witnesses, T visas for, 619 inadmissibility, persons physically present in violation of law, 97–98

Pleas

adverse immigration consequences, avoiding, 571–601 aggravated assault, 581, 600 aggravated felonies avoiding conviction of, 583–586 effective plea bargaining to avoid, 587–594

aggravated fleeing and eluding, 582 foreign convictions, 87 aggravated stalking, 582 moral turpitude, crimes of, 412agreements to avoid, 597-601 413, 421-422 arson, 581 Polygraph examinations, 43–44 assault, 581 Pornography. See Child pornography attempted entry of goods by false statement, 582 Port of entry, waiver application, auto theft, 582 562-563 bad deal pleas, 599–601 Possession of burglary tools, 579, 582 battery, 581 Possession of stolen property, 232– burglary, 581–582 233, 331 contributing to delinquency of **Postconviction relief** minor, 268 burden of proof, 72 credit card fraud, 598 criminal mischief, 579, 581 clarify or modify the nature of the conviction, 81 currency reporting violations, 600 deadly weapons, 599 *Dingus, Matter of* (2022), 81 domestic violence offenses, 594federal court approach, 74–80 ineffective assistance of counsel, 595, 598 driving under influence, 580, 582 80 - 81drug trafficking crimes, 590–591 on merits (vacaturs), 68–82 modification of sentence, 81-82 eligibility for relief, creating, 595motion to reopen, 72–73 Pickering v. Gonzalez (2006), 70agreement and colloquy, 597– 71 601 pleas, 584 embezzlement, 378 post-Pickering cases, 74 false statements, 600 vacatur found effective, 74–75 firearms offenses, 591 vacatur found ineffective for fraud, 577, 592-594, 598 identity theft, 583 immigration purposes, 76– misprision of felony, 588–589 vacatur found ineffective for money laundering, 583, 589-590 naturalization purposes, 79 moral turpitude, avoiding conviction of, 576-583 vacatur granted after removal order multiple counts, 580-581, 600 executed, 79-80 obstruction of justice, 588–589 Pretrial detention, arrest from, 21 stalking, 582, 594-595 Pretrial diversion programs, avoiding statutory rape, 592 conviction through, 572tax evasion, 592 573 theft, 377-378, 592 Pretrial intervention, 54–56 trespass, 579 violence, crimes of, 579–580, 589 **Pretrial statements to immigration**

court, 663-667

Political offense exception aggravated felonies, 431

Priorities Enforcement Program (PEP) prisoner removal program, 113

Prior statements, use of, 28

Probation

aggravated assault, 600 house arrest, 601 locating clients with criminal convictions on, 116–117 as term of imprisonment, 601 violations, 90

Professionals as nonimmigrant visa holders, 5–6

Proof of convictions, documents and electronic records, 88–89

Prostitution enterprises, 257–258, 333, 380–381, 458–459

Protection orders, 392–393

Protective categories

CAT, 10. See also Convention
Against Torture
DACA, 14–16
deferred action, 13–14
immigration status, 8–16
order of supervision, 16
parole, 12–13
refugees and asylees, 8
temporary protected status, 10–11
withholding of removal, 9

Prudential revocation of visa, 6

Psychological evaluations, 44, 650

Public Access to Court Electronic Records (PACER), 41, 42

Public safety, crimes involving, 403–404

R

Racketeering

aggravated felony, 261 assault, 319–321

Ransom demands, 326–327

Rape. *See also* **Statutory rape** aggravated felony, 260, 269–271

Rapid REPAT (Removal of Eligible Parolees Accepted for Transfer), 114

"Rational basis test," 35

REAL ID Act of 2005

corroborating evidence, 666 federal judicial review, 36–37 habeas corpus petitions, 40–41 key legislation, 46

Realistic-probability test

antique firearm exception, 210
arguments against, 204–216
child abuse, 209
circuit split, 213
classification of crimes, 173–175
controlled substances, 206–210,
353–354, 358–360
defined, 216
divisible statutes and, 195–196
expressly overbroad statutes, 204–
206
indecency with a child, 210
moral turpitude, crimes of, 195–
196, 200, 211–213, 218,
219, 220

"Reason to believe"

controlled substance offenses, 351, 373–375, 433–434, 588 drug trafficking crimes, 373–375 money laundering, 381–382

Recidivism and possession of controlled substances, 299–305

Recklessness

crimes of violence, 247, 248, 307, 309–311, 589 historical approach, 310–311 moral turpitude, crimes of, 222–226, 247, 248, 249–250, 251, 586

Record of case "Release from custody" requirement removal proceedings, 28 and mandatory detention, 139-142 through pleas agreement and colloguy, 597-601 "when released" litigation, 140-142, 143 **Record sealing**, 60–68 Release on recognizance as alternative Reentry to detention, 156 after pretermission of §212(c) application and deportation, Relevant conduct, 338–342 539 Religious workers as nonimmigrant after removal, 107 visa holders, 6 criminal charge of, 565–569 **Removal proceedings.** See also when Form I-212 not required, **Deportability** 563-564 adjustment of status, 653 criminal prosecution, §212(c) aggravated felony conviction, 432 interchange with, 540 appeals, 23, 30–32 locating client with criminal record applications filed after order of at time of, 117 removal, 668-671 LPR subsequent reentries treated as applications for relief, 30 "admissions," 494–495 birthright citizenship, 151 refugees, 18-19 Board of Immigration Appeals, release following reinstatement 30 - 32and, 154-156 burden of proof, 29-30, 473-477 Referral, asylum petition, 26 cancellation of. See Cancellation of Refugees removal adjustment of status, 483, 654 categorical approach, 473-477 contents of record, 28 defined, 8 immigration status, 8 course of proceedings, 27–29 reentry permits, 18–19 deferred action, 13-14 §209(c) waiver, 504–508, 656–657 depositions, 28 travel permits, 18–19 detention after removal order, 151 withholding of removal, 9 detention during review of final removal order, 153-154 Registration. See also Failure to entry without inspection, 17 register evidence, 29-30, 88-89 aliens in United States, 397–401 filing fee, 30 special, 399 individual hearings, 29 **Reinstatement of removal** institutional removal cases, 23 challenging underlying order, 107– judicial review, detention during, 109 151-154 nationality-based benefits, 111–112 jus sanguinis, 151 Ninth Circuit, 155 legal sufficiency of charges, 29 overview, 109-110 LPR subject to, 5 release or bond hearing eligibility, "master calendar" hearing, 29 110-111

REPAT SUBJECT-MATTER INDEX

motion to reopen, 72–73 from naturalization, 426–427 nonimmigrant status, 6 Notice to Appear (NTA), 26–27 overstay, 17 parole, 12, 13 permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 S visas for cooperating witnesses, visas for Sabotage, 261 St. Cyr decision, 527 persons wrongfully removed prior to, 538–540 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534–536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542–543 aggravated felonies, 534–536 alien smuggling charges, 559 applications of removal, combined with 515, 541–542	merits hearing, 29	\mathbf{S}
from naturalization, 426–427 nonimmigrant status, 6 Notice to Appear (NTA), 26–27 overstay, 17 parole, 12, 13 permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Copperating witnesses, visas for Sabotage, 261 St. Cyr decision, 527 persons wrongfully removed prior to, 538–540 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugee	<u> </u>	S visas for cooperating witnesses. See
nonimmigrant status, 6 Notice to Appear (NTA), 26–27 overstay, 17 parole, 12, 13 permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23	, , , , , , , , , , , , , , , , , , ,	ž –
overstay, 17 parole, 12, 13 permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Sabotage, 261 St. Cyr decision, 527 persons wrongfully removed prior to, 538–540 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	——————————————————————————————————————	
parole, 12, 13 permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 St. Cyr decision, 527 persons wrongfully removed prior to, 538–540 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation post St. Cyr decision, 530–536 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of 31–633 review after BIA appeal, 32–33, 37–40 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of 31 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of 31 LPR use of, 506–507 Section 212(c) 1996 legislation, 526–527 2004 regulation of aggravated felony retroactive, 534–534 individuals in exclusion portaced for the proved proved acceptance for the proved	11 ():	Sahotage 261
permission to reapply for admission after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Provide discretions wrongfully removed prior to, 538–540 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation post St. Cyr decision, 530–536 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(e) 1996 legislation, 526–527 2004 regulation post St. Cyr decision, 530–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of refugees, 504–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination of refugees, 504–508 comparison to Section 212(h) asylees, 504–508 comparison to Section 212(h) asylees, 504–508 comparison to Section 212(h) asylees, 504–508 comparison to Section 212(h		9 /
after deportation or removal, 668–671 record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Modern egulation post St. Cyr decision, 530–537 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionavy determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) asyles, 504–508 comparison to Section 212(h)	<u> </u>	
record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 regulation post St. Cyr decision, 530–537 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
record of case, 28 reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–533 IIRAIRA definition of aggravated feloniy retroactive, 534–536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		*
reentry after. See Reentry reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Secretary of State, 10 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–533 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534–536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
reinstatement of, 109–113 returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 refugees, 504–508 discretionary determination, 37 LPR use of, 506–507 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
returning non-American citizen after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Section 209(c) asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508 refugees, 504–508 refugees, 504–508 refugees, 504–508 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542–543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	· · · · · · · · · · · · · · · · · · ·	Secretary of State, 10
after successful litigation, 38–39 review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 asylees, 504–508 comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534–536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542–543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	*	
review after BIA appeal, 32–33, 37–40 stay of deportation, 667–668 stay of removal order, 32, 37, 643–644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Comparison to Section 212(h) waiver, 506 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534–536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542–543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	•	
stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 discretionary determination, 37 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		* '
stay of deportation, 667–668 stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 LPR use of, 506–508 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	review after BIA appeal, 32–33,	*
stay of removal order, 32, 37, 643– 644 travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 refugees, 504–508, 656–657 Section 212(c) 1996 legislation, 526–527 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	37–40	· · · · · · · · · · · · · · · · · · ·
travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Section 212(c) 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	stay of deportation, 667-668	
travel during pending appeal to BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 1996 legislation, 526–527 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	stay of removal order, 32, 37, 643-	
BIA, 32 U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 2004 regulation, 531–537 cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
U status, 631–633 unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Cut-off dates for eligibility, 431–533 IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		•
unremovables, 151, 152 Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Wish Waiver Program (VWP) IIRAIRA definition of aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	· · · · · · · · · · · · · · · · · · ·	
Visa Waiver Program (VWP) restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 IIRAIRA definition of aggravated felony retroactive, 534– s36 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
restrictions, 7 voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Restrictions, 7 aggravated felony retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		
voluntary departure compared, 546–547 withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 retroactive, 534– 536 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	<u> </u>	
withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Sabara	· · · · · · · · · · · · · · · · · · ·	
withholding of removal. See Withholding of removal REPAT (Removal of Eligible Parolees Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 individuals in exclusion proceedings, 534 adjustment of status, combined with, 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	* * * * * * * * * * * * * * * * * * *	
Withholding of removal REPAT (Removal of Eligible Parolees		
REPAT (Removal of Eligible Parolees	e e e e e e e e e e e e e e e e e e e	
Accepted for Transfer), 114 Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 With 540–541 advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	· ·	
Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Advance permission to return to unrelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542–543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	`	
Restitution, 338–342 Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Winnelinquished domicile, 528–529 AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	<u>*</u>	advance permission to return to
Restriction on removal. See Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 Restriction on removal. See AEDPA, 530 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		unrelinquished domicile,
Withholding of removal Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 affirmative applications for, 542– 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	Restitution, 338–342	528–529
Robbery, 232 Rules of procedure court of appeals, 39 EOIR, 23 543 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined		· · · · · · · · · · · · · · · · · · ·
Rules of procedure court of appeals, 39 EOIR, 23 aggravated felonies, 534–536 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	Withholding of removal	
Rules of procedure court of appeals, 39 EOIR, 23 alien smuggling charges, 559 applications for waiver, 657–658 cancellation of removal, combined	Robbery, 232	
court of appeals, 39 EOIR, 23 anell shugging charges, 339 applications for waiver, 657–658 cancellation of removal, combined	Rules of procedure	
EOIR, 23 cancellation of removal, combined	-	
cancenation of removal, combined		11
	•	with, 515, 541–542

Subject-Matter Index Sex Offenders

criminal prosecution for reentry, Section 212(h) interchange with, 540 adjustment of status, waiver in conjunction with, 490–491 defense to criminal charge of reentry after removal, 567 alien smuggling, 559 deportation track, eligibility for application, 654–656 arriving aliens, waiver, 497–500 persons in, 529 discretionary determination, 37 Attorney General on, 500–501 domicile, 658 battered spouse and child waiver, eligibility criteria, 526, 537–538 488, 489, 654–656 Gabryelsky filings, 540-541 comparison to Section 209(c) IMMACT90, 529-530 waiver, 506 immigration court filings, 659 discretionary waivers, 37, 503–504 eligibility for relief and, 596 inadmissibility or deportability, special clause for LPRs, 490–497 538-540 naturalization after waiver, 543 violent or dangerous crime overview, 526-528 convictions, 500–504 persons convicted at trial, 536 waivers under, 654-656 persons wrongfully removed prior **Secure Communities Initiative** to St. Cyr, Judulang, or (ICE) prisoner removal Abdelghany, 538-540 program, 113–114 reentry after pretermission of Security. See National security §212(c) application and deportation, 539 Sentence regulation post St. Cyr decision, for aggravated felony, 334–337, 600-601 530-537 term of imprisonment, 584 relief under, 526-543 Supreme Court decision, 527 defining, 89-90 five-year prison sentence, 601 **Section 212(d)(3)** noncriminal alien defendants, consulate applications, 561 guilty pleas, 568–569 factors to consider, 564–565 pleas, 584 jurisdiction, 561-564 postconviction relief modifying, nonimmigrant visa waiver, 560– 81-82 565 service of, failure to appear for, 262 permission to reenter after suspension of, 89 deportation or removal, termination of, arrest upon, 21 Form I-212 not required, U.S. Sentencing Guidelines, 568 563-564 year or more jail sentence, 600–601 port of entry application, 562-563 relief under. 560-565 Service of process, Notice to Appear, security or terrorism, as grounds of 26-27inadmissibility, 564 Sex offenders Adam Walsh Act, 404–405, 469– Section 212(d)(3)(A), 661–663 **Section 212(d)(3)(B)**, 563, 564, 661 failure to register, 252–253, 404– 405

SEXUAL ABUSE SUBJECT-MATTER INDEX

Statute of limitations moral turpitude, crimes of, 252– 253 as defense to criminal charge of reentry after removal, 565 Sexual abuse. See also Rape naturalization, revocation of, 426 of minor, 253–255, 260, 265–269, 344–345, 591–592. See Statutory rape also Adam Walsh Child aggravated felony, 269-271 classification of crime, 254 Protection and Safety Act moral turpitude, crimes of, 254 **Shoplifting**, 228, 328–329 pleas, 591 Slavery offenses, 261 Stay of deportation Smuggling of aliens. See Alien applications filed after order of smuggling removal, 668-671 Social security number, falsely criteria, 596–597 representing, 240–241 Form I-246, 667–668 permission to reapply for admission Solicitation offenses, 369–370 after deportation or removal, Sources of legal authority, 45–46 668-671 Special immigrant juvenile waiver, Stay of removal BIA appeals, 32 Special rule cancellation of removal, federal court of appeals review, 32, 523-525 37 jurisdiction, 643-644 Spouse, battered. See Battered spouse Stolen property **Stalking** attempted possession of, 331 defined, 386 interstate transportation of, 592– deportability, 382 593 domestic violence and, 449, 451, possession of, 261, 331 452 receipt of, 331-332 moral turpitude, crimes of, 248 pleas, 582, 594–595 **Stop-time rule**, 26, 497, 517–519, 596 **State Department (DOS)** Students as nonimmigrant visa Advisory Opinions Office, 662 holders, 5, 6, 560 overview, 19, 22 Subornation of perjury, 262, 334 pardons, 66 Substance abusers or addicts. See Visa Office, 662 **Controlled substance** waivers, 662 offenses State laws "Substantial evidence," 34 drug possession offenses, 294–298 money laundering, 444 Supervision, intensive. See Intensive **Supervision Appearance** Stateless individuals, unremovable Program status of, 151 Supreme Court, U.S. Status. See Immigration status on §212(c), 427

on divisible statutes, 177–184 on mandatory detention, 125–126 on violence, crimes of, 307–309 on withholding of removal, 156

Suspension of sentence, 89. See also Consequences of criminal act

T

T visas for cooperating witnesses. See Cooperating witnesses, visas for

Taking of property, 173–175, 327. See also **Theft**

Tax evasion, 261, 337, 535, 592

Temporary protected status (TPS)

advance parole for travel, 11, 13 defined, 10 felony convictions, effect on, 11 immigration status, 10–11 inadmissibility, 98 review of denial, 25, 25

Temporary restraining orders with habeas corpus petitions, 40

Temporary workers without visas from Caribbean, Canada, and Mexico, 6–7

Termination of sentence, arrest upon, 21

Terrorism

anti-terrorism legislation. See
Antiterrorism and Effective
Death Penalty Act; USA
PATRIOT Act
as grounds of inadmissibility, 564

Terroristic threats, 248

realistic-probability test and, 211–212

Theft. See also Burglary

aggravated felonies, 261, 327–332, 535

aiding and abetting, 327–328
classification of crimes, 173–175
embezzlement, 332, 592–594
fraud vs., 329–330
joyriding, 228, 230, 233–234, 328
moral turpitude, crimes of, 227–
234, 377–378
pleas, 377–378, 592, 593–594
possession of stolen property, 232–
233, 331
receipt of stolen property, 331–332
substantial erosion of property
rights, 229
temporary vs. permanent takings,
328–329

Third country, acceptance by, 9

Threats of bodily harm, 248

Throwing deadly missile, 193

Title 8 of Code of Federal Regulations, 41, 45

Tolling, seven-year period, 497, 516–519

Tools and strategies for criminal-alien law practice, 41–45

confirmation-of-appointment letters, 45 country-conditions experts, 44, 643 sources of information, 44–45,

FBI rap sheet, 41–42, 649 FOIA requests, 43 intake sheets, 45 OBIM, 43

PACER, 41, 42

polygraph examinations, 43–44 psychological and medical

evaluations, 44, 650

reference texts, 41, 45–46 unpublished BIA decisions, access to, 42–43

Westlaw, Lexis, AILALink, AILA. org, and Fastcase, 44

Winograd index of unpublished BIA decisions, 42

Torture Convention. See Convention **Against Torture**

Tourists

nonimmigrant visa holders, 6–7, 560 Visa Waiver Program (VWP), 7 without visas, 7

TPCR. See Transition Period Custody Rules

TPS. See Temporary protected status

Trafficking

in controlled substance, 260, 271–305, 587–588
counterfeit goods, 237
in vehicles, 262
victims of
deferred action, 14
T status visas, 616–623

Trafficking Victims Protection Act of 2000 (TVPA)

extra-territorial jurisdiction over sex trafficking due to "sex tourism," 619 U visa status, 624

Transition Period Custody Rules (TPCR) and mandatory detention, 119–120, 142, 417

Travel

advance parole, 13
controlled substance offenses,
consequence of, 435
convictions, 93–95
deferred action, 14
LPRs, 18–19
during pending appeal to BIA, 32
permits, 18–19
reentry permits, 18–19
refugees, 18–19
S visas, 604

temporary protected status (TPS), 11 withholding of removal, 9

Treason, 261

Trespass, 579

Trump administration

cooperating witness, discretion for, 122

DACA program, 15

deputizing local officers as immigration agents, 118

Jail Enforcement Model (JEM) agreements, 118

Office of Attorney General's use of certification process, 25

opposition to administrative closure, continuances, and termination without government consent, 631–632

post-conviction modification of sentence, 82

Secure Communities program reinstated by, 114 Warrant Service Officer (WSO)

agreements, 118

Turks and Caicos Islands, tourists and temporary workers from, 6–7

TVPA (Trafficking Victims Protection Act of 2000)

extra-territorial jurisdiction over sex trafficking due to "sex tourism," 619 U visa status, 624. *See also*

Cooperating witnesses, visas for

U

U visas for cooperating witnesses. See Cooperating witnesses, visas for Unlawful voting, 405–406 Video hearings, 23, 114 Unpublished BIA decisions, 42–43 **Violence Against Women** Reauthorization Act of Unremovables, defined, 151, 152 **2013**, 624, 627, 633–634 **USA PATRIOT Act of 2001** Violence, crimes of key legislation, 46 aggravated felonies, 261, 305–321, money laundering under, 381, 443, 535 445 aggravated stalking, 248 **USCIS.** See Citizenship and arson, 249 **Immigration Services** attempted murder, 248 **U.S.** Customs and Border Protection. crimes involving moral turpitude. See Customs and Border 248-249 **Protection** crimes not involving moral turpitude, 249–251 Use of force. See Violence, crimes of crimes where unclear if moral **U.S. Immigration and Customs** turpitude exists, 251 **Enforcement.** See defined, 305 **Immigration and Customs** extortion, 248 Enforcement firearms offenses, 261 U.S. passport. See Visa or passport force fraud active use of violent physical force, 312-317 U.S. Sentencing Guidelines, 41, 568 contact vs., 310 recklessness, 309-311 V Hobbs Act Robbery, 318–319 Vacaturs, See Postconviction relief intent, 306-307 Vagueness in definition of crime of involuntary manslaughter, 249 violence, 305–306 manslaughter, 248 mens rea, 306–307 **Vandalism**, 251–252 mental state, 314 Vehicles misdemeanors, 343-344 aiding and abetting in theft of, 327– moral turpitude, crimes of, 246-328 251, 307, 579–580 auto theft, 582 particular offenses. See specific joyriding, 228, 230, 233–234, 328 offenses trafficking in, 262 pleas, 579-580, 586, 589 Venezuela, parole under Family recklessness, 247, 248, 307, 309-**Reunification Program**, 13 311, 589 substantial risk of, 312–317 Venues for waiver applications, 641-Supreme Court on, 307–309 terroristic threats, 248 Veterans, naturalization of, 554–556 threatening behavior, crimes Victims. See Crime victims involving, 248 voluntary manslaughter, 248 **Victim Witness Protection Act of**

1982, 340

VISA SUBJECT-MATTER INDEX

waiver under §212(h) and, 500–504 conclusion of proceedings, 418– 419, 546-547 Visa controlled substance offenses, 436defined, 18 437 prudential revocation of, 6 domestic violence, 453 waiver program. See Visa Waiver export violations, 467–468 Program failure to register, 463-464 Visa or passport fraud failure to timely depart, 544 adjustment of status, 459–462, falsification of documents, 463-464 485-486 firearms offenses, 441–442 aggravated felonies, 261, 399-401 "good moral character," 418–419, asylum and withholding of 441, 447, 453, 464 removal, 464 money laundering, 447 civil and criminal document fraud moral turpitude, crimes of, 418violations, 399-401 419 consequences of, 459-465 precommencement or preliminary Convention Against Torture (CAT), stage of proceedings, 418, 464 544-545 crimes of, 399-401, 463 prostitution enterprises, 459 denaturalization, 465 removal compared, 546-547 deportability or removability, 462 under safeguards, 543 failure to register, 397-401 termination, 39–40 falsely making, 232 use of, 543-547 statements, 239 visa or passport fraud, 463–464 inadmissibility, 459-462 Voluntary manslaughter mandatory detention, 463 attempted, as crime of violence, moral turpitude, crimes of, 399-310 401, 459–462 moral turpitude, crimes of, 248 naturalization, 465 possession vs. use, 461 Voting, unlawful, 405–406 visa, defined, 18 **VWP.** See Visa Waiver Program voluntary departure, 463–464 W Visa Waiver Program (VWP) criminal convictions, 7 Waiver eligibility, 562 §212(c), 526–543. See also Section ESTA, 7 212(c) removal order of VWP entrant, 565 §212(d)(3), 560–565 tourists without visas, 7 §212(d)(3)(A), 661–663 §212(d)(3)(B), 563, 564, 661 Voluntary departure, 543–547 §212(h), 487–504. *See also* Section aggravated felonies, 428–429 alien smuggling, 456–457 212(h) applications for, 639–671 arriving aliens, 543, 544 battered spouse and child, 488, 489, bond, 546-547 522–523, 654–656 "check out" procedure, 545

SUBJECT-MATTER INDEX WORK PERMIT

burden of proof and persuasion,	eligibility for relief, 597
182–184, 473–477	export violations, 469
combining waivers, 521-522	failure to register, 464
defense of, 564–565	filing fee exceptions, 30
discretionary determinations, no	firearms offenses, 442
review of, 37	mental health considerations, 421
eligibility, 7	money laundering, 447-448
embassies, waiver applications,	moral turpitude, crimes of, 420–
641, 662	422
evidence in support of, 646–651	periodic reporting requirement, 9
extreme hardship, 488, 489	procedure, 9
15-year waiver, 488, 489, 654–656	refugees, 9
Homeland Security, Department of,	relief under, 508–515
488 <i>n</i> 73	S status, 613–616
inadmissibility, waiver of, 487–504	Second Circuit, 155–156
LPRs and adjustment of status,	Supreme Court on, 156
490–497	third country, acceptance by, 9
pretrial statements to immigration	travel, 9
court, 663–667 refugees and asylees, 504–508,	visa fraud, 464
656–657	Withholds of adjudication
relief under, 471–472	defined, 51–54
smuggling immediate family	"final judgment" and particularly
members, 557	serious crime bar, 54
, and the second	penalty phase, 53–54
Weapons. See Firearms offenses	Witnesses
Webex for video hearings, 23, 27, 666	bribery of, 262, 536
Westlaw, 44	choosing, 665
Winograd index of unpublished BIA	cooperating. See also Cooperating
decisions, 42	witnesses, visas for
·	adjustment of status, 96. See
Withholding of removal	also Adjustment of
aggravated felony conviction and,	status
429–431, 597 alien smuggling charges, 457, 559	order of supervision, 16 release from detention of,
asylum distinguished, 9, 510–514	121–123
bond, 156–157	list, 664–665
burden of proof, 9	parole, 12
Convention Against Torture (CAT).	working with, 664–665
See Convention Against	
Torture	Witness protection programs, 122–
cooperating witnesses, 599	123
deportation, 9	Wong, Matter of (2022), 50-51
domestic violence offenses, 453–	Work permit

order of supervision, 16

Y

Youthful offenders. See also Juvenile delinquency

adverse immigration consequences, avoiding, 574–575
first offender or youthful offender provisions, 60–65, 573–575
moral turpitude, exceptions to admissibility, 411