



Arrests, Convictions and Immigration Consequences

A student is arrested for disturbing the peace and is fingerprinted. The charges are later dismissed. She returns to her home country for vacation, and when she applies for a new F-1 visa, her name appears in the National Crime Information Center (NCIC) Database. The consular official denies the F-1 visa, cancels her tourist visa, and tells her that it will take at least five weeks before the embassy receives the NCIC Report, which will explain why she is in the “system.” Eventually she gets her visa, but she misses a semester of school.

You already know that in order to maintain lawful status you are required to be enrolled full-time in school and that you cannot work illegally. However, did you realize that arrests like the one described above can negatively affect your ability to study in the U.S. or even enter the U.S. on a student or tourist visa. While you may not consider certain behaviors a *serious crime*, or while those same behaviors may not be as serious for a U.S. Citizen, or may not be considered a crime in your home country, you must remember this-arrests and convictions can have serious immigration consequences! You need to be aware of the law and what is considered criminal activity and avoid it at all costs, but know what to do if you are arrested or convicted.

“Criminal activity” with immigration consequences:

- Arrests and/or convictions even for crimes that may not be serious for U.S. Citizens. If you are fingerprinted, this can delay visa issuance **even if you are not convicted or if your record is expunged** (meaning it no longer appears on your record).
- Willful misrepresentations on an immigration or visa application that result in securing immigration benefit through fraud. This can also include an application for admission to school if a Form I-20 or DS-2019 was issued and the student uses the document to enter the U.S.
- Drug related offences which may or may not result in conviction.
- Conviction for, or admission of, crimes of moral turpitude (These are usually serious crimes but for more information, contact an attorney or OISS).
- Suspension or expulsion from school as a result of criminal activity, whatever the nature of the crime.

The immigration consequences of criminal activity:

- Delays in obtaining visas: ANY arrest or conviction will cause a positive “hit” in NCIC and delay new visa issuance. It does not matter if you take the record of your arrest or conviction with you to the consulate, as they will still have to wait for the NCIC Report.
- Denial of immigration benefits in the U.S. including but not limited to extension, practical training and change of status.
- Removal or deportation from the U.S
- Denial of visa or entry into the U.S.

How to avoid these consequences:

- Do not drink and drive. While this may not be as serious in your home country, it is taken very seriously in the U.S. If you plan to drink alcohol while you are out, arrange to either have a designated driver or to take a taxi.
- Do not use illegal drugs! Being arrested with even a small quantity of marijuana can make you deportable.
- Do not lie or misrepresent your actions on immigration applications or to a Department of Homeland Security (DHS) employee.
 - If you have concerns regarding something that you have done, then talk with the OISS or contact an immigration attorney before you are interviewed or complete an application.
- Do not assume that *they won't find out*. Since September 11, 2001 there is a greater level of cooperation among government agencies.
- If you are arrested, you do have the right to an attorney and anything that you say can and will be used against you.
 - Make sure that you have a criminal attorney who is aware that there may be immigration consequences to any plea bargain or guilty plea and who works with an immigration attorney.
- **Remember, it is your responsibility to know the law and avoid committing crimes.**

If you find yourself in this situation, the Office of International Student services can help you find a competent criminal attorney who is familiar with immigration regulations.