

NIWAP



A Prosecutors Guide: Immigration Consequences for Defendants

**Minneapolis, Minnesota
June 11, 2026**

Hennepin County Attorneys Office

NIWAP

NIWAP American University Washington College of Law

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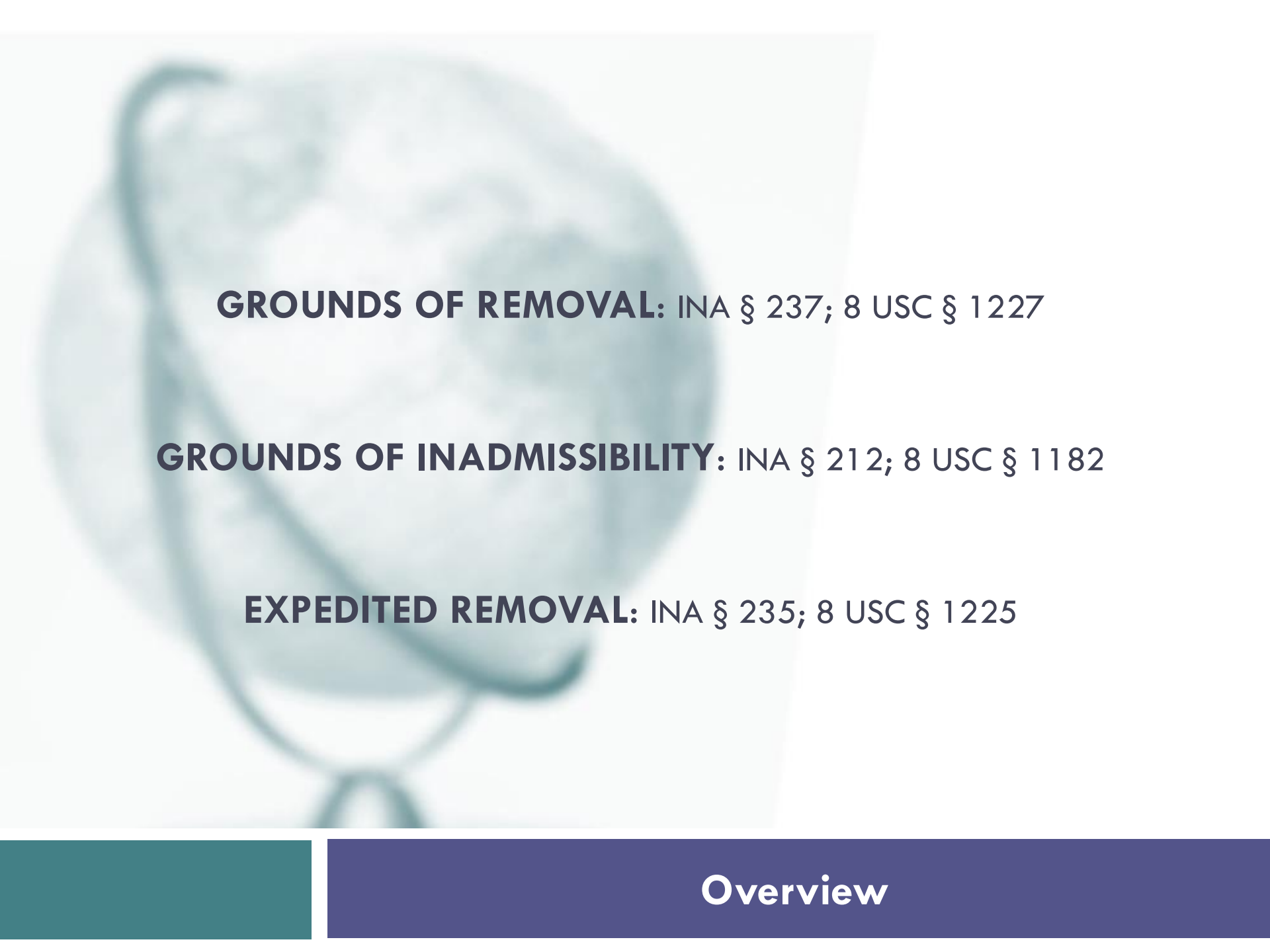




IMMIGRATION CONSEQUENCES FOR DEFENDANTS



- **U.S. Citizens:** permitted to remain in the U.S. permanently and can't be deported for crimes, though CAN be denaturalized
- **Immigrants:** (“green card” or “permanent resident”) Permitted to remain in the U.S. permanently and CAN be deported for crimes
- **Non-Immigrants:** Permitted to remain in the U.S. for a temporary and defined period, then must leave the U.S.
 - Ex: Student (F-1), International Organization Employees (G-4)
- **Undocumented:** Entered with a non-immigrant status and stayed beyond the period permitted or entered without inspection



GROUND OF REMOVAL: INA § 237; 8 USC § 1227

GROUND OF INADMISSIBILITY: INA § 212; 8 USC § 1182

EXPEDITED REMOVAL: INA § 235; 8 USC § 1225

Removal Grounds: INA § 237; 8 USC § 1227

General:

- Inadmissible aliens
- Present in violation of law
- Violated nonimmigrant status or condition of entry
- Termination of conditional permanent residence
- Smuggling
- Marriage fraud

Removal Grounds: INA § 237; 8 USC § 1227

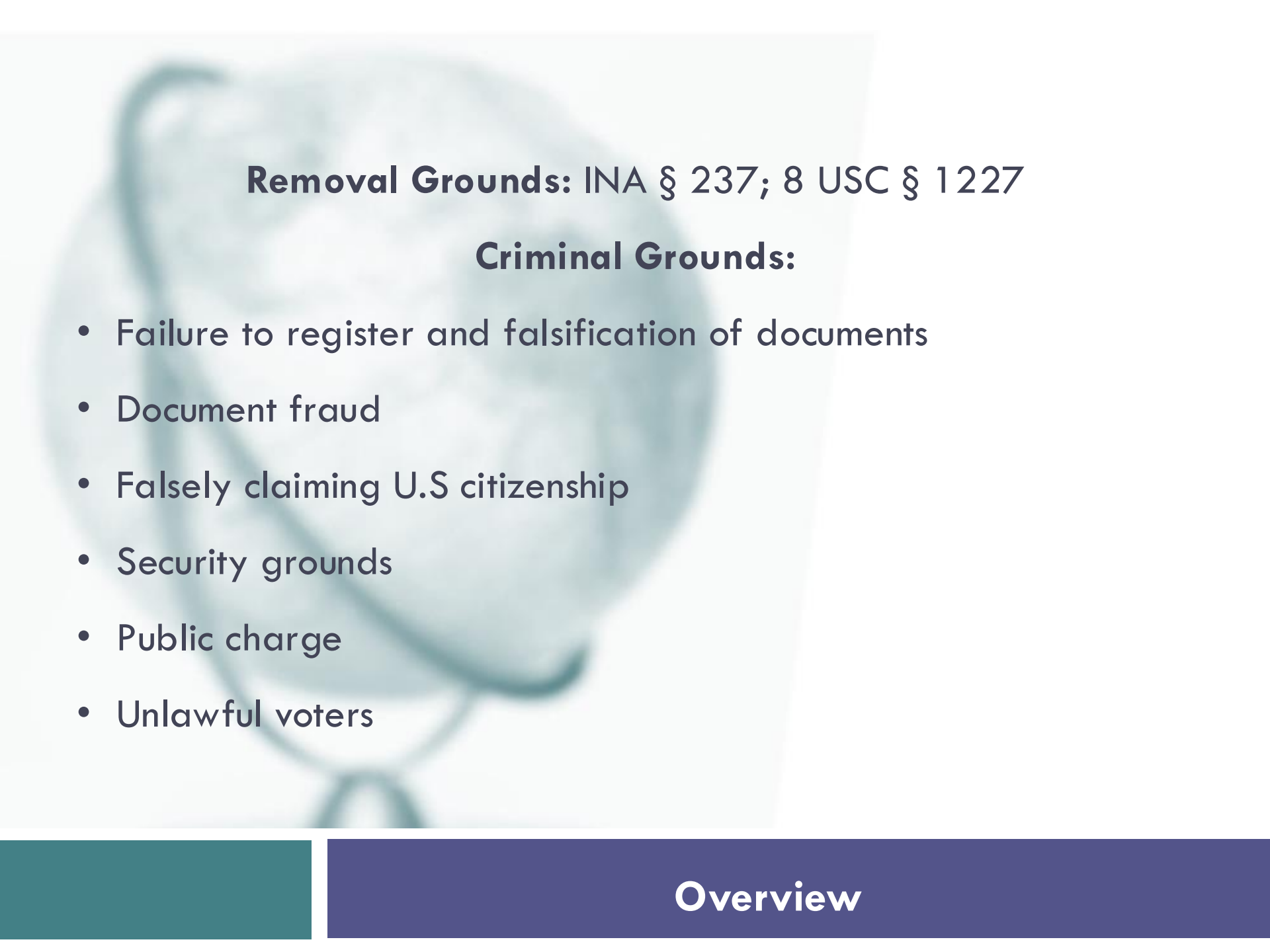
Criminal Grounds:

- Crimes of moral turpitude
- Multiple convictions
- Aggravated felonies
- High speed flight
- Failure to register as a sex offender

Removal Grounds: INA § 237; 8 USC § 1227

Criminal Grounds:

- Controlled substances
- Drug abusers and addicts
- Certain firearms
- Miscellaneous crimes
- Domestic violence
- Stalking violation of protection order crimes against children
- Trafficking



Removal Grounds: INA § 237; 8 USC § 1227

Criminal Grounds:

- Failure to register and falsification of documents
- Document fraud
- Falsely claiming U.S citizenship
- Security grounds
- Public charge
- Unlawful voters

Inadmissibility Grounds: INA § 212; 8 USC § 1182

- General grounds
- Prostitution and commercialized vice
- Certain aliens involved in serious criminal activity who have asserted immunity from prosecution
- Foreign government officials who have committed particularly severe violations of religious freedom
- Significant traffickers in persons
- Money laundering

Inadmissibility Grounds: INA § 212; 8 USC § 1182

- Security and related grounds
- Terrorist Activity (defined in Matter of S-K-)
- Recruitment or use of child soldiers
- Public charge (VAWA special rules)
- Labor certification for certain immigrants
- Illegal entrants and immigration violators:
 - Present without admission or parole
 - Failure to attend removal proceedings
 - Aliens unlawfully present

Inadmissibility Grounds: INA § 212; 8 USC § 1182

- Misrepresentations (includes falsely claiming US citizenship)
- Stowaways
- Smugglers
- Student visa abusers
- Documentation requirements
- Ineligible for citizenship
- Aliens previously removed
- Miscellaneous

INA § 101(a)(48); 8 USC § 1101(a)(48)

(A) The term “conviction” means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and

(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.

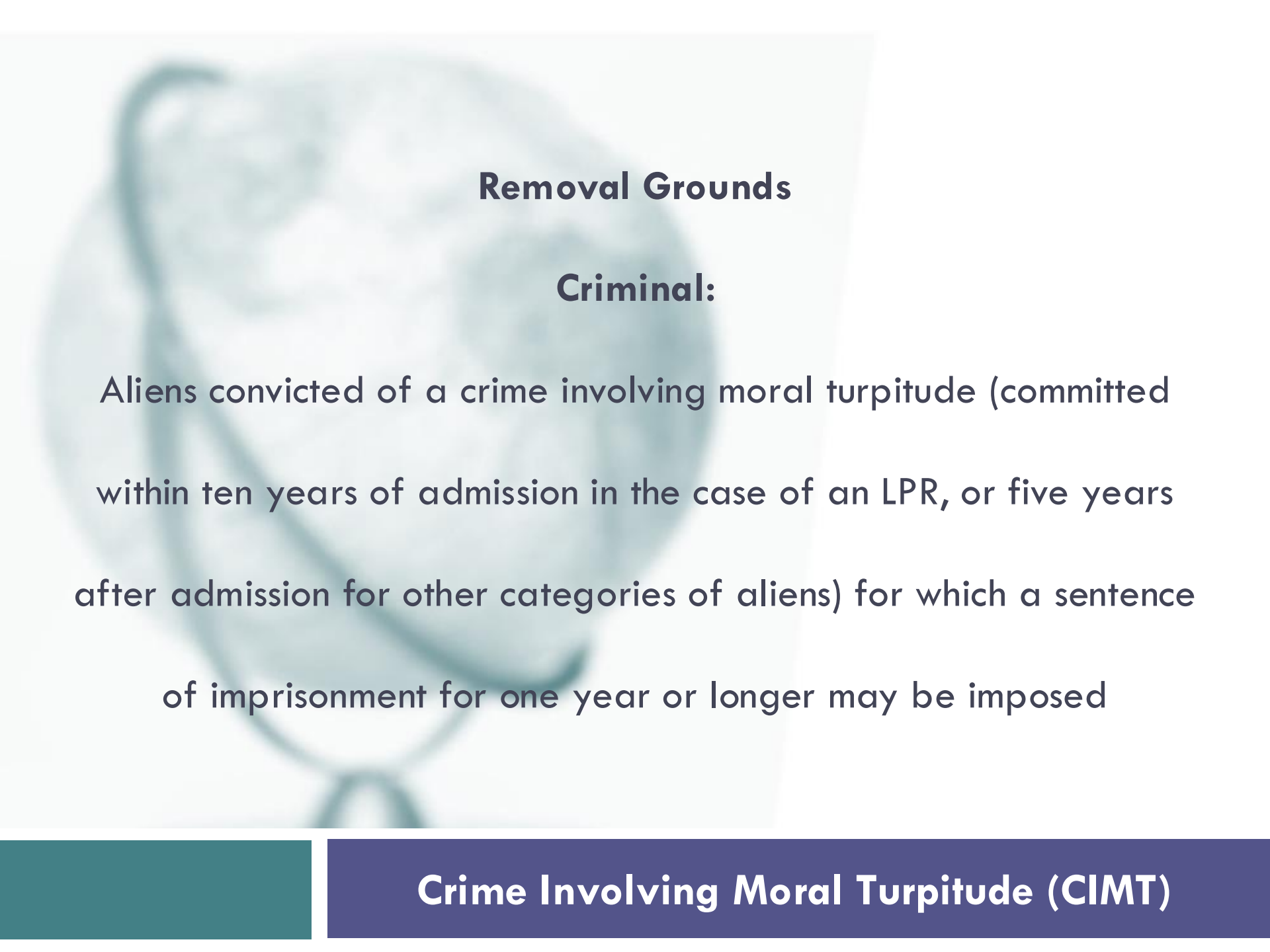
(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part

Definition of Conviction

Expungements, Juvenile and Foreign Convictions:

INA § 101(a)(48); 8 USC § 1101(a)(48)

- *Matter of Roldan* – Expungements are still convictions
- *Matter of Devison* – Juvenile Offenses are not convictions
- *Matter of Mohamed* – Pretrial Intervention Program including community supervision, service, fees, is a conviction
- *Matter of Adamiak* – Vacatur on Constitutional Grounds not a conviction
- *Dillingham v. INS* – Foreign convictions are convictions



Removal Grounds

Criminal:

Aliens convicted of a crime involving moral turpitude (committed within ten years of admission in the case of an LPR, or five years after admission for other categories of aliens) for which a sentence of imprisonment for one year or longer may be imposed

Crime Involving Moral Turpitude (CIMT)

Removal Grounds

Criminal:

Matter of Silva-Trevino (2016)

“The term “moral turpitude” generally refers to conduct that is “inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general.” To involve moral turpitude, a crime requires two essential elements: reprehensible conduct and a culpable mental state”

Crime Involving Moral Turpitude (CIMT)

Removal Grounds

Criminal:

Examples of Crimes Involving Moral Turpitude:

- Assault with a Dangerous/Deadly Weapon
- Robbery/Manslaughter/Murder
- Domestic Violence
- Burglary with Intent to Commit Theft/Larceny
- Receiving Stolen Property/Theft
- Bad Checks/Tax Evasion/Forgery/Money Laundering
- Perjury
- Lewdness/Statutory Rape
- Reckless Endangerment
- Distribution/Unlawful Sale of Drugs
- Accessory Before/After the Fact (if underlying crime is a CIMT)

Crime Involving Moral Turpitude (CIMT)

Removal Grounds

Criminal:

A specific intent is not a prerequisite; it depends on whether the act is accompanied by a “vicious or corrupt mind.” *Matter of Torres- Varela*, 23 I&N Dec. 78 (BIA 2001).

Thus, crimes such as fraud are considered to involve moral turpitude.
Jordan v. De George, 341 U.S. 223, 229 (1951).

Crime Involving Moral Turpitude (CIMT)

Removal Grounds

Criminal:

GENERALLY:

“Crimes involving a reckless mental state will not be deemed to involve moral turpitude absent the presence of some aggravating factors, such as the death of a person or the infliction of bodily injury.”

See, e.g., *Matter of Fualaau*, 21 I&N Dec. 475 (BIA 1996); *Matter of Wojtkow*, 18 I&N Dec. 111 (BIA 1981); *Matter of Medina*, 15 I&N Dec. 611, 613 (BIA 1976)

Removal Grounds

Criminal:

Matter of Haji Osman SALAD, 27 I&N Dec. 733 (BIA 2020)

Minnesota Statute § 609.713, subdivision 1:

Making Terroristic Threats (later renamed “Threats of Violence”)

Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, vehicle or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced ...

REPREHENSIBLE CONDUCT + CULPABLE MENTAL STATE = CIMT

Crime Involving Moral Turpitude (CIMT)

Removal Grounds

Criminal:

Bakor v. Barr, 958 F.3d 732 (8th Cir. 2020)

Minnesota Statutes § 609.3451, subdivision 1,
Criminal Sexual Conduct in the Fifth Degree
and

§ 243.166, subdivision 5(a)
Registration of Predatory Offenders

BOTH HAVE REPREHENSIBLE CONDUCT + CULPABLE MENTAL
STATE = CIMT

Crime Involving Moral Turpitude (CIMT)



Inadmissibility Grounds Criminal Conviction of Certain Crimes:

- (i) In general.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-
 - (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime,

Crime Involving Moral Turpitude (CIMT)

Inadmissibility grounds

Criminal:

shall **NOT** apply to an alien who committed only one crime if-

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

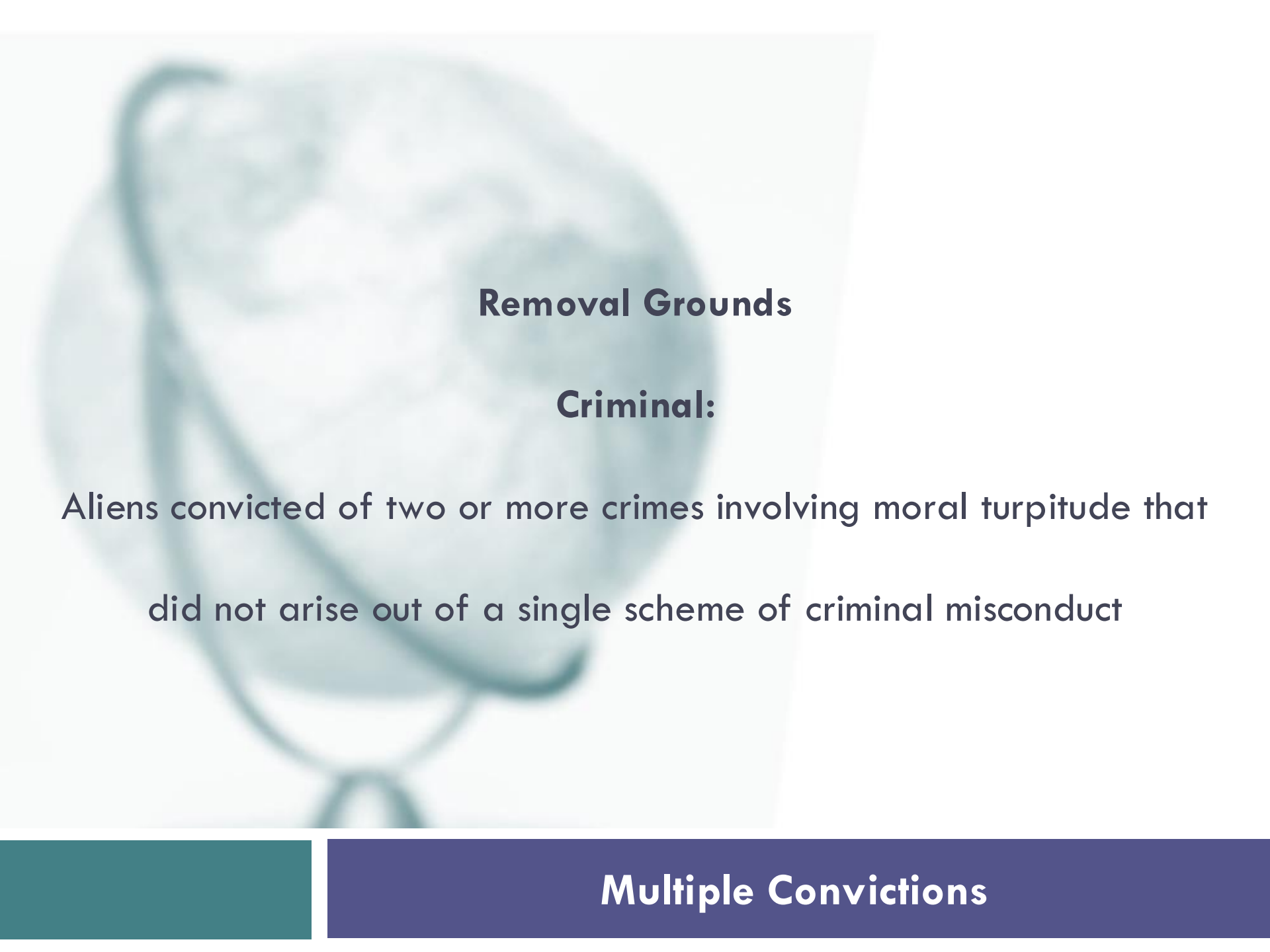
Crime Involving Moral Turpitude (CIMT)

Inadmissibility Grounds

Criminal:

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed)

Crime Involving Moral Turpitude (CIMT)



Removal Grounds

Criminal:

Aliens convicted of two or more crimes involving moral turpitude that did not arise out of a single scheme of criminal misconduct

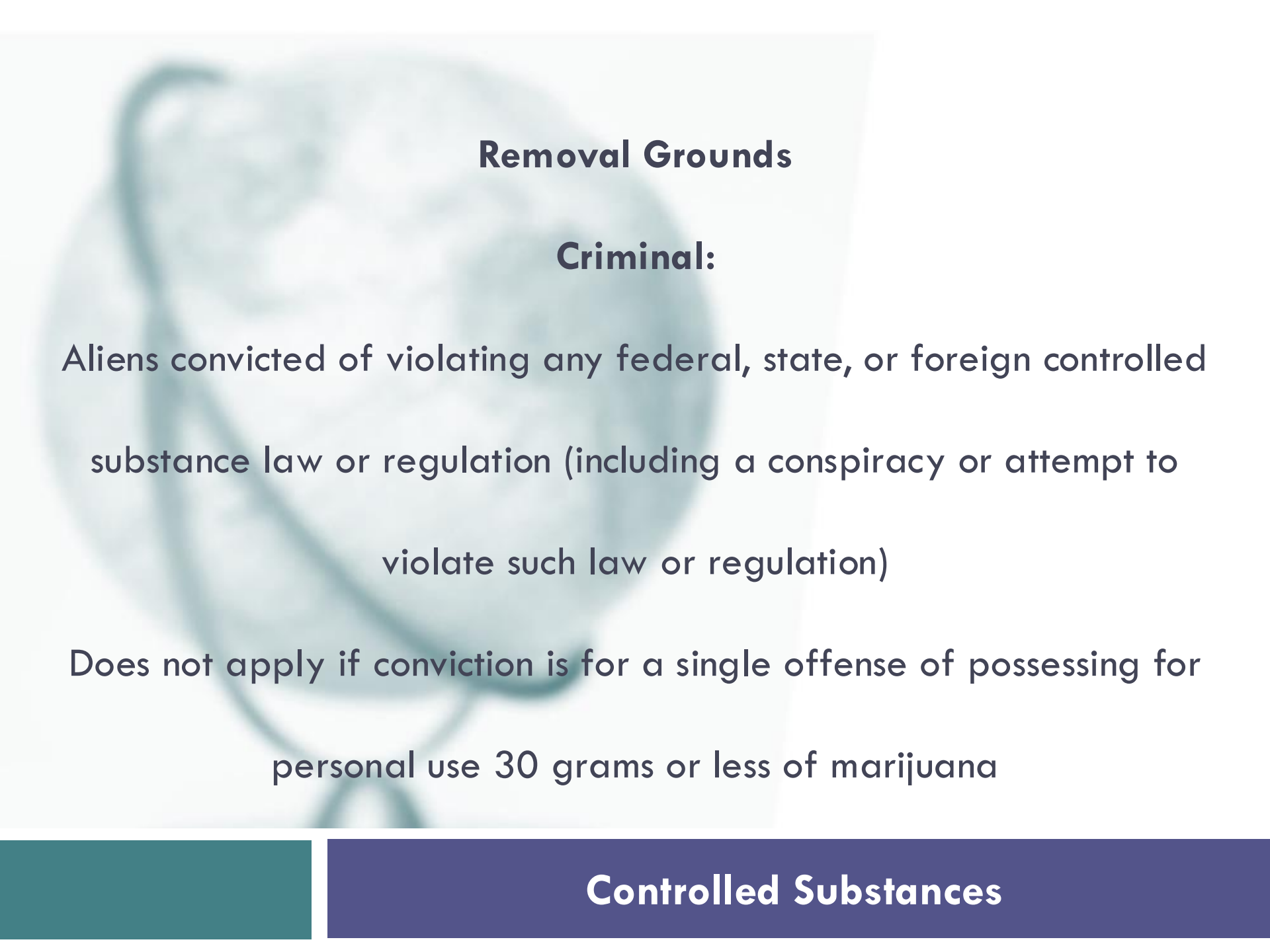
Multiple Convictions

Inadmissibility Grounds

Criminal:

Multiple criminal convictions. Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible

Multiple Convictions



Removal Grounds

Criminal:

Aliens convicted of violating any federal, state, or foreign controlled substance law or regulation (including a conspiracy or attempt to violate such law or regulation)

Does not apply if conviction is for a single offense of possessing for personal use 30 grams or less of marijuana

Controlled Substances

Inadmissibility Grounds

Criminal:

An alien who has been convicted of, admitted to having committed, or admitted to committing acts that constitute the essential elements of a violation of any federal, state, or foreign controlled substance law substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) (or an attempt or conspiracy to commit such a crime)

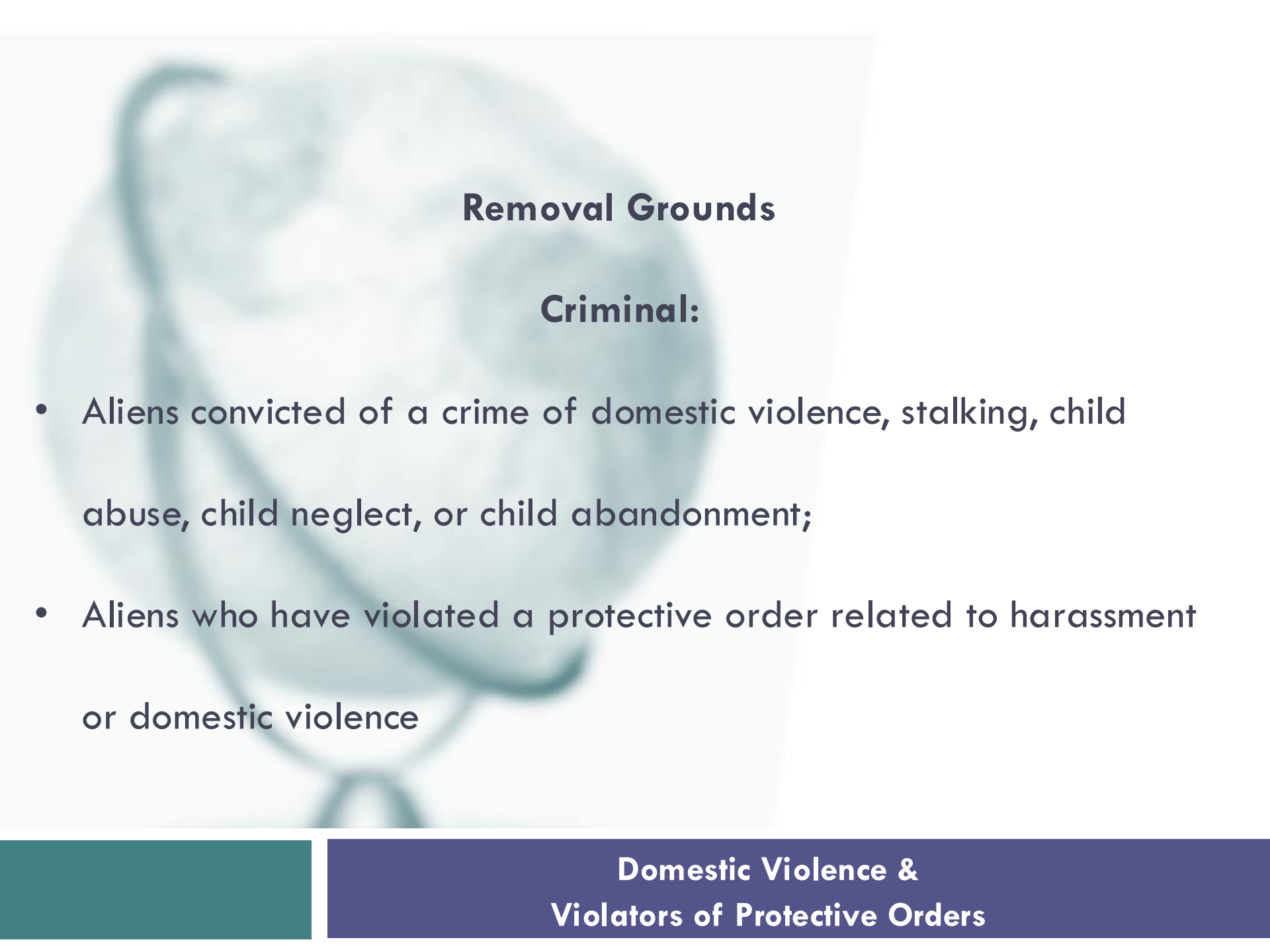
Controlled Substances

Inadmissibility Grounds

Criminal:

An alien who immigration authorities know, or have reason to believe, has been involved in drug trafficking (includes alien's spouse, son, or daughter if they have, within the previous five years, obtained any financial or other benefit from the drug trafficking activity and knew or reasonably should have known that the financial or other benefit resulted from such activity)

Drug Trafficking



Removal Grounds

Criminal:

- Aliens convicted of a crime of domestic violence, stalking, child abuse, child neglect, or child abandonment;
- Aliens who have violated a protective order related to harassment or domestic violence

Removal Grounds

Aggravated Felony (INA § 101); 8 U.S.C. § 1101:

- Murder, rape, sexual abuse of a minor
- Drug Trafficking: 21 USC § 802 & 18 USC § 924(c)
- Firearm Trafficking: as defined in 18 USC § 921
- Crime of Violence: 18 USC § 16(a) + at least 1 year prison sentence
- Theft or Burglary + at least 1 year prison sentence
- Fraud or Tax Evasion: 26 USC § 7201 + loss to victim >\$10,000
- Alien Smuggling: 8 USC 1324 (certain exceptions)

Aggravated Felonies

Removal Grounds

Aggravated Felony (INA § 101); 8 U.S.C. § 1101:

- Prostitution Business Offenses
- Commercial Bribery, Counterfeiting, or Forgery + at least 1 year prison sentence
- Obstruction of Justice or Perjury + at least 1 year prison sentence
- Various federal offenses (e.g. money laundering, firearms, explosives, failure to appear in court of for sentencing, etc.)
- Attempt or Conspiracy to commit any of the above

Pardons

INA § 237(a)(2)(A)(v), 8 U.S.C. § 1227(a)(2)(A)(v)

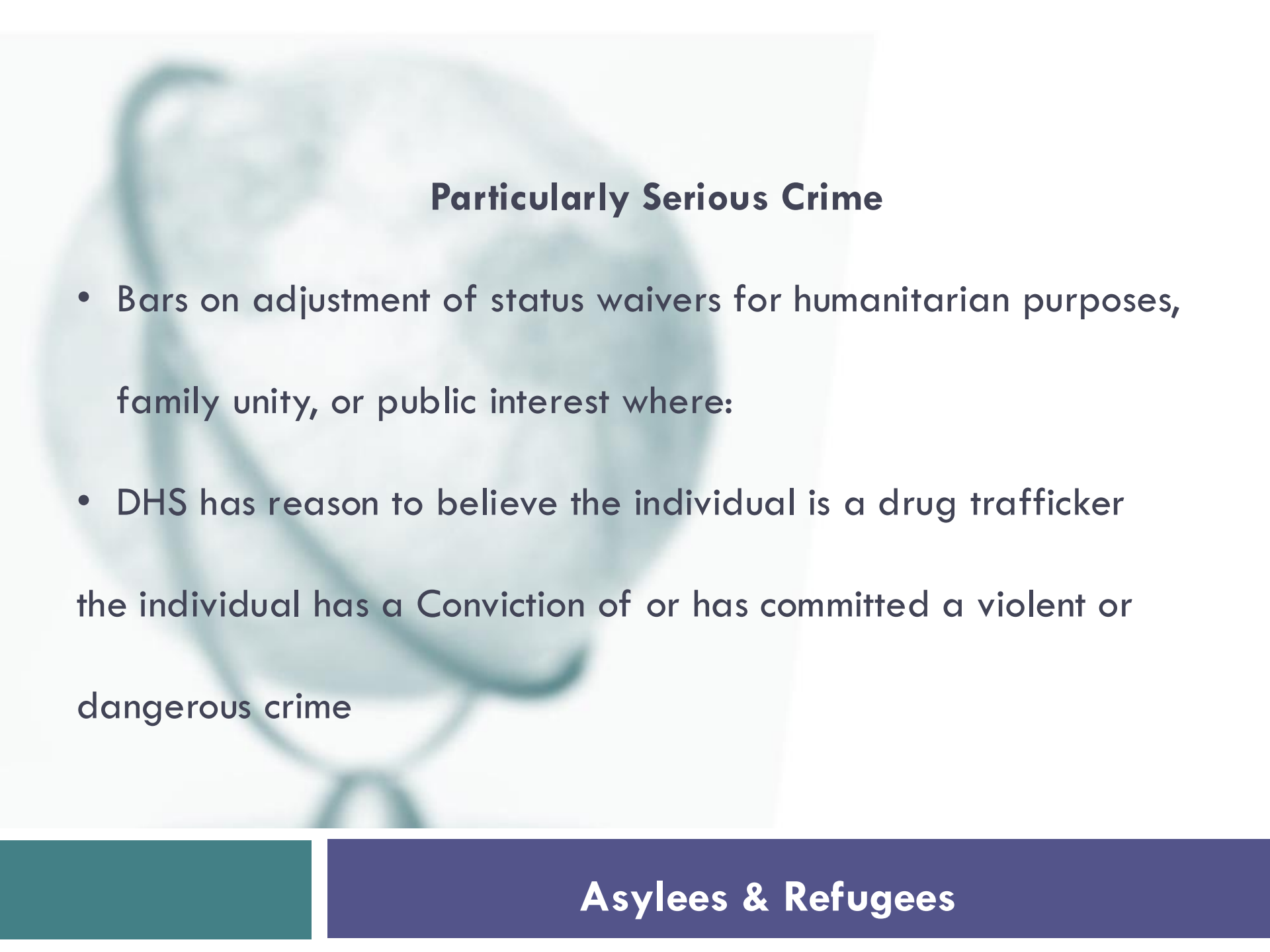
- (i) Crimes of moral turpitude
- (ii) Multiple criminal convictions
- (iii) Aggravated felony
- (iv) High speed flight
- (v) Failure to register as a sex offender
- (vi) Waiver authorized

Clauses (i), (ii), (iii), and (iv) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States



Particularly Serious Crime:

- All aggravated felonies will bar asylum
- Aggravated felonies with aggregate 5 year sentence of imprisonment will bar withholding
- Aggravated felonies involving unlawful trafficking in controlled substances will presumptively bar withholding of removal
- Violent or dangerous crimes will presumptively bar asylum



Particularly Serious Crime

- Bars on adjustment of status waivers for humanitarian purposes, family unity, or public interest where:
- DHS has reason to believe the individual is a drug trafficker
the individual has a Conviction of or has committed a violent or dangerous crime

WHEN PROSECUTORS ENCOUNTER IMMIGRANT VICTIMS AS DEFENDANTS



U.S. Legal Immigration Benefits for Noncitizen Victims of Crime and Abuse

NIWAP

U.S. Immigration Benefits for NONCITIZEN CRIME VICTIMS

T VISA CONSIDERATIONS

- ▶ Must be in the U.S. on account of human trafficking
- ▶ Law enforcement declaration is encouraged but not required



If approved, benefit provides:

- Up to four years of temporary nonimmigrant status
- Work authorization
- Access to federal and state benefits and services
- Ability to apply for permanent residency
- Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.

VAWA CONSIDERATIONS

- ▶ Have suffered battery or extreme cruelty perpetrated by your U.S. citizen or Lawful Permanent Resident spouse or parent or your U.S. citizen adult son or daughter
- ▶ Petitioners and perpetrators may be of any sex or gender



If approved, benefit provides:

- Lower priority for removal
- Work authorization
- Access to federal and state benefits and services (possibly sooner than approval)
- Ability to apply for permanent residency
- Ability for children of self-petitioning spouses or children to receive permanent residency, even if not already in the U.S.

SIJ CONSIDERATIONS

- ▶ Must be a victim of abuse, abandonment, neglect, or a similar basis under state law by one or both parents
- ▶ Must have a juvenile court order with the required determinations



If approved, benefit provides:

- Ability to apply for permanent residency



If approved, benefit provides:

- Up to four years of temporary nonimmigrant status
- Work authorization
- Ability to apply for permanent residency
- Ability for qualifying family members to receive derivative nonimmigrant status, even if not already in the U.S.

ASYLUM CONSIDERATIONS

- ▶ Must fear persecution on account of race, religion, nationality, political opinion, or membership in a particular social group
- ▶ If in removal proceedings, may need to file Form I-589 with the immigration judge



If approved, benefit provides:

- Asylee status
- Work authorization
- Access to federal and state benefits and services
- Ability to apply for permanent residency
- Ability for spouse and children to receive asylum, even if not already in the U.S.

To apply: USCIS Form I-914

T VISA

For victims of human trafficking

To apply: USCIS Form I-360

VAWA

For victims of domestic violence and abuse

SIJ

Special Immigrant Juvenile classification for child victims under 21 years of age

To apply: USCIS Form I-589

ASYLUM

For victims of persecution

To apply: USCIS Form I-918

U VISA

For victims of domestic violence, sexual assault, felonious assault, human trafficking, and other qualifying crimes

U VISA CONSIDERATIONS

- ▶ Qualifying crime must have occurred in the U.S. or violated U.S. law
- ▶ May apply from the U.S. or while abroad
- ▶ Must have law enforcement certification



Center for Countering Human Trafficking

DHS.GOV/BLUECAMPAIGN

For victim support call 1-888-373-7888 or text INFO or HELP to BeFree (237723)

All U.S. Citizenship and Immigration Services (USCIS) forms can be found at: www.uscis.gov/forms/all-forms

VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
 - spouse; parent; or citizen adult son/daughter (over 21)
- With whom Self-Petitioner Resided
 - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- *2026 time to work authorization ≈ 4 months or 3.7 years*
- **Battered Spouse Waiver**
 - Same group of victims – cases where abuser filed for victim
 - Removes requirement that victim stay with abuser for 2 years
 - *2026 time to approval ≈ 29.5 months*

Waivers of Inadmissibility for VAWA Self- Petitioners

- For self-petitioners
 - Health related grounds
 - Crimes of moral turpitude
 - Single offense possession 30 or less grams of marijuana
 - 2 or more offenses with total sentencing 5+ years
 - Prostitution or commercialized vice
 - Who have immunity from prosecution
 - Pardon by governor or President
 - Eligible for domestic violence victim waiver
- With connection to battery or extreme cruelty
 - Good moral character waiver
 - Unlawful presence waiver
- If removal would cause extreme hardship to self, parent or child
 - Fraud or willful misrepresentation of material facts
- Exempt from public charge

Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
 - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
 - the care, custody, or dependency of the child
- 2026 time to work authorization = 6 months - 5 yrs

Waivers of Inadmissibility for Special Immigrant Juvenile Status (SIJS) Cases

- Inadmissibility grounds that do not apply to SIJS
 - Public charge
 - Labor certification
 - Unlawful presence/presence without admission or parole
 - Misrepresentation including false claims of US citizenship
 - Stowaways
 - Immigrant not in possession of valid entry documents
 - Unlawful presence
- May not waive
 - Certain crimes of moral turpitude
 - Drug related convictions or drug traffickers
 - 2 or more convictions
 - Espionage, overthrowing the US government, terrorism, or admission would have serious adverse foreign policy consequences
 - Nazis, genocide, torture or extra-judicial killing

Waivers of Inadmissibility SIJS – More Common

More common waivers:

- Health related grounds
- Prostitution and commercialized vice
- Immigrants previously removed
- Unlawfully present after previous immigration violations
- Smuggling
- Student visa abusers
- Immigrant visa holder without valid entry documents at time of application for admission
- Failure to attend removal proceeding

Waivers of Inadmissibility SIJS – Less Common

Less common waivers:

- Immunity from prosecution
- Severe violations of religious freedom by foreign government officials
- Significant human trafficking
- Money laundering
- Membership in communist/totalitarian party
- Association with terrorist organizations
- Unqualified physicians
- Uncertified foreign health care workers
- Ineligibility for citizenship or left US to evade the draft
- Practicing polygamy
- International child abduction
- Unlawful voting
- Persons who renounced citizenship to avoid taxation

U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
 - Detection, investigation, prosecution, conviction or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- 2026 time to work authorization $\approx$ 1.5 Years

Waivers Available in U Visa Cases

- DHS has the discretion to waive any inadmissibility ground, including criminal grounds except the following:
 - Genocide
 - Nazis
 - Extrajudicial killings
 - Acts of torture

T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
 - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking.
Exceptions
 - Under age 18
 - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- 2026 time to work authorization = 6 months
- Critical to identify trafficking occurring within families

T Visa Waivers of Inadmissibility

- For T visa cases waive when in the national interest
 - Health related grounds
 - Any inadmissibility grounds that is related to victimization except
 - National security
 - Child abduction
 - Renounced citizenship to avoid taxation
 - Was inadmissibility caused by or incident to the victimization
 - Additionally, if criminal, will look at the number and seriousness of the offenses and convictions
- Waiver if trafficking was at least one central reason for unlawful presence



Good Moral Character

If occurring at any time:

- Murder
- Participation in genocide
- Acts of torture & extrajudicial killings
- Aggravated felonies on or after November 29, 1990

Naturalization

Good Moral Character

If occurring within the statutory period:

- Acts related to prostitution and other commercialized vices
- Crimes involving moral turpitude (other than a purely political offense), unless the crime falls within one of the enumerated exceptions
- Violations of any law or regulation relating to a controlled substance

Naturalization



Good Moral Character

If occurring within the statutory period:

- Two or more offenses for which the aggregate sentences of confinement were five years or more
- Engaging in, assisting in, or conspiring to commit a drug trafficking offense (except for simple possession of thirty grams or less of marijuana)
- Deriving income principally from illegal gambling activities

Naturalization



Good Moral Character

If occurring within the statutory period:

- Convictions for two or more gambling offenses
- Confinement for an aggregate period of 180 days or more in a corrections facility (regardless of whether offense was committed within statutory period)



QUESTIONS ?



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NIWAP Resources

- Technical Assistance
 - – Call: 202.274.4457
 - Email: niwap@wcl.american.edu
 - Web Library:
<https://niwaplibrary.wcl.american.edu/>
- Materials for this training :
 - <https://niwaplibrary.wcl.american.edu/2026-minnesota-training/>

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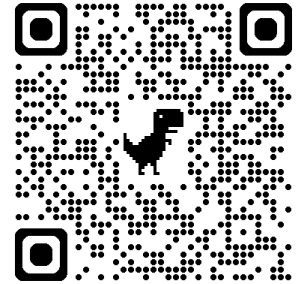
<https://niwaplibrary.wcl.american.edu/niwap-podcast-series>



Podcast

Pathways

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