

**WHAT YOU DON'T KNOW
CAN HURT YOU:**

**Myths About
Immigrants in the
Criminal Justice
System**



Myth # 1

“It’s not a crime to come back to the United States illegally.”

WRONG:

If you've been deported before, being in the United States is a felony.

Punishment of up to 2, 10 or 20 years depending on any criminal history.

Myth # 2

“They can’t use my past against me. I’ve already paid for that.”

WRONG:

Prior criminal history and risk of recidivism are building blocks of criminal sentencing.

Myth # 3

“I wasn’t deported because I never got taken in front of a judge.”

WRONG:

If you are not a legal permanent resident,
commission of certain crimes leads to
administrative removal.

Myth # 4

“I have my green card, and I am not a criminal. So I don't have anything to worry about.”

WRONG:

Legal permanent residency can be taken away, especially for commission of crimes, even if longstanding.

“Aggravated felony” can result in removal with no way out.

Myth # 5

“I just need to get out of immigration jail even if I get deported. I can fix my papers later.”

WRONG:

Strict limits on reopening cases.

Once deported, ineligible for visas to return with limited exceptions.

Myth # 6

“I shouldn’t have been deported, and the law has changed. So they should let me back in.”

WRONG:

- Fifth Circuit case law establishes that subsequent court decisions do not necessarily permit an alien to obtain new determination.
- Example: DWI as grounds for removal.
- Importance of counsel.

Myth # 7

“I got a deferred adjudication, so I’ve never been convicted of that crime and can’t be deported for it.”

WRONG:

Immigration laws were changed to define "conviction" so as to include most deferred adjudication-type proceedings if admissions.

Myth # 8

“I have a spouse and children here. They have to let me fix my papers.”

WRONG:

Illegal presence in the U.S. is itself a grounds for removal.

Very limited ability to adjust status from illegal or undocumented.

Myth # 9

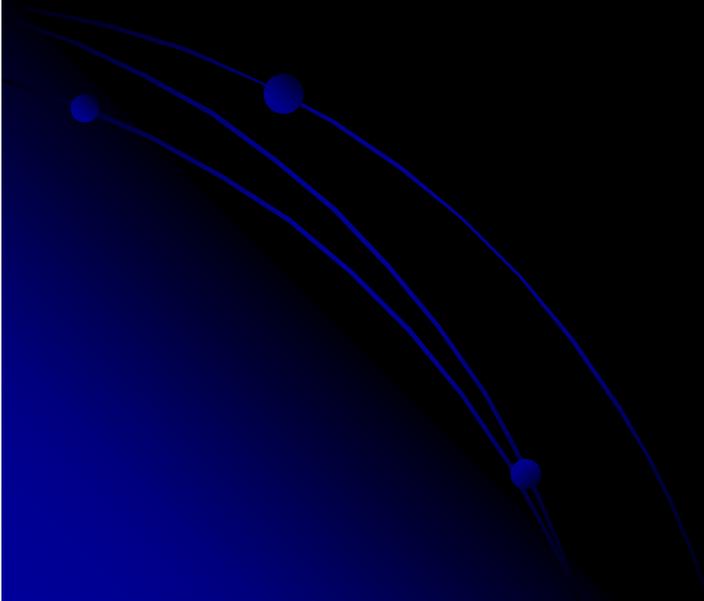
“So I came back to the U.S. It’s not like I killed anyone, so I shouldn’t get a long sentence. They should just send me back.”

WRONG:

Federal sentencing guidelines can produce longer sentences for illegal return than for actual drug smuggling.

Myth # 10

“I was born outside U.S., and I never naturalized. So I can't be a U.S. citizen.”



WRONG:

- Automatic transmission of citizenship:
Birth abroad to U.S. parent.
 - Derivative citizenship: Naturalization of
parent.
 - Can even be through grandparent if trace
through generations.
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