



Being denied entry into Canada based on criminality

The North American Free Trade Agreement (NAFTA) makes it relatively easy for Americans to enter Canada as business visitors or to obtain work permits as intra-company transferees or NAFTA Professionals. One thing that NAFTA does not make easier is criminal inadmissibility.

Many convictions in the U.S., including DUI and Negligent Driving – 1, can make a person inadmissible to Canada. This is because criminal inadmissibility is based on how the equivalent offence is treated in Canada, not in the country where the conviction occurred.

In many cases, an American with a criminal record may have been able to travel in and out of Canada without any problem. This is largely because Canadian border officials do not routinely ask every person entering Canada whether they have a criminal conviction. However, Canadian border officials do have computer access to many U.S. criminal records, and more frequently now Americans with criminal records are experiencing problems at the Canadian border. Being denied entry into Canada can be both embarrassing and costly to business and trade.

If a border official asks whether you have any criminal convictions, always answer truthfully. Failure to disclose could result in a temporary ban from Canada for misrepresentation, and will make border officials less willing to use discretion to permit entry into Canada.

If a border official finds someone is criminally inadmissible, there are both temporary and permanent ways to overcome the inadmissibility, including the following options:

1. Expungement of U.S. convictions, when available, will generally overcome inadmissibility
2. Five years after the completion of the sentence, individuals can apply for Criminal Rehabilitation
3. Prior to the five years, a person can apply for a Temporary Resident Permit (TRP) which does not do away with the inadmissibility, but allows temporary entry into Canada
4. Ten years after the completion of a sentence (where there is a single conviction) a person may be eligible for Deemed Rehabilitation

It is always recommended that you consult a Canadian immigration lawyer about any criminal offence, no matter how minor or how ancient, before trying to enter Canada. The more lead time the better, as this can be a complicated process.

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