

# Washington Defender Association's Immigration Project

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## The Impact of U.S. Convictions on Entry into Canada February 2010

### Consult With a Knowledgeable Attorney Prior to Seeking Admission

The Washington Defender Association's Immigration Project (WDAIP) has no expertise in, nor are we knowledgeable about Canadian immigration law. Every country's immigration laws are different, and knowledge about U.S. immigration law is not relevant or applicable to Canada. We are not a source of information for US citizens seeking entry to Canada. We recommend that anyone with a U. S. criminal conviction (including misdemeanors) consult a lawyer knowledgeable about Canadian immigration law prior to seeking admission into Canada. Below is an attorney referral list.

### Brief Overview of Canadian Immigration Law & Crimes

Canadian immigration law is governed by Canadian federal law, including the Immigration and Refugee Protection Act, and the Citizenship Act, which are administered by Citizenship and Immigration Canada (CIC). CIC's website has useful information on Canadian immigration law, (see below). The website of the Immigration and Refugee Board of Canada also provides additional information.<sup>1</sup>

Canada divides offenses into indictable and summary. Some offenses are deemed "hybrid" in that they can be classified as either indictable or summary. An offense that is equivalent to an indictable or hybrid offense triggers inadmissibility. Canada also has procedures for people to seek a pardon, or to be "deemed rehabilitated." The categories of "indictable" or "hybrid," and summary offenses DO NOT track U.S. classifications of crimes as felonies or misdemeanors. Many crimes that would be classified as misdemeanors under U.S. law may be equivalent to an indictable or hybrid offense in Canada.

For example, a misdemeanor DUI US conviction is a bar to admission to Canada, even though it would not trigger inadmissibility for a criminal conviction under U.S. immigration law<sup>2</sup>. It is safest to assume, unless a competent attorney says otherwise, that most US crimes, including many misdemeanors, may be equivalent to Canadian indictable or hybrid offenses and, thus, prevent admission to Canada.

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<sup>1</sup> <http://www.irb-cisr.gc.ca/Eng/Pages/index.aspx>

<sup>2</sup> A DUI can have other negative US immigration consequences; it can affect US admissibility for "health" reasons.

The CIC website describes four vehicles for overcoming criminal bars to admission to Canada: Deemed Rehabilitation, Individual Rehabilitation, Pardon or Discharge, and Temporary Resident Visa. It is possible that some expungements or deferred adjudications under US law may not be convictions for Canadian purposes<sup>3</sup> but you should seek legal advice before making any assumptions.

**Resources: Citizenship and Immigration Canada (CIC) Links**

“Visiting Canada: Overcoming Criminal Inadmissibility— Frequently Asked Questions” excerpt:  
<http://www.cic.gc.ca/english/visit/faq-inadmissibility.asp>

CIC Enforcement Manuals (contains information about evaluating inadmissibility)  
<http://www.cic.gc.ca/english/resources/manuals/enf/index.asp>

CIC “Evaluating Inadmissibility” manual. See p. 53 for “Relief Provisions”:  
<http://www.cic.gc.ca/english/resources/manuals/enf/enf02-eng.pdf>

“Application for Criminal Rehabilitation”:  
<http://www.cic.gc.ca/english/pdf/kits/forms/IMM1444E.PDF>  
<http://www.cic.gc.ca/english/information/applications/guides/5312E6.asp>

“Rehabilitation for persons who are inadmissible to Canada because of past criminal activity”:  
<http://www.cic.gc.ca/english/information/applications/guides/5312ETOC.asp>

*Excerpt:* “You can apply for individual rehabilitation if at least five years have passed since you completed your criminal sentences. People who are ineligible for approval of rehabilitation because not enough time has passed can complete the form and check ‘For Information Only.’ An officer will decide if special permission for temporary admission is warranted.”  
<http://www.cic.gc.ca/english/information/applications/rehabil.asp>

**Some Private Canadian Immigration Attorneys:**

- Rudy Kischer (604) 632-0188 [rudolf@vancouverlaw.ca](mailto:rudolf@vancouverlaw.ca) Vancouver, British Columbia
- Henry Chang 416 362-6632 Toronto, Canada (partner with Greg Boos, a US immigration lawyer in Bellingham, Washington.)
- Samuel D. Hyman 604 685 9277 Vancouver, British Columbia
- Paul Gill (206) 684-9412 Seattle, Washington
- Joshua B. Sohn, (604) 662-7404 [joshua@elgcanada.com](mailto:joshua@elgcanada.com) Vancouver, British Columbia
- **Additional Referrals:** American Immigration Lawyers Association - Canada  
<http://www.aila-canada.org/>

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<sup>3</sup> See Chart at p. 60, ENF 2 Evaluating Inadmissibility  
<http://www.cic.gc.ca/english/resources/manuals/enf/enf02-eng.pdf>