

INDEX

3- and 10-year bars. *See* Unlawful presence

§212(c). *See* INA §212(c) relief

§245(i). *See* Adjustment of status

A

ABC class membership, 295

Abused women and children. *See* Cancellation of removal; Traffickers in persons; Violence Against Women Act

Adjustment of status, 175–205
administrative closure, 186–187
arriving aliens, 176
asylees and refugees, 182–183
Cambodian nationals, 203–204
conditional residence. *See* Conditional permanent residence
Cuban nationals, 199–201
family-based adjustment, generally, 178–179
HRIFA, 201–203
INA §245(i) benefits, 179–181
ICE memo, 188–190
Laotian nationals, 203–204
minors, 182
motions to continue, 185–186
motions to dismiss, 187–188
NACARA §202, 175–176
overview, 175–176
procedures, 183–184
readjustment of status, 177
registry, 196–198
special immigrant juveniles, 182
termination of proceedings to adjust before USCIS, 187–188
timing of assertion, 184
VAWA self-petitioners, 181
Vietnamese nationals, 203–204
women, 181

Administrative closure, 89–90
adjustment of status, 186–187
Castro-Tum, 35, 89–90, 225
Johnson memo, 494–496
Morton memo, 491–493, 495–496

Administrative removal orders, 49–50

Administrative review, 421–454
appeals to BIA, 422–427
motions to remand, 426–427
removal proceedings, 43
standard of review, 425–426
in absentia removal orders, motions to rescind and reopen, 439–450

motions to reopen or reconsider, 427–437
asylum eligibility, 437–438
content, format, and filing requirements, 434–437
equitable tolling, 431–434
purpose, 427–429
time and numerical limits, 429–431
VAWA, 438–439
where to file, 429
post-departure bar, 450–451
stays of removal, 451–454
BIA, 452–453
ICE ERO, 454
Immigration Court, 453

Admissibility. *See* Grounds of inadmissibility; Inadmissibility

Admission of criminal activity, 143

Aggravated felons
deportability, 161–168

Alien smuggling
as deportability ground, 134
as inadmissibility ground, 116–117

Antiterrorism and Effective Death Penalty Act of 1996, 251

Appeals to BIA, 422–427
motions to remand, 426–427
removal proceedings, 43
standard of review, 425–426
voluntary departure, effect on, 405–406

Appeals to federal court. *See* Judicial review

Arriving aliens
adjustment of status, 176
asylum and withholding of removal, 309
bond hearings, 417–418
credible fear of persecution, 308–312, 325–327

Asylum and withholding of removal, 307–394. *See also* Convention Against Torture
adjustment of status, 182–183
administrative review, motions to reopen, 437–438
arriving aliens, 309
burden of proof, 320, 345
corroborative evidence, 392–394
credibility determinations, 391–392
credible fear process, 49, 308–312, 325–327
detention during, 314–315
differences between asylum and withholding, 307–308, 378–380

discretion of attorney general, 345–347
employment authorization document, 350–352
evidentiary requirements, 391–394
filing deadline, 352–358
changed circumstances exception, 357–358
extraordinary circumstances exception, 356–357
firm resettlement in another country, 376–378
humanitarian asylum, 323–325
INA §241(b)(3) withholding, 361–363
ineligibility grounds
frivolous applications, 360–361
prior removal order, 359–360
safe third country available, 358–359
untimely filing, 352–358
judicial review, 460–462
membership in particular social group, 335–343
nationality, as protected ground, 330
“particularly serious crime” as bar to asylum and withholding, 366–370
particular social group, as protected ground, 335–343
past persecution, 320–323
fundamental change in circumstances, 320–321
internal relocation, 321–323
persecution, 316–320
credible fear of persecution, 308–312, 325–327
elements of persecution, 316–320
ineligibility of those who persecuted others, 363–366
motivation of persecutor, 327–329
persons who have participated in persecution of others, 363–366
political opinion, as protected ground, 332–334
protected grounds, 327–343
nationality, 330
particular social group, 335–343
political opinion, 332–334
race, 329–330
religion, 330–332
race, as protected ground, 329–330
REAL ID Act, 373
reasonable fear process, 308–310, 312–314
detention during, 314–315

Attorneys

religion, as protected ground, 330–332

serious nonpolitical crimes, statutory bars, 370–376

standard of proof, 320

statutory bars, 363–382

- firm resettlement in another country, 376–378
- particularly serious crimes, conviction for, 366–370
- persons who have participated in persecution of others, 363–366

security grounds, inadmissibility on, 371

serious nonpolitical crimes, commission of, 370–376

terrorism-related inadmissibility grounds (TRIG), 372–376

termination of, 380–382

terrorists, 372–376

unable or unwilling to control persecutor, 343–345

unable or unwilling to return or avail oneself of protection, 316

waivers for refugees and asylees [INA §209(c)], 227–228

well-founded fear of persecution, 325–327

Attorneys. *See* Counsel

B

Battered Immigrant Women Protection Act of 2000, 173

Biometrics, 39–40, 190–191, 249, 260

Board of Immigration Appeals (BIA)

appeals, 422–427

- motions to remand, 426–427
- standard of review, 425–426

cancellation of removal, abused women and children, 286–288

removal proceedings, 43

stays of removal, administrative review, 452–453

voluntary departure, effect of appeal to BIA, 405–406

Bond hearings, 411–419

arriving aliens, 417–418

bond availability, 108

detention of individuals with final order of removal or when detention prolonged under INA §241, 418–419

discretionary detention under INA §236(a)5, 412–414

paying the bond, 414–415

individuals subject to expedited removal, 418

Joseph hearings, 416–417

mandatory detention under INA §236(c), 415–416

Visa Waiver Program entrants, 418

Burden of proof

admissibility, 92–93

asylum, 320, 345

CAT, 387–389

NACARA §203, 304

in removal proceedings, 13–14, 62–63

C

Cambodian nationals

adjustment of status, 203–204

Cancellation of removal

for abused women and children, 274–291

- annual cap, 289
- battery or extreme cruelty, 279–281
- BIA unpublished decisions, 286–288
- child applicants, 278–279
- continuous presence, 282
- evidence, 289
- extreme hardship, 286–288
- foreign laws, 288
- good moral character, 282–284
- inadmissible/deportable applicants, 284–285
- marital relationship, 277–278
- self-petitioner, 289–291

for lawful permanent residents (LPRs), 237–251

- bars to eligibility, 244–245
- discretionary factors, 246–249
- filing procedure, 249–251

NACARA §203. *See* NACARA for non-LPRs, 259–306

- annual cap, 274
- continuous residence or physical presence, 261–265
- eligibility, 261–273
- good moral character, 265–266
- hardship requirement, 267–274
- ineligibility grounds, 273–274

Castro-Tum, Matter of

administrative closure, 35, 89–90, 225

CAT. *See* Convention Against Torture

Centers for Disease Control and Prevention (CDC), 95–98

Change of address requirement

failure to comply as deportability ground, 136

Child abuse, as deportability ground, 172

Child Citizenship Act of 2000, 137, 140

Child Citizenship Act of 2001, 55–56

Children. *See* Minors

Citizenship

false claim to

- as deportability ground, 137
- as inadmissibility ground, 114–116

ineligibility, as basis for inadmissibility, 119

U.S. citizenship, determination of, 53–57

Commercialized vice

as inadmissibility ground, 143–144, 159

Communicable diseases

as inadmissibility ground, 95

waivers, 214–216

Communist/totalitarian party members

inadmissibility, 103–104

Conditional permanent residence

jurisdiction of immigration court, 195

removal of condition, 193–196

- failure to comply with procedural requirements, 194

termination before two-year period, 194–195

termination of as deportability ground, 133–134

Congressional power to deport, 3–4

Constitutional violations

right to remain silent, 86–87

search and seizure. *See* Search and seizure

Consulates

detainee's right to contact, 19

Continuous residence/physical presence

for cancellation of removal for LPRs, 238–244

NACARA §203 suspension/cancellation, 296–297

- types of evidence, 305

for non-LPR cancellation of removal, 261–265

for VAWA cancellation of removal, 282

Controlled substances. *See* Drugs and drug users

- Convention Against Torture (CAT)**, 382–394. *See also* Asylum and withholding of removal
 Art. 3 withholding or deferral of removal, 389–390
 burden of proof, 387–389
 definitions, 383–387
 diplomatic assurances, 390
 eligibility, 389–390
 evidentiary requirements, 391–394
 procedures, 390–391
- Convictions.** *See also specific underlying crimes*
 determination of, 63–70, 141–144
 multiple convictions as deportability ground, 160
- Counsel**
 access to, 16–19
 right to representation in removal proceedings, 16–19
- Credibility and credible fear determinations**
 asylum and withholding of removal, 49, 308–312, 325–327, 391–392
 detention during, 314–315
 persecution, credible fear of, 308–312, 325–327
- Crimes.** *See also specific crimes and concepts*
 evidence required, 63–70
 as grounds of deportability, 159–174
 as grounds of inadmissibility, 141–159
 INA §212(h) waivers, 216–221
 immigration consequences, resources for evaluating, 173–174
 “particularly serious crime” as bar to asylum, 366–370
- Crimes of moral turpitude (CMTs)**
 as deportability ground, 143, 159–160
 as inadmissibility ground, 143
 exceptions, 142–143, 151
- Criminal record checks**, 27–30
- Cuban nationals**
 adjustment of status, 199–201
- Cuban Refugee Adjustment Act of 1966**, 199–201
- D**
- Deferred Action for Childhood Arrivals (DACA)**
 prosecutorial discretion in removal proceedings, 127, 356–357, 494–495, 497, 499
- Department of Homeland Security (DHS)**
 creation of, 2–3
 Obama administration memoranda, 491–495
 Trump administration memoranda, 497–498
- Deportability**
 grounds of. *See* Grounds of deportability
 inadmissibility vs., 8–10
 suspension. *See* Suspension of deportation
- Discovery**, 27–30
- Documents and documentation**
 document fraud. *See* Fraud and misrepresentation
 document-related crimes as deportability ground, 136–137
 possession of immigration document, necessity at time of admission, 118
- Domestic violence crimes.** *See also* Violence Against Women Act as deportability ground, 171–173
 waivers, 234–235
- Drugs and drug users**
 abusers and addicts
 deportability, 169–170
 inadmissibility, 97–98
 controlled-substance convictions as deportability ground, 169–170
 as inadmissibility ground, 157–158
 traffickers, inadmissibility of, 158–159
- Due process**
 in removal proceedings, 14–16
- E**
- Eastern Europeans.** *See* NACARA
- Eligibility for relief**
 right to be advised of, 20–21
- Employment authorization document**, 350–352
- Enforcement priorities**, 491–492, 495–497
- EOIR.** *See* Executive Office for Immigration Review
- Espionage**
 as deportability ground, 138, 171
 as inadmissibility ground, 138
- Evidence.** *See also* Burden of proof; *specific substantive topics*
 asylum and withholding of removal, 391–394
 corroborative evidence, 392–394
 cancellation of removal for abused women and children, 289
 CAT evidentiary requirements, 391–394
 discovery, 27–30
 examination of evidence, right to, 21–22
 exclusionary rule, 71–74
 motions to suppress, 70–87
- Executive Office for Immigration Review (EOIR).** *See also* Appeals to BIA
 jurisdiction, 44–45
 Obama administration memoranda, 495–496
 prosecutorial discretion memoranda, 495–496
 structure of, 1–2
- Expedited removal**, 48–49
 bond hearings, 418
 judicial review, 466–468
- Export control violations**
 as inadmissibility ground, 99
- Extreme hardship**
 inadmissibility waivers, 209–213
 documenting extreme hardship, 211–213
 NACARA §203 suspension/cancellation, 298–299
 types of evidence, 305
 for non-LPR cancellation of removal, 267–274
 for VAWA cancellation of removal, 286–288
- F**
- Failure to attend removal proceedings**
 as inadmissibility ground, 110
- Failure to register as foreign agent**
 as deportability ground, 136–137
- Falsification of documents**
 as deportability ground, 136–137
- Family-based adjustment of status**, 178–179
- FARRA (Foreign Affairs Reform and Restructuring Act)**, 382
- Felons.** *See* Aggravated felons
- Fifth Amendment rights**
 removal proceedings, 14–16
 right to remain silent, 86–87
 violations of, 74–75
- Firearms violations**
 as deportability ground, 170–171

Firm resettlement in another country

Firm resettlement in another country, 376–378

FOIA requests, 27–30

Foreign Affairs Reform and Restructuring Act (FARRA), 382

Foreign Operations Export Financing, and Related Programs Appropriations Act, 203–204

Foreign policy

as basis for deportability, 138–139

as basis for inadmissibility, 102

Form EOIR-33, Notice of Address Change, 38, 46, 447

Form I-221, Order to Show Cause
charging document, 12
proper service, 12

Form I-222, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge, 12–13

Form I-601, Waivers of Inadmissibility Grounds in Removal Proceedings, 222–223

Form I-862, Notice to Appear
challenging the NTA, 59–61
charging document, 10–11
proper service, 110

Fourth Amendment
exclusionary rule, 71–74
search and seizure, 76–84

Fraud and misrepresentation
document fraud as deportability ground, 136–137
INA §212(i) inadmissibility waivers, 219–220
INA §237(a)(1)(H) deportability waivers, 232–234
as inadmissibility ground, 110–114, 117–118

Freedom of Information Act (FOIA)
requests, 27–30

Frivolous applications for asylum, 360–361

G

Genocide or Nazi-sponsored persecution, participation in
as basis for deportability, 138–139
as basis for inadmissibility, 104–105

Good moral character
cancellation of removal for abused women and children, 282–284
cancellation of removal for non-LPRs, 265–266

NACARA §203 suspension/cancellation, 297–298
types of evidence, 305
VAWA cancellation of removal, 282–284

Grounds of deportability. *See also specific crimes and concepts*
generally
criminal, 159
non-criminal, 130
alien smuggling, 134
citizenship, false claims of, 137
conditional permanent residence, termination of, 133–134
criminal, 159–174
pardons, 169
criminal grounds
evidence and elements, 63–70
document-related grounds, 136–137
failure to maintain status, 133
inadmissible aliens, 130–131
marriage fraud, 135–136
non-criminal, 129–140
participation in genocide, 138–139
presence in U.S. in violation of law, 132
public-charge grounds, 139
security and related grounds, 138
voting unlawfully, 140

Grounds of inadmissibility. *See also specific crimes and concepts*
criminal grounds, 141–159
evidence and elements, 63–70
INA §212(h) waivers, 216–221
false claim to citizenship, 114–116
health-related grounds, 94–98
illegal entrants and immigration violators, 109–118
labor protection grounds, 108–109
membership in totalitarian or Communist party, 103–104
miscellaneous grounds, 129
national security, 98–105
noncriminal, 91–129
participation in genocide, 104–105
public-charge grounds, 105–108
unlawful presence and aliens previously removed, 119–129

Guatemalans. *See* NACARA

H

Haitian Refugee Immigration Fairness Act (HRIFA), 50, 201–203

Hardship. *See* Extreme hardship

Health-related grounds of inadmissibility, 94–98
waivers, 214–216

Hearings

bond hearings, 411–419
in absentia hearings, 43–44
individual hearings, 40–43
Joseph hearings, 416–417
master calendar hearings, 36–38
pre-hearing motions, 31–36

High Commissioner of Refugees (UN), 204

High-speed flight
as deportability ground, 169

Humanitarian asylum, 323–325

Human trafficking
as deportability ground, 173
as inadmissibility ground, 173

I

ICE. *See* U.S. Immigration and Customs Enforcement

Illegal Immigration Reform and Immigration Responsibility Act (IIRAIRA)

Act's effect on removal proceedings, 7–8, 219–220

Immigration Advocates Network (IAN), 18

Immigration Court
jurisdiction, 44–45, 195, 296–299
stays of removal, administrative review, 453
trial skills, 471–487. *See also* Trial skills

Immigration Court Practice Manual, 18–19, 38–39

Immigration Judge Benchbook, 21

Immunizations, lack of
as inadmissibility ground, 95–96
waivers, 215–216

INA §212(c) relief, 251–257
application for, 257
background, 251–253
eligibility, 253–255

In absentia hearings, 43–44

In absentia orders
motions to rescind or reopen, 439–450

Inadmissibility
as basis for deportability, 130–131
burden of proof, 92–93
deportability vs., 8–10

evaluating charges of inadmissibility, 93
 grounds of. *See* Grounds of inadmissibility
 overview, 91–92
Individual hearings, 40–43
Intensive Supervision Appearance Program (ISAP), 46
Internal relocation, 321–323

J

Joseph hearings, 416–417
Judicial removal orders, 50
Judicial review, 455–470
 of administrative removal orders, 469
 AG decisions to begin proceedings, adjudicate cases, or execute removal orders, 462–463
 asylum cases, 460–462
 court of appeals review, 458–470
 criminal aliens, 462
 discretionary relief, 459–462
 of expedited removal of inadmissible aliens, 466–468
habeas review in district court, 456–458
 of judicial removal orders, 469–470
mandamus petitions, 470
 of nationality claims, 468
 REAL ID Act, effect of, 456–463
 of removal orders in criminal proceedings, 468–469
 rules of procedure, 463–466
Jurisdiction of EOIR/immigration court, 44–45, 195, 296–299
Juveniles. *See* Minors

L

Labor protection
 basis for inadmissibility, 108–109
Laotian nationals
 adjustment of status, 203–204
Lawful permanent residents (LPRs)
 adjustment. *See* Adjustment of status relief from removal. *See specific types of relief*
Legal services
 right to receive list of available services, 18
LPRs. *See* Lawful permanent residents

M

Mandamus petitions, 470
Marriage fraud
 as deportability ground, 135–136
Master calendar hearings, 36–38
Mental disorders
 as inadmissibility ground, 96
 waivers, 214
 special rules for mentally incompetent persons in removal proceedings, 26–27
Military Selective Service Act, 171
Minors
 adjustment of status for special immigrant juveniles, 182
 cancellation of removal for abused children, 274–291
 child abuse as deportability ground, 172
 CMT convictions, exceptions for, 142–143, 151
 Cuban Refugee Adjustment Act of 1966, 200–201
 Deferred Action for Childhood Arrivals (DACA), 127, 356–357, 494–495, 497, 499
 juvenile delinquency as deportability grounds, 142
 NACARA relief, 293
 removal proceedings, 22–26
 waivers of inadmissibility, 229–230
Misrepresentation. *See* Fraud and misrepresentation
Moral character. *See* Good moral character
Motions
 to continue in adjustment cases, 185–186
 to dismiss, 88–89
 to dismiss in adjustment cases, 187–188
 in limine, 85
 pre-hearing, 31–36
 to remand on BIA appeals, 426–427
 to reopen/reconsider, 427–451
 asylum eligibility, 437–438
 effect on period of voluntary departure, 406–407
 equitable tolling, 431–434
 INA §212(c) relief, 257
in absentia orders, 439–450
 NACARA, 303–304
 procedure and content, 434–437
 purpose, 427–429

time and numerical limits, 429–431
 VAWA, 438–439
 to suppress evidence, 70–87
 preparation of, 84–86
 to terminate based on prosecutorial discretion, 88–89
Multiple criminal convictions
 as deportability ground, 160
 as inadmissibility ground, 158

N

NACARA (Nicaraguan and Central American Relief Act)
 NACARA §202 adjustment, 175–176
 NACARA §203 suspension/cancellation, 291–306
ABC class membership, 295
 application process, 302–303
 bars to NACARA cancellation relief
 failure to comply with immigration proceedings, 301–302
 immigration violations, 300–301
 bars to NACARA suspension relief
 failure to comply with immigration proceedings, 301–302
 immigration violations, 299–300
 burden of proof, 304
 continuous physical presence, 296–297
 types of evidence, 305
 deadline for applications, 305–306
 departures, 297
 dependent spouses and children, 293
 Eastern Europeans (former Soviet bloc), eligibility, 291–292, 293
 extreme hardship, 298–299
 types of evidence, 305
 good moral character, 297–298
 types of evidence, 305
 Guatemalans, eligibility, 291–292, 295
 jurisdiction
 Asylum Office jurisdiction, 294–296
 EOIR jurisdiction, 299–302
 motions to reopen, 303–304
 reinstatement of removal, 50
 Salvadorans, eligibility, 291–292, 295
 unmarried sons and daughters, 293–294, 303

National security

National security

- asylum and withholding of removal, statutory bars, 371
- as grounds of deportability, 138
- as grounds of inadmissibility, 98–105

Nazis. *See* Genocide or Nazi-sponsored persecution

Nicaraguans. *See* NACARA

Notice of Address Change (Form EOIR-33), 38, 46, 447

Notice to Appear (NTA) (Form I-862)

- challenging the NTA, 59–61
- charging document, 10–11
- proper service, 11–12

O

Obama administration

- prosecutorial discretion
- DHS memoranda, 491–495
- EOIR memoranda, 495–496

Orderly Departure Program (ODP), 204

Order to Show Cause (OSC) (Form I-221)

- charging document, 12
- proper service, 12

P

Pardons

- inadmissibility and deportability, 169

PATRIOT Act. *See* USA PATRIOT Act

Persecution, 316–320

- asylum and withholding of removal, 316–323
- credible fear of, 308–312, 325–327
- elements of, 316–320
- motivation of persecutor, 327–329
- past persecution
 - fundamental change in circumstances, 320–321
 - internal relocation, 321–323
- persons who have participated in persecution of others, 363–366
- well-founded fear of, 325–327

Petty offenses

- exception to CMT inadmissibility ground, 151

Physical disorders

- as inadmissibility ground, 96
- waivers, 214

Physical presence. *See* Continuous residence/physical presence

Political opinion, as protected ground for asylum, 332–334

Practice tips

- for non-court advocates, 45–48
- obtaining a Certificate of Citizenship, 58
- obtaining a passport, 58–59

Pre-hearing motions, 31–36

Pre-hearing statement, 38

Presence in U.S. in violation of law as deportability ground, 132

Presence in U.S. without permission or parole as ground of inadmissibility, 109–110

Previously removed aliens

- inadmissibility, 119–122

Prior removal order

- ineligibility grounds, 359–360

Prosecutorial discretion, 489–499

- EOIR memoranda, 495–496
- legacy INS memoranda, 490–491
- motions to terminate, 88–89
- Obama administration
 - DHS memoranda, 491–495
 - EOIR memoranda, 495–496
- Trump administration
 - DHS memoranda, 497–498
 - EOIR memoranda, 498–499
- executive orders, 496–497

Prostitution and commercialized vice

- as inadmissibility ground, 143–144, 159

Protection orders, violation of

- as deportability ground, 172–173
- waivers, 234–235

Public charges

- deportability, 139
- inadmissibility, 105–108

Public Health Service (PHS), 95

R

Race, as protected ground for asylum, 329–330

REAL ID Act

- asylum and withholding provisions, 373
- CAT evidentiary requirements, 391–394
- habeas* provisions, 456–458
- judicial review provisions, 456–463

- removal proceedings, 7
- terrorist activity, 99

Reasonable fear process

- asylum and withholding of removal, 308–310, 312–314
- detention during, 314–315

Registry, 196–198

- application process, 198
- good moral character, 197
- inadmissibility grounds, 197–198
- residence requirements, 196–198

Reinstatement of removal, 50–51

Religion

- protected ground for asylum, 330–332

Removal proceedings, 1–51. *See also*

- Cancellation of removal; INA §212(c) relief; Suspension of deportation; Voluntary departure adjustment-of-status defense. *See* Adjustment of status

appeals, 43, 422–427

basic concepts, 1–10

burden of proof, 13–14, 62–63

challenging the NTA, 59–61

changes to laws affecting, 7

charging documents, 10–11

conceding vs. contesting removability, 59–63

congressional power to deport, 3–4

consequences of being in proceedings, 44–45

contesting removability, 53–90

U.S. citizenship, determination of, 53–57

DACA, 127, 356–357, 494–495, 497, 499

deportability vs. inadmissibility, 8–10

discovery, 27–30

evidence required for criminal grounds for removal, 63–70

failure to attend as ground of inadmissibility, 110

IJ decisions, 43

in absentia hearings, 43–44

inadmissibility vs. deportability, 8–10

individual hearings, 40–43

law changes affecting, 7

master calendar hearings, 36–38

motions to dismiss, 88–89

motions to terminate, 88–89

orders of removal

reinstatement of removal, 50–51

review of. *See* Appeals to BIA; Judicial review
 types of, 48–51
 placement in removal proceedings, common scenarios, 5–7
 practice tips, 45–48
 pre-hearing motions, 31–36
 pre-hearing statement, 38
 prosecutorial discretion, 489–499
 reinstatement, 50–51
 rights in proceedings, 14–27. *See also specific rights*
 service, 11–12
 stays, 454
 termination to proceed with adjustment before USCIS, 187–188

S

Sabotage

as deportability ground, 171
 as inadmissibility ground, 99

Safe third country option, 358–359**Salvadorans**. *See* NACARA**Search and seizure**

arrests vs. mere questioning vs. detentive questioning, 81–84
 motions to suppress, 76–87
 warrant requirement, 76–84

§212(c). *See* INA §212(c) relief**§245(i)**. *See* Adjustment of status**Sentencing**

determination of “conviction.” *See* Convictions

Sex crimes

as inadmissibility ground, 155

Sex offenders

failure to register as deportability ground, 169

Smugglers. *See* Alien smuggling**Stalking**

as deportability ground, 173
 waivers, 234–235

Status

adjustment of. *See* Adjustment of status
 failure to maintain, as deportability ground, 133

Stays of removal

administrative review, 451–454
 BIA, 452–453
 ICE ERO, 454
 Immigration Court, 453

Stop and frisk. *See* Search and seizure**Stowaways**

inadmissibility, 116

Student visa violators

inadmissibility, 118

Suspension of deportation

IIRAIRA changes, 259–260
 NACARA §203. *See* NACARA

T

Temporary protected status (TPS), 127, 499**Terrorist activity**

as deportability ground, 138
 as inadmissibility ground, 99–102, 372–376
 ineligibility for asylum, 372–376
 REAL ID Act, 99
 USA PATRIOT Act, 99, 373–374

Three- and ten-year bars. *See* Unlawful presence**Torture Convention**. *See* Convention Against Torture**Trading with the Enemy Act of 1917**, 171**Traffickers in controlled substances**
 inadmissibility, 158–159**Traffickers in persons**

as deportability ground, 173
 as inadmissibility ground, 173
 Trafficking Victims Protection Reauthorization Act of 2008 (TVPRRA), 25–26, 309

Translation services

pre-hearing document translation, 39
 right to, 19–20

Treason

as deportability ground, 171

Trial skills

generally, 471–487
 closing arguments, 486–487
 opening statements, 471–472
 witness examination, 472–486
 cross, 483–484
 direct, 478–483
 expert witnesses, 481–483
 preparing witnesses, 485–486
 re-direct, 484
 rules, 474–478

Trump administration

prosecutorial discretion
 DHS memoranda, 497–498
 EOIR memoranda, 498–499
 executive orders, 496–497

Voluntary departure (VD)

U

U nonimmigrants

contesting removal, 88–89

Unlawful presence, 122–129

determination of, 123–129
 reentry without authorization, 127–129
 three- and ten-year bars, 122–129
 VAWA exception, 128
 waivers, 221–222

U.S. Department of Homeland Security (DHS)

creation of, 2–3

U.S. Immigration and Customs Enforcement (ICE)

creation of, 2–3
 Johnson memo on enforcement priorities, 494–496
 Morton memo on adjustment of status, 188–190
 Morton memo on administrative closure, 491–493, 495–496

USA PATRIOT Act

removal proceedings, 7
 terrorist activity, 99, 373–374

V

Vaccinations, lack of

as inadmissibility ground, 95–96
 waivers, 215–216

Vietnamese nationals

adjustment of status, 203–204

Violence Against Women Act

(VAWA). *See also* Traffickers in persons
 adjustment of status, 181
 cancellation of removal. *See* Cancellation of removal
 exception to unlawful presence, 128, 226
 motions to reopen administrative review, 438–439
 removal proceedings, 7

Visa Waiver Program, 418**Voluntary departure (VD)**, 395–410

application for, 401
 compliance, establishment of, 408–409
 failure to depart, consequences of, 402–405
 period of voluntary departure
 effect of appeal to BIA, 405–406
 effect of motions to reopen and petitions for review, 406–407

Voting unlawfully

post-*Dada* regulations, 407–408
prior VD grant, effect of, 409
requirements
 at conclusion of removal proceedings, 398–401
 prior to conclusion of removal proceedings, 396–398
voluntary return vs., 409–410

Voting unlawfully

as deportability ground, 140

W

Waivers, 207–235

of Communist/totalitarian party membership ground of inadmissibility, 104
for criminal inadmissibility [INA §212(h)], 216–221
of deportation grounds, 232–235
discretion, exercise of, 208–209
for domestic violence deportation grounds, 234–235
Form I-212 consent to reapply for admission, 230–232
Form I-601 application, 222–223
for fraud or misrepresentation
 INA §212(i) inadmissibility waiver, 219–220

INA §237(a)(1)(H) deportability waiver, 232–234
hardship waivers, 209–213
 documenting extreme hardship, 211–213
for health-related inadmissibility grounds [INA §212(g)], 214–216
 communicable diseases, 214
 physical or mental disorders, 214
 vaccination requirement, 215–216
of inadmissibility grounds, 214–235
for juveniles [INA §101(a)(27)(J)], 229–230
nonimmigrant waiver [INA §212(d)(3)], 226–227
for refugees and asylees [INA §209(c)], 227–228
for smuggling, 220–221
 INA §237(a)(1)(E) deportability waiver, 234
special forms of relief, 228–230
for stalking deportation grounds, 234–235
strategy and procedure, 222–223
for unlawful presence [INA §212(a)(9)(B)(v)], 221–222
 provisional waivers, 223–226

VAWA waivers [INA §212(a)(9)(C)], 226
for violation of protection order grounds of deportation, 234–235

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 24, 309

Withholding of removal. *See* Asylum and withholding of removal

Women. *See also* Violence Against Women Act Battered Immigrant Women Protection Act of 2000, 173

cancellation of removal for abused women and children, 274–291
 annual cap, 289
 battery or extreme cruelty, 279–281
 child applicants, 278–279
 continuous presence, 282
 evidence, 289
 extreme hardship, 286–288
 foreign laws, 288
 good moral character, 282–284
 inadmissible/deportable applicants, 284–285
 marital relationship, 277–278
 self-petitioners, 289–291