

## IMMIGRATION CONSEQUENCES

**Akiko** came to the United States on a visitor's visa from Japan in 2000, when she was only six years old, to visit her aunt. While Akiko was in the U.S., her parents died in a car accident in Japan. Akiko's aunt, a U.S. citizen, adopted Akiko when Akiko was nine years old. Thinking that Akiko had automatically become a U.S. citizen, Akiko's aunt did not try to help Akiko to immigrate. Recently, when she learned Akiko was undocumented, she hired an immigration attorney to help. Akiko's family-based petition has been approved, but she is not yet a lawful permanent resident. Her green card application is pending. She comes to your attention because she was arrested and charged with heroin possession in juvenile court. She reveals to you that she has used drugs off and on, but she is not a drug addict. She might be sent to a drug court, or she may simply plead guilty to the charge and be placed on probation.

How might Akiko's chances for gaining lawful permanent residency be affected by these drug issues? How might they change if she were charged with drug sales or if her case had been handled in district court rather than juvenile court? (Any idea how it might be affected if she learned that she were HIV positive?)

**Jesse** is a long-time lawful permanent resident. He was born in El Salvador, but has lived here for twelve of his sixteen years. He associates with 18th Street gang members, and has a recognizable tattoo on his face. He has a long delinquency record, which includes six vandalism charges as well as two sustained charges of aggravated assault. He is picked up by ICE during a workplace raid, where Jesse's employment application states that he is a U.S. citizen. Jesse is held by ICE while they confirm that he was granted lawful permanent resident status in 1999. They take his prints and run a background check on him, however, and see his multiple arrests. An ICE agent is now considering whether he must release Jesse, or whether Jesse may be placed in removal proceedings.

Do Jesse's sustained petitions for violent crimes and his gang affiliation make him deportable? What if instead of vandalism Jesse had six sustained charges for being under the influence of a controlled substance? Is there anything Jesse's parents can do to help?

**Lou** was born in Ukraine. He became a U.S. citizen by operation of law after gaining lawful permanent residency through SIJS and then being adopted by U.S. citizen parents. Long before the adoption, however, Lou was sexually abused. It has been discovered now that Lou has been sexually assaulting his young neighbor. Lou was arrested and one charge of sexual abuse of a minor was sustained against him. During counseling, it has come out that Lou has a pattern of sexually abusing other boys. He is currently living in a group home with a special program for youth with sustained petitions like Lou's, and he is complying with all the terms of his probation.

What, if any, effect does Lou's delinquency disposition have on his immigration situation? How might Lou's age factor into the answer? How might the analysis change if Lou were not a U.S. citizen but – like Akiko above – had a pending green card application instead?