

Chapter 2

Determining Your Client's Citizenship and Immigration Status

2.1 Determining Whether Your Client Is a U.S. Citizen	2-2
A. Generally	
B. Obstacles to Understanding Your Client's Status	
C. Who Are U.S. Citizens	
2.2 Determining Your Noncitizen Client's Particular Immigration Status	2-4
A. General Considerations	
B. Lawful Permanent Resident Status	
C. Refugee or Asylee Status	
D. Individuals with Temporary Lawful Status or Pending Application for Status	
E. Individuals without Immigration Status	
2.3 Additional Interview Objectives for a Noncitizen Client	2-8
A. Gather Additional Information from Your Client	
B. Gather Your Client's Criminal Record	
C. Assess Your Client's Goals in the Case	
D. Advise Your Clients of Their Rights	
2.4 Sample Questions to Identify Client's Immigration Status and Eligibility for Relief	2-10
Appendix 2-1: Sample Images of Immigration Documents	2-12
Appendix 2-2: Sample Intake Form	2-18

When representing any new client in criminal court proceedings, a criminal defense attorney should as a preliminary matter determine whether or not the client is a U.S. citizen. If the client is *not* a U.S. citizen, the disposition of the criminal case may subject the client to adverse immigration consequences.

Do not make the mistake of assuming that your client is a U.S. citizen. Many noncitizens have lived in the United States their entire lives and do not exhibit an accent. Thus, it is paramount to ask every client about his or her citizenship, not just those clients with discernible accents or who

appear “foreign.” If the person was born in the U.S., the inquiry need go no further. Only if the person was not born in the U.S. will further questions be necessary.