

QUICK REFERENCE CHART FOR DETERMINING IMMIGRATION CONSEQUENCES OF SELECTED CALIFORNIA OFFENSES

May-04

CALIFORNIA CODE SECTION	OFFENSE	AGGRAVATED FELONY	CRIME INVOLVING MORAL TURPITUDE	OTHER DEPORTABLE, INADMISSIBLE GROUNDS	ADVICE
Business & Professions §4324	Forgery of prescription, possession of any drugs	Felony and misd conviction may be drug trafficking AF if it involves controlled substances (CS). Conviction of any forgery offense with 1-yr sentence imposed is AF.	Might be divisible: forgery is CMT but poss of forged drug possibly not.	Deportable, inadmissible for CS conviction if record of conviction identifies the CS.	To avoid CS and AF conviction, avoid info in ROC identifying CS, or see PC 32, 529(3), or 1st offense simple possession (see H&S 11357). Reduction to misdemeanor permits imm counsel to argue not an AF but is not safe. To avoid forgery AF, avoid 1-yr sentence. See Notes "Safer Pleas" and "Drug Offenses"
Business & Professions §25658(a)	Selling liquor to a minor	Not AF.	Not CMT.	No.	
Business & Professions §25662	Possession, purchase, or consumption of liquor by a minor	Not AF.	Not CMT.	No, except multiple convictions could be evidence of alcoholism, an inadmissibility grnd	
Calif. Health & Safety §11173(a)	Prescription for controlled substance (CS) by fraud	Felony conviction (under H&S 11371.1) is AF	May be divisible, e.g. 11173(b) not CMT	Deportable, inadmissible for CS conviction	
H&S §11350(a), (b)	Possession of controlled subsatnce	Felony conviction is AF, misdemeanor is not	No.	Deportable, inadmissible for CS conviction.	Plead to misdemeanor or try to keep record of conviction vague between felony and misdemeanor to prevent Agg Felony. See advice for H&S 11357

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H&S §11351	Possession for sale	Yes AF as CS trafficking conviction	Yes CMT as CS trafficking offense	Deportable, inadmissible for CS conviction	To avoid AF attempt to plead down to first or at least misdo simple poss (see H&S 11357), or H&S 11365, 11550; or consider pleading up to offer to sell, see advice in H&S 11352. Or plead to PC 32 with less than 1 yr sentence to avoid AF, deportability and perhaps inadmissibility. See Note "Drug Offenses" and "Safer Pleas."
H&S §11351.5	Possession for sale of cocaine base	Yes AF as CS trafficking conviction	Yes CMT as CS trafficking offense	Deportable, inadmissible for CS conviction	See advice on H&S 11351 and Note "Drug Offenses."
H&S §11352(a)	Sale of controlled substances	Divisible: "offering" to sell, distribute is not AF while sell, distribute is AF. Transport for personal use is not AF.	Yes CMT as CS trafficking offense (except transport for personal use)	Deportable, inadmissible for CS conviction, except that imm atty can argue against "offering" being a deportable CS offense. Offering to transport may not be inadmissible CS offense. Transporting for personal use is deportable, inadmissible CS offense.	See discussion in Note "Drug Offense." In sum, offering to commit any drug offense, including sale, is not an AF, and imm atty can argue not deportable CS offense. Best plea is to whole statute in the disjunctive so ROC does not preclude that plea was to offer to transport/transport personal use. This will avoid AF, plus will allow imm attorney to argue it is not a deportable or inadmissible CS conviction. PC 32 with less than 1 yr prevents agg felony and deportability.

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H&S §11357	Marijuana, possession	Misdemeanor is not AF, Felony (possession of hashish) is AF	Not CMT	Deportable, inadmissible for CS conviction	See discussion in Note "Drug Offense." In sum, where no CS priors, a FIRST conviction for felony or misdo simple poss of any CS (or a less serious CS offense) is eliminated by withdrawal of plea as part of DEJ, Prop 36, PC 1203.4, etc. But a SECOND conviction for simple poss cannot be so eliminated, and if it is a felony it is an Agg Felony. To avoid the AF reduce to a misdo where permitted, or seek an alternate plea: attempt to plead down to 11365, 11550, etc (which as a second offense cannot be eliminated by DEJ etc. but at least will not be an AF); plead to P.C. § 32 or offense where the CS not identified; or consider pleading up to offering to transport/ transportation for personal use (see advice in H&S 11352).
H&S §11358	Marijuana, Cultivate	Felony conviction is controlled substance (CS) AF	Might be held CMT if ROC shows intent to sell.	Deportable and inadmissible for CS conviction	Plead to a 1st offense simple possession (see H&S 11357); plead up to offer to sell (see H&S 11360); to accessory with less than 1-yr imposed (see PC 32); to non-drug offense. See Notes "Safer Pleas" and "Drug Offenses"
H&S §11360(a)	Marijuana - sale, give, transport, offer to	Divisible: offering to sell if not AF while sale is. Transport personal use not AF	Yes CMT as CS trafficking offense (except transport for personal use)	See H&S 11352.	Sale is divisible statute, see advice in H&S 11352 and Note "Drug Offenses."
H&S §11364	Possession of drug paraphernalia	Not AF.	Not CMT	Deportable, inadmissible for CS conviction	Because this is an offense "less serious" than simple possession, a first conviction is eliminated through withdrawal of plea under DEJ, Prop 36, PC 1203.4 etc. See advice on H&S 11357 and Notes "Drug Offenses" and "Safer Pleas."

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H&S §11365	Presence where CS is used	Not AF.	Not CMT	Deportable, inadmissible for CS conviction	See advice on H&S 11364 and 11357, and Notes "Drug Offenses" and "Safer Pleas"
H&S §11368	Forged prescription to obtain narcotic drug	Felony conviction is CS AF, misdemeanor not. Forgery offense with 1-yr sentence is AF.	Maybe not CMT; fraud intent not element of forged prescription	Deportable and inadmissible for CS conviction	Reduce to misdemeanor to avoid Agg Felony; see also advice for H&S 11173. Avoid 1-yr sentence for forgery; see Note "Sentence."
H&S §11377	Possession of controlled substance	Misdemeanor not AF, Felony is AF	Not CMT	Deportable, inadmissible for CS conviction	To avoid Agg Felony reduce to misd; see also advice in H&S 11357 and Note "Drug Offenses".
H&S §11378	Possession for sale CS	Yes	Yes CMT as CS trafficking offense	Deportable, inadmissible for CS conviction	See advice on H&S 11351 and Note "Drug Offenses"
H&S §11379	Sale, give, transport, offer to, controlled substance	Divisible: offering to sell is not AF while sale is. Transport personal use not AF	Yes CMT as CS trafficking offense (except transport for personal use)	See H&S 11352	Sale is divisible statute, see advice in H&S 11352 and Note "Drug Offenses."
H&S §11550	Under the influence controlled substance (CS)	Under influence not AF. Felony conviction of under influence with gun 11550(e) might be AF as COV under 18 USC 16(b) if 1-yr sentence imposed.	Not CMT	Deportable, inadmissible for CS conviction. H&S 11550(e) also deportable for firearms offense.	For 11550(a)-(c) see advice on H&S 11364 and 11357, and Notes "Drug Offenses" and "Safer Pleas." To avoid firearms offense avoid ROC showing 11550(e) is conviction. To avoid threat of 11550(e) as Agg Felony, reduce to misd under PC 17 and avoid 1-yr sentence.
Penal §21a	Attempt	Yes AF if principal offense is. If principal needs 1-yr sentence imposed to be AF, attempt also needs 1 yr imposed.	CMT if principal offense is. See Advice re advantage of half sentence for CMT deport ground	Takes on character of principal offense.	Attempt takes on the character of the principal offense. Because attempt has half the potential sentence (PC 644(b)) it is useful to prevent CMT wobbler misdemeanor from being an offense with a potential sentence of 1 yr. See Note "Crimes Involving Moral Turpitude."

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Penal §32	Accessory after the fact	Only if 1 yr sentence imposed	Might be held CMT	Accessory does not take on character of principal offense so e.g. accessory to drug/violent offense is not a deportable conviction. But if principal offense involves drug trafficking, govt may assert conviction is "reason to believe" person inadmissible for aiding drug trafficker.	To avoid agg felony avoid 1 yr sentence imposed; see Note "sentence" (in contrast, misprision of felony can take 1 yr sentence). Good plea to avoid e.g. drug, violence, firearms conviction. For further discussion of accessory see Note "Safer Pleas"
Penal §92	Bribery	Yes AF if a sentence of 1-yr or more is imposed.	Yes CMT.	No.	
Penal §118	Perjury	Yes AF if a sentence of 1-yr or more is imposed.	Yes CMT	No.	
Penal §136.1(b)(2)	Persuade a witness not to file complaint	Appears not to be an AF as COV, since no force required.	Not CMT	If not COV, then not a DV offense even if DV-type victim.	Appears to be a good substitute plea with no imm consequences, but a strike w/ high exposure. For that reason can use for serious charges. See Note "Safer Pleas." See also PC 236, not a strike.
Penal §140	Threat against witness	AF if 1-yr sentence imposed	Yes CMT	If COV, a domestic violence offense if committed against DV type victim	To avoid AF avoid 1-yr sentence; see Note "Sentence." To avoid AF and DV deportability ground see PC 136.1(b)(1), 236, 241(a).
Penal §148	Resisting arrest	148(a)(1) is not AF. Felony conviction of 148(b)-(d) w/ 1-yr or more imposed might be AF as COV under 18 USC 16(b)	148(a)(1) is not CMT, 148(b)-(c) ought not to be ("reasonably should have known" other was peace officer)	Sections involving removal of firearm from officer may incur deportability under firearms ground. See Note "DV, Firearms Grounds"	Plead to 148(a)(1). If plea to (b)-(d), avoid possible AF by obtaining misdo conviction, reducing felony to misdo, and/or obtaining sentence less than 1 yr; see Note "Sentence."

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Penal §182, 184	Conspiracy	If principal offense is AF-type offense, conspiracy is. If offense requires 1-yr or more sentence to be AF, conspiracy also does.	If principal offense is CMT, conspiracy is	Conspiracy takes on consequences of principal offense, e.g. controlled substance, firearm.	Same consequence as principal offense. If 1yr sentence needed for AF, avoid the 1-yr.
Penal §187	Murder (first or second degree)	Yes AF	Yes CMT	COV is domestic violence offense if committed against DV type victim	See manslaughter
Penal §192(a)	Manslaughter, voluntary	Yes AF as COV, only if 1-yr or more sentence imposed	Yes CMT	COV is domestic violence offense if committed against DV type victim	To avoid AF, avoid 1-yr sentence imposed; see Note "Sentence." To avoid CMT see PC 192(b).
Penal §192(b)	Manslaughter, involuntary	Yes AF as COV, only if 1-yr or more sentence imposed	Not CMT	COV is domestic violence offense if committed against DV type victim	To avoid AF, avoid 1-yr sentence imposed; see Note "Sentence." .
Penal §203	Mayhem	Yes AF only if 1-yr or more sentence imposed	Yes CMT	COV is domestic violence offense if committed against DV type victim	Avoid 1-yr sentence to avoid AF; see Note "Sentence." See also PC 236 and 136.1(b) and Note "Safer Pleas"
Penal §207	Kidnapping	Yes AF only if 1-yr or more sentence imposed. (But see Advice re force and fear.)	Yes CMT	COV is domestic violence offense if committed against DV type victim	See advice for PC 203. If 1-yr sentence imposed, keep ROC vague between force or other fear so imm counsel can attempt to argue that fear is not necessarily a COV.
Penal §211	Robbery (first or second degree) by means of force or fear	Yes AF if 1-yr or more sentence imposed (But see Advice re force and fear.)	Yes CMT	COV is domestic violence offense if committed against DV type victim	See advice for PC 203. If 1-yr sentence imposed, keep ROC vague between force or fear so imm counsel can attempt to argue that fear is not necessarily a COV.
Penal §220	Assault, with intent to commit rape, mayhem, etc.	Assault to commit rape may be AF as attempted rape regardless of sentence. Other offenses are AF (as COV) only if 1-yr or more sentence imposed	Yes CMT	COV is domestic violence offense if committed against DV type victim	Intent to commit rape may be treated as attempted rape, which is an AF regardless of sentence. See PC 243.4 w/ less than 1 yr. For other offenses avoid 1-yr sentence to avoid AF; see Note "Sentence." See also PC 236 and 136.1(b); to avoid CMT see 243(d) (with less than 1 yr sentence), and see Note "Safer Pleas."

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Penal §236, 237	False imprisonment (felony)	Divisible: a COV if it involves violence or menace, but ought not to be so held if involves fraud or deceit. A COV with a 1-yr or more sentence imposed is an AF.	Yes CMT	A COV (here with violence or menace) is domestic violence offense if committed against DV type victim	Should not be held COV if record of conviction does not identify violence/menace. If COV, avoid AF by avoiding 1-yr sentence for any one count. To avoid CMT, see misdemeanor false imprisonment
Penal §236, 237	False imprison (misd)	Appears not to be an AF as COV, since no force required.	Appears not to be a CMT	No	Appears to be good substitute plea to avoid crime of violence in DV cases. See discussion in Note: "Safer Pleas." It is not clear that reducing felony 236 to a misdemeanor will avoid CMT status.
Penal § 240, 241(a)	Assault, simple	Not AF. (COV requires 1-yr sentence to be AF; 6 month maximum here)	Not CMT	COV is domestic violence offense if committed against DV type victim, but simple assault may not be COV absent info in record of conviction.	To avoid COV for DV purposes, see advice in PC 243(a).
Penal §241(b)	Assault on peace officer etc.	If found to be COV, is an AF if 1-yr sentence imposed	Probably not CMT	No	Avoid 1-yr sentence to avoid AF; see Note "Sentence."
Penal §243(a)	Battery, Simple	Not AF (COV requires 1-yr sentence to be AF, 6 month maximum here)	Not CMT	COV is domestic violence offense if committed against DV type victim, but simple battery may not be COV absent info in record of conviction.	To perhaps avoid COV for DV purposes, keep ROC clear of info showing more than a mere touching. See Notes "Battery not COV?" and "Domestic Violence." See also PC 236 (misd), 602.5
Penal §243(b), (c)	Battery on a peace officer, fireman etc.	Yes AF as COV only if 1-yr or more sentence imposed	243(b) not CMT, 243(c) (with injury) may be.	No.	Avoid 1-yr sentence to avoid AF; see Note "Sentence." ?Keep ROC vague between (b) and (c) to avoid record of conviction.
Penal §243(d)	Battery with serious bodily injury	Yes AF as COV only if 1-yr or more sentence imposed	Not CMT; good substitute for avoiding CMT.	COV is domestic violence offense if committed against DV type victim	See discussion in Note "Safer Pleas." Avoid 1-yr sentence to avoid AF; see Note "Sentence." See also PC 236, 136.1(b), potentially 243(a) to avoid COV.

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Penal §243(e)(1)	Battery against spouse, former date, etc.	Yes AF as COV only if 1-yr or more sentence imposed	Yes CMT (But imm atty may argue that where victim was date or ex-date, it is not CMT)	Deportable under DV ground (arguably only if ROC establishes battery went beyond mere touching). Note: court finding of violation of DV protective order also causes deportability; see Note "DV"	See "Note: DV." To possibly avoid DV, keep record clear of info that battery was beyond mere touching. See Note "Is Battery a COV?" and advice for PC 243(a). (Imm atty at least can argue not CMT if ROC permits possibility that victim was date/ex-date, because less violation of familial trust. See Matter of Tran, 21 I&N 291 (BIA 1996)).
Penal §243.4	Sexual battery	Yes AF as COV only if 1-yr or more sentence imposed	Yes CMT	COV is domestic violence offense if committed against DV type victim	Avoid 1-yr sentence to avoid AF; see Note "Sentence." See PC 243(d) to avoid CMT. See PC 136.1(b), 236 to avoid CMT and COV.
Penal §245	Assault, with a deadly weapon (firearms or other) or force likely to produce great bodily harm	Yes AF as COV only if 1-yr or more sentence imposed.	Yes CMT	COV is domestic violence offense if committed against DV type victim. Section 245(a)(2) and others involving firearms bring deportability under firearms ground.	Avoid 1-yr sentence to avoid AF; see Note "Sentence." To avoid firearms grnd, keep record of conviction clear of evidence that offense was 245(a)(2); see also PC 12020, 236, 243(d) and 136.1(b) and Notes "Safer Pleas" and "DV, Firearms Grounds."
Penal §261	Rape	Yes AF, regardless of sentence imposed.	Yes CMT	COV is domestic violence if committed against DV type victim.	See PC 243(d) (not CMT) and 243.4 (both not Agg Felonies if less than 1 yr sentence), 236, 136.1(b)(1) (can support 1 yr sentence) and Note "Safer Pleas".
Penal §261.5	Unlawful sexual intercourse (statutory rape)	BIA holds even misd. with no jail is "sexual abuse of a minor" AF, but 9th Cir considering issue at this writing.	Yes CMT	COV is domestic violence if committed against DV type victim. This also might be charged under DV deport ground as child abuse.	Unless 9th Cir reverses BIA, even a misd is an Agg Felony. See PC 243(a), 243(d), 243.4, 236, 136.1(b)(1) and Note "Safer Pleas."
Penal §262	Spousal Rape	Yes AF, regardless of sentence imposed.	Yes CMT	Deportable under DV ground.	See PC 243(d), 243.4, 236, 136.1(b)(1) and Note "Safer Pleas."
Penal §270	Failure to provide for child	Not AF.	Not CMT.	May be deportable under DV ground for child neglect.	
Penal §272	Contributing to the delinquency of a minor	Not AF, except possibly as sexual abuse of a minor if record of conviction shows lewd act.	Divisible: may be CMT if record of conviction shows lewdness	With lewdness, possibly deportable under DV for child abuse.	Keep record of conviction clear of reference to lewd act.

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Penal §273a(a)	Child injury, endangerment	Divisible as a COV: infliction of physical pain may involve use of force but other actions, including placing a child where health is endangered, do not. A COV with 1-yr sentence imposed is an AF.	Divisible: inflicting pain is CMT, but unreasonably risking child's health is not. See disc. in P v. Sanders (1992) 10 Cal.App.4th 1268 (as state CMT case, not controlling but informative).	Even minor offenses probably deportable under DV ground as child abuse or neglect.	To avoid agg felony, avoid 1-yr sentence; see Note "Sentence." To avoid Agg Felony keep record of conviction clear of info establishing use of force; to avoid CMT keep record open to possibility that it was merely unreasonable action; see Note "Record of Conviction." If this arose from traffic situation (lack of seatbelts, child unattended etc.), defendant can alternatively plead to traffic etc. offense without element involving minors and take counseling and other requirements as a condition of probation, without the offense acquiring immigration consequences.
Penal §273d	Child, Corporal Punishment	Yes AF as COV if 1-yr sentence imposed	Yes CMT	Deportable under DV ground for child abuse	To avoid agg felony, avoid 1-yr sentence; see Note "Sentence." See 243(d) with less than 1-yr sentence to avoid CMT.
Penal §273.5	Spousal Injury	Yes, AF as a COV only if 1-yr or more sentence imposed	Yes, CMT.	Deportable under DV ground regardless of sentence. Note: Court finding of violation of DV protective order also is DV deportable offense.	To avoid AF avoid 1-yr sentence imposed. To avoid AF and DV plead to non-COV such as PC 236, 136.1(b)(1); can accept batterer's program probation conditions on these. See 243(e)(1) and "Note: Domestic Violence." To avoid CMT see PC 243(d).
Penal §281	Bigamy	Not AF	Yes CMT	No	
Penal §288	Lewd act with child	Yes AF as sexual abuse of a minor, regardless of sentence.	Yes CMT	Deportable under the DV ground for child abuse	PC 243.4 with less than 1-yr, 136.1(b)(1), 236. See Note "Safer Pleas."
Penal §314(1)	Indecent exposure	Not AF	Probably CMT	No	See disturb peace, trespass, loiter.
Penal §403	Disturbance of public assembly or meeting	Not AF.	Not CMT.	No.	
Penal §415	Disturbing the peace	Not AF.	Probably not CMT	No.	
Penal § 416	Failure to disperse	Not AF	Not CMT	No.	

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Penal §422	Criminal threats (formerly terrorist threats)	Yes AF as COV only if 1-yr or more sentence imposed. Rosales-Rosales v Ashcroft, 347 F.3d 714 (9th Cir. 2003)	Yes CMT	As COV, is a deportable domestic violence offense if committed against DV type victim	Avoid AF by avoiding 1-yr sentence. See Note "Sentence." To avoid COV see PC 236 or 136.1(b)(1), or 241(a) with no info regarding violence. See Note "Safer Pleas."
Penal § 451	Arson	Yes AF as COV only if 1-yr or more sentence imposed	Yes CMT	As COV, can be domestic violence offense if committed against DV type victim	Avoid AF by avoiding 1-yr sentence; see Note "Sentence." See vandalism.
Penal §459, 460	Burglary	Burglary of a structure is AF with 1-yr sentence imposed. Burglary of a car (PC 460(b)) is not AF if record of conviction shows "intent to commit larceny OR any felony," or if less than 1-yr sentence imposed.	Divisible between entry with intent to commit theft (CMT) or any felony (not a CMT as long as 'felony' is not defined as an offense that involves moral turpitude).	Where felony burglary is a COV and there is DV type victim, may be DV offense (but imm counsel will argue crime against property).	Keep record of conviction vague between structure, non-structure; and/or intent to commit theft, any felony. If 460(a) keep ROC vague between entry/illegal entry, but this is no guarantee of avoiding AF. See Notes "Burglary and Theft" and "Record of Conviction." See PC 466.
Penal § 466	Poss burglary tools with intent to enter, altering keys, making or repairing instrument	Not AF.	Probably not CMT, unless ROC shows intent to commit CMT (felonious entry alone is not CMT) Altering, repairing instruments are not CMT.	No.	To avoid possibility of CMT, avoid specific intent on ROC other than felonious entry, or better keep record clear between intent and non-intent sections.
Penal §470	Forgery	Yes AF if 1-yr sentence imposed	Yes CMT.	No.	Avoid AF by avoiding 1-yr sentence; see Note: Sentence. See P.C. 529(3) and Note "Safer Pleas." If \$10,000 loss to victim to fraud, see advice for PC 476(a).

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Penal §476(a)	Bad check with intent to defraud	Yes AF if the loss to the victim was \$10,000 or more; also perhaps if 1-yr sentence imposed, as theft.	Yes CMT	No	Avoid AF by avoiding \$10k loss in ROC, see Note "Burglary, Theft and Fraud." See PC 529(c) to avoid AF, CMT. Avoid 1-yr sentence to avoid possible AF as theft.
Penal §484 et seq., §487	Theft (petty or grand)	Divisible: theft of labor not "theft" for AF purposes. Other subsections are theft AF if 1-yr sentence imposed.	Yes CMT.	No	See Notes "Theft, Fraud" and "CMT." In sum, to avoid AF, avoid 1 yr sent and see also PC 666; see Note "Sentence." If fraud involved, see PC 529(3) and avoid \$10,000 loss to victim. In minor offense try for 602.5. If first CMT, to qualify for petty offense exception to inadmissibility grd reduce felony to misdo and/or plead petty theft; to avoid deportability plead petty theft or attempted misd grand theft to keep maximum possible sentence under 1 yr.
Penal §490.1	Petty theft (infraction)	Not AF.	Yes CMT.	No.	An infraction counts as a CMT offense. To avoid CMT see trespass PC 602.5.
Penal §496	Receiving stolen property	Yes AF if 1-yr sentence imposed	Yes CMT	No	To avoid AF avoid 1-yr sentence; see Note "Sentence."
Penal Code §529(3)	False personation	Appears not to be an AF.	Appears not to be CMT.	No	Possible alternate plea for fraud, forgery, counterfeit. See discussion in "Note: Safer Pleas"
Penal §550(a)	Insurance fraud	Yes AF if offense involves fraud where victim lost \$10,000 or more; perhaps AF as theft if 1-yr sentence imposed.	Yes CMT because fraudulent intent.	No.	See Note "Burglary, Theft, Fraud." To avoid AF, avoid \$10,00 in ROC. See PC 529(3) to avoid AF, CMT. Avoid 1-yr sentence to avoid possible AF as theft; see Note "Sentence."
Penal §594	Vandalism	Possible AF as COV if 1 yr sentence imposed.	Not CMT, except perhaps in case of severe costly damage.	If COV, domestic violence offense if committed against DV type victim. Immigration counsel will argue deportable DV offense must be force agnst person not property.	Relatively minor cases should have no consequences except possibly DV. See e.g. Rodriguez-Herrera v INS, 52 F3d 238 (9th Cir. 1995) (Wash. statute not CMT) and US v Landeros-Gonzalez, 262 F.3d 424 (5th Cir 2001) (graffiti not COV). Avoid 1-yr sentence; see Note "Sentence."

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Penal §602	Trespass misd (property damage, unlawful presence, etc.)	Not AF (even if COV, 1-yr sentence not possible)	Perhaps divisible. Some malicious destruction of prop offenses might be CMT; see cases in Advice to PC 594.	A COV is domestic violence offense if committed against DV type victim. Imm. counsel will argue must be force agnst person not property.	Keep record of conviction clear to avoid possible CMT. See PC 602.5.
Penal §602.5	Trespass (unauthorized entry)	Not AF.	Not CMT.	No.	
Penal §646.9	Stalking	AF as COV if 1 yr sentence imposed. Matter of Malta, 23 I&N Dec 656 (BIA 2004)	Yes CMT	Deportable under the DV ground. Note that a court finding of violation of protective order also is DV deportable even absent conviction; see Note "DV"	Avoid AF by avoiding 1-yr sentence. See PC 236, 136.1(b)(1), 241(a) with no info regarding violence. See Notes "Safer Pleas" and "Is Battery a Crime of Violence?"
Penal §647(a)	Disorderly: lewd or dissolute conduct in public	Not AF.	Older cases found CMT in homosexual behavior.	No.	Keep record of conviction clear of info that lewd intent was involved. See "Note Record of Conviction." See 647(e)
Penal §647(b)	Disorderly: Prostitution	Not AF.	Yes CMT for a prostitute. Probably not for a customer.	Prostitute, not customer, is inadmissible for "engaging in" prostitution.	To try to prevent CMT keep record of conviction vague between prostitute and customer. See 647(e)
Penal §647(c), (e), (h)	Disorderly: Begging, loitering	Not AF.	Not CMT.	No.	
Penal §647(f)	Disorderly: Under the influence of drugs or alcohol	Not AF.	Not CMT.	Deportable and inadmissible for CS offense if ROC establishes specific CS	Keep record of conviction vague re whether a specific CS, as opposed to alcohol or other drug (or even unspecified CS), is involved.
Penal §647(i)	Disorderly: "Peeping Tom"	Not AF.	Not CMT.	No.	
Penal §647.6(a)	Annoy, molest child	Divisible, with less serious acts not AF as 'sexual abuse of a minor.' US v Pallares-Galan, 359 F.3d 1088 (9th 2004).	Yes CMT.	Might be deportable under DV for child abuse.	To avoid AF keep record of conviction clear of details, or have it ID less serious conduct; or plead to offense that doesn't combine age and sex like 243(a), 243.4.

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CALIFORNIA CODE SECTION	OFFENSE	AGGRAVATED FELONY	CRIME INVOLVING MORAL TURPITUDE	OTHER DEPORTABLE, INADMISSIBLE GROUNDS	ADVICE
Penal §666	Petty theft with a prior	Not AF even if enhanced sentence of more than 1 yr is imposed.	Yes CMT.	No.	See Note on "Burglary and Theft." Since this is not AF, it's a possible substitute for grand theft with 1-yr sentence or more imposed.
Penal §§1320(b), 1320.5	Failure to appear for felony	Yes AF if original felony's potential sentence is 2 yrs or more.	Probably not CMT	No.	Avoid AF by pleading to substantive offense not FTA
Penal §12020	Possession, manufacture, sale of prohibited weapons; carrying concealed dagger	Divisible: trafficking in firearms or explosives is AF; other offenses are not	Not CMT.	Offenses relating to firearms cause deportability under that grd. Others (e.g. brass knuckles(a)(1), dagger (a)(4)) don't.	With careful record of conviction, this is an alternate plea to avoid firearms offense. Keep record of conviction vague re whether weapon is firearm or other (to avoid firearms deportability grd) or involves trafficking in firearms or destructive devices (to avoid AF). See Notes "Safer Pleas" and "DV, Firearms"
Penal §12021	Possession of firearm by drug addict or felon	Yes AF regardless of sentence	Not CMT.	Deportable under the firearms ground.	See PC 12020, 245(a), 243(d), Note "Safer Pleas."
Penal §§12025(a)(1), 12031(a)(1)	Carrying firearm	Not AF.	Not CMT.	Deportable under the firearms ground.	To avoid deportable for firearms, see PC 12020 and Note "DV, Firearms."
Vehicle §20	False statement to DMV	Not AF	Possibly divisible, with knowingly conceal material fact a CMT	No.	To avoid CMT, keep record of conviction vague as to knowing concealment of material fact
Vehicle §2800.1	Flight from peace officer	Not AF	Probably not CMT	No.	
Vehicle §2800.2	Flight from peace officer with wanton disregard for safety	AF if felony conviction with 1-yr sentence imposed, as a COV under 18 USC 16(b). US v Campose-Fuerte, 357 F.3d 956 (9th 2004)	May be divisible: wanton disregard only by prior traffic violations not CMT, other wanton disregard may be CMT.	No.	Avoid an agg felony by reducing to a misdemeanor or obtaining sentence less than a year. May avoid CMT if ROC leaves open possibility wanton disregard finding based on prior traffic violations, or plea to 2800.1.

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Vehicle §10801-10803	Vehicles with altered ID numbers	Offense relating to trafficking in vehicles with altered VIN is AF if 1-yr or more sentence imposed.	Might be CMT	No.	Plead to PC 10852?
Vehicle §10851	Vehicle taking, temporary or permanent	Yes, AF as theft if one-year sentence is imposed.	Yes CMT if permanent intent, no if temporary intent.	No.	To avoid agg felony, avoid 1-yr sentence. To avoid CMT, keep record of conviction vague re permanent or temporary intent.
Vehicle §10852	Tampering with a vehicle	Not AF.	Appears not CMT.	No.	To avoid possible AF, don't let ROC show that tampering F96involved altering VIN.
Vehicle §12500	Driving without license	Not AF.	Not CMT.	No.	
Vehicle §§20001, 20003	Hit and run (felony)	Not AF	Probably not CMT	No.	Despite lack of intent requirement it's conceivable reviewing authority would find CMT in failure to aid badly injured victim; keep record of conviction clear of info.
Vehicle §20002(a)	Hit and run (misd)	Not AF.	Not CMT	No.	
Vehicle §23110(b)	Throw object into traffic	Yes AF as COV if 1-yr sentence imposed	Yes CMT.	No.	Avoid AF by avoiding 1-yr sentence imposed.
Vehicle §23152	Driving under the influence (felony)	Not AF.	Not CMT.	No except multiple convictions can show evidence of alcoholism, a ground of inadmissibility.	
Vehicle §23153	Driving under the influence causing bodily injury	Not AF	Not CMT.	See Vehicle 23152	
W & I §10980(c)(2)	Welfare fraud	Yes AF if loss to gov't is \$10,000 or more; also perhaps as theft if 1-yr or more sentence imposed.	Yes CMT.	No.	See Note "Burglary, Theft, Fraud." To avoid AF, avoid \$10,00 in ROC. See PC 529(3) to avoid AF, CMT. Avoid 1-yr sentence to avoid possible AF as theft; see Note "Sentence."

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