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Date: 3/3/2016 10:45:53 AM
Subject: FW: moral turpitude - some general research

From: Schimsa, Rebecca
Sent: Wednesday, March 02, 2016 6:34 PM
To: Pisarik, Holly
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SC Precedent:

- Prior convictions of state's witnesses for DUI and driving under suspension did not involve crimes of moral turpitude and could not be used by defendant for impeachment purposes. See *State v. Harry*, Ct. App. 1996.
- DUI does not involve moral turpitude for purposes of impeachment. See *State v. Hall*, Ct. App. 1991.
- Public drunkenness and driving without a license are not crimes of moral turpitude. See *State v. LaBarge*, Sup. Ct. 1980.

Fourth Circuit Precedent:

- Individual has two DUI infractions, those convictions could rise to the level of a crime of moral turpitude. See *Withanachchi v. US*, District Court, SDMD, August 15, 2011.
- A misdemeanor DUI is generally not a crime of moral turpitude but may be if the DUI results in injury. See *Padilla v. Kentucky*, Supreme Court, March 31, 2010.
- The offense of DUI has not been held to be a crime of moral turpitude by the WV Supreme Court. *Thompson v. Administrative Office*, District Court, SDWV, December 6, 2004.

History of Crime of Moral Turpitude in US:

- The term is found in 8 USC 1227 and first began to be used in federal law as part of U.S. immigration law. The term has never been defined in statute, leaving up to the relevant agencies and ultimately the courts to define. For instance, if an individual has committed or commits a crime of moral turpitude, then his visa or green card could be denied or revoked.
- Written opinions from the Board of Immigration Appeals describe the term as a "nebulous concept" that "refers generally to conduct that shocks the public conscience as being inherently base, vile, or depraved, contrary to the rules of morality and the duties owed between man and man, either one's fellow man or society in general" having committed an act either with "evil intent" or recklessness.
- Aggravated DUI qualified as a crime of moral turpitude in the 9th Circuit. See *Marmolejo-Campos v. Holder*, 9th Cir. 2009.