

# **Immigration Consequences of a Criminal Conviction in North Carolina**

**2017**

**Sejal Zota  
John Rubin**



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# Contents

<b>Preface</b>	<b>v</b>
<b>About the Series and Authors</b>	<b>vi</b>
Chapter 1	
<b>Obligations of Defense Counsel</b>	<b>1-1</b>
1.1 Purpose of Manual	1-2
1.2 Obligations of Defense Counsel	1-2
1.3 How to Meet Your Obligations	1-7
1.4 Important Terminology Used in this Manual	1-8
Chapter 2	
<b>Determining Your Client’s Citizenship and Immigration Status</b>	<b>2-1</b>
2.1 Determining Whether Your Client is a U.S. Citizen	2-2
2.2 Determining Your Noncitizen Client’s Particular Immigration Status	2-4
2.3 Additional Interview Objectives for a Noncitizen Client	2-8
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
Chapter 3	
<b>Criminal Grounds of Removal and Other Immigration Consequences</b>	<b>3-1</b>
3.1 Removal Defined	3-2
3.2 Deportability vs. Inadmissibility	3-2
3.3 Determining Whether a State Offense Triggers Removal	3-5
3.4 Crime-Related Grounds of Deportability	3-8
3.5 Crime-Related Grounds of Inadmissibility	3-23
3.6 Criminal Bars to Naturalization	3-26
3.7 Criminal Bars to Deferred Action for Childhood Arrivals	3-27
Chapter 4	
<b>Conviction and Sentence for Immigration Purposes</b>	<b>4-1</b>
4.1 Conviction for Immigration Purposes	4-2
4.2 Effect of North Carolina Dispositions	4-3
4.3 Sentence to a Term of Imprisonment	4-8

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Each chapter contains a detailed table of contents.

## Chapter 5

**Determining Possible Immigration Consequences Based on Your Client's Immigration Status** **5-1**

- |     |  |      |
|-----|--|------|
| 5.1 | Lawful Permanent Resident  | 5-2  |
| 5.2 | Refugee (who has not yet obtained LPR status)                      | 5-6  |
| 5.3 | Person Granted Asylum (who has not yet obtained LPR status)        | 5-9  |
| 5.4 | Nonimmigrant Visa Holder   | 5-11 |
| 5.5 | Noncitizens with Temporary Protected Status                        | 5-14 |
| 5.6 | Noncitizens without Immigration Status                             | 5-14 |
| 5.7 | Summary of Priorities in Representing Noncitizen Clients by Status | 5-20 |

## Chapter 6

**Options for Minimizing Adverse Immigration Consequences** **6-1**

- |     |  |      |
|-----|--|------|
| 6.1 | General Rules                                    | 6-2  |
| 6.2 | Cases Involving Aggravated Felonies              | 6-4  |
| 6.3 | Cases Involving Drugs                            | 6-8  |
| 6.4 | Cases Involving Crimes Involving Moral Turpitude | 6-12 |
| 6.5 | Cases Involving Firearms                         | 6-13 |
| 6.6 | Cases Involving Domestic Violence                | 6-15 |
| 6.7 | Cases Involving Child Abuse                      | 6-16 |

## Chapter 7

**Procedures Related to Removal** **7-1**

- |     |  |     |
|-----|--|-----|
| 7.1 | Summary of Procedures Related to Removal                           | 7-1 |
| 7.2 | Identification of In-Custody Persons Subject to Removal            | 7-2 |
| 7.3 | Immigration Detainer   | 7-3 |
| 7.4 | What Happens after Your Client is Released into the Custody of ICE | 7-5 |

## Chapter 8

**State Post-Conviction Relief** **8-1**

- |     |   |     |
|-----|---|-----|
| 8.1 | Authority for State Post-Conviction Relief          | 8-1 |
| 8.2 | Challenges under <i>Padilla v. Kentucky</i>         | 8-2 |
| 8.3 | Judge's Failure to Provide Immigration Advisement   | 8-5 |
| 8.4 | Other Errors  | 8-6 |
| 8.5 | Immigration Effect of Motion for Appropriate Relief | 8-7 |

## Appendix A

**Selected Immigration Consequences of North Carolina Offenses** **A-1**

## Appendix B

**Relevant Immigration Decisions** **B-1**

## Preface

We are excited to issue the 2017 edition of our manual, specific to North Carolina law and practice, on the immigration consequences of convictions in North Carolina. Our goal has been to develop a clear, usable resource for attorneys representing noncitizen defendants in criminal cases. We also hope the manual will be a useful resource for others who need to understand this challenging area of law.

It is critical for criminal defense attorneys to have an understanding of this area when representing noncitizen clients. For years, national practice standards have recognized criminal defense counsel's role in advising noncitizen defendants about the immigration consequences of a criminal conviction. Now such advice is constitutionally required by the U.S. Supreme Court's landmark decision in *Padilla v. Kentucky*, 559 U.S. 356 (2010). A failure to give competent advice to clients about the immigration consequences of a criminal conviction may constitute ineffective assistance of counsel. This manual is intended to help criminal defense counsel navigate this highly technical area of law and live up to their constitutional obligation.

This manual would not have been possible without the support and assistance of several people. Thanks go to the members of the Advisory Committee for the first edition of this manual, who volunteered their time to review each chapter and offered their insights into the intersection of immigration and criminal law. Thanks must also go to Dan Kesselbrenner of the National Immigration Project of the National Lawyers Guild for supporting this project and for sharing his vast knowledge of this area time and time again. We also want to acknowledge Manny Vargas and the Immigrant Defense Project of the New York State Defenders Association for their immigration consequences manual, *Representing Immigrant Defendants in New York*, which served as a guide for us in developing this manual.

Special recognition goes to the Office of Indigent Defense Services, the School of Government, and the School's Indigent Defense Education Group for their support of this manual. Their collaboration on this and other education projects has enhanced the resources available to indigent defense attorneys and has improved the service that indigent defenders are able to provide to their clients. Thanks also go to Caitlin Little for her assistance in editing the citations and other information in the manual.

Finally, special thanks go to Brian Stull, who early on encouraged and supported the idea of developing this manual.

Comments and suggestions are welcome. They may be sent to Sejal Zota at [sejal@nipnl.org](mailto:sejal@nipnl.org) or John Rubin at [rubin@sog.unc.edu](mailto:rubin@sog.unc.edu).

*Sejal Zota*  
*John Rubin*  
September 2017

## About the North Carolina Indigent Defense Manual Series

The North Carolina Indigent Defense Manual Series is a collection of reference manuals addressing law and practice in areas in which indigent defendants and respondents are entitled to the representation of counsel at state expense. The series was created to address the need for comprehensive reference materials for public defenders and appointed counsel, who devote their time, skill, and effort to representing poor people. In addition to assisting indigent defenders with their responsibilities, the manuals also may be useful to others who work in the court system and who need a reference source on the law. In keeping with the School of Government's commitment to practical scholarship, the manuals are written by authors with subject-matter expertise in their respective fields, experience in developing effective educational materials, and knowledge of how things work in practice. The editor of the series is John Rubin, a member of the School of Government faculty who specializes in indigent defense education. Other manuals in the series can be found on our [Indigent Defense Manual Series](#) website. Production of the series is made possible by funding from the North Carolina Office of Indigent Defense Services, which is responsible for overseeing and enhancing the provision of indigent defense representation in North Carolina.

## About the Authors of *Immigration Consequences of a Criminal Conviction in North Carolina (2017 Edition)*

**Sejal Zota** is the legal director of the National Immigration Project of the National Lawyers Guild. There, she engages in nationwide litigation, provides training and technical assistance on a broad range of immigration issues, and authors practice advisories and reference materials. She is based in Durham, North Carolina. Previously, she was a public defender with the Bronx Defenders, a teaching fellow at the Immigrant Rights Clinic of the New York University (NYU) School of Law, and an immigration law specialist at the School of Government. She was the lead author on the first edition of this manual. She earned a B.A. in economics and public policy studies from Duke University and a J.D. from NYU.

**John Rubin** joined the School of Government faculty in 1991. He specializes in criminal law and procedure and indigent defense education. Before joining the School, he practiced law for nine years in Washington, D.C., and Los Angeles, California. He has written extensively on criminal law and procedure and teaches and consults with indigent defenders, judges, magistrates, prosecutors, and others who work in the court system. He earned a B.A. from the University of California at Berkeley and a J.D. from UNC-Chapel Hill. In 2008, he received the Albert and Gladys Coates Term Award for Faculty Excellence. In 2012, he was named Albert Coates Professor of Public Law and Government.