



For Immediate Release: August 8, 2019

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New Immigration Guide Equips Attorneys Across Texas with the Knowledge to Effectively Represent their Non-Citizen Defendants

Essentials for attorneys working on criminal cases with potential immigration consequences

DALLAS—The Dallas County Public Defender’s Office and Texas Appleseed, a public interest justice center, have partnered to create a guide for criminal defense attorneys across Texas to address the issues raised in *Padilla v. Kentucky*, 559 U.S. 356 (2010). The guide [*Immigration Consequences Texas*](#), consists of a printable guide and a website that provides analysis regarding the latest developments at the intersection of immigration and criminal law. Both are available at ImmigrationConsequencesTX.org.

Padilla v. Kentucky was filed by Jose Padilla, a Vietnam War veteran and 40-year lawful permanent resident, who faced automatic deportation for pleading guilty to a drug trafficking charge after his appointed counsel assured him that he would not be deported for his plea. The U.S. Supreme Court found that competent counsel would have advised Mr. Padilla that his conviction made him subject to automatic deportation. The Court in *Padilla* also found that immigration outcomes are direct consequences of a criminal charge and cannot be categorically removed from the ambit of the Sixth Amendment, which includes access to competent assistance of counsel. The Court reasoned that immigrants are often punished twice for a crime — once through the criminal process and once through the immigration process. Thus, for non-citizens to receive a proportionate and just outcome, the Supreme Court found that immigration status must be considered by all stakeholders involved in the criminal process.

Immigration Consequences Texas was designed with defense attorneys in mind, to serve as a road map for those who may not be familiar with all the nuances and definitions that are familiar to immigration lawyers. It contains information about what is and is not required by a defense attorney under *Padilla*, potential immigration consequences and various appropriate methods to approach and/or avoid them, when to consult with immigration attorneys, tips on how to negotiate with prosecutors and discuss immigration concerns with judges, the proper

manner of advising one's non-citizen client, realistic problem scenarios, and even contains a section dedicated to potential interactions with ICE.

"The current surge in federal immigration enforcement has been acutely felt in state criminal courts, which have become the main conduit sending immigrants in the country into deportation proceedings," said Jordan Pollock, Immigration Specialist with the Dallas County Public Defender's Office. "It is essential for criminal defense attorneys to be ready to represent non-citizen defendants effectively in this challenging intersection between criminal and immigration law. Understanding the reality of the obligations placed upon defense counsel in *Padilla v. Kentucky*, this guide strives to give practical advice on how to go about representing and advocating for this unique client population."

Over 85 percent of all immigrants who find themselves in a deportation process do not have access to counsel. If non-citizens find themselves in court for a crime which could have immigration implications, the criminal defense attorney is likely the only attorney they will ever speak with before they face an immigration judge.

"Immigration law is a difficult practice because of its ever-changing and political nature, and increasing complexity," said Gabriella McDonald, an attorney and director of Pro Bono and New Projects at Texas Appleseed. "It is now more important than ever to ensure that non-citizens involved in the criminal justice system are fully aware of the risks of deportation, as well as to ensure that they are equipped with attorneys who are knowledgeable about the constantly fluctuating world at the intersection of criminal and immigration law."

The guide — *Immigration Consequences Texas* — along with its corresponding online guide and legal education courses were generously funded by the Texas Bar Foundation and the Texas Indigent Defense Commission.

About the Dallas County Public Defender's Office

The mission of the Dallas County Public Defender's Office is to ensure that all its clients receive quality legal representation in the most effective and efficient manner. The office is comprised of felony, misdemeanor, juvenile, CPS, family, mental health, DNA, appellate and capital murder defense attorneys, who are assigned to thirty-six courts in four different buildings. Its attorneys also staff and represent defendants who participate in each of the specialty and diversion courts in Dallas County. Additionally, the Dallas County Public Defender's Office was the first public defender's office in Texas to create a formal immigration advisal program, with a full-time immigration attorney on staff. This program, which began in 2014, is now a model for similar programs statewide.

www.DallasCounty.org/government/public-defender

About Texas Appleseed

Texas Appleseed is a public interest justice center. Our nonprofit works to change unjust laws and policies that prevent Texans from realizing their full potential. We anchor a dynamic network of pro bono partners and collaborators to develop and advocate for innovative and practical solutions to complex issues. Texas Appleseed also conducts data-driven research that uncovers inequity in laws and policies and identifies solutions for lasting, concrete change. www.TexasAppleseed.org

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