

Table of Contents

CHAPTER 1

INTRODUCTION

- I. Servio’s Story [§ 1.1]**
- II. What If Servio Were Arrested Today? [§ 1.2]**
- III. Defense Counsel’s Dilemma [§ 1.3]**
- IV. Key Immigration Terms [§ 1.4]**
 - A. In General [§ 1.5]
 - B. Crimmigration [§ 1.6]
 - C. Inadmissibility, Inadmissible [§ 1.7]
 - D. Deportability, Deportable [§ 1.8]
 - E. Removal, Removability, Removable [§ 1.9]
 - F. Relief from Removal [§ 1.10]
 - G. Immigration and Customs Enforcement [§ 1.11]
 - H. Customs and Border Protection [§ 1.12]
 - I. U.S. Citizenship and Immigration Services [§ 1.13]
 - J. Immigration and Nationality Act [§ 1.14]
 - K. Board of Immigration Appeals [§ 1.15]
 - L. Crime Involving Moral Turpitude [§ 1.16]
 - M. Aggravated Felony [§ 1.17]
- V. Most Common Forms of Immigration Status [§ 1.18]**
 - A. In General [§ 1.19]
 - B. Lawful Permanent Resident [§ 1.20]
 - C. Undocumented [§ 1.21]
 - D. Visa Overstay [§ 1.22]
 - E. Nonimmigrant Visa Holder [§ 1.23]
 - F. Asylee [§ 1.24]
 - G. Refugee [§ 1.25]
 - H. Temporary Protected Status [§ 1.26]
 - I. Deferred Action [§ 1.27]
 - J. Naturalized U.S. Citizen [§ 1.28]
- VI. Book Outline [§ 1.29]**
 - A. In General [§ 1.30]

- B. Part I—Immigration Law for Criminal Defense Attorneys [§ 1.31]
- C. Part II—Select Wisconsin Offenses [§ 1.32]
 - 1. In General [§ 1.33]
 - 2. In-Depth Coverage [§ 1.34]
 - 3. Most Common Wisconsin Criminal Offenses Discussed [§ 1.35]
- D. Part III—Practice Management and Practical Applications [§ 1.36]

VII. Important Caveats [§ 1.37]

- A. Immigration Law Is Complex [§ 1.38]
- B. Immigration Law Changes Frequently [§ 1.39]
- C. Defense Counsel Might Need to Consult with an Immigration Lawyer [§ 1.40]
- D. This Book Assumes a Noncitizen Wants to Avoid Deportation [§ 1.41]

VIII. Conclusion [§ 1.42]

CHAPTER 2

SUBSTANTIVE AND PROCEDURAL DIFFERENCES BETWEEN IMMIGRATION AND CRIMINAL LAW

I. Chapter Overview [§ 2.1]

II. Common Misconceptions of Crimmigration [§ 2.2]

- A. In General [§ 2.3]
- B. “It is Easy to Identify Whether a Defendant Is a Noncitizen.” [§ 2.4]
- C. “It Does Not Matter If Undocumented Defendants Are Convicted of a Crime Because They Are Here Illegally Anyway.” [§ 2.5]
- D. “Permanent Residents Cannot Be Deported. Only Undocumented Immigrants Can Be Deported.” [§ 2.6]
- E. “Once They Get Green Cards, Lawful Permanent Residents Can Travel Freely Outside the United States with No Problems Getting Admitted Back into the Country.” [§ 2.7]

- F. “A Noncitizen Cannot Be Deported for a Misdemeanor.” [§ 2.8]
- G. “A Felony Is Always an Immigration Problem.” [§ 2.9]
- H. “A Dismissal After Completion of a DPA Will Avoid Future Immigration Consequences.” [§ 2.10]
- I. “Expunction Will Avoid Immigration Consequences of a Conviction.” [§ 2.11]
- J. “A Stayed Sentence Will Avoid Future Immigration Consequences.” [§ 2.12]
- K. “If a Noncitizen Can Avoid Actual Jail Time, the Immigration Consequences to a Plea Can Likewise Be Avoided.” [§ 2.13]
- L. “A Civil-Ordinance Violation Can Never Cause an Immigration Problem.” [§ 2.14]

III. Consequences of Deportation Proceedings Being a “Civil Action” [§ 2.15]

- A. In General [§ 2.16]
- B. *Miranda* Rights [§ 2.17]
- C. Suppression of Evidence [§ 2.18]
- D. Right to Appointed Counsel [§ 2.19]
- E. Bail and Release from Custody [§ 2.20]
- F. Retroactivity [§ 2.21]
- G. Statute of Limitation [§ 2.22]
- H. Right to Discovery [§ 2.23]
- I. Right to Confront Witnesses [§ 2.24]
- J. Burden of Proof: The Problem with Remaining Silent [§ 2.25]
- K. No Plea Agreements [§ 2.26]

IV. Conclusion [§ 2.27]

CHAPTER 3

DEFENSE COUNSEL’S SIXTH AMENDMENT DUTY UNDER PADILLA

I. Chapter Overview [§ 3.1]

II. *Padilla v. Kentucky*, 559 U.S. 356 (2010) [§ 3.2]

- A. Factual and Procedural History [§ 3.3]
- B. The Evolution of Immigration Consequences of Criminal Convictions [§ 3.4]

- C. Deportation Is a “Penalty” of a Criminal Conviction [§ 3.5]
- D. Deportation Is Not a Collateral Consequence [§ 3.6]
- E. Wisconsin Law Overturned [§ 3.7]
- F. Clear and Succinct Versus Less Clear Immigration Consequences [§ 3.8]
- G. Ineffectiveness No Longer Limited to Affirmative Misadvice [§ 3.9]

III. Does *Padilla* Apply Retroactively? [§ 3.10]

IV. What Constitutes a “Clear and Succinct” Immigration Consequence? [§ 3.11]

- A. Plain Language of the Statute [§ 3.12]
- B. Crimes Involving Moral Turpitude [§ 3.13]

V. What Advice Must Be Given If the Immigration Consequences Are Truly Clear? [§ 3.14]

VI. *Padilla* Versus Wis. Stat. § 971.08(1)(c) Immigration Warnings [§ 3.15]

VII. *Padilla* Versus Wisconsin Plea Questionnaire [§ 3.16]

VIII. Advising Noncitizens After *Shata* and *Ortiz-Mondragon* [§ 3.17]

- A. In General [§ 3.18]
- B. Truly Clear Immigration Consequences [§ 3.19]
- C. Unclear Immigration Consequences [§ 3.20]

IX. Conclusion [§ 3.21]

CHAPTER 4

ICIDA: A STRUCTURAL FRAMEWORK FOR ANALYZING THE IMMIGRATION CONSEQUENCES OF CRIMINAL OFFENSES

I. Chapter Overview [§ 4.1]

II. Immigration History [§ 4.2]

- A. What Is Immigration History? [§ 4.3]
- B. Why Immigration Status Matters [§ 4.4]
 - 1. Criminal Defense Counsel’s Duty Under *Padilla* to Investigate Immigration Status [§ 4.5]

- 2. Immigration Status Might Determine Immigration Consequence [§ 4.6]
- C. Why Do Date of Entry, Length of Residence, and Family Ties Matter? [§ 4.7]
 - 1. In General [§ 4.8]
 - 2. Length of Residence Could Determine Available Relief [§ 4.9]
 - 3. Family Ties to the United States [§ 4.10]
- III. Criminal Record [§ 4.11]**
- IV. Inadmissibility [§ 4.12]**
 - A. In General [§ 4.13]
 - B. Why Does Immigration History Matter with Respect to Inadmissibility? [§ 4.14]
 - C. When Does a Client’s Criminal Record Matter with Respect to Inadmissibility? [§ 4.15]
 - 1. Petty-Offense Exception [§ 4.16]
 - 2. Eligibility for a Waiver of Inadmissibility [§ 4.17]
 - 3. Sentence Aggregate [§ 4.18]
- V. Deportability [§ 4.19]**
 - A. In General [§ 4.20]
 - B. Why Does Immigration History Matter with Respect to Deportability? [§ 4.21]
 - C. Why Does Date of Admission Matter with Respect to Deportability? [§ 4.22]
 - D. When Does a Client’s Criminal Record Matter with Respect to Deportability? [§ 4.23]
 - 1. Multiple CIMTs [§ 4.24]
 - 2. Marijuana Convictions [§ 4.25]
- VI. Avoiding Removal (or Preserving Relief) [§ 4.26]**
 - A. In General [§ 4.27]
 - B. Primary Goal: Avoid Inadmissibility and Deportability [§ 4.28]
 - C. Secondary Goal: Avoid Deportability for Lawful Permanent Residents [§ 4.29]
 - D. Secondary Goal: Avoid Inadmissibility for Nonpermanent Residents [§ 4.30]
 - E. Tertiary Goal: Preserving Relief in Removal Proceedings [§ 4.31]
- VII. Conclusion [§ 4.32]**

CHAPTER 5

ICIDA: AN IN-DEPTH ANALYSIS OF THE IMMIGRATION CONSEQUENCES OF CRIMINAL OFFENSES

I. Chapter Overview [§ 5.1]

II. Most Common Forms of Immigration Status [§ 5.2]

- A. Lawful Permanent Resident [§ 5.3]
 - 1. In General [§ 5.4]
 - 2. Can an LPR Be Inadmissible Because of a Criminal Conviction? [§ 5.5]
 - 3. Can an LPR Be Removed from the United States for Having Been Convicted of a Deportable Offense? [§ 5.6]
- B. Undocumented [§ 5.7]
 - 1. Can an Undocumented Immigrant Become Inadmissible for Having Been Convicted of an Inadmissible Offense? [§ 5.8]
 - 2. Can an Undocumented Immigrant Be Deportable for Having Been Convicted of a Deportable Offense? [§ 5.9]
- C. Visa Overstay [§ 5.10]
 - 1. In General [§ 5.11]
 - 2. Can a Visa Overstay Become Inadmissible for Having Been Convicted of an Inadmissible Offense? [§ 5.12]
 - 3. Can a Visa Overstay Be Removed as a Result of Having Been Convicted of a Deportable Offense? [§ 5.13]
- D. Nonimmigrant Visa Holder [§ 5.14]
 - 1. In General [§ 5.15]
 - 2. Can a Nonimmigrant Visa Holder Be Subject to Inadmissibility for Having Been Convicted of an Inadmissible Offense? [§ 5.16]
 - 3. Can a Nonimmigrant Visa Holder Be Removed for Having Been Convicted of a Deportable Offense? [§ 5.17]
- E. Asylee [§ 5.18]
 - 1. Can an Asylee Become Inadmissible for Having Been Convicted of an Inadmissible Offense? [§ 5.19]

- 2. Can an Asylee Be Removable for Having Been Convicted of a Deportable Offense? [§ 5.20]
 - F. Refugee [§ 5.21]
 - 1. Can a Refugee Be Inadmissible for Having Been Convicted of an Inadmissible Offense? [§ 5.22]
 - 2. Can a Refugee Be Removed from the United States for Having Been Convicted of a Deportable Offense? [§ 5.23]
 - G. Temporary Protected Status [§ 5.24]
 - H. Deferred Action [§ 5.25]
 - I. Naturalized U.S. Citizen [§ 5.26]
- III. Categorical Approach Versus Circumstance-Specific Inquiry [§ 5.27]**
- IV. Inadmissible Offenses [§ 5.28]**
- A. In General [§ 5.29]
 - B. CIMTs [§ 5.30]
 - 1. In General [§ 5.31]
 - 2. Definition [§ 5.32]
 - 3. Clear Examples of CIMTs [§ 5.33]
 - C. Controlled Substance Violations [§ 5.34]
 - 1. In General [§ 5.35]
 - 2. No Petty-Offense Exception for Controlled Substance Violations [§ 5.36]
 - 3. No Exception for Minor Marijuana Offense [§ 5.37]
 - 4. Waiver of Inadmissibility Is Limited [§ 5.38]
 - 5. Civil-Ordinance Violations? [§ 5.39]
 - D. Other Inadmissible Convictions and Grounds [§ 5.40]
 - 1. In General [§ 5.41]
 - 2. Multiple Convictions That Equal Five Years Aggregate Sentence [§ 5.42]
 - 3. Prostitution [§ 5.43]
 - 4. “Reason to Believe” [§ 5.44]
- V. Deportable Offenses [§ 5.45]**
- A. A Single Felony CIMT Committed Within Certain Period of Time [§ 5.46]
 - B. Multiple CIMT Convictions [§ 5.47]
 - C. Controlled Substance Violations [§ 5.48]
 - D. Certain Firearm Offenses [§ 5.49]

- E. Aggravated-Felony Offenses [§ 5.50]
 - 1. In General [§ 5.51]
 - 2. “Described in” Definition [§ 5.52]
 - a. In General [§ 5.53]
 - b. Aggravated Felonies “Described in” Federal Statutes or Defined by Federal Law [§ 5.54]
 - 3. Sentence-Based Aggravated Felonies [§ 5.55]
 - a. In General [§ 5.56]
 - b. Aggravated Felonies Triggered by a Sentence of One Year or Longer [§ 5.57]
 - 4. Conduct-Based Aggravated Felonies [§ 5.58]
 - a. In General [§ 5.59]
 - b. Conduct-Based Aggravated Felonies Regardless of Length of Sentence [§ 5.60]
- F. Crimes of Child Abuse, Child Neglect, or Child Abandonment [§ 5.61]
- G. Crime of Stalking [§ 5.62]
- H. Crime of Domestic Violence [§ 5.63]
- I. Violation of a Domestic Abuse Order or Injunction [§ 5.64]
- J. Certain Federal Offenses [§ 5.65]

VI. Forms of Relief from Removal [§ 5.66]

- A. In General [§ 5.67]
- B. Cancellation of Removal for Lawful Permanent Residents [§ 5.68]
- C. Cancellation of Removal for Non-LPRs [§ 5.69]
- D. Adjustment of Status and Waiver of Inadmissibility [§ 5.70]
- E. Waiver Under Former INA § 212(c) [§ 5.71]
- F. Asylum [§ 5.72]
- G. Withholding of Removal [§ 5.73]
- H. Convention Against Torture [§ 5.74]

VII. Limitations of the ICIDA Approach [§ 5.75]

- A. In General [§ 5.76]
- B. Good Moral Character [§ 5.77]
- C. Temporary Protected Status [§ 5.78]
- D. Deferred Action for Childhood Arrivals [§ 5.79]
- E. Discretionary Denial of Applications for Relief [§ 5.80]
- F. Inadmissible Through Admission of Offense [§ 5.81]
- G. “Reason to Believe” [§ 5.82]

VIII. Conclusion [§ 5.83]

CHAPTER 6
CASE EXAMPLES: EMPLOYING THE ICIDA APPROACH

- I. Chapter Overview [§ 6.1]**
- II. Lawful Permanent Resident Charged with Multiple Crimes Involving Moral Turpitude, No Prior Criminal Record [§ 6.2]**
 - A. Immigration History [§ 6.3]
 - B. Criminal Record [§ 6.4]
 - C. Inadmissibility [§ 6.5]
 - D. Deportability [§ 6.6]
 - E. Avoiding Removal [§ 6.7]
 - 1. In General [§ 6.8]
 - 2. What If Jane Is Convicted of Both Counts? [§ 6.9]
 - 3. What If Jane Is Undocumented? [§ 6.10]
- III. LPR Charged with Possible Single Misdemeanor CIMT Offense, Criminal Record [§ 6.11]**
 - A. Immigration History [§ 6.12]
 - B. Criminal Record [§ 6.13]
 - C. Inadmissibility [§ 6.14]
 - D. Deportability [§ 6.15]
 - E. Avoiding Removal [§ 6.16]
 - 1. In General [§ 6.17]
 - 2. What If John Is Convicted of Criminal Damage to Property? [§ 6.18]
 - 3. What If John Is Undocumented? [§ 6.19]
- IV. Undocumented Immigrant Charged with Single Felony CIMT Offense [§ 6.20]**
 - A. Immigration History [§ 6.21]
 - B. Criminal Record [§ 6.22]
 - C. Inadmissibility [§ 6.23]
 - D. Deportability [§ 6.24]
 - E. Avoiding Removal [§ 6.25]
- V. LPR Charged with Simple Marijuana Offense, Prior Marijuana Conviction [§ 6.26]**
 - A. Immigration History [§ 6.27]
 - B. Criminal Record [§ 6.28]
 - C. Inadmissibility [§ 6.29]

- D. Deportability [§ 6.30]
- E. Avoiding Removal [§ 6.31]
 - 1. In General [§ 6.32]
 - 2. What If John Is Undocumented? [§ 6.33]

VI. Visa Overstay Charged with Possession of Cocaine [§ 6.34]

- A. Immigration History [§ 6.35]
- B. Criminal Record [§ 6.36]
- C. Inadmissibility [§ 6.37]
- D. Deportability [§ 6.38]
- E. Avoiding Removal [§ 6.39]
 - 1. In General [§ 6.40]
 - 2. What If John Is Already an LPR? [§ 6.41]

VII. LPR Charged with a Drug-Trafficking Offense [§ 6.42]

- A. Immigration History [§ 6.43]
- B. Criminal Record [§ 6.44]
- C. Inadmissibility [§ 6.45]
- D. Deportability [§ 6.46]
- E. Avoiding Removal [§ 6.47]
 - 1. In General [§ 6.48]
 - 2. What If Jane Is Undocumented? [§ 6.49]

VIII. LPR Charged with a Sex Offense Against a Child, Prior Record [§ 6.50]

- A. Immigration History [§ 6.51]
- B. Criminal Record [§ 6.52]
- C. Inadmissibility [§ 6.53]
- D. Deportability [§ 6.54]
- E. Avoiding Removal [§ 6.55]
 - 1. In General [§ 6.56]
 - 2. What If John Had No Prior Criminal Record? [§ 6.57]
 - 3. What If John Is Still a Refugee? [§ 6.58]

IX. Undocumented Immigrant Charged with OWI (Third), Prior Criminal Record [§ 6.59]

- A. Immigration History [§ 6.60]
- B. Criminal Record [§ 6.61]
- C. Inadmissibility [§ 6.62]
- D. Deportability [§ 6.63]

- E. Avoiding Removal [§ 6.64]
 - 1. In General [§ 6.65]
 - 2. What If Jane Is Charged with Operating Under the Influence of THC? [§ 6.66]
 - 3. What If Jane Has Temporary Protected Status? [§ 6.67]

- X. H1-B Visa Holder Charged with Battery on a Spouse, No Prior Record [§ 6.68]**
 - A. Immigration History [§ 6.69]
 - B. Criminal Record [§ 6.70]
 - C. Inadmissibility [§ 6.71]
 - D. Deportability [§ 6.72]
 - E. Avoiding Removal [§ 6.73]

- XI. LPR Charged with Intentional Child Abuse and Potential Aggravated Felony, Prior Criminal Record [§ 6.74]**
 - A. Immigration History [§ 6.75]
 - B. Criminal Record [§ 6.76]
 - C. Inadmissibility [§ 6.77]
 - D. Deportability [§ 6.78]
 - E. Avoiding Removal [§ 6.79]

- XII. Undocumented Immigrant Charged with Felony, Prior Criminal Record [§ 6.80]**
 - A. Immigration History [§ 6.81]
 - B. Criminal Record [§ 6.82]
 - C. Inadmissibility [§ 6.83]
 - D. Deportability [§ 6.84]
 - E. Avoiding Removal [§ 6.85]

- XIII. Visa Overstay Charged with Minor Offense, Complicated Immigration History [§ 6.86]**
 - A. Immigration History [§ 6.87]
 - B. Criminal Record [§ 6.88]
 - C. Inadmissibility [§ 6.89]
 - D. Deportability [§ 6.90]
 - E. Avoiding Removal [§ 6.91]

- XIV. Conclusion [§ 6.92]**

CHAPTER 7

OPERATING OFFENSES

- I. Chapter Overview [§ 7.1]**
- II. Operating Without a License and Operating After Revocation, Wis. Stat. §§ 343.43, 343.44 [§ 7.2]**
 - A. Inadmissibility [§ 7.3]
 - B. Deportability [§ 7.4]
 - C. Recommended Advice [§ 7.5]
 - D. Avoiding Removal [§ 7.6]
- III. Fleeing from Officer, Wis. Stat. § 346.04(3) [§ 7.7]**
 - A. Inadmissibility [§ 7.8]
 - B. Deportability [§ 7.9]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 7.10]
 - 2. Two or More CIMTs [§ 7.11]
 - 3. Aggravated Felony [§ 7.12]
 - C. Recommend Advice [§ 7.13]
 - D. Avoiding Removal [§ 7.14]
- IV. Reckless Driving, Wis. Stat. § 346.62 [§ 7.15]**
 - A. Inadmissibility [§ 7.16]
 - B. Deportability [§ 7.17]
 - C. Recommended Advice [§ 7.18]
 - D. Avoiding Removal [§ 7.19]
- V. Operating Under the Influence of an Intoxicant (Alcohol Only), Wis. Stat. § 346.63(1), (2)(a) [§ 7.20]**
 - A. Inadmissibility [§ 7.21]
 - 1. CIMT [§ 7.22]
 - 2. Aggregate Sentence of Five Years or More [§ 7.23]
 - 3. Deportability [§ 7.24]
 - B. Recommended Advice [§ 7.25]
 - C. Avoiding Removal [§ 7.26]
- VI. Operating Under the Influence of a Controlled Substance, Wis. Stat. § 346.63(1), 2(a) [§ 7.27]**
 - A. Inadmissibility [§ 7.28]
 - B. Deportability [§ 7.29]
 - C. Recommended Advice [§ 7.30]
 - D. Avoiding Removal [§ 7.31]

VII. Duty upon Striking Person or Attended or Occupied Vehicle, Wis. Stat. § 346.67 [§ 7.32]

- A. Inadmissibility [§ 7.33]
- B. Deportability [§ 7.34]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 7.35]
 - 2. Two or More CIMTs [§ 7.36]
 - 3. Aggravated Felony [7.37]
- C. Recommended Advice [§ 7.38]
- D. Avoiding Removal [§ 7.39]

VIII. Homicide by Intoxicated Use of Vehicle (Alcohol Only), Wis. Stat. § 940.09(1)(a), (b), (bm), (c), (d) [§ 7.40]

- A. Inadmissibility [§ 7.41]
 - 1. CIMT [§ 7.42]
 - 2. Aggregate Sentence of Five Years or More [§ 7.43]
- B. Deportability [§ 7.44]
- C. Recommended Advice [§ 7.45]
- D. Avoiding Removal [§ 7.46]

IX. Homicide While Operating Vehicle Under the Influence of a Controlled Substance, Wis. Stat. § 940.09(1)(am), (cm) [§ 7.47]

- A. Inadmissibility [§ 7.48]
- B. Deportability [§ 7.49]
- C. Recommended Advice [§ 7.50]
- D. Avoiding Removal [§ 7.51]

X. Homicide by Negligent Operation of Vehicle, Wis. Stat. § 940.10 [§ 7.52]

- A. Inadmissibility [§ 7.53]
 - 1. CIMT [§ 7.54]
 - 2. Aggregate Sentence of Five Years or More [§ 7.55]
- B. Deportability [§ 7.56]
- C. Recommended Advice [§ 7.57]
- D. Avoiding Removal [§ 7.58]

XI. Negligent Operation of a Vehicle, Wis. Stat. § 941.01 [§ 7.59]

- A. Inadmissibility [§ 7.60]
- B. Deportability [§ 7.61]
- C. Recommended Advice [§ 7.62]
- D. Avoiding Removal [§ 7.63]

XII. Conclusion [§ 7.64]

CHAPTER 8
CRIMES AGAINST LIFE AND BODILY SECURITY

- I. Chapter Overview [§ 8.1]**
- II. Intentional Homicide, Wis. Stat. §§ 940.01, 940.05 [§ 8.2]**
 - A. Inadmissibility [§ 8.3]
 - B. Deportability [§ 8.4]
 - 1. Aggravated Felony [§ 8.5]
 - 2. CIMT [§ 8.6]
 - C. Recommended Advice [§ 8.7]
 - D. Avoiding Removal [§ 8.8]
- III. Reckless Homicide, Wis. Stat. §§ 940.02, 940.06 [§ 8.9]**
 - A. Inadmissibility [§ 8.10]
 - 1. Felony CIMT [§ 8.11]
 - 2. Drug Offense [§ 8.12]
 - B. Deportability [§ 8.13]
 - 1. Felony CIMT [§ 8.14]
 - 2. Multiple CIMTs [§ 8.15]
 - 3. Aggravated Felony [§ 8.16]
 - 4. Drug Offense [§ 8.17]
 - C. Recommended Advice [§ 8.18]
 - D. Avoiding Removal [§ 8.19]
- IV. Homicide by Negligent Handling of Dangerous Weapon, Explosives, or Fire, Wis. Stat. § 940.08 [§ 8.20]**
 - A. Inadmissibility [§ 8.21]
 - B. Deportability [§ 8.22]
 - C. Recommended Advice [§ 8.23]
 - D. Avoiding Removal [§ 8.24]
- V. Misdemeanor Battery, Wis. Stat. § 940.19(1) [§ 8.25]**
 - A. Inadmissibility [§ 8.26]
 - B. Deportability [§ 8.27]
 - 1. Felony CIMT [§ 8.28]
 - 2. Multiple CIMTs [§ 8.29]
 - 3. Aggravated Felony [§ 8.30]
 - 4. Crime of Domestic Violence [§ 8.31]
 - a. In General [§ 8.32]
 - b. Ascertaining Relationship to Victim [§ 8.33]
 - c. Domestic Abuse Modifier and Surcharge [§ 8.34]
 - C. Recommended Advice [§ 8.35]
 - D. Avoiding Removal [§ 8.36]

VI. Felony Battery, Wis. Stat. § 940.19(2), (4), (5), (6) [§ 8.37]

- A. Inadmissibility [§ 8.38]
- B. Deportability [§ 8.39]
 - 1. Felony CIMT [§ 8.40]
 - 2. Multiple CIMTs [§ 8.41]
 - 3. Aggravated Felony [§ 8.42]
 - 4. Crime of Domestic Violence [§ 8.43]
- C. Recommended Advice [§ 8.44]
- D. Avoiding Removal [§ 8.45]

VII. Felony Sexual Assault, Wis. Stat. § 940.225(1), (2), (3) [§ 8.46]

- A. Inadmissibility [§ 8.47]
- B. Deportability [§ 8.48]
 - 1. Felony CIMT [§ 8.49]
 - 2. Multiple CIMTs [§ 8.50]
 - 3. Aggravated Felony [§ 8.51]
 - a. Rape [§ 8.52]
 - b. Crime of Violence [§ 8.53]
- C. Recommended Advice [§ 8.54]
- D. Avoiding Removal [§ 8.55]

VIII. Misdemeanor Fourth-Degree Sexual Assault, Wis. Stat. § 940.225(3m) [§ 8.56]

- A. Inadmissibility [§ 8.57]
- B. Deportability [§ 8.58]
 - 1. Multiple CIMTs [§ 8.59]
 - 2. Aggravated Felony [§ 8.60]
- C. Recommended Advice [§ 8.61]
- D. Avoiding Removal [§ 8.62]

IX. Reckless Injury, Wis. Stat. § 940.23 [§ 8.63]

- A. Inadmissibility [§ 8.64]
- B. Deportability [§ 8.65]
 - 1. Felony CIMT [§ 8.66]
 - 2. Multiple CIMTs [§ 8.67]
 - 3. Not an Aggravated Felony [§ 8.68]
- C. Recommended Advice [§ 8.69]
- D. Avoiding Removal [§ 8.70]

**X. Strangulation and Suffocation, Wis. Stat. § 940.235
[§ 8.71]**

- A. Inadmissibility [§ 8.72]
- B. Deportability [§ 8.73]
 - 1. Felony CIMT [§ 8.74]
 - 2. Two or More CIMTs [§ 8.75]
 - 3. Aggravated Felony [§ 8.76]
 - 4. Crime of Domestic Violence [§ 8.77]
- C. Recommended Advice [§ 8.78]
- D. Avoiding Removal [§ 8.79]

**XI. Injury by Negligent Handling of Dangerous Weapon,
Wis. Stat. § 940.24 [§ 8.80]**

- A. Inadmissibility [§ 8.81]
- B. Deportability [§ 8.82]
- C. Recommended Advice [§ 8.83]
- D. Avoiding Removal [§ 8.84]

XII. False Imprisonment, Wis. Stat. § 940.30 [§ 8.85]

- A. Inadmissibility [§ 8.86]
- B. Deportability [§ 8.87]
 - 1. Felony CIMT [§ 8.88]
 - 2. Two or More CIMTs [§ 8.89]
 - 3. Aggravated Felony [§ 8.90]
 - 4. Crime of Domestic Violence [§ 8.91]
- C. Recommended Advice [§ 8.92]
- D. Avoiding Removal [§ 8.93]

XIII. Kidnapping, Wis. Stat. § 940.31 [§ 8.94]

- A. Inadmissibility [§ 8.95]
- B. Deportability [§ 8.96]
 - 1. Felony CIMT [§ 8.97]
 - 2. Multiple CIMTs [§ 8.98]
 - 3. Aggravated Felony [§ 8.99]
 - 4. Crime of Domestic Violence [§ 8.100]
- C. Recommended Advice [§ 8.101]
- D. Avoiding Removal [§ 8.102]

XIV. Stalking, Wis. Stat. § 940.32 [§ 8.103]

- A. Inadmissibility [§ 8.104]
- B. Deportability [§ 8.105]
 - 1. Crime of Stalking [§ 8.106]

- 2. Aggravated Felony [§ 8.107]
- 3. Felony CIMT [§ 8.108]
- 4. Multiple CIMTs [§ 8.109]
- C. Recommended Advice [§ 8.110]
- D. Avoiding Removal [§ 8.111]

**XV. Intimidation of Victims, Wis. Stat. §§ 940.44, 940.45
[§ 8.112]**

- A. Inadmissibility [§ 8.113]
- B. Deportability [§ 8.114]
 - 1. Felony CIMT [§ 8.115]
 - 2. Multiple CIMTs [§ 8.116]
 - 3. Aggravated Felony [§ 8.117]
 - 4. Crime of Domestic Violence [§ 8.118]
- C. Recommended Advice [§ 8.119]
- D. Avoiding Removal [§ 8.120]

XVI. Conclusion [§ 8.121]

CHAPTER 9

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

I. Chapter Overview [§ 9.1]

**II. Negligent Handling of Burning Material, Wis. Stat.
§ 941.10 [§ 9.2]**

- A. Inadmissibility [§ 9.3]
- B. Deportability [§ 9.4]
- C. Recommended Advice [§ 9.5]
- D. Avoiding Removal [§ 9.6]

**III. Endangering Safety by Use of Dangerous Weapon, Wis.
Stat. § 941.20 [§ 9.7]**

- A. Inadmissibility [§ 9.8]
 - 1. In General [§ 9.9]
 - 2. Endangering Safety by Negligent Handling of
Dangerous Weapon, Wis. Stat. § 941.20(1)(a)
[§ 9.10]
 - 3. Operates or Goes Armed with a Firearm While
Under the Influence of an Intoxicant, Wis. Stat.
§ 941.20(1)(b) [§ 9.11]

4. Operates or Goes Armed with a Firearm While Having a Detectable Amount of a Restricted Controlled Substance, Wis. Stat. § 941.20(1)(bm) [§ 9.12]
5. Intentionally Pointing a Firearm, Wis. Stat. § 941.20(1)(c), (1m)(b) [§ 9.13]
6. Intentional Discharge of a Firearm, Wis. Stat. § 941.20(2), (3) [§ 9.14]
- B. Deportability [§ 9.15]
 1. Endangering Safety by Negligent Handling of Dangerous Weapon, Wis. Stat. § 941.20(1)(a) [§ 9.16]
 2. Operates or Goes Armed with a Firearm While Under the Influence of an Intoxicant, Wis. Stat. § 941.20(1)(b) [§ 9.17]
 3. Operates or Goes Armed with a Firearm While Having a Detectable Amount of a Restricted Controlled Substance, Wis. Stat. § 941.20(1)(bm) [§ 9.18]
 4. Intentionally Pointing a Firearm, Wis. Stat. § 941.20(1)(c), (1m)(b) [§ 9.19]
 5. Intentional Discharge of a Firearm, Wis. Stat. § 941.20(2), (3) [§ 9.20]
- C. Recommended Advice [§ 9.21]
 1. Endangering Safety by Negligent Handling of Dangerous Weapon, Wis. Stat. § 941.20(1)(a) [§ 9.22]
 2. Operates or Goes Armed with a Firearm While Under the Influence of an Intoxicant, Wis. Stat. § 941.20(1)(b) [§ 9.23]
 3. Operates or Goes Armed with a Firearm While Having a Detectable Amount of a Restricted Controlled Substance, Wis. Stat. § 941.20(1)(bm) [§ 9.24]
 4. Intentionally Pointing a Firearm, Wis. Stat. § 941.20(1)(c), (1m)(b) [§ 9.25]
 5. Intentional Discharge of a Firearm, Wis. Stat. § 941.20(2), (3) [§ 9.26]
- D. Avoiding Removal [§ 9.27]
 1. Endangering Safety by Negligent Handling of a Dangerous Weapon, Wis. Stat. § 941.20(1)(a) [§ 9.28]
 2. Operates or Goes Armed with a Firearm While Under the Influence of an Intoxicant, Wis. Stat. § 941.20(1)(b) [§ 9.29]

3. Operates or Goes Armed with a Firearm While Having a Detectable Amount of a Restricted Controlled Substance, Wis. Stat. § 941.20(1)(bm) [§ 9.30]
4. Intentionally Pointing a Firearm, Wis. Stat. § 941.20(1)(c), (1m)(b) [§ 9.31]
5. Intentional Discharge of a Firearm, Wis. Stat. § 941.20(2), (3) [§ 9.32]

IV. Carrying a Concealed Weapon, Wis. Stat. § 941.23 [§ 9.33]

- A. Inadmissibility [§ 9.34]
- B. Deportability [§ 9.35]
- C. Recommended Advice [§ 9.36]
- D. Avoiding Removal [§ 9.37]

V. Carrying Firearm in Public Building, Wis. Stat. § 941.235 [§ 9.38]

- A. Inadmissibility [§ 9.39]
- B. Deportability [§ 9.40]
- C. Recommended Advice [§ 9.41]
- D. Avoiding Removal [§ 9.42]

VI. Possession of a Firearm by a Felon, Wis. Stat. § 941.29 [§ 9.43]

- A. Inadmissibility [§ 9.44]
- B. Deportability [§ 9.45]
 1. Firearms Offense [§ 9.46]
 2. Aggravated Felony [§ 9.47]
- C. Recommend Advice [§ 9.48]
- D. Avoiding Removal [§ 9.49]

VII. Recklessly Endangering Safety, Wis. Stat. § 941.30 [§ 9.50]

- A. Inadmissibility [§ 9.51]
- B. Deportability [§ 9.52]
 1. Felony CIMT Committed Within Five Years After Admission [§ 9.53]
 2. Two or More CIMTs [§ 9.54]
 3. Aggravated Felony [§ 9.55]
- C. Recommended Advice [§ 9.56]
- D. Avoiding Removal [§ 9.57]

VIII. Conclusion [§ 9.58]

CHAPTER 10

CRIMES AGAINST PROPERTY

I. Scope of Chapter [§ 10.1]

II. Damage to Property, Wis. Stat. § 943.01 [§ 10.2]

- A. Inadmissibility [§ 10.3]
- B. Deportability [§ 10.4]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.5]
 - 2. Multiple CIMTs [§ 10.6]
 - 3. Aggravated Felony [§ 10.7]
- C. Recommended Advice [§ 10.8]
- D. Avoiding Removal [§ 10.9]

III. Arson of Buildings, Wis. Stat. § 943.02 [§ 10.10]

- A. Inadmissibility [§ 10.11]
- B. Deportability [§ 10.12]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.13]
 - 2. Multiple CIMTs [§ 10.14]
 - 3. Aggravated Felony [§ 10.15]
- C. Recommended Advice [§ 10.16]
- D. Avoiding Removal [§ 10.17]

IV. Burglary, Wis. Stat. § 943.10 [§ 10.18]

- A. Inadmissibility [§ 10.19]
- B. Deportability [§ 10.20]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.21]
 - 2. Multiple CIMTs [§ 10.22]
 - 3. Aggravated Felony [§ 10.23]
- C. Recommended Advice [§ 10.24]
- D. Avoiding Removal [§ 10.25]

V. Possession of Burglarious Tools, Wis. Stat. § 943.12 [§ 10.26]

- A. Inadmissibility [§ 10.27]
- B. Deportability [§ 10.28]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.29]
 - 2. Multiple CIMTs [§ 10.30]
 - 3. Aggravated Felony [§ 10.31]
- C. Recommended Advice [§ 10.32]
- D. Avoiding Removal [§ 10.33]

**VI. Criminal Trespass to Dwellings, Wis. Stat. § 943.14
[§ 10.34]**

- A. Inadmissibility [§ 10.35]
- B. Deportability [§ 10.36]
- C. Recommended Advice [§ 10.37]
- D. Avoiding Removal [§ 10.38]

**VII. Entry onto Construction Site or into a Locked Building,
Dwelling, or Room, Wis. Stat. § 943.15 [§ 10.39]**

- A. Inadmissibility [§ 10.40]
- B. Deportability [§ 10.41]
- C. Recommended Advice [§ 10.42]
- D. Avoiding Removal [§ 10.43]

VIII. Theft, Wis. Stat. § 943.20 [§ 10.44]

- A. Inadmissibility [§ 10.45]
 - 1. Wis. Stat. § 943.20(1)(a) [§ 10.46]
 - 2. Wis. Stat. § 943.20(1)(b) [§ 10.47]
 - 3. Wis. Stat. § 943.20(1)(c) [§ 10.48]
 - 4. Wis. Stat. § 943.20(1)(d) [§ 10.49]
 - 5. Wis. Stat. § 943.20(1)(e) [§ 10.50]
- B. Deportability [§ 10.51]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.52]
 - 2. Multiple CIMTs [§ 10.53]
 - 3. Aggravated Felony [§ 10.54]
- C. Recommended Advice [§ 10.55]
- D. Avoiding Removal [§ 10.56]

**IX. Unauthorized Use of an Individual's Personal
Identifying Information or Documents, Wis. Stat.
§ 943.201 [§ 10.57]**

- A. Inadmissibility [§ 10.58]
- B. Deportability [§ 10.59]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.60]
 - 2. Multiple CIMTs [§ 10.61]
 - 3. Aggravated Felony [§ 10.62]
 - 4. Recommended Advice [§ 10.63]
 - 5. Avoiding Removal [§ 10.64]

X. Operating Vehicle Without Owner’s Consent, Wis. Stat. § 943.23 [§ 10.65]

- A. Inadmissibility [§ 10.66]
 - 1. In General [§ 10.67]
 - 2. Wis. Stat. § 943.23(1g) [§ 10.68]
 - 3. Wis. Stat. § 943.23(1r) [§ 10.69]
 - 4. Wis. Stat. § 943.23(2), (2g), (3), (3g) [§ 10.70]
 - 5. Wis. Stat. § 943.23(3m) [§ 10.71]
 - 6. Wis. Stat. § 943.23(4m) [§ 10.72]
 - 7. Wis. Stat. § 943.23(5) [§ 10.73]
- B. Deportability [§ 10.74]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.75]
 - 2. Multiple CIMTs [§ 10.76]
 - 3. Firearms Offense [§ 10.77]
 - 4. Aggravated Felony [§ 10.78]
- C. Recommended Advice [§ 10.79]
- D. Avoiding Removal [§ 10.80]

XI. Issue of Worthless Check, Wis. Stat. § 943.24 [§ 10.81]

- A. Inadmissibility [§ 10.82]
- B. Deportability [§ 10.83]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.84]
 - 2. Multiple CIMTs [§ 10.85]
 - 3. Aggravated Felony [§ 10.86]
- C. Recommended Advice [§ 10.87]
- D. Avoiding Removal [§ 10.88]

XII. Robbery, Wis. Stat. § 943.32 [§ 10.89]

- A. Inadmissibility [§ 10.90]
- B. Deportability [§ 10.91]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 10.92]
 - 2. Multiple CIMTs [§ 10.93]
 - 3. Aggravated Felony [§ 10.94]
- C. Recommended Advice [§ 10.95]
- D. Avoiding Removal [§ 10.96]

XIII. Receiving Stolen Property, Wis. Stat. § 943.34 [§ 10.97]

- A. Inadmissibility [§ 10.98]
- B. Deportability [§ 10.99]

1. Felony CIMT Committed Within Five Years After Admission [§ 10.100]
2. Multiple CIMTs [§ 10.101]
3. Aggravated Felony [§ 10.102]
- C. Recommended Advice [§ 10.103]
- D. Avoiding Removal [§ 10.104]

XIV. Forgery, Wis. Stat. § 943.38 [§ 10.105]

- A. Inadmissibility [§ 10.106]
- B. Deportability [§ 10.107]
 1. Felony CIMT Committed Within Five Years After Admission [§ 10.108]
 2. Multiple CIMTs [§ 10.109]
 3. Aggravated Felony [§ 10.110]
- C. Recommended Advice [§ 10.111]
- D. Avoiding Removal [§ 10.112]

XV. Fraud Offenses, Wis. Stat. §§ 943.21, 943.39, 943.392, 943.395, 943.40, 943.41(5), (6) [§ 10.113]

- A. Inadmissibility [§ 10.114]
- B. Deportability [§ 10.115]
 1. Felony CIMT Committed Within Five Years After Admission [§ 10.116]
 2. Multiple CIMTs [§ 10.117]
 3. Aggravated Felony [§ 10.118]
- C. Recommended Advice [§ 10.119]
- D. Avoiding Removal [§ 10.120]

XVI. Conclusion [§ 10.121]

CHAPTER 11

CRIMES AGAINST GOVERNMENT

I. Overview [§ 11.1]

II. Bribery, Wis. Stat. §§ 134.05, 946.10, 946.61 [§ 11.2]

- A. Inadmissibility [§ 11.3]
- B. Deportability [§ 11.4]
 1. Felony CIMT [§ 11.5]
 2. Two or More CIMTs [§ 11.6]
 3. Aggravated Felony [§ 11.7]
- C. Recommended Advice [§ 11.8]

- D. Avoiding Removal [§ 11.9]
 - 1. Bribery of Agent [§ 11.10]
 - 2. Bribery of Public Officers and Employees [§ 11.11]
 - 3. Bribery of Witnesses [§ 11.12]

III. Misconduct in Public Office, Wis. Stat. § 946.12 [§ 11.13]

- A. Inadmissibility [§ 11.14]
- B. Deportability [§ 11.15]
 - 1. Felony CIMT [§ 11.16]
 - 2. Two or More CIMTs [§ 11.17]
- C. Recommended Advice [§ 11.18]
- D. Avoiding Removal [§ 11.19]

IV. Perjury, Wis. Stat. § 946.31 [§ 11.20]

- A. Inadmissibility [§ 11.21]
- B. Deportability [§ 11.22]
 - 1. Felony CIMT [§ 11.23]
 - 2. Two or More CIMTs [§ 11.24]
 - 3. Aggravated Felony [§ 11.25]
- C. Recommended Advice [§ 11.26]
- D. Avoiding Removal [§ 11.27]

V. Resisting or Obstructing Officer, Wis. Stat. § 946.41 [§ 11.28]

- A. Inadmissibility [§ 11.29]
 - 1. In General [§ 11.30]
 - 2. Obstructing [§ 11.31]
 - 3. Resisting [§ 11.32]
- B. Deportability [§ 11.33]
 - 1. Felony CIMT [§ 11.34]
 - 2. Two or More CIMTs [§ 11.35]
 - 3. Aggravated Felony [§ 11.36]
- C. Recommended Advice [§ 11.37]
- D. Avoiding Removal [§ 11.38]

VI. Escape, Wis. Stat. § 946.42 [§ 11.39]

- A. Inadmissibility [§ 11.40]
- B. Deportability [§ 11.41]
 - 1. Felony CIMT [§ 11.42]
 - 2. Two or More CIMTs [§ 11.43]
 - 3. Aggravated Felony [§ 11.44]

- C. Recommended Advice [§ 11.45]
- D. Avoiding Removal [§ 11.46]

VII. Bail Jumping, Wis. Stat. § 946.49 [§ 11.47]

- A. Inadmissibility [§ 11.48]
- B. Deportability [§ 11.49]
 - 1. Felony CIMT [§ 11.50]
 - 2. Two or More CIMTs [§ 11.51]
 - 3. Aggravated Felony [§ 11.52]
- C. Recommended Advice [§ 11.53]
- D. Avoiding Removal [§ 11.54]

VIII. Obstructing Justice, Wis. Stat. § 946.65 [§ 11.55]

- A. Inadmissibility [§ 11.56]
- B. Deportability [§ 11.57]
 - 1. Felony CIMT [§ 11.58]
 - 2. Two or More CIMTs [§ 11.59]
 - 3. Aggravated Felony [§ 11.60]
- C. Recommended Advice [§ 11.61]
- D. Avoiding Removal [§ 11.62]

IX. Conclusion [§ 11.63]

CHAPTER 12

CRIMES AGAINST CHILDREN

I. Chapter Overview [§ 12.1]

II. Sexual Assault of a Child, Wis. Stat. § 948.02 [§ 12.2]

- A. Inadmissibility [§ 12.3]
- B. Deportability [§ 12.4]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.5]
 - 2. Multiple CIMTs [§ 12.6]
 - 3. Aggravated Felony [§ 12.7]
 - a. In General [§ 12.8]
 - b. Offenses Under Wis. Stat. § 948.02(2) [§ 12.9]
 - c. Offenses Under Wis. Stat. § 948.02(1) [§ 12.10]
 - 4. Crime of Child Abuse [§ 12.11]
- C. Recommended Advice [§ 12.12]
- D. Avoiding Removal [§ 12.13]

III. Physical Abuse of a Child, Wis. Stat. § 948.03 [§ 12.14]

- A. Inadmissibility [§ 12.15]
 - 1. In General [§ 12.16]
 - 2. Intentional Physical Abuse of a Child, Wis. Stat. § 948.03(2) [§ 12.17]
 - 3. Reckless Physical Abuse of a Child, Wis. Stat. § 948.03(3) [§ 12.18]
 - 4. Failing to Act to Prevent Bodily Harm, Wis. Stat. § 948.03(4) [§ 12.19]
- B. Deportability [§ 12.20]
 - 1. Felony CIMT [§ 12.21]
 - 2. Multiple CIMTs [§ 12.22]
 - 3. Aggravated Felony [§ 12.23]
 - 4. Crime of Child Abuse [§ 12.24]
- C. Recommended Advice [§ 12.25]
- D. Avoiding Removal [§ 12.26]

IV. Child Enticement, Wis. Stat. § 948.07 [§ 12.27]

- A. Inadmissibility [§ 12.28]
- B. Deportability [§ 12.29]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.30]
 - 2. Multiple CIMTs [§ 12.31]
 - 3. Controlled Substance Violation [§ 12.32]
 - 4. Aggravated Felony [§ 12.33]
 - 5. Crime of Child Abuse [§ 12.34]
- C. Recommended Advice [§ 12.35]
- D. Avoiding Removal [§ 12.36]

V. Use of a Computer to Facilitate a Child Sex Crime, Wis. Stat. § 948.075 [§ 12.37]

- A. Inadmissibility [§ 12.38]
- B. Deportability [§ 12.39]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.40]
 - 2. Multiple CIMTs [§ 12.41]
 - 3. Aggravated Felony [§ 12.42]
 - 4. Crime of Child Abuse [§ 12.43]
- C. Recommended Advice [§ 12.44]
- D. Avoiding Removal [§ 12.45]

VI. Sexual Intercourse with a Child Age 16 or Older, Wis. Stat. § 948.09 [§ 12.46]

- A. Inadmissibility [§ 12.47]
- B. Deportability [§ 12.48]
 - 1. Multiple CIMTs [§ 12.49]
 - 2. Aggravated Felony [§ 12.50]
 - 3. Crime of Child Abuse [§ 12.51]
- C. Recommended Advice [§ 12.52]
- D. Avoiding Removal [§ 12.53]

VII. Exposing Genitals, Pubic Area, or Intimate Parts, Wis. Stat. § 948.10 [§ 12.54]

- A. Inadmissibility [§ 12.55]
- B. Deportability [§ 12.56]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.57]
 - 2. Multiple CIMTs [§ 12.58]
 - 3. Aggravated Felony [§ 12.59]
 - 4. Crime of Child Abuse [§ 12.60]
- C. Recommended Advice [§ 12.61]
- D. Avoiding Removal [§ 12.62]

VIII. Possession of Child Pornography, Wis. Stat. § 948.12 [§ 12.63]

- A. Inadmissibility [§ 12.64]
- B. Deportability [§ 12.65]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.66]
 - 2. Multiple CIMTs [§ 12.67]
 - 3. Aggravated Felony [§ 12.68]
 - 4. Crime of Child Abuse [§ 12.69]
- C. Recommended Advice [§ 12.70]
- D. Avoiding Removal [§ 12.71]

IX. Abandonment of a Child, Wis. Stat. § 948.20 [§ 12.72]

- A. Inadmissibility [§ 12.73]
- B. Deportability [§ 12.74]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.75]
 - 2. Multiple CIMTs [§ 12.76]
 - 3. Crime of Child Abuse [§ 12.77]
- C. Recommended Advice [§ 12.78]
- D. Avoiding Removal [§ 12.79]

- X. Neglecting a Child, Wis. Stat. § 948.21 [§ 12.80]**
 - A. Inadmissibility [§ 12.81]
 - B. Deportability [§ 12.82]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.83]
 - 2. Multiple CIMTs [§ 12.84]
 - 3. Crime of Child Abuse [§ 12.85]
 - C. Recommended Advice [§ 12.86]
 - D. Avoiding Removal [§ 12.87]

- XI. Contributing to the Delinquency of a Child, Wis. Stat. § 948.40 [§ 12.88]**
 - A. Inadmissibility [§ 12.89]
 - B. Deportability [§ 12.90]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 12.91]
 - 2. Multiple CIMTs [§ 12.92]
 - 3. Aggravated Felony [§ 12.93]
 - 4. Crime of Child Abuse [§ 12.94]
 - C. Recommended Advice [§ 12.95]
 - D. Avoiding Removal [§ 12.96]

- XII. Conclusion [§ 12.97]**

CHAPTER 13

CONTROLLED SUBSTANCES OFFENSES

- I. Chapter Overview [§ 13.1]**

- II. Recent Case Law Regarding the Categorical Approach and Controlled Substance Convictions [§ 13.2]**

- III. Wisconsin Controlled Substances Schedules Versus Federal Schedules [§ 13.3]**
 - A. In General [§ 13.4]
 - B. Schedule I, Wis. Stat. § 961.14 [§ 13.5]
 - C. Schedule II, Wis. Stat. § 961.16 [§ 13.6]
 - D. Schedule III, Wis. Stat. § 961.18 [§ 13.7]
 - E. Schedule IV, Wis. Stat. § 961.20 [§ 13.8]
 - F. Schedule V, Wis. Stat. § 961.22 [§ 13.9]

IV. Does the Modified Categorical Approach Apply to Wisconsin Controlled Substances Statutes? [§ 13.10]

V. Manufacture, Distribution, or Delivery, Wis. Stat. § 961.41(1) [§ 13.11]

- A. Inadmissibility [§ 13.12]
 - 1. Controlled Substance Violation [§ 13.13]
 - 2. Reason to Believe [§ 13.14]
 - 3. Crime Involving Moral Turpitude [§ 13.15]
- B. Deportability [§ 13.16]
 - 1. Aggravated Felony [§ 13.17]
 - 2. Controlled Substance Violation [§ 13.18]
 - 3. Felony Crime Involving Moral Turpitude [§ 13.19]
- C. Recommended Advice [§ 13.20]
- D. Avoiding Removal [§ 13.21]

VI. Possession of THC with Intent to Manufacture, Distribute, or Deliver, Wis. Stat. § 961.41(1m)(h) [§ 13.22]

- A. Inadmissibility [§ 13.23]
 - 1. Controlled Substance Violation [§ 13.24]
 - 2. Reason to Believe [§ 13.25]
 - 3. Crime Involving Moral Turpitude [§ 13.26]
- B. Deportability [§ 13.27]
 - 1. Aggravated Felony [§ 13.28]
 - 2. Controlled Substance Violation [§ 13.29]
 - 3. Felony Crime Involving Moral Turpitude [§ 13.30]
- C. Recommended Advice [§ 13.31]
- D. Avoiding Removal [§ 13.32]

VII. Possession with Intent to Manufacture, Distribute, or Deliver, Wis. Stat. § 961.41(1m) (All Other Controlled Substances) [§ 13.33]

- A. Inadmissibility [§ 13.34]
 - 1. Controlled Substance Violation [§ 13.35]
 - 2. Reason to Believe [§ 13.36]
 - 3. Crime Involving Moral Turpitude [§ 13.37]
- B. Deportability [§ 13.38]
 - 1. Aggravated Felony [§ 13.39]
 - 2. Controlled Substance Violation [§ 13.40]
 - 3. Felony Crime Involving Moral Turpitude [§ 13.41]
- C. Recommended Advice [§ 13.42]
- D. Avoiding Removal [§ 13.43]

VIII. Counterfeit Substances, Wis. Stat. § 961.41(2) [§ 13.44]

- A. Inadmissibility [§ 13.45]
 - 1. Controlled Substance Violation [§ 13.46]
 - 2. Reason to Believe [§ 13.47]
 - 3. Crime Involving Moral Turpitude [§ 13.48]
- B. Deportability [§ 13.49]
 - 1. Aggravated Felony [§ 13.50]
 - 2. Controlled Substance Violation [§ 13.51]
 - 3. Felony Crime Involving Moral Turpitude [§ 13.52]
- C. Recommended Advice [§ 13.53]
- D. Avoiding Removal [§ 13.54]

IX. Simple Possession of a Controlled Substance, Wis. Stat. § 961.41(3g) [§ 13.55]

- A. Inadmissibility [§ 13.56]
- B. Deportability [§ 13.57]
 - 1. Aggravated Felony [§ 13.58]
 - 2. Controlled Substance Violation [§ 13.59]
- C. Recommended Advice [§ 13.60]
- D. Avoiding Removal [§ 13.61]

X. Imitation Controlled Substances, Wis. Stat. § 961.41(4) [§ 13.62]

- A. Inadmissibility [§ 13.63]
- B. Deportability [§ 13.64]
 - 1. Aggravated Felony [§ 13.65]
 - 2. Controlled Substance Violation [§ 13.66]
- C. Recommended Advice [§ 13.67]
- D. Avoiding Removal [§ 13.68]

XI. Maintaining a Drug Trafficking Place, Wis. Stat. § 961.42 [§ 13.69]

- A. Inadmissibility [§ 13.70]
 - 1. Controlled Substance Violation [§ 13.71]
 - 2. Reason to Believe [§ 13.72]
 - 3. Crime Involving Moral Turpitude [§ 13.73]
- B. Deportability [§ 13.74]
 - 1. Aggravated Felony [§ 13.75]
 - 2. Controlled Substance Violation [§ 13.76]
 - 3. Felony Crime Involving Moral Turpitude [§ 13.77]
- C. Recommended Advice [§ 13.78]
- D. Avoiding Removal [§ 13.79]

XII. Possession of Drug Paraphernalia, Wis. Stat. § 961.573

[§ 13.80]

- A. Inadmissibility [§ 13.81]
- B. Deportability [§ 13.82]
- C. Recommended Advice [§ 13.83]
- D. Avoiding Removal [§ 13.84]

XIII. Conclusion [§ 13.85]

CHAPTER 14

MISCELLANEOUS OFFENSES

I. Chapter Overview [§ 14.1]

II. Failure to Comply with Sex-Offender Registration Requirements, Wis. Stat. § 301.45 [§ 14.2]

- A. Inadmissibility [§ 14.3]
- B. Deportability [§ 14.4]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 14.5]
 - 2. Two or More CIMTs [§ 14.6]
 - 3. Failure to Register as Sex Offender [§ 14.7]
- C. Recommended Advice [§ 14.8]
- D. Avoiding Removal [§ 14.9]

III. Violating Domestic-Abuse Restraining Order or Injunction, Wis. Stat. § 813.12(8) [§ 14.10]

- A. Inadmissibility [§ 14.11]
- B. Deportability [§ 14.12]
 - 1. Violators of Protection Orders [§ 14.13]
 - 2. Two or More CIMTs [§ 14.14]
- C. Recommended Advice [§ 14.15]
- D. Avoiding Removal [§ 14.16]

IV. Lewd and Lascivious Behavior, Wis. Stat. § 944.20 [§ 14.17]

- A. Inadmissibility [§ 14.18]
- B. Deportability [§ 14.19]
 - 1. Aggravated Felony [§ 14.20]
 - 2. Two or More CIMTs [§ 14.21]
- C. Recommended Advice [§ 14.22]
- D. Avoiding Removal [§ 14.23]

V. Prostitution, Wis. Stat. § 944.30 [§ 14.24]

- A. Inadmissibility [§ 14.25]
 - 1. CIMT [§ 14.26]
 - 2. Prostitution and Commercialized Vice [§ 14.27]
- B. Deportability [§ 14.28]
 - 1. Aggravated Felony [§ 14.29]
 - 2. Two or More CIMTs [§ 14.30]
- C. Recommended Advice [§ 14.31]
- D. Avoiding Removal [§ 14.32]

VI. Keeping Place of Prostitution, Wis. Stat. § 944.34 [§ 14.33]

- A. Inadmissibility [§ 14.34]
 - 1. CIMT [§ 14.35]
 - 2. Prostitution or Commercialized Vice [§ 14.36]
- B. Deportability [§ 14.37]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 14.38]
 - 2. Two or More CIMTs [§ 14.39]
 - 3. Aggravated Felony [§ 14.40]
- C. Recommended Advice [§ 14.41]
- D. Avoiding Removal [§ 14.42]

VII. Disorderly Conduct, Wis. Stat. § 947.01 [§ 14.43]

- A. Inadmissibility [§ 14.44]
- B. Deportability [§ 14.45]
 - 1. Two or More CIMTs [§ 14.46]
 - 2. Crime of Domestic Violence [§ 14.47]
- C. Recommended Advice [§ 14.48]
- D. Avoiding Removal [§ 14.49]

VIII. Harassment, Wis. Stat. § 947.013 [§ 14.50]

- A. Inadmissibility [§ 14.51]
 - 1. In General [§ 14.52]
 - 2. Class B Forfeiture, Wis. Stat. § 947.013(1m) [§ 14.53]
 - 3. Class A Misdemeanor, Wis. Stat. § 947.013(1r) [§ 14.54]
 - 4. Felony Harassment, Wis. Stat. § 947.013(1t), (1v), or (1x) [§ 14.55]
- B. Deportability [§ 14.56]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 14.57]
 - 2. Two or More CIMTs [§ 14.58]

- 3. Aggravated Felony [§ 14.59]
 - 4. Crime of Domestic Violence [§ 14.60]
 - C. Recommended Advice [§ 14.61]
 - D. Avoiding Removal [§ 14.62]
 - 1. Misdemeanor Harassment [§ 14.63]
 - 2. Felony Harassment [§ 14.64]
- IX. Mistreating Animals, Wis. Stat. §§ 951.02, 951.18 [§ 14.65]**
- A. Inadmissibility [§ 14.66]
 - 1. In General [§ 14.67]
 - 2. Forfeiture [§ 14.68]
 - 3. Misdemeanor [§ 14.69]
 - 4. Felony [§ 14.70]
 - B. Deportability [§ 14.71]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 14.72]
 - 2. Two or More CIMTs [§ 14.73]
 - 3. Aggravated Felony [§ 14.74]
 - C. Recommended Advice [§ 14.75]
 - D. Avoiding Removal [§ 14.76]
- X. Instigating Fights Between Animals, Wis. Stat. §§ 951.08(1), (2), 951.18(2) [§ 14.77]**
- A. Inadmissibility [§ 14.78]
 - B. Deportability [§ 14.79]
 - 1. Felony CIMT Committed Within Five Years After Admission [§ 14.80]
 - 2. Two or More CIMTs [§ 14.81]
 - C. Recommended Advice [§ 14.82]
 - D. Avoiding Removal [§ 14.83]
- XI. Conclusion [§ 14.84]**

**CHAPTER 15
CLIENT COMMUNICATIONS, CASE STRATEGY, AND PRACTICE
MANAGEMENT TIPS**

- I. Chapter Overview [§ 15.1]**
- II. Determining Whether Your Client Is a Noncitizen [§ 15.2]**
 - A. In General [§ 15.3]

- B. Do Not Make Assumptions [§ 15.4]
- C. “Where Were You Born?” [§ 15.5]
- D. Foreign-Born U.S. Citizens [§ 15.6]
- E. Building Trust [§ 15.7]

III. Complete the ICIDA Steps [§ 15.8]

- A. Determine Client’s Immigration Status and Immigration History [§ 15.9]
 - 1. In General [§ 15.10]
 - 2. Date of First Entry into the United States [§ 15.11]
 - 3. Manner of Entry [§ 15.12]
 - 4. Departure Since the First Entry [§ 15.13]
 - 5. Family Members [§ 15.14]
- B. Ascertain Criminal Record [§ 15.15]
- C. Investigate Potential Immigration Consequences [§ 15.16]

IV. Developing Case Strategy [§ 15.17]

- A. Advising the Client of Potential Immigration Consequences [§ 15.18]
- B. What Does the Client Want? [§ 15.19]
- C. Determine a Realistic Goal [§ 15.20]

V. Practice Management Tips [§ 15.21]

- A. In General [§ 15.22]
- B. Fee Agreement Provisions [§ 15.23]
- C. Flat-Fee Versus Hourly Fee Agreements [§ 15.24]
- D. Do I Need an Immigration Lawyer? [§ 15.25]
 - 1. In General [§ 15.26]
 - 2. Second Opinion [§ 15.27]
 - 3. U.S. Citizenship [§ 15.28]
 - 4. Determining Potential Forms of Relief [§ 15.29]
 - 5. Unclear Immigration Consequences [§ 15.30]
 - 6. Convincing a District Attorney [§ 15.31]
- E. Memorialize Advice and Recommendations [§ 15.32]
- F. Memorialize the Client’s Decision [§ 15.33]

VI. Conclusion [§ 15.34]

CHAPTER 16
PLEA NEGOTIATIONS

- I. Chapter Overview [§ 16.1]**
- II. Counsel’s Duty to Plea Bargain Effectively [§ 16.2]**
 - A. Dicta in *Padilla* [§ 16.3]
 - B. Post-*Padilla* Cases [§ 16.4]
- III. General Framework When Plea Bargaining for Noncitizens [§ 16.5]**
 - A. In General [§ 16.6]
 - B. Setting a Realistic Goal [§ 16.7]
 - C. Research the Prosecutor [§ 16.8]
 - D. Persuading the Prosecutor [§ 16.9]
 - 1. Cite Immigration Law [§ 16.10]
 - 2. Address “Why Should I Treat a Noncitizen Differently?” [§ 16.11]
 - 3. Ask What the Victim Would Want [§ 16.12]
 - 4. Outline the Equities [§ 16.13]
 - E. Assuaging Concerns About Rehabilitation and Recidivism [§ 16.14]
- IV. Specific Recommendations [§ 16.15]**
 - A. Is There a Possible Negligent Offense That Fits Under the Allegations in the Criminal Complaint? [§ 16.16]
 - B. No *Mens Rea* or General-Intent Offenses [§ 16.17]
 - C. Sentencing Considerations [§ 16.18]
 - 1. In General [§ 16.19]
 - 2. Inadmissibility Regardless of Sentence [§ 16.20]
 - 3. Inadmissibility Triggered by Length of Sentence [§ 16.21]
 - 4. Deportability Regardless of Sentence [§ 16.22]
 - 5. Deportability Triggered by Length of Sentence [§ 16.23]
 - D. Limiting the Factual Basis [§ 16.24]
 - E. Minimizing the Damage [§ 16.25]
 - 1. In General [§ 16.26]
 - 2. LPRs and Cancellation of Removal [§ 16.27]
 - 3. Non-LPRs Who Might Be Eligible for Adjustment of Status [§ 16.28]
- V. Conclusion [§ 16.29]**

CHAPTER 17
ICE DETAINERS

- I. Chapter Overview [§ 17.1]**
- II. An ICE Detainer Is a Request Only [§ 17.2]**
- III. Recent Modifications to ICE Detainers [§ 17.3]**
- IV. ICE Detainers in Wisconsin [§ 17.4]**
- V. How Is an ICE Detainer Triggered? [§ 17.5]**
- VI. What Happens When ICE Takes Custody? [§ 17.6]**
- VII. Where Can Criminal Defense Counsel Find a Client Who Has Been Taken by ICE? [§ 17.7]**
- VIII. When Should a Person Remain in Local Custody? [§ 17.8]**
 - A. In General [§ 17.9]
 - B. Negative Impact on Criminal Case [§ 17.10]
 - C. Outstanding Removal Order [§ 17.11]
 - D. Postconviction Relief [§ 17.12]
 - E. Ineligibility for Cancellation of Removal [§ 17.13]
 - F. Mandatory Immigration Detention [§ 17.14]
- IX. Conclusion [§ 17.15]**

CHAPTER 18
POSTCONVICTION RELIEF FOR NONCITIZENS

- I. Chapter Overview [§ 18.1]**
- II. Effective Postconviction Relief Under Immigration Law [§ 18.2]**
 - A. In General [§ 18.3]
 - B. Certain Vacatures Will Not Be Honored [§ 18.4]
 - C. Will a Plea Withdrawal Under Wis. Stat. § 971.08(2) Be Honored? [§ 18.5]
 - D. What If a Sentence Is Modified Solely Based on Immigration Hardship? [§ 18.6]

III. Plea Withdrawal Under Wis. Stat. § 971.08(2) [§ 18.7]

- A. In General [§ 18.8]
- B. Harmless-Error Cases [§ 18.9]
- C. Plea Withdrawal After *Reyes Fuerte* [§ 18.10]
 - 1. In General [§ 18.11]
 - 2. Review Transcripts for Discussion of Immigration Consequences [§ 18.12]
 - 3. Ask the Client About the Client’s Understanding of Immigration Consequences [§ 18.13]
 - 4. Go Step-by-Step Through the Client’s Review of the Plea Questionnaire [§ 18.14]
 - 5. Obtain a Full Copy of Prior Counsel’s File [§ 18.15]
 - 6. Prepare to Discuss the Case with Prior Counsel [§ 18.16]
 - 7. Approach the District Attorney Before Filing the Postconviction Motion [§ 18.17]
 - 8. Consider Alternative Grounds for Plea Withdrawal [§ 18.18]
- D. Additional Relevant Case Law [§ 18.19]
 - 1. What If the Immigration Warning Is Provided at a Preliminary Hearing Instead of the Plea Hearing? [§ 18.20]
 - 2. Can a Defendant Waive a Reading of the Immigration Warning? [§ 18.21]
 - 3. What If the Immigration Warning Is Not Given Verbatim? [§ 18.22]
 - 4. What If the Circuit Court Gives Only a Partial Immigration Warning? [§ 18.23]
 - 5. What If the Plea Hearing Transcript Is Not Available? [§ 18.24]
 - 6. What Proof Is Needed to Show that a Plea Is Likely to Result in One of the Enumerated Immigration Consequences? [§ 18.25]
 - 7. Is There a Time Limit to File a Motion Under Wis. Stat. § 971.08(2)? [§ 18.26]

IV. Plea Withdrawal Under *Padilla* [§ 18.27]

- A. In General [§ 18.28]
- B. Pushback from the Court of Appeals [§ 18.29]
- C. Habeas Corpus Under 28 U.S.C. § 2254(d)(1) [§ 18.30]
- D. Prejudice Under *Padilla* [§ 18.31]
- E. Jurisdictional Deadline [§ 18.32]

V. Affirmative Misadvice [§ 18.33]

VI. Ineffective Plea Negotiations [§ 18.34]

VII. Immigration Status as Sentencing Factor [§ 18.35]

VIII. Conclusion [§ 18.36]

APPENDICES

TABLE OF CASES

TABLE OF STATUTES, REGULATIONS, AND RULES

INDEX