

How to Use the
**Quick Reference Chart For Determining Selected Immigration
Consequences Of Selected California Offenses, and the
California Notes**

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The Chart and Notes. The *California Chart* analyzes some key adverse immigration consequences (deportability, inadmissibility, and aggravated felon status) that flow from conviction of over 150 California offenses. The Advice column on the right suggests how to avoid these consequences by working with the record or seeking an alternate plea.

The *California Notes* are a series of articles for criminal defenders that are organized by topic, e.g. how to plead to drug charges or theft charges, or what to do in response to an immigration hold. See Table of Contents at the end of this document. The Notes provide more detailed plea instructions, as well as basic information on applicable crim/imm law.

Most Notes are followed by Appendices, which are defender aids specifically geared to the topic of the Note. Check them out! They may include:

- **Topic-specific charts and checklists.** Some Notes provide a chart or checklist about the Note's topic, which is more detailed than the main California Chart. It may summarize information and plea instructions from the Note in a quick-access format. For example §N.9 *Domestic Violence, Child Abuse* has as an Appendix a detailed chart on dealing with charges that may flow from a domestic violence incident.
- **Legal Summaries for the Defendant.** Because the great majority of noncitizens are unrepresented in removal proceedings, and because many immigration judges are not intimately familiar with crim/imm issues, we face the risk that your good work will go to waste because no one in immigration court will recognize the defense you have created. For this reason, many Notes include an Appendix that sets out legal summaries of the defenses described in the Note. We ask you to identify the relevant summary (easy to do) and literally print the page, cut out the summary, and hand it to your client. Tell the person to give it to his or her immigration attorney if any, or else directly to the immigration judge. Further, because immigration detention center authorities often confiscate detainees' documents, if your client will be detained we ask you to mail or give a second copy to a friend or relative of the client. See each Appendix for further information and instructions.

Navigating the Chart and Notes. Two tools will help you to get around this large document. First, on the California Chart you will see directions to certain Notes printed in red, e.g. "See **Note: Drugs.**" These are hyperlinks; click on them to go to the Note.

How to Use the California Chart and Notes

January 2013, www.ilrc.org

Second, if you download the chart in PDF form you will see that there are booknote and table of contents functions that will take you around the document.

To send comments or suggestions about the Chart or Notes, write chart@ilrc.org.

Need for Individual Analysis. The Chart and Notes can be consulted on-line or printed out and carried to courtrooms and client meetings for quick reference. However, competent defense advice requires an *individual* analysis of a defendant's immigration situation. For example, the defense goals for representing a permanent resident are different from those for an undocumented person; even within these categories, the goals will change based on the individual's priors and/or possible relief. See §N.1 Overview.

To capture the needed information, an attorney or paralegal should complete the form at §N.16 *Immigration Questionnaire* for each noncitizen defendant. (For a "write-on" PDF version of the form, go to www.ilrc.org/crimes.) See also §N.17 *Relief Toolkit*.

Disclaimer, Additional Resources. Using this guide and other works cited in §N.18 *Resources* will help defenders to give noncitizen defendants a greater chance to preserve or obtain lawful status in the United States – for many defendants, a goal that is even more important than avoiding criminal penalties. However, these are quick-reference resources with real limits. While federal courts have specifically affirmed the analysis presented for some offenses, in other cases these materials represent only the authors' opinion as to how courts are likely to rule. In addition, this area of the law is volatile. Each month new decisions come out that may change immigration consequences. And in 2013, with immigration reform on the table, it is possible that Congress will put in additional crim/imm provisions and apply the change retroactively to past pleas.

Defender offices should check accuracy of pleas and obtain up-to-date information. Tell the defendant that while you will provide the best advice possible now, you cannot guarantee what may happen in the future. The best option is to use the Chart and Notes in consultation with an immigration expert, or if that is not possible with in-depth resource works such as Brady et al., *Defending Immigrants in the Ninth Circuit* (www.ilrc.org) or Tooby, *Criminal Defense of Immigrants* (and other works, see www.nortontooby.com). See especially www.defendingimmigrants.org for defender resources, and see information on other books, websites, trainings, and consultation at §N.18 *Resources*.

Be sure that your defender office has a representative on the *free Cal-DIP listserv*, by which we circulate updates and announcements. Contact suyon@ilrc.org for information.

Important Note to Immigration Attorneys. While these materials may provide a useful shortcut to current information, it is crucial to note that they are written for criminal defense counsel, not immigration counsel. They represent a conservative view of the law, meant to guide criminal defense counsel away from potentially dangerous options and toward safer ones. Thus immigration counsel should not rely on the chart in deciding

How to Use the California Chart and Notes

January 2013, www.ilrc.org

whether to pursue defense against removal. An offense may be listed as an aggravated felony or other adverse category here even if there are very strong arguments (or in some cases even precedent) to the contrary that ought to prevail in immigration proceedings.

Immigration attorneys should see *Defending Immigrants in the Ninth Circuit* (www.ilrc.org, 2013). This provides a detailed analysis of defense strategies and arguments for immigration proceedings. See also other ILRC publications there, and see resources at www.nortontooby.com and at *§N.17 Resources*.

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California Chart and Notes: Table of Contents

California Quick Reference Chart

-Notes:

1. Overview
2. Conviction
3. Record of Conviction
4. Sentences
5. Immigration Holds and Detainers
6. Aggravated Felonies
7. Crimes Involving Moral Turpitude
8. Drug Offenses
9. Violence, Domestic Violence, Child Abuse
10. Sex Crimes
11. Burglary, Theft and Fraud
12. Firearms Offenses
13. Adam Walsh Act: Offenses that Prevent Citizens and Residents from Immigrating Family Members
14. [Reserved]
15. Juvenile Delinquency
16. Client Immigration Questionnaire
17. Immigration Relief Toolkit
18. Resources