

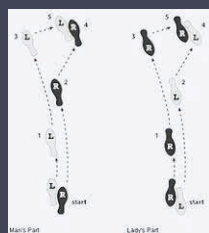
# Crimmigration



Amelia Ruiz Fischer and Jordan Pollock

1

## Today's Discussion: Overview



- Working with Criminal Defense Counsel
- Overview of the Categorical Approach
- Deeper dive/practice with Categorical Approach and new cases

2

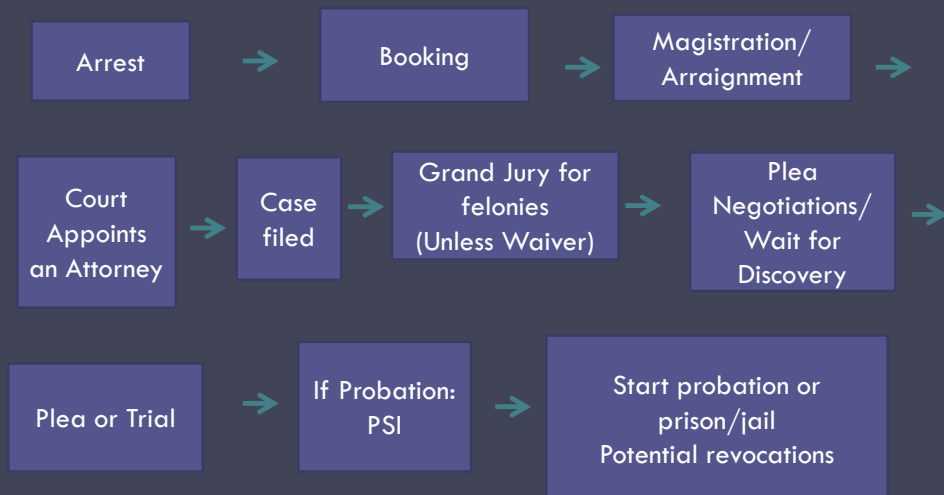
# How and when to work with a criminal defense attorney?

- As soon as possible!
  - ▣ Ask about pre-trial diversion programs (where pleas/admissions are *not* required) early as there are enrollment deadlines
  - ▣ Reach out to *Padilla* experts if you need help identifying possible alternate/safe pleas.
- Set your expectations
  - ▣ Reduction or dismissal often not available
  - ▣ Non-detained criminal cases move slowly
  - ▣ Going to trial can be a very big risk, as Texas has broad sentencing range



3

## How a case moves in criminal court



4

# Reminder of Defense Counsel Duties



- *Padilla* requires defense counsel to give detailed and specific advice
- Not just referring the client to immigration counsel
  - Defense counsel needs to talk to immigration counsel
- For writs, be aware of *U.S. v. Armendariz* (5<sup>th</sup> Cir. 2023)
  - That said, not a standard to advance with defense counsel

5

# Important Texas Criminal Court Terminology

- Deferred Adjudication
  - Is a conviction but the period on deferred is not a sentence
- Straight Probation
  - Is a conviction and the suspended sentence is a sentence
    - (e.g. 2/5)
- Pre-Trial Diversion
  - Must look at the diversion contract to see if plea or admission
- SAFPF
  - “rehabilitation” that counts as a sentence



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Crimmigration

Also available as part of the eCourse

[Crimmigration \(2023\)](#)

First appeared as part of the conference materials for the  
47<sup>th</sup> Annual Conference on Immigration and Nationality Law session  
"Crimmigration"