

What to Know When Serving Non-Citizen Re-Entry Clients

- **An arrest or conviction can impact ANY noncitizen.** Contact with the criminal legal system can potentially impact any person who is not a U.S. citizen, regardless of how long ago the contact occurred or the person's legal status.
- **Impact is case-specific.** The immigration impact of an arrest or conviction does not follow any one-size-fits-all rule. Consult with a legal expert about each client's particular situation.

Common related questions and misperceptions.

- The felony/misdemeanor distinction is not always determinative of impact. Some misdemeanors can put a Lawful Permanent Resident's status at risk, while some felonies can have no immigration impact whatsoever.
 - Usually, only a conviction will impact immigration status, but there are some situations where even an arrest can be considered by immigration officials.
 - Federal immigration law has its own definition of "conviction," which can include certain diversion pleas. Don't assume a dismissed conviction is not a conviction.
- **Expungements don't solve most issues.** An expungement does not remove a conviction from a person's record for immigration purposes. This is because immigration law distinguishes between rehabilitative relief and dismissal for legal error. There are specific and limited situations where an expungement may have immigration benefits.
 - **Noncitizens have specific rights in criminal proceedings.** A person who is not a US citizen has legal rights related to understanding the immigration consequences of criminal charges. When these rights were not upheld, a defendant can challenge a conviction based on legal invalidity.

A noncitizen defendant has the following rights in criminal proceedings:

- (1) to have counsel research the specific immigration consequences of any charges or proposed plea and to advise them of these specific consequences;
 - (2) to have counsel attempt to negotiate an immigration-safe plea deal;
 - (3) to be warned by the Judge that a plea could carry possible immigration consequences, including deportation, exclusion, and a bar to citizenship.
- **Noncitizens with records should get screened.** It is important to warn any noncitizen with a criminal record that they should avoid the following activities until they can receive a legal consultation regarding how their record may impact immigration status: (1) travelling outside of the US; (2) renewing any legal status; or (3) applying for any immigration benefit.

Common related questions and misperceptions:

- Even if a person has travelled outside the US since their conviction without a problem, they could be at risk of being stopped at the border in the future. They must also advise an attorney screening them of this prior travel, as it could impact their case.
- When a Lawful Permanent Resident travels outside the US after certain convictions they can open themselves up to additional negative immigration consequences that they were not subject to before.
- Even if a person's Green Card expires, their legal status as a Lawful Permanent Resident does not expire. However, some individuals may not want to let their Green Card lapse if they need up-to-date proof of residency for work or other purposes.