



NOVEMBER 2020

## 6 TIPS FOR PUBLIC DEFENDERS TO DEFEND IMMIGRANT COMMUNITIES

Convictions can pose unique challenges to noncitizens. Immigrant demonstrators may be specifically targeted by federal authorities in immigration proceedings. Certain convictions can bar some forms of immigration relief or cause some immigrants to be deportable. For this, and other reasons, noncitizen clients with protest-related charges are at a heightened risk of facing immigration consequences. Defense counsel can help protect immigrants from these consequences by negotiating dispositions to alternative charges that avoid or mitigate the immigration consequences.

1. Use special caution to identify noncitizen protestors and to strive to mitigate their immigration consequences. If you can negotiate an alternate charge, protect the record of conviction and do not stipulate to the facts in the police report, preliminary hearing transcript, pre-conviction probation report, or any other document that states unfavorable facts.
2. Any misdemeanor conviction can be a problem for an individual who has DACA or TPS.
3. While some convictions may not trigger any removal grounds or cause inadmissibility, they may still harm the noncitizen. In making discretionary decisions, some immigration judges and officials will factor a conviction such as resisting a peace officer heavily against a noncitizen.
4. Consider all options in challenging a prosecutor's possible refusal to reach an immigration-sensitive disposition.
5. Consult with a local crim-imm expert *before* pleading a noncitizen defendant to a specific charge.
6. Refer your immigrant client to a local rapid response network or nonprofit immigration legal services provider who can help screen your client for immigration relief or identify defenses against deportability.