

CNOZCA SUS DERECHOS: THE NECESSITY AND  
LIMITATIONS OF LEGAL TRAININGS IN  
UNDOCUMENTED AND MIXED-STATUS IMMIGRANT  
COMMUNITIES

by

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This thesis focuses on Know Your Rights trainings for youth and immigrants. Know Your Rights trainings explain basic constitutional rights and police interactions, and teach people how to exercise their rights. This project examines the ways trainings can be used in undocumented and mixed-status immigrant communities to prevent deportations and do harm reduction. The project consists of two parts: the first part is a research-based, literature review that establishes the necessity of the trainings. This piece includes a description of some dominant paradigms and narratives about immigration, as well as a counter-narrative that gives an outline for the problems and challenges the trainings try to address. This counter-narrative also illustrates the ways in which trainings can be limited. The second half of the thesis is project-based. I updated, translated, and consolidated existing trainings to create a new “Juvenile Immigrant” training. The training is available online and was given at a conference in May, 2014.

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## **Table of Contents**

Introduction	1
Chapter 1: Problems and Challenges	5
A Network of Mass Deportation	5
Increased Policing in Communities of Color	9
Chapter 2: Dominant Paradigms and Counter narratives	13
The Melting Pot Myth	13
Displacement and Borders	21
The Criminalization of Migrants	28
Colorblind Racism and Continuing Hierarchies	32
Forced Precarity	35
Contradictory Frameworks	37
Chapter 3: Conozca Sus Derechos	39
Community Trainings	39
Training Outline	41
Distribution	45
Benefits	47
Limitations	49
Discussion	52
Closing Thoughts	52
Works Cited	55
Juvenile Immigration Training PDF	58

## **List of Accompanying Materials**

1. Juvenile Immigrant Know Your Rights training slides with notes

## **Introduction**

My thesis focuses on “Know Your Rights” (Conozca Sus Derechos) trainings. The trainings explain basic constitutional rights in the United States and how they apply to everyday life and police interactions. They are in PowerPoint form and were created by the Civil Liberties Defense Center, a law group based in Eugene, Oregon whose mission is to “defend and uphold civil liberties through education, outreach, litigation, and legal support and assistance.” The trainings have basic information, focusing on constitutional rights; they focus on the 1<sup>st</sup> amendment right to advocate for change, the 4<sup>th</sup> amendment right to be free from unreasonable searches and seizures, and 5<sup>th</sup> amendment right to remain silent. They trainings also explain police interactions. There is a basic training that focuses just on these things, and others that include supplemental information for certain demographic groups including juveniles, immigrants, and the homeless. For this project I’m focusing on the trainings designed for youth and immigrants. This thesis project consists of two parts: the first part is research-based and contextualizes the study. The second half of the thesis is project-based, creating the training and working on distribution.

The research-based part includes a problem statement, where the current mechanisms of detention and deportation are explained and put into historic context. This section will cover a lot of information quickly and efficiently, giving insight into the intricacies of historical and current forces that affect the experiences of immigrants of color and those living without documents in the United States (hereinafter “US”). I will outline the current system of deportation and the *Immigration Industrial Complex*, which “refers to the public and private sector interests in the criminalization of

undocumented migration, immigration law enforcement, and promotion of “anti-illegal” rhetoric” (Golash-Boza, 2013, p. 13). This system utilizes existing institutions, such as the police and carceral network, to target and deport people from mixed-status communities. Mixed-status refers to families or communities where some people are citizens or legal permanent residents, but others are undocumented. There will also be a discussion of racial profiling and the problem of increased policing in communities of color.

I will use the framework of “Border Imperialism,” as articulated by Harsha Walia (2013) to understand immigration and immigration enforcement in the United States and establish a need for the trainings. This framework also sets up the discussion for the limitations of the trainings. The lens of border imperialism will help explain the historical background to the US’s removal and exclusion of different peoples, starting with the removal of indigenous groups during the establishment of the United States and expansion, following trends through Chinese exclusion, and up to the current situation of mass detention, deportation, and the border crisis. This narrative runs counter to the rhetoric used by mass media and the Obama administration, the dominant narrative that America is a “nation of immigrants.” Paul Spickard (2007) offers an explanation of the dominant views of immigration, and the ways in which the stories of many ethnic groups are erased through the attempt to construct a common experience.

The context sets up the needs for trainings. Know Your Rights trainings are presented as unbiased and simply explaining rights, but in the current context of

colorblind racism<sup>1</sup> and increased militarization of the border and interior enforcement, exercising your rights can be a political act of resistance. They can also be used to prevent deportations and do harm reduction. By understanding the ways the state functions, it is possible to view different points of intervention where people can act to protect mixed-status communities. These trainings don't necessarily work to change power dynamics, but they can challenge power and make important information accessible to marginalized communities. The hope is that an understanding of the legal system will allow them to access important resources and minimize harm. However, the trainings are quite limited in the fact that they are at most only a few hours long; within that time it is very difficult to counter the entire weight of the immigration system. They also function within the confines of the nation-state, meaning we are discussing rights as distributed to people by the US government, as opposed to a human rights framework.

I updated, consolidated, and translated already existing trainings to make a “Teen Immigrant Training.” I focused on recent changes in policy at the state and federal levels that affect people who are undocumented to give up-to-date information, including information on Deferred Action for Childhood Arrivals.<sup>23</sup> I also compiled a list of local, regional and national resources for people to contact if they needed legal help or wanted to get involved in different organizing efforts.

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<sup>1</sup> Colorblind racism refers to the current context of racism in the United States where race is not explicitly mentioned in legislation or policy, but has the effect of creating or maintaining racial hierarchy and racist institutions.

<sup>2</sup> I use the term “undocumented” because the terms used by federal agencies and the media (“illegals,” “illegal aliens,” “illegal immigrants”) are offensive, racialized terms that demonize and dehumanize individuals.

<sup>3</sup> The updates I added and translating I did was later verified and reviewed by lawyers.

The thesis includes a discussion about the distribution methods of the training, including a brief summary of the feedback from one of the presentations. This presentation took place at the 2014 Raza Unida Youth Conference (RUYC) to a group of 50 students at the University of Oregon (UO). RUYC is an annual conference organized by the university's Movimiento Estudiantil Chican@ de Aztlan (MEChA), a nationwide student group with a local chapter. This year the conference brought about 150 students, mostly Latino/a, from high schools across the state to the UO campus for a day of workshops, discussions, presentations, campus tours, and trainings. I gave the training with another student during all sessions of the conference, as well as provided informational materials from other groups. The training PowerPoint is available online at the Civil Liberties Defense Center's website<sup>4</sup>.

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<sup>4</sup> [www.cldc.org](http://www.cldc.org)

## **Chapter 1: Problems and Challenges**

### **A Network of Mass Deportation**

Deportation is a problem. It's expensive, violent, ineffective at accomplishing its own stated goals, and it affects groups beyond the stated target. It threatens communities by targeting and removing its members. Selective enforcement and utilization of local law enforcement to remove individuals from their community creates fear and mistrust between community members and police. A study<sup>5</sup> surveying Latinos and their perceptions of Law Enforcement showed that 70% of undocumented Latinos agreed with the statement "I am less likely to contact police officers if I have been a victim of a crime for fear they will ask me or other people I know about our immigration status" (Theodore, 2013, p. 5). This fear has an isolating effect on people who have been victims of crimes, in the same survey 65% of undocumented Latinos said they felt less safe because of police involvement in immigration enforcement (Theodore, p. 8).

The Obama administration has implemented policies that have resulted in the deportation of over 2 million people (Hesson, 2013). Obama has deported so many people by relying on the administration's quota system. The administration aims to deport 400,000 people a year, the maximum capacity given current infrastructure (Cohen & Thompson, 2014). About 205,000 of those who have been deported are parents of US citizen children, leaving at least 5,100 US-citizen children in foster care (Chandler, 2013). President Obama's mass deportations devastate communities by forcefully removing people at gunpoint. This has justifiably resulted in a climate of fear

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<sup>5</sup> The study was done in 2012 by phone and reached 501 Latinos in the following counties; Cook (Chicago), Harris (Houston), Los Angeles, and Maricopa (Phoenix) (Theodore, 2013, p.4).

in mixed-status communities, who also often suffer from poverty. The threat of deportation is very real and omnipresent due to new programs that link immigration police to local law enforcement. This has happened through the creation and fortification of what some scholars and activists call the Immigration Industrial Complex (Golash-Boza, 2013, p. 13). The Immigration Industrial Complex and its relation to race, the prison industrial complex, and other systems of oppression will be examined later.

The Department of Homeland Security operates in a way that mirrors guidelines of “attrition through enforcement.” Lawmakers understand that it is impossible to physically remove the estimated 11 million people living in the US without authorization. This would substantially undermine the entire US economy. Instead, an alternative strategy is employed where the threat of deportation, selective enforcement of immigration laws, and exclusion is thought to be enough to coerce people to voluntarily leave. This strategy is framed as a more cost-effective way to approach immigration enforcement. Angela Garcia (2013) expands this concept.

Scholars and policy makers apply the term ‘attrition through enforcement’ to contemporary legislation that seeks unauthorized immigrants’ voluntary exit rather than their forced removal (Vaughan 2006). These policies attempt to deter settlement and encourage mass self-deportation by making life in receiving locales exceedingly difficult. Common strategies include curtailing access to key institutions and services – such as education, employment, housing and public benefits – criminalizing acts of assistance to unauthorized immigrants and including local police in federal immigration enforcement. (p. 1850)

One of the most damaging programs using the method of “attrition through enforcement” is the Secure Communities Act (“Secure Communities”). The Secure Communities Act allows the Department of Homeland Security to utilize existing

infrastructure of local jails and police (which often target communities of color) to locate and deport people without investing a large amount of money to investigate and apprehend individuals. The Act mandates that local jails share information about who is currently in custody with Immigration and Customs Enforcement (hereinafter “ICE”). ICE can then put an “immigration detainer” (also referred to as an “immigration hold”) on the person and the jail has the option of holding the suspected immigrant for up to 48 hours after their intended release, permitting ICE to take the person into custody. The Secure Communities Act is an extension of the 287(g) program that was passed along with the last major revision to immigration regulation in 1996, the Illegal Immigration Reform and Immigrant Responsibility Act. The 287(g) program was an optional program where local law enforcement could elect to sign a memorandum of agreement to share information. The Secure Communities Act mandatorily compels information sharing (Garcia, 2012, p. 1851).

Sharing information on those in custody is mandatory, however, there has been controversy regarding whether local agencies must comply with ICE detainer enforcement. The practice of enforcing ICE detainees has recently been challenged in a groundbreaking Oregon court case that determined that Clackamas County had violated the rights of a woman named Maria Miranda-Olivares by holding her to pass custody off to ICE (Castillo, 2014). This judicial decision has sparked multiple agencies determining they must change their policy regarding ICE holds, to prevent constitutional violations and additional lawsuits, by no longer complying with them. The court opinion is very recent, and significant changes are still occurring in counties across the country.

The goal of the Secure Communities Act is to “target dangerous persons” for removal. It is intended to deport “criminal aliens” (“Secure Communities”). However, two-thirds of those deported are people without any criminal history, or people convicted of minor offenses, such as traffic violations, in contradiction with the federal intent (Thompson & Cohen, 2014). Rather than demonstrating that the other third of those deported are bad people, this statistic illustrates that how, even by its own standards, the policy is not achieving its intended purpose. Furthermore, the construction of “criminality” as a moral standard is complex must be further complicated. This designation is far from objective, especially today in the context of the “War on Drugs.” The term “criminal” is racialized; meaning it carries racial connotations, there is no need to mention racial dynamics because they are implied in the language used (Brewer & Heitzeg, 2007). The War on Drugs has resulted in the mass incarceration of Black Americans, as well as Latinos. The Secure Communities Act utilizes this existing Drug War infrastructure such as jails, police, informants, and anti-drug laws to deport mostly people of Latin American descent (Golash-Boza, 2012, p. 95).

According to Garcia’s (2013) research, the strategy of ‘attrition through enforcement’ is ineffective at dissuading people from settling in certain areas or at convincing them to “self deport” (p. 1864). This strategy does not recognize individuals as integral parts of communities, with families and friends who are citizens. Immigrants, regardless of documentation status. It also fails to recognize the myriad of reasons people leave their home communities to resettle in the US. The consequence of this government program is that it targets and punishes citizens by attempting to use

punitive measures against undocumented communities (Golash-Boza, 2012, p. 10). When people belong of mixed-status families and communities who are deported, there is a collective loss of that person's time, resources, and care. The citizenship of people in these families becomes devalued because they must choose between staying in the United States or leaving to be with their family member. The only other option for reunification is the deportee risking his or her life and paying a large sum of money to travel back to the United States (Golash-Boza, 2012, p. 110).

### **Increased Policing in Communities of Color**

The threat of deportation and current methods of enforcement rely on the fact that the policing system in the United States disproportionately affects people and communities of color (Alexander, 2012). The trainings also attempt to address this issue. Racial disparities in policing, and the use of racial profiling increase the likelihood that undocumented immigrants of color will be detained and forced to interact with the police. The majority of current immigrants who are living without documentation come from Mexico, Central America, Ecuador, Brazil, China, India and the Philippines. Many of the people from these countries are categorized as nonwhite in the United States (Golash-Boza, 2012, p. 19). This isn't to say that people of color are more likely to migrate in unauthorized ways, it is a result of laws designed to exclude people of color from this country. Immigration regulations have changed over the past few centuries, but "more often than not, these changes have been to the disadvantage of people defined as nonwhite" (Golash-Boza, 2012, p. 86). While not all people living in Latin America are defined as nonwhite by US standards, many who come through unauthorized means are considered nonwhite.

The increased policing in certain communities has no logical basis for eliminating crime. One of the main justifications for this increase in police presence and militarization within in communities of color, especially in urban areas, has been alleged drug crimes. Ironically the War on Drugs began when drug use was on the decline (Alexander, 2012, p.6). Furthermore, there is no logical connection between communities of color and the sale, transportation, or use of drugs (Alexander, 2012, p. 99). The war on drugs has been used as a justification for the increased police presence in communities of color, and has also been cited as a reason for building more prisons.

Alexander calls this process and the results “The New Jim Crow,” she argues that the “system of mass incarceration works to trap African Americans in a virtual (and literal) cage” (p. 185). This process starts with “the roundup” where increased policing ensures that more people of color are pretextually stopped by police and taken to jail. The next step is “the conviction,” where people who are under-represented by indigent defense counsel are pressured into pleading guilty because of huge mandatory minimum sentences that are stacked against them without good legal defense. Finally, people are sentenced to prison time, where they can become acculturated to criminal society and violence. While incarcerated they are removed from their family and upon release they are legally discriminated against as “felons,” banned from public housing and sometimes unable to access food stamps (p. 186).

Alexander argues that this system allows whites to maintain power and control, while not appearing to discriminate against people of color. While her research and arguments center around Black men in the United States, others have suggested that there are “striking parallels between mass incarceration of African Americans and the

criminalization of largely brown Mestizo and indigenous undocumented migrants from Latin America” (Martinez & Slack, 2013, p. 549) Parallels between the system of mass incarceration and mass deportation, will be outlined later.

The immigration system is, in theory, separate from the criminal justice system. To reside in the United States without proper authorization is a civil offense, an administrative issue that goes through civil proceedings which are separate from criminal charges such as misdemeanors or felonies and must be proven by a lesser standard. If solution chosen by law enforcement is deportation, then there are often no criminal charges filed. This means that the detained person does not have all of the same rights that apply to criminal defendants. For example, People in immigration proceedings are not given a court-appointed lawyer if they cannot afford one. They are also not told their rights prior to being interrogated. Because of these differences and a lack of understanding regarding the standard of proof required in immigration proceedings, people inadvertently waive their rights and incriminate themselves, increasing the harm that can be done to a community(Golash-Boza, 2012, p. 82). The jurisdiction of local law enforcement versus Immigration and Customs Enforcement (ICE) is also different, these differences will be expanded in the section outlining specifics of the training.

Immigrant detention itself is also not considered punishment, but a response to the Department of Homeland Security identifying people as “flight risks” or dangerous unless otherwise proven (Golash-Boza, 2013, p. 62).People are held in detention until their court hearing, which can be months to years. Over the past thirty years, ICE has gone from a presumption that non-citizens do not present a threat to society, to a

presumption that they do present a threat, and thus only ordering the release of migrants who can prove otherwise (Golash-Boza, p. 64).

How did this happen? How did Obama attain two million deportations? What historical factors have led to this? The next section will delve deeper into these questions to further establish the need for the Know Your Rights training and similar methods of harm reduction and resistance.

## **Chapter 2: Dominant Paradigms and Counter narratives**

Framing matters. Understanding the historic context of immigration is key to understanding the current system. The way immigration is discussed leads people to conclusions about why things happen, which then leads to discussions of what the solution is. In order to discuss current migration patterns and issues faced by immigrants it's necessary to look at the US's history of inclusion and exclusion. This context illustrates the reasons why legal trainings are important, and also shows why they are limited. The following chapter will explore the dominant paradigm of immigration in the US, and contrast this with counter narratives explained by social justice activists and scholars. The discussion will go beyond domestic issues, including the way that the US influences other countries and supports policies that force people from their homes ("push factors"), and immigrants they choose to come to the United States ("pull factors").

### **The Melting Pot Myth**

"America is a nation of immigrants." This statement is used to unite people, and is key to American nationalism. It evokes a sense of pride, of people working hard to be successful and build something out of nothing in a new place, achieving the "American Dream." It is a phrase heard at all levels of society, from Elementary school classrooms to Barack Obama's political speeches about immigration reform. This phrase must be deconstructed to understand its origins, its legitimacy and why it continues to be such a popular sentiment. This dominant paradigm in the United States regarding immigration, is referred to as the "Ellis Island Paradigm" (Spickard, 2007, p. 4). European migration is highlighted through focusing on groups now considered to be white coming by boat

to Ellis Island, and then slowly assimilating into the new nation. Those who entered as English, French, Germans and other western and central European nationals predominantly assimilated into an Anglo, Protestant, English speaking mass. They built the nation, populating the East coast then moving West, exploring supposed new, unpopulated or sparsely populated areas as pioneers.

The Ellis Island Paradigm is a mechanism for nationalism in the US. The Ellis Island Paradigm gives a romanticized idea of the immigrant experience to give a positive, idealistic basis for national pride. It convinces people that everybody in the nation started at the same place and has worked together to build a common ideal. Spickard (2007) notes that this idea of assimilation and shared experience in the United States “is built on an interlocking set of unexamined assumptions about how various racial and ethnic groups have in fact functioned in relationship to each other in American history” (p. 5). This paradigm does not recognize “power, economic station, race, slavery, oppression, discrimination or the displacement of native peoples” (p. 7). It also fails to mention the ways in which many groups, on arrival, were not considered to be “white.” Italians, Irish, Jewish and Eastern Europeans immigrants were only granted considered “white” later on (Spickard, 2007).

This new mass of people helped construct the idea of the “Melting Pot.” According to the Melting Pot myth, all immigrants contributed equally to the new culture of the United States, getting thrown into a metaphorical pot until they all melded into something that was equal parts of them all, and unrecognizable from each other. Only those now considered to be white immigrants potentially fit into this paradigm (Spickard, 2007, p. 20). Immigrant success stories from this time are used to justify and

explain the mistreatment and inequality of migrant communities today. They give anecdotal evidence of immigrants using their determination and hard work to be successful.

The idea of a “nation of immigrants” recognizes that the majority of people who are now citizens can trace their ancestry to other places, but fails to mention the different terms in which people migrated, were removed, were colonized or kidnapped. It erases the experiences of non-white ethnic groups and attempts to compare experiences that have little in common. Marcelo M. Suárez-Orozco critiques the assumption of upward mobility and progress. “The foundational narratives of immigrant assimilation typically depicted an upwardly mobile journey” (2000, p. 14). European migration through Ellis Island fit this pattern of the “Immigrant Assimilation model” (Spickard, p. 22). White immigrants arrived and within a few generations of hard work, their lives improved. According to Suarez-Orozco, there was a perceived positive correlation in life quality and time spent in the US, “The longer immigrants were in the United States, the better they would do in terms of schooling, health and income” (2000, p. 14).

This pattern of upward mobility does not hold for people who were forcibly incorporated, such as African slaves and Native Americans, and is also no longer true for immigrants of color, particularly unauthorized immigrants. Histories of indigenous peoples and African Americans, as well as other populations that have been systematically excluded don’t fit into these paradigms. “Scholars of ethnic studies have used the terms “internal colonialism” or “colonized minorities” to explain the way people of color have been incorporated into the United States” (Chomsky, 2007, p. 91).

The paradigm also ignores economics, immigration law, and global push and pull factors. The current economy of the United States is very different from the economy many earlier Europeans discovered. As Suarez-Orozco also mentions regarding these historical patterns, “the previous large wave of immigrants arrived on the eve of the great industrial expansion in which immigrant workers and consumers played a key role” (2000, p. 12). Comparing earlier migration to current patterns also inevitably brings up a legal discussion, where people incorrectly state that their families immigrated through legal methods, so current migrants should do the same. Generally this is referring to white, European migration, and doesn’t capture much of the story, “There were no illegal immigrants from Europe because there was no law making immigration illegal for Europeans” (Chomsky, 2007, p. 54). This fact helps dispel some of the arguments of anti-immigrant groups, stating that current migrants should come through legal means.

Immigration laws have changed drastically over the past few hundred years. What used to be a situation of open migration for certain groups, followed by a national quota system is now extremely restricted (Chomsky, 2007, p. 54). The rules have changed drastically. Today it is virtually impossible to get a visa as a “low skilled” laborer. The reasons for people immigrating have also changed. While Ellis Island migration is generally framed as ‘voluntary,’ current south-north migration is often coerced and may be more appropriately described as displacement (Bacon, 2008, p. 25). The Immigrant Assimilation model ignores differences between migrating groups and focuses simply on culture and the ways different groups have assimilated or not assimilated to White American culture. Currently, racial and economic disparities

heavily influence the immigrant experience, especially for immigrants of color. These newly arriving immigrants faced “barriers of widespread racism, a bifurcated labor market, the ready presence of countercultural models in street gangs and drug culture” there is increasingly “*downward assimilation*” (Portes, 2007, p. 88). The longer unauthorized migrants are present and the more “Americanized” they become, the worse off they are. This reinforces negative stereotypes about migrants, and can be an easy target for anti-immigrant scholars (Portes, p. 94).

Samuel Huntington’s essay “The Hispanic Challenge” (2004) illustrates how immigrant communities get blamed for not just their circumstances, but also societal problems. Huntington looks at Latino communities and how they have failed to assimilate into White American culture. He cites that by maintaining language and cultural practices, they are refusing to be American. Huntington examines disparities in high school graduation and income levels and says they are results of this lack of assimilation.

Even in the title, Huntington is making a choice of where to place blame. “Hispanics” are a challenge because they won’t assimilate to the dominant culture. He writes that this is because of differences in culture, geographical locations and concentrations of Hispanics, allowing for people to maintain their culture. This is contrasted with “earlier migrant groups” who are were of European descent and now considered to be “White.” Huntington hints at the Melting Pot Myth described by Spickard when he discusses about the ways Hispanics have not assimilated. Spickard describes this as an assumption that “every group in the US history is going through more or less the same process of assimilation and incorporation into a nonethnic

American mass” (2007, p. 14). As mentioned earlier, this also ignores the economic realities of 21<sup>st</sup> century America. In fact, Huntington is comparing immigrant experiences of people during very different economic and political time periods within the US. Aviva Chomsky quickly and succinctly explains why comparing the experiences of current migrants to early European migration is reductive and inaccurate,

Today’s immigrants are heirs to a long history of immigration and expansion that has incorporated people into the country’s population in a distinctly unequal manner. Today’s immigrants are still immigrants, like the Europeans of a century ago. But they are also Asians and Latinos, whose history in the United States has been one of exclusion and conquest. (Chomsky, 2007, p. 102)

The idea of America as a nation of immigrants, as a place where anybody can come, work hard, and succeed, is a fallacy. Who is “American” has often been determined by race. Immigrant groups from some European nations have historically been received more positively and have had an easier transition to become “Americans.” Meanwhile, nonwhite groups have historically been excluded from full membership into U.S. society. Who is considered white has also changed, expanded to include Italian, Irish and Jewish immigrants. However, there are still some that are excluded. These are the folks Ngai (2004) terms “the impossible subjects” or the “alien citizens,” people who are forever “presumed to be foreign by the mainstream of American culture and, at times, by the state” (p. 2). The language and mechanics of exclusion have changed to accommodate peoples’ aversion to blatant racism but the same exclusions continue to have material impacts on immigrant communities and communities of color.

Changes in the way language functions also feed into the false belief that America is now “post racial.” The idea of a post racial America is built on the assumption that the history of the US is one of expanding rights, where people organize

and fight to earn their right to be included in the nation. This supposedly culminated in the civil rights movement and subsequent changes in legislation where “the last remnants of discrimination and exclusion were presumably removed” (Chomsky, 2007, p. xii). Today there is an African American man sitting in the oval office. Proponents of “post racial” fallacy cite this as an example that clearly, anybody can overcome challenges and succeed, if they just work hard. Never mind the disproportionate numbers of Black men in prison and under correctional control (Alexander, 2010). Current mechanisms of racial hierarchy and its effects on communities of color and mixed-status communities will be discussed more in the following sections.

### **Border Imperialism**

In sharp contrast to the lens of the Ellis Island Paradigm is the framework of Border Imperialism, as articulated by Harsha Walia (2013). According to Walia, “Border Imperialism is characterized by the entrenchment and re-entrenchment of controls against migrants, who are displaced as a result of the violence of capitalism and empire, and subsequently forced into precarious labor as a result of state illegalization and systemic social hierarchies” (p. 38). The four key aspects of border imperialism are (1) the combination of displacement and secured borders, (2) the criminalization of migrants to ensure profits, (3) racialized hierarchies and the (4) creation of a vulnerable labor market (Walia, 2013, p. 75).

Walia views the current manifestations of militarized borders and distinctions between citizens and non-citizens as a result of advanced capitalism and a need to continue to create an “other” to exploit. This “other” can’t be defined by race anymore, so new distinctions have arisen. The presence of borders split people physically, and

designate territories as “safe” versus “dangerous” (Walia, 2013, p 52). Borders are not always militarized zones limiting transnational migration; they can also be viewed as internal limits to access based on immigration status and race. For example, people who are undocumented are not afforded the same rights as citizens. Since the REAL ID Act of 2005, people can’t obtain state of federally issued identification. This bars many from being able to legally drive a motor vehicle (Golash-Boza, 2012, p. 40). Documentation status dictated what people are legally able to do, a result of ‘attrition through enforcement’ strategies that attempt to make life without documentation difficult and precarious (Garcia, 2013, p. 1850).

One of the most important pieces to understanding the system of exploitation and exclusion is the way racism functions in the United States. According to Michelle Alexander (2010), we are currently in an era of colorblindness, where “...it is no longer socially permissible to use race, explicitly, as a justification for discrimination, exclusion and social contempt. So we don’t.” (p. 2) We no longer talk about race, but that does not make race less relevant. Michelle Alexander goes on to describe the way we have reached a point of colorblind racism and what the impacts have been on communities of color.

When studying the history of the US, racism is often framed as something that was unfortunate, and the result of ignorance and mis-education. It is generally not discussed as a foundational pillar of the United States. This can be viewed as something that has changed and been overcome, in big moments where “American values” have trumped ignorance. Alexander, however, offers a different perspective, acknowledging that race is still a pertinent issue. She argues, for example, that “the arguments and

rationalizations that have been trotted out in support of racial exclusion and discrimination in its various forms have changed and evolved, but the outcome has remained largely the same” (Alexander, 2010, p.1).

Each structure of border imperialism heavily influences the experience of migration and the experiences of people of color in the US. It also influences the way the general public views immigrant communities, which justifies the way groups are treated. I will relate each piece of border imperialism to the current situation in the US. This framework lays the groundwork for resistance. Walia names and explains how different historical and current forces drive migration and subjugate people. She further explains the ways in which her group, No One Is Illegal, works to counter these forces. The framework will be used to see the ways that Know Your Rights trainings can be a tool of harm reduction and in some cases, resistance, as a piece of a larger strategy for disassembling border imperialism and the harmful institutions that support it.

### *Displacement and Borders*

The first aspect that will be discussed is “displacements as a result of coercive extractions of capitalism and colonialism, and the simultaneous fortification of the border,” (Walia, 2013, p. 41). This trend is evident in the way the US was established and then expanded westward and to the South. Contrary to popular rhetoric that “the American republic was itself the product of an anticolonial, revolutionary war against empire” (McCoy & McCormick, 2009, p. 63), the history of US empire is much more complex and dynamic. It is important to acknowledge that the land now referred to as the United States is indigenous land that has been stolen. Through centuries of genocide

and conquest, the United States has established itself, and expanded in every direction through force (“Designed to Kill,” 2011).

The history of manifest destiny and expansion to the Pacific Coast includes the displacement and removal of native peoples without the immediate construction of large, physical barriers (McCoy & McCormick, 2009, p. 64). This is due, in part, to the fact that there was no need for a physical barrier. There were defined places where non-whites could live, characterized by Native reservations and labor camps, as well as penal colonies where indentured servitude replaced slavery as a main mechanism for maintaining racial hierarchy. In Oregon, the state constitution explicitly forbid people of color from being in the state (Imarisha, 2014). Discrimination and segregation also helped define who had access to certain resources, who was safe, and who could be in certain areas.

The expansion southward also included patterns of forced inclusion and exclusion. The Mexican-American War (known as the *Guerra de invasión norteamericana* or North American War of Invasion) ended in the annexation of half of Mexico, and with it, about 100,000 Mexicans were incorporated into the United States (Castillo, 1998, p. 36). There was no choice to become a part of the US, and people who were forcibly incorporated usually occupied precarious, lower-class status where they lacked access to resources and the rights extended to whites (Ngai, 2004). Other ethnic groups experienced displacement and exclusion, such as Africans and their descendants, who were kidnapped and enslaved. While many were within the borders of the United States, they were not legally white and occupied a lower caste level (Spickard, 2007, p. 258). Access to citizenship and racial privileges will be discussed more later.

Even before current borders were established people, were excluded or included based on how convenient they were to the goals of the powers that be (Spickard, 2007, p. 16). The US has a rich history of bringing people in when there is a labor shortage, and then denying rights to those groups of people and sometimes sending them back when their services are no longer needed. One of the most well-known examples is the importation of Chinese laborers to work on building the transcontinental railroads, which was then followed by the Chinese Exclusion Act of 1882 (Spickard, p. 165). Another example is the *Bracero* program, which brought Mexican migrants to fill labor needs, followed by a wave of deportations of Mexican laborers. These are no-exclusive cases that exemplify the pattern of inclusion and exclusion based on economic need and political climate (Spickard, p. 302).

A recent and clear example of US displacement and implementation of secured borders is the passing of the North American Free Trade Agreement (NAFTA) and the simultaneous border militarization. In 1994, the US, Canada and Mexico entered into an agreement to encourage trade between the countries by eliminating certain tariffs and other barriers to commerce. This trade agreement expanded neoliberalism, an economic model that promotes free-market capitalism and privatization. One of the arguments for neoliberal policies, and specifically NAFTA, is the idea of “comparative advantage.” This idea states that countries should focus production on what they can uniquely and efficiently produce. If they do this, and export surplus, free trade will guarantee that they will have access to everything they need by trading with other nation-states (Carlsen, 2011). NAFTA eliminated trade barriers between Canada, the United States

and Mexico, and resulted in the discontinuation of Mexican programs to aid low income farmers in the country (Carlsen, 2011).

The results were devastating for the Mexican economy and food security. After the passage of NAFTA, the US began to flood the Mexican market with heavily subsidized corn and beans, resulting in internal migration and other displaced people moving North (Ellingwood, 2007, p. 34). NAFTA prohibits Mexico from subsidizing food, while it simultaneously allows US farmers to sell US farm bill subsidized corn, thus undercutting rural Mexican producers for US profits (Bacon, 2008, p. 24). “Seventeen years after NAFTA, some two million farmers have been forced off their land by low prices and the dismantling of government supports” (Carlsen, 2011). Food insecurity has changed the Mexican countryside and pushed people off their land into urban areas. As of 2011, 42% of food consumed in Mexico is imported (Carlsen, 2011). The influx of migrants over the past few decades from Mexico has been partially attributed to the results of NAFTA. “Since 1994, 6 million Mexicans have come to live in the United States” (Bacon, 2008, p. 25).

US corporate interests have had devastating impacts on local economies in Mexico, exacerbating inequality and acting as a push factor for migration. This has been amplified by NAFTA and neoliberal trade policies. These policies encourage trade across borders by eliminating restrictions on international trade. They allow capital to move where it can get resources the cheapest. Capital is allowed to move, opening up new areas of resource extraction and less regulated labor markets. At the same time, human migration is limited. Many migrants from Mexico can be more accurately viewed as displaced peoples, displaced by US foreign policy operation with the belief

that economic growth is the most important thing. There is no way for most of the people displaced by the economic effects of NAFTA to gain legal status if they choose to migrate to the United States, “the unfreedom for migrants and concurrent freedom of capital across borders is a defining element of border imperialism” (Walia, 2013, p. 44).

The US caused displacement of people through direct or indirect intervention in Latin America, combined with the denial of asylum and refugee status is not new. The US has taken part in displacement through direct and indirect military intervention. Throughout the 20<sup>th</sup> century the US has directly invaded and heavily influenced politics in Latin America (Ehrenfreund, 2014). At times this has been under the guise of fighting communism, using the Caribbean, Central, and South America as a proxy site for the Cold War, simultaneously responding to corporate needs for maintaining control (Dominquez, 1999, p. 38). The US also has regularly used the CIA and the Western Hemisphere Institute for Security Cooperation (WHINSEC, formerly known as the School of the Americas) to train and support death squads that resulted in refugees from El Salvador, Honduras, Nicaragua and Guatemala. During this time, countless Central Americans were denied asylum (Gzesh, 2006). Today the US continues to use its economic power to extract resources and exploit labor markets, creating unlivable situations, and then refusing to accept people who migrate north.

The displacement discussed above has, until recently, resulted in an increase in people making the journey to the US. However, what they have found on the southern border has changed drastically, especially over the past few decades. “The effects of Western colonialism and capitalism have created political economies that compel

people to move...as the West<sup>6</sup> seals itself off from these bodies” (Walia, 2013, p. 53).

Border militarization refers to the increased surveillance and enforcement along international borders, seen through an influx of physical infrastructure such as walls, guard towers, and underground sensors, as well as an increase in enforcement personnel in border regions. The combination of physical barriers and agents make the border region into a low intensity war zone.

As mentioned earlier, NAFTA acted as a push factor for millions in Mexico, undermining local economies and food security (Bacon, 2008, p. 24) The same year NAFTA was signed, in 1994, the Border Patrol began an operational strategy of “prevention through deterrence,” where they aimed to make crossing the border so difficult and dangerous that people wouldn’t do it (Frey, 2010). The government assumed that if it made the journey more difficult, some people would still make the journey but eventually news would get back to sending communities and people would choose to remain. This operated on the assumption that people were actively choosing to come to the US, and not migrating as the result of situations that threatened their livelihood. There were multiple unintended consequences of this policy, including an increase in people settling more permanently in the US, bringing their families or starting families in the US (Portes, 2007, p. 89).

This selective militarization was inspired by a test run the previous year in Texas. In 1993, “Operation Hold the Line” became the pilot project that defined this new strategy. Operation Hold the Line dramatically increased enforcement in the El

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<sup>6</sup> In this case “West” is defined not as the Western Hemisphere, but as a geopolitical entity sometimes referred to as the global North, including Europe, the US, Canada, and Australia, furthermore, it references “the dominance of Western political, economic and social formations and ideologies that have led to the foundation of other settler-colonial states” (Walia, 2013, p. 39).

Paso sector (Ellingwood, 2007, p. 33). The operation proved that the federal government could stop migration in certain areas. It influenced the decision to focus on militarization in urban centers, pushing migration into more remote areas. In 1994, Operation Gatekeeper added double walls to the San Ysidro area in California and made a relatively simple, albeit dangerous crossing, almost impossible. This was followed by operations in Arizona and Texas that increased surveillance and physical barriers along the border. All these operations had the goal of cutting off urban crossings to use geography as a natural barrier to migrants. They militarized urban centers that used to be centers where people would cross, forcing migration through the Sonoran desert in Arizona, and now, increasingly, Texas. The results have not been a decrease in immigration, but a border crisis (Frey, 2010).

One of the most disturbing aspects of militarization is the conscious knowledge of lawmakers that there would be “collateral damage” (Frey, 2010). Policymakers were aware that this tactic could result in the death of migrants, and have been unapologetic. The policy relies on human suffering. The REAL ID Act also included the largest regulation waiver in the history of the United States, waiving 37 different federal regulatory laws. The goal of this waiver provision was to expedite the construction of border fencing, guard towers, and underground sensors. Border militarization has serious environmental and social consequences on the border, and internally. The increased difficulty also increases the consequences of deportation, putting people in a more precarious situation. If they are deported and choose to return, they are facing a long, costly, potentially deadly journey.

Border deaths and suffering are clear results of border militarization and the conscious funneling of humans into dangerous corridors. Another consequence of militarization has been the increase in the cost of crossing, resulting in a shift from “mom and pop” guides to a cartel-controlled system of smuggling (“Designed to Kill,” 2011). The increased cost and risk also encourages people to stay in the US once they arrive, sometimes bringing their families or starting families in the US. This results in less cyclical migration, where people work briefly then go home, and transitioned to a more permanent immigration situation. It also limits the remittances that people send home, since more often their families are moving with them. This decrease in remittances also detrimentally impacts sending communities, eliminating an economic resource and sometimes encouraging further migration (Portes, 2007, p. 79).

### *The Criminalization of Migrants*

The second piece of border imperialism, and the current context of migration in the US is “the process of criminalizing migrants through their construction as deviants and illegals, which also ensures profits for companies that receive contracts for border militarization and migrant detention,” (Walia, 2013, p. 75). This happens first through the construction of the idea of “illegality.” This construction has been relatively simple, piggy backing off notions of who is criminal and who is the “other,” which in the US are people of color. The criminalization of migrants allows the utilization of the criminal justice system, an already racist system, to imprison and deport people. Those who migrate to the US through irregular methods are no longer seen as humans, they are seen as criminals, “illegals” who are committing a crime against the state. The state becomes the victim, and somebody must be punished (Walia, 2013, p. 54).

Another reason the criminalization of immigrants has been so devastating to mixed-status communities and immigrants of color is the expansion of the Prison Industrial Complex. According to Critical Resistance, a prison abolitionist organization, the term Prison Industrial Complex refers to “the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to what are, in actuality, economic, social, and political ‘problems.’” (Critical Resistance). In 2009 there were 2.3 million people in prison or jail, and about 8 million under correctional control (Lloyd, Mitchelson, & Burridge, 2012, p. 7). Immigration is now seen as a problem, to be solved through mass incarceration.

The Prison Industrial Complex disproportionately affects people of color. Increased policing in communities of color and increases in mandatory minimum sentencing through “tough on crime” legislation has resulted in mass incarceration in the United States (Lloyd, Mitchelson, & Burridge, 2012, p. 7). This has happened through a combination of a political need to address crime and the simple, cure-all, proposal of incarceration. Perceived threat is key in understanding this system. Violent crime statistics are down, but media coverage of violence is higher, resulting in a public outcry to address violence in communities (Alexander, 2010). Politicians are forced to respond to social problems, and the quickest response is incarceration. This process is mirrored in the discussion of immigration enforcement.

Currently, incarceration is being used as a false solution to the issue of migration. Instead of continuing to treat immigration violations as administrative issues, unauthorized migration now carries federal criminal charges (Martinez & Slack, 2013, p. 538). The recently adopted strategy of the “consequences delivery system” acts as an

extension of “prevention through deterrence.” This strategy was adopted and explained in a report put out by the US Border Patrol called “*2012-2016 Border Patrol Strategic Plan*” with the subheading “*Mission: Protect America.*” The goal is to provide a punitive consequence to all who are caught making unauthorized border crossings in order to discourage future crossings. The consequence deliver system “has increased incarceration time for undocumented immigrants and increased the number of people that are now considered criminal aliens” (Martinez & Slack, 2013, p. 538). This creates a strange situation where statistics of deportations become convoluted, more people who are deported are deemed to be “criminals,” but the reason that they are considered criminals is the same reason they are being deported. Many have no other criminal history (Thompson & Cohen, 2014).

One of the key tools of the consequence delivery system is Operation Streamline. Operation Streamline is a tribunal that happens Monday through Friday in eight different border districts in federal courts of Arizona, New Mexico and Texas (Martinez & Slack, 2013, p. 538). During Operation Streamline, people who have been detained in the desert get charged with the federal crime of misdemeanor “illegal entry,” or felony “illegal re-entry,” both of which carry long mandatory minimum sentences of 2 years or, if the person has a criminal history, up to 20 years (Martinez & Slack, 2013, p. 544). Instead of going to trial, people take plea bargains and are sentenced to prison time, ranging from one to six months. They serve their time, generally at private prisons, many run by the Corrections Corporation of America, and are then deported. This program has allowed for mass detentions and deportations. It has also made

“illegal re-entry” one of the most common federal offenses, at times outnumbering drug convictions (Kirkham, 2013).

Mass deportations and mass incarceration of immigrants clearly results in people suffering and grave human rights abuses. People are incarcerated, separated from their family, and put in the position to make difficult decisions. Border Patrol, ICE, and detention center abuses have been well documented, usually without response or corrective action from the Department of Homeland Security. The humanitarian aid group No More Deaths has published multiple reports including *Crossing the Line* (2008) and *A Culture of Cruelty* (2012), based on thousands of interviews documenting instances of abuse. The Frontline special *Lost in Detention* (2011) also shows systemic human rights violations and suffering at the hands of the State inside immigrant detention centers. These sources suggest that abuse is systemic and widespread, not just a few bad apples or unfortunate circumstances.

What is not always as obvious is the way in which many people benefit from the pain and suffering of migrants. In general, these are people with political and financial power. They have a vested interest in seeing deportation and detention rise. The mass increase in detentions and deportations under the Obama administration has ensured huge profits for private corporations that transport, house and deport migrants. This is coupled with the American Legislative Exchange Council (ALEC), a right-wing lobbying group that writes template legislation for states to adopt. ALEC is made up of state representatives and corporate executives. Some of ALEC’s members are corporations which specialize in migrant detention, including Corrections Corporation of America and GEO Group Limited (merged with Wackenhut Corrections

Corporation), which are private prison corporations. Migrant detention is well known for being run by private companies, with about 50% of the beds nationwide being run by private corporations, the majority by Corrections Corporation of America and GEO Group Limited (Pringle, 2013).

ALEC suggests incarceration as a solution to public safety problems, which now includes immigration (Freed-Wessler, 2010). In reality ALEC works to further develop the prison industrial complex and immigration industrial complex, creating a “lock-in” effect (Menz, 2013, p 120). This means that the increase in militarization and detention/deportation infrastructure creates a demand for detaining more people to fill beds and reach quotas, in some places counties are contracted to keep facilities at a 90% occupancy (Martinez & Slace, 2013, p. 538). The existence of these facilities drastically influences policy. Companies make money off policies that increase the number of beds, and then pay political candidates to lobby and pass policies to build even more beds in a cyclical manner.

### *Colorblind Racism and Continuing Hierarchies*

The third piece of Border Imperialism is racial hierarchy. Race is key to talking about immigration in the US and the immigrant experience (of which there are many). This aspect of border imperialism is described by Walia (2013) as “...the racialized hierarchy of national and imperial identity, which anchors and shapes the understanding of citizenship and belonging within the nation-state as well as within the grid of global empire” (p. 61). Race is inextricable from the pieces already discussed, helping to explain why there is a difference in the policing of white and non-white communities and anti-immigrant sentiment. In the United States we’ve reached a point where race

manifests itself in ways that are covert. Racialized terms allow people to talk about race without actually mentioning race, acting as a defense against any accusations of racism. Some examples of this are “criminal,” “drug dealer,” “immigrant,” and “gang member.” All of these words imply that you’re talking about a person of color in mainstream media, but are supposedly terms that don’t connotate anything beyond an objective category.

The current context of racism in the United States has been called “colorblind racism” (Alexander, 2010, p. 2) This is a way of continuing racial hierarchies without appearing to do so. Racialized language and colorblind racism are exemplified by the current socially-constructed domestic wars in which the US is partaking, notably the “War on Terror” and “War on Drugs.” Both of these wars affect border policy, as well as internal enforcement of immigration law. They have strong, negative, material impacts on immigrants and communities of color.

The War on Terror uses anti-terrorist rhetoric to justify border militarization and an increase in regulation of who can enter and stay in the US, even when “there is no logical relationship between border security and the prevention of terrorism” (Chomsky, 2007, p. 182). The general idea is that terrorism is something done by foreigners, specifically foreigners of color, against the United States. However, in 2001 only one act of terrorism was carried out by people not born in the United States, the attacks on the World Trade Center, other acts were done by environmental and animal rights groups<sup>7</sup> and anti-abortion activists (Chomsky, 2007, p. 180). There has never been an

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<sup>7</sup> The labeling of environmental and animal rights activists as ‘terrorists’ also must be complicated. Will Potter (2011) has a book called *Green is the New Red* which challenges some of these labels and discusses the use of terrorist rhetoric in criminalizing radical social movements and activists.

act of terror done by somebody who crossed the southern border, but it is a perceived threat, and there must be action.

After the attacks of 9/11, the Department of Homeland Security was established. The Department of Homeland Security's goal, according to its website, is to create "a safer, more secure America, which is resilient against terrorism and other potential threats." The creation of this department marks a new era of immigration control. The US Border Patrol and Immigration and Customs Enforcement are both in the department, making south-north migration an issue of national security. As Tanya Golash-Boza (2012) explains, "the War on Terror has translated into a War on Immigrants. That's because of the fusion of national security with immigration law enforcement and the consequent allocation of funds to enforce immigration policy" (2012, p. 142). This false association has resulted in the allocation of more money and resources to Border Patrol including ATVs, checkpoint infrastructure, drones, sensors and helicopters.

Border militarization and increased internal enforcement don't have a relationship to fighting terror. The threat is still sensationalized, and creates a need to act because of urgency and fear. Politicians are pushed by corporations and a mass media-influenced public to do things that don't necessarily make sense. "Members of Congress may also be aware of the ineffectiveness of these strategies in terms of fighting terrorism but are unwilling to vote against anything that promotes fighting terrorism," (Golash-Boza, 2012, p. 79). This suggests that strategies that are destroying families and sometimes killing people are the result of a political game where representatives try to save face and appear to be effective.

Another current “war” that has real impacts on immigrant communities is the War on Drugs. Beginning in the 1980s this war began when drug use was actually on the decline. The War on Drugs increased the budgets of local police departments, involved the military in drug enforcement and has resulted in the criminalization and mass incarceration of people of color. While white and non-whites use drugs at the same rates, sometimes with young whites using them more, the War on Drugs is mainly fought in communities of color. Increased policing in communities of color has been referred to as “The Occupation” (Alexander, 2010, p. 125). The War on Drugs has resulted in a disproportionate number of men of color being put behind bars or under correctional control. This mechanism relates the earlier discussion of the criminalization of migrants and expansion of the Prison Industrial Complex.

The increased criminalization of drug use also influences the ways immigrants of color are treated due to inherent racism in the policing and criminal justice system. Racism and prejudice dramatically affect immigrants of color. “This means that immigrants of African and Latin American descent are more likely to be jailed and eventually deported than immigrants of European or Asian descent who are not subject to the same set of prejudices and discriminatory actions as blacks and Latino/as” (Golash-Boza, 2012, p. 95). Because of their skin color they are more likely to interact with the criminal justice system, and because of their precarious status in the United States, the stakes are much higher.

### *Forced Precarity*

The increased risk and consequences involved with getting into legal trouble regarding immigration has resulted in the creation of a vulnerable, exploitable

workforce, described as “the legalized, state mediated exploitation of the labor of migrants by capitalist interests.” (Walia, 2013, p. 67). A push factor for some is job security. When people can no longer rely on their local economy to provide them with a job and income to maintain their family, people leave. This is combined with the pull factor of agricultural, construction and domestic service industry jobs in the United States. They are mostly jobs that US citizens, especially with education, refuse to do.

Due to displacement, and then the difficult journey migrants make to get to the US, they are in a precarious situations where they are robbed of some of their agency. Undocumented workers don’t have the same rights as their citizen or visa carrying counterparts, creating a labor force “that is highly vulnerable, forced to exist semi-underground and deportable, and therefore super-exploitable” (Robinson, 2013). As Walia (2013) expands on this vulnerability,

...the lack of full and permanent legal status...is exactly what makes the lives of migrant and undocumented workers insecure and precarious. They live in isolation with minimal access to basic social services, despite paying into them through their taxes, and are extremely vulnerable to employer abuse, since any assertion of their labor rights can lead to deportation by the state. (p. 69-70)

The fear of law enforcement is often enough to allow employers to get away with exploiting their employees and sometimes sexually assaulting female immigrant workers. The Frontline special *Rape in the Fields* (Bergman, 2013) uses personal testimony and statistics to illustrate some of the issues that arise when a population is or perceives to be unable to use traditional methods of accountability. Undocumented workers are almost always underpaid. They also often work in places with poor safety standards, such as meat processing and packaging plants. While they provide some of

the most important labor in the country, they are underappreciated and under acknowledged as valid, contributing members of society.

There is also a sinister intersection between the need for cheap, exploitable labor and the prison industrial complex. The criminalization of immigrants means that immigrants often spend time in prisons or detention centers. Prison labor is increasingly used as a source of cheap labor. Prisoners work in call centers, manufacture furniture and do other tasks. The intersection of prison labor and undocumented immigration results in shifts in the way migrants are deported when there is a surplus of workers.

Rather than merely deporting the surplus labor force in times of economic downturn, the systematic criminalization and incarceration ensures undocumented labor is economically exploited to its full potential before removed. Detention facilities have become sites of capital extraction beyond the surplus value of labor, ultimately extending to the commodification of the imprisoned body, especially in its extreme form with the exponential growth of for-profit private prisons. (Martinez & Slack, 2013 p. 539)

This suggests that something deeply troubling is occurring. Undocumented workers are vilified for supposedly “taking American jobs.” Then they are sometimes charged with crimes and funneled into the prison system, where they work legally in slave-like conditions (Martinez & Slace, 2013, p. 544).

### **Contradictory Frameworks**

The previous section discussed the dominant framework of immigration, deconstructed it and offered an alternative view. Often the idea that “the immigration system is broken!” is expressed , at rallies and press conferences, in group discussions, even President Obama has said that the system isn’t working right and needs to be changed through reform. This could be seen as true if we look at immigration as an isolated instance of injustice. Detention center and border deaths can be viewed as

unfortunate tragedies, or we can look at the ways other factors are influencing the situation in a way that is not prioritizing human life.

The current border, detention and deportation crisis is a result of economic systems and power dynamics that have been in place for centuries. The United States is a country founded on racist values, that gained its wealth through slavery and stolen land. It continues to exploit the environment and humans inside the US and abroad, triggering migration. Migrants are then denied entry and must choose to stay in a place the US has helped destroy, or to enter the country through unauthorized methods where they are subsequently denied basic rights and criminalized for the profit of private prison corporations. There are winners and losers of the current system. Intentions are important to consider, but from a pragmatic perspective it's more important to look at the material impacts of such policies and the current needs of individuals. This context requires a response and resistance.

## **Chapter 3: Conozca Sus Derechos**

The counter narrative of Border Imperialism outlined by Harsha Walia (2013) describes the system of injustice with which undocumented immigrants and mixed-status communities must deal. She names hierarchies and systems of oppression, relating them to historical factors and describing the ways in which this is a global phenomenon. I compared her analysis to the current situation in the US and the predominant framework and found her lens to be more accurate in describing current hierarchies and systems of oppression. Because of this hierarchy and oppression, Know Your Rights trainings are important. They help provide access to legal information that is usually inaccessible, and also try to reach out to communities that are most likely to be interacting with police. The trainings provide harm reduction by teaching tangible skills and knowledge to communities. Know Your Rights trainings can also be used to highlight injustices and help people think of different ways they can build and expand resilient communities.

### **Community Trainings**

Community trainings are a tool used by activists and organizers to share knowledge and skills. They can also be used as outreach tools. Organizations can host trainings that offer important information which can gain community interest. Some trainings are used to educate the public on an issue, hoping that this knowledge will inspire action. Others share skills, where people learn hard or soft skills. They could learn to climb a tree, or they might learn methods of nonviolent communication and conflict resolution. Community trainings can be used to disperse privileged knowledge to everyone.

Community trainings, specifically Know-Your-Rights-style trainings are used by many immigrant rights and advocacy organizations including Casa de Maryland, the American Civil Liberties Union's immigrant rights project and National Immigrant Youth Alliance. Most of these groups offer in-person trainings, as well as online resources in multiple languages. The majority of the organizations have resources in English and Spanish, the ACLU also has information in Arabic, Urdu, French, Farsi, Punjabi, Hindi and Somali ("Know Your Rights When Encountering Law Enforcement"). Locally, groups such as Amigos Multicultural Services and Centro Latino Americano offer Know Your Rights trainings, including emergency packets with important information. Know Your Rights trainings are also used by the Civil Liberties Defense Center and are one of their most popular educational event.

Each workshop is tailored to the needs of the particular group of participants... With immigration reform groups, we focus on the rights of non-documented people and their families...Due to an increase in the criminalization of youth, CLDC has developed trainings specifically geared toward juveniles in an attempt to curb the abuses taking place between police and youth. (Know Your Rights)

The CLDC also works to prepare people to disperse the information as widely as possible by offering trainers' trainings where people can learn to be training facilitators.

CLDC workshops include trainers' trainings, specifically geared toward enabling participants to bring complex legal information back to their communities effectively and accurately with the knowledge that they have our support and resources readied at their side. In addition, we prioritize mentoring future lawyers and legal workers, and by offering trainers trainings, we are ensuring that we duplicate our efforts and spread this knowledge faster and wider than we could ever do on our own (Know Your Rights).

The CLDC has the capacity to give trainings and trainer's trainings, but that isn't the whole picture. Sometimes it's difficult for people to go to trainings because of hectic work schedules, family demands and potentially a fear of attending something that

specifically is outreaching to people who may be undocumented. In the past, when the CLDC has put on Know Your Rights trainings specifically targeted at undocumented immigrants, attendance has been low. To counter this lack of attendance, the CLDC works with groups that people know and trust. An organization will host the CLDC and their training, instead of having an independent event. The CLDC has worked with Rural Organizing Project to disperse information. Rural Organizing Project is “is a statewide organization of locally-based groups that work to create communities accountable to a standard of human dignity” (“About ROP”). The executive director and staff attorney of the CLDC, Lauren Regan, went on a tour through rural Oregon to give bilingual trainings to farm worker communities. These trainings were mostly done in churches after Sunday service, allowing people to be in a place where they already felt comfortable and had built a community of trust.

Know Your Rights trainings offer information as well as skills. They describe some of the distinctions between different law enforcement agencies and also give specific phrases and words that can be used to do harm reduction during police and ICE interactions. They have the ability to do serious harm reduction in mixed-status communities and communities of color by arming people with “magic words” and demystifying interactions with law enforcement.

## **Training Outline**

The CLDC’s Know Your Rights training is in PowerPoint form. There are slides with bullet-point information and images, and presenter notes with pertinent information that read as a script. Each training starts with an outline of the 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> amendments, followed by a description of the different levels of police interaction.

Beyond this basic information, the teen immigrant training also includes information that is pertinent to people who are underage, such as issues of emancipation, rights at school, and information on commonly filed charges against youth. There is also a section that deals with issues of being undocumented, describing ways that people can limit their interactions with law enforcement and have an emergency plan in case a family or community member gets detained. The goal is that youth will have a better idea of what is legal and illegal and where they can make choices that might influence the outcome of an interaction. The presentation is not legal advice. It is simply an explanation of how certain laws apply to generalized situations.

The first few slides outline the right to be free from unreasonable search and seizure, the right to free speech and the right to remain silent. These are key rights when interacting with law enforcement agencies. The information on the 1<sup>st</sup> amendment, the right to advocate for change, right to free speech and freedom of religion and expression describes the applications and limits of first-amendment protected speech. One limitation is ‘time, place and manner,’ for example, it may be impermissible to hold a loud noise rally in a neighborhood in the middle of the night because it would violate noise regulations. Similar restrictions can apply to demonstrations that don’t have permits, or that are too big and/or unruly. Other limits include defamation and yelling “fire!” in a crowded theater.

The Fourth Amendment, the right to be free from unreasonable searches and seizures, is a complicated section. It outlines peoples’ rights when they are at traffic stops, when the police come to their door, or when they are being detained by the police. There is also an explanation of what warrants are and how they can be limited,

as well as new legislation regarding the federal government's rights to intercept text messages and phone calls, as well as do "sneak and peak" searches where, if they suspect that somebody may have information about a federal crime of violence, they may search through somebody's belongings without court authorization and never tell the person they did so. Some of these changes have been implemented since the passing of the USA PATRIOT Act in 2001. This is the first section where "magic words" are introduced. The phrase "I do not consent to this search" is on multiple slides.

Finally, the 5<sup>th</sup> amendment is discussed. The 5<sup>th</sup> amendment is the right to remain silent. This right is described, with the caveat that later we will discuss the circumstances where it's generally in a person's best interest to give up three pieces of information about themselves. This defines what people should share in certain situations, and is a reminder about not sharing incriminatory information.

After the section specifically addressing a few constitutional rights, the training moves into discussing police interactions. Police interactions are broken down to the categories of "conversation," "detention," and "arrest." At each level there is a discussion of what peoples' rights are, and what words can be used to exercise those rights if they so choose. Dispersed throughout are also sample conversations, where we, as trainers, take on the role of law enforcement and the audience must practice responding with the new tools they have learned. In the trainings these phrases are referred to as "magic words" and include things like "I do not consent to search" and "I wish to remain silent and want to talk to a lawyer." These phrases are key because they act as an invocation of rights. Without saying these phrases, people are assumed to be consenting to searches and police interrogation, and potentially waiving certain rights.

Some of the other important information in the training includes information on Deferred Action for Childhood Arrivals (DACA) and U-Visas. These are two methods that people who are inside the United States without authorization can get temporary legal status. DACA was passed by the Obama administration, allowing people who were brought as children to apply for a two-year deferral of deportation and legally work. This was passed with the idea that there would be some sort of federal immigration reform in the near future. Soon people are going to be renewing their DACA, so information on local and regional resources for legal help with paperwork will be important. The training outlines the requirements for DACA. The requirements include age restrictions based on when somebody arrived in the United States and their current age, as well as restrictions based on high-school education or GED equivalents. DACA is not available to people who have committed certain crimes. It also is not a pathway to citizenship; it is a temporary way to work legally in the United States if other requirements are met.

The other method for gaining temporary legal status is through U-Visas. U-Visas are available to people who have been the victim or sustained physical or mental trauma because of certain crimes committed in the United States. U-Visas allow a person to temporarily stay in the country and work legally. The Frontline special *Rape in the Fields* (Bergman, 2013) talks about sexual assault of undocumented women working in agriculture. It also discusses the case of Postville, Iowa, the largest immigration raid in recent history. During this raid many women who were U-Visa eligible were not told about that option and were deported without being able to press criminal charges against their perpetrators (Bergman, 2013). U-Visas can help counter

the fear of law enforcement and ICE that often act as a silencer to survivors of domestic violence and other types of abuse. Only 10,000 such visas are issued a year (U.S. Citizenship and Immigration Services).

Often the differences between police and ICE jurisdiction is unclear. In Oregon, there is a law, ORS 181.850, which specifically forbids police from enforcing federal immigration law. The training addresses this. There is a discussion about what each enforcement agency is allowed to do, as well as the agency's stated goals. Many people don't know that ICE does not have the right to enter private homes unless they are let in, their arrest warrants are not the same as police search warrants, which allow police to break down doors and enter private property. We also discuss the ways in which police sometimes work in cahoots with ICE through the Secure Communities Act. The training ends with a slide that encourages people who are undocumented to have an emergency plan in case they are detained.

## **Distribution**

For distribution a MEChista (a member of Movimiento Estudiantil Chican@ de Aztlán) and I presented at the Raza Unida Youth Conference on Tuesday, May 13, 2014. The Raza Unida Youth Conference (RUYC) is an annual conference that brings Latin@ students from across Oregon to the University of Oregon campus for a day of workshops. According to a letter that was dispersed to potential presenters:

RUYC is an all-day event where we invite Latino/a high school students from Lane County and other parts of the state to come to our campus and participate in a day filled with Keynotes, workshops, a campus tour, and relationship building. Last year we hosted just over 500 students, and the multitude of workshops available made the conference an even greater success. This year we are hoping to improve the experience of

the students and give them a memorable conference that will change their lives and empower them as students of color.

We utilized a platform that was already created to disperse the training. Instead of doing outreach and advertisement for the training, my co-trainer and I simply applied and were hosted by conference organizers. We entered a space where we knew there would be people who would likely gain something from the training we had to offer, mirroring the strategy used by the CLDC in their work with the Rural Organizing Project.

There were four workshop sessions, each 50-minutes long. The training was given during each session to maximize reach. This method of distribution is able to reach out to students of color who are potentially from mixed-status families or have parts of their extended family that are undocumented. It's a big assumption to say that many or most of those attending were undocumented, however, the majority were students of color. This is key because, as discussed in prior chapters, people of color are often profiled as criminals by the police and are more likely to be stopped for traffic violations or other minor infractions (Alexander, 2010, p. 134). The hope was that they would listen and learn, then bring the information back to their community.

Because of the time limit at the conference, the other trainer and I decided to focus mostly on basic rights, police interaction and special concerns for mixed-status families, including information on the differences in search and seizure laws for ICE and police, as well as emergency plan resources and power of attorney forms. The remaining pieces, DACA, specific laws, and outside resources were presented in paper form at a table when attendees entered the room. We also passed around a sign-up sheet where we could email out the information as well as useful links to videos and online resources.

The Civil Liberties Defense Center's website has copies of the full PowerPoint, as well as other resources including videos of the training in English and Spanish, with role plays. Initially I was going to make a zine with information from the slideshow to distribute, but found resources online that served the same purpose. Many that had been put together by DREAM Activists and other legal groups including the American Civil Liberties Union, Casa de Maryland and Coalition for Humane Immigrant Rights of Los Angeles. I had a table full of literature from the CLDC and other organizations that we distributed during the workshop. Having outreach materials to distribute helped to counteract the fact that we had to cut out parts of the training because of time restrictions.

### **Benefits**

The benefits of any Know Your Rights training generally include feeling more empowered and knowledgeable about how to respond to stressful interactions with the police. While many people, as citizens, may have been taught the Constitution and Bill of Rights in school, it isn't always clear how that translates into everyday life. For immigrants, these documents are completely foreign. This training explains the way the Constitution and some of its amendments apply to interactions with law enforcement. Understanding our rights is key to limiting police interactions, as well as understanding where the line is between legal and illegal. Often law enforcement is able to go outside of the scope of their work because people don't assert their rights or when people provide extra information or consent to unnecessary searches. The trainings can help counter this and be a reminder that we have rights that we can exercise.

In communities of color, and especially mixed-status communities, the consequences of not exercising rights - for example allowing police or ICE inside a home when it's not necessary, or providing information when it's not necessary - can be extremely damaging. When ICE is allowed to enter a home, they can search the entire house for people as a method of agent security, this can lead to additional arrests and deportations. The Know Your Rights training addresses and explains this. The training also elaborates one some of the other differences between ICE and the police and the different types of warrants they can use. This information isn't conveyed to people by the agency when they knock on doors, which is why trainings are necessary.

The trainings show moments of intervention, where people can make choices about what they say and do that can change the outcome of police interactions. This is not to negate the fact that laws and institutions are set up to disfavor many people as described in previous sections, but to examine the ways people can use certain tools, referred to in the trainings as "magic words," to convey that they have some knowledge of what their rights are, and to exercise those rights.

The effects of using certain phrases when interacting with law enforcement can lead to tangible changes in police interactions. Last spring my co-trainer jay-walked with a group of MEChistas in San Diego, a police officer stopped them and my co-trainer asked if they were being detained, and if so, why. The officer checked their ID's and let them go. However, first asked if he was a law student. His experience illustrates the ways that knowing your rights and exercising them can change interactions by subtly challenging power structures. Police aren't used to be questioned, much less in an articulated way. Blurtng out legal jargon in English can be equated to "Whistling

Vivaldi.”<sup>8</sup> This is still problematic. Rights and respect are only being extended when people challenge racial assumptions by acting in ways associated with education, citizenship and class privilege. The trainings are intended to make them more accessible to maximize reach, but it doesn’t completely change the fact that assumptions are consistently being used by police and other law enforcement agents.

Know Your Rights trainings can also be a source of indignation and mobilization. People can see specific policies and practices that are damaging their community and organize against them. One of my goals as a presenter was to refer people to other organizations doing work on the ground. As a white citizen, I’m not in the best position to organize undocumented youth. I simply don’t have the experiences many people have because of the privileges I’ve grown up with. I wanted to distribute information about DREAMers in Oregon, as well as the National Immigrant Youth Alliance because I think their model of organizing with leadership coming from undocumented youth is key. We talked about Oregon DREAM Activist’s “Secure Your Own Community” training which they offer to stop deportations.

### **Limitations**

Know Your Rights trainings can offer a good basis of legal knowledge for youth and migrants. There are key pieces of information that can make a big difference for people. However, they are also extremely limited. I would argue that the trainings are limited in that they can’t address all of the issues facing certain communities in a little

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<sup>8</sup> “Whistling Vivaldi” refers to the title of a book by Claude Steele (2011), the title references an anecdote told by Brent Staples, a graduate student at the University of Chicago. Staples is an African American male and found that when he was walking on the street people perceived him to be a threat, so he began whistling classical music to give people a cue that he was “safe.”

over an hour, are often done by non-lawyers, and are mostly focusing on information defining the line between legal and illegal.

The complexity of the situation is often lost when trying to introduce legal knowledge and brief explanations of complex institutions. This simplicity is important to make the trainings accessible and short, but inevitably leaves information out. The time limit of having people sitting in a room while you talk at them can also be a limitation. It requires vigilant attention. Time, especially at the Raza Unida Youth Conference, is a serious concern. The time constraints required the elimination of some information in favor of focusing on other pieces. These limitations were somewhat countered by offering a plethora of literature to take for free, as well as collecting emails to distribute helpful links to online resources.

One of the major challenges of giving legal trainings is the constant changes in the law. Secure Communities has been discussed as part of the current context of migration, and a way that the criminal justice and immigration systems come into contact. However, a recent court case determined that when local jails hold people beyond their release time to transfer custody to ICE, that is a violation of their constitutional rights. Multiple counties in Oregon have stopped complying with ICE detainer holds (Castillo, 2014). This is huge, and has the potential to prevent a lot of deportations.

Another limitation is having non-lawyers give the training. The trainings are designed for people who don't have legal backgrounds to give them, which increases how many can happen, but also makes it so that while people are given access to some information. It doesn't substitute for a talk with a lawyer. We distributed information

including contacts and resources about places where people could get legal advice for free in the hopes that we could address this limitation.

The trainings also sometimes reach a point where we're no longer talking about the rights that people have, but more acknowledging the rights that people *don't* have in the United States as non-citizens. Knowing what your rights *are not* is also important, but often disheartening. It's important to understand that the trainings are talking about peoples' rights as distributed by the United States government. They demonstrate the fact that "rights are constituted, managed and distributed by the nation-state" (Nicholls, 2013, p.170). We aren't talking about a human rights framework, we're talking about rights in a system that legally discriminates against people.

Non-citizens don't have the same rights as citizens, creating a second class group in the US. In many ways, the US government is only accountable to the voting population, which excludes non-citizens. Increasingly, it also includes people with felony records. The fact that these trainings are not talking about human rights is a limitation. Rights are distributed by nation-states. Today, while nation-states are the largest governing bodies that distribute rights and enforce rules. While efforts have been made at the international level through the Universal Declaration of Human Rights, in general, this has largely been symbolic.

These trainings are unable to protect people from all state-sanctioned violence. As discussed in previous chapters, human rights violations in detention and deportation are widespread. The same can be said for the criminal justice system. Even if a person was to exercise their rights to the full extent, they could still be subjected to violence. Widespread law enforcement malpractice and horrendous conditions within jails,

prisons and detention centers mean that some people will continue to be subjected to serious human rights violations. Know Your Rights trainings are unable to protect people from this systemic violence. The issues the training try address are large, systemic issues that can't be addressed and fixed simply through community education. The trainings offer ways to work towards accountability through methods such as "Cop Watching," but this is not sufficient.

## **Discussion**

The training went well. We trained about 50 people this year, out of approximately 150 conference attendees. The previous year the conference was bigger, we had about 300 students come to the different sessions of the training. Students took brochures and information, and some gave their email for me to send them online materials and information about a Climate Justice Action Camp being organized by the Civil Liberties Defense Center for teens this summer. We didn't get many questions, just due to the time limitation. We ran through the material quickly, and then students had to leave. Students took a lot of the printed materials, though, which directed them towards other resources.

## **Closing Thoughts**

One of my goals for RUYC 2014 was to not actually give the training myself. The previous spring I organized a 10-week long series of "trainers' trainings." I fundraised money from student organizations and contracted Lauren Regan to train students to give the trainings. I was able to do this because I was a co-director of the Survival Center, a resource center for social and environmental activists with a hefty budget.

Unfortunately, due to my own lack of outreach efforts and the way the trainings build on themselves, not many people consistently came and became qualified to give the trainings. I was outreaching mostly to student organizers who were already extremely busy, which likely contributed to the lack of consistent attendance. Another factor may have been the fact that the trainers' trainings included us presenting the training to each other, something that can be anxiety-inducing for people who aren't comfortable with public speaking. The information is also quite complicated. From what I know other people have given basic Know Your Rights trainings since they were trained, but nobody besides myself and my co-presenter attended all of the trainings focusing on presenting the immigrant rights training.

I started working on this last year when I helped organize a Know Your Rights training specific for MEChistas before they went to their national conference in San Diego, CA. Attending that training, and discussing it with some of my housemates at the time gave me the idea to work to spread the legal knowledge the trainings addressed further. The people who attended were able to ask a few key questions to Regan, and I think also got a reality check about how quickly somebody can end up in immigrant detention after a police encounter. Talking to them gave me a sense of urgency for training people and working to get MEChistas and other students trained to give the trainings. During the trainers' training series I was an intern at the CLDC, where I combined the youth and undocumented trainings into a new, juvenile immigrant training. Regan then gave this training to the youth group, Juventud Faceta, a local youth group focused on the empowerment of Latino youth.

The following summer I started working with the humanitarian aid group No More Deaths, doing water and food drops in Southern Arizona. This experience made me understand the realities of “prevention through deterrence” and the “consequence delivery system.” I interacted with people who were making the journey through Arizona to reunite with their family. Many had already lived in the United States for years and had families and communities they were going back to; others were making the journey for the first time. This experience reinforced my idea that preventing deportations in any way was important. Border aid is important, but it is not the whole picture. Know Your Rights trainings are another piece, and a way to engage in fighting against the immigration industrial complex in Eugene, Oregon.

There is still a lot more that could be done. More trainers’ trainings would be great, maybe in a different format, so more people were able to attend. There are also a lot of opportunities to do the training more in the community, working with local organizations to help add to their programming and the resources they are able to offer the community. As long as there are people being deported, there is work to be done. Know Your Rights trainings offer one avenue for education and resistance, among many other strategies being utilized everyday by people who are undocumented, and the family and friends who support them.

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# **Civil Liberties Defense Center**

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- 1) Give your introduction and disclaimer. Make sure to disclose if you are/ are not an attorney. Say “I’m a CLDC volunteer or a first year law student,” etc.
- 2) Tell your audience we offer a training to provide them with the tools to share this presentation with any community, wherever, contact CLDC to arrange. Slideshow is available on our website, CLDC.org so you can go download it and review it as often as you’d like.
- 3) Preamble - Tell people that this training is to help them learn the line between what’s legal and what’s not. We’re not advocating being uncooperative with cops, but want people to fully understand what they have every right to do, but often do not practice.
- 4) Vocabulary – when we say “cop” or “police” we mean FBI, TSA, ICE, Fed police, state police, local police, university police – anyone in a position of authority with a badge.
- 5) Always follow up legal jargon with definitions.
  - Depending on your audience, ask everyone to hold their questions until the end.

# Know Your Rights!



- ⇒ A minor is: an unmarried person who is **under 18 years of age**.
- ⇒ Minors have *most of the same constitutional rights* as adults.



## **What rights do I have?**

- **Whether or not you're a citizen, you have these constitutional rights:**
- **The Right to Remain Silent**
- **The Right to be Free From “Unreasonable Searches and Seizures”**
- **The Right to Advocate for Change**

THESE ARE THE THREE MOST IMPORTANT THINGS YOU'LL LEARN TONIGHT

These are “fundamental” rights protected by the Constitution, regardless of whether or not you are citizen. Because the presentation is based mostly on US const law these guidelines are applicable in all states unless the slides explicitly say otherwise.

The 5<sup>th</sup> amendment right to remain silent - otherwise known as the right against self-incrimination.

the 4<sup>th</sup> amendment right to be free from “unreasonable searches and seizures.”

The 1<sup>st</sup> amendment protects much political speech and activity.

- right to free speech: right to sing, dance, yell, protest, gather with friends

-But be careful If you are a non-citizen, the fed gov't can attempt to deport you if you're involved in activities protesting the gov't if there is a legitimate technical basis to deport (like violation of a visa forbidding political activities)



## The Right to Remain Silent

- The Fifth Amendment to the U.S. Constitution gives every person the right not to answer questions asked by a police officer or government agent.

-5<sup>th</sup> Amend right to not incriminate yourself: you never have to answer any questions unless it's ordered by a judge. It's the law.

-Staying silent cannot be used to imply that you're guilty of anything.

## **The Right to be Free from “Unreasonable Searches and Seizures”**

- The Fourth Amendment is supposed to protect your privacy from government intrusion.
- Police cannot search you, your possessions, your home, etc. unless:
  - You consent (your silence gives police consent)
  - Police obtain a search warrant
  - Or an exception to the search warrant requirement exists

-4<sup>th</sup> Amend right to privacy – to be free from “unreasonable” S&S:

-You always have the right to deny someone access to your home. They cannot just waltz in unless one of the exceptions applies.

There are some exceptions, we will explain these further on the next few slides

Old adage: “Your home is your castle”

## The Right to be Free from “Unreasonable Searches and Seizures”

- Without a **warrant**, police or government agents may not search your home or office without your consent, and you have the right to refuse to let them in.
- **I DO NOT CONSENT TO THIS SEARCH.**
- **Must be said out loud—your silence indicates to police that you consent or agree to what they are doing.**

You never have to consent to a search, even if they search anyway, you may have a legal defense that could get the evidence thrown out.

If you consent, a search that was potentially illegal because a consent based legal search and there's nothing to fight about in court.

Repeat this phrase as often as needed (search of you, your car, your trunk, just keep repeating that phrase).

- 1) if they have a warrant – define warrant – a piece of paper signed by a judge with a date, time, what areas they can search, what they can seize. If you give them permission to go beyond the scope of the warrant, they will.

Limits to warrants include things like vehicles, outbuildings. Read the warrant!

-If they're going beyond the scope of the warrant, lay low and stay quiet and let your lawyer get it thrown out.

-There is such a thing as a telephonic warrant

-Ex: when an officer conducts a traffic stop, they can't search your trunk w/o a warrant.

-Cops are allowed to lie, so if they say they have a telephonic warrant, make them record it by audio or video

-In cars, officers can search in your wingspan, this includes the trunk if its connected to the cab, like in a hatchback.

## No Warrant Needed

Exceptions to the warrant requirement:

- weapons search within “wingspan” (car or person)
- exigent circumstances or emergencies: “hot pursuit”,
- “plain view” doctrine: if the public can see it, and a cop can see it, cops will be able to legally seize it.
- Patriot Act, other recent federal laws intended to gut 4<sup>th</sup> Amendment rights.
- **REGARDLESS, DON’T CONSENT!**

officers can search anything within your wingspan if you are being detained, this is cited as an issue of “officer safety” and is a search for weapons only

-Ex: when an officer conducts a traffic stop, they can't search your trunk w/o a warrant. Cops are allowed to lie, so if they say they have a telephonic warrant, make them record it by audio or video

-Exigent circumstances or emergencies, if police are chasing somebody who has committed a crime and they enter your home, they can follow

-Plain view, if a crime is happening in plain site, cops can legally seize it.

-Example of garage meth lab, if cops are chasing somebody and they run into your garage where your meth lab is, they can seize paraphernalia

and charge you

-The Patriot Act – applies to federal agents only (FBI, ICE, etc.) and is only supposed to be used for the ambiguous “crimes of terrorism.”

Worst is the **sneak & peek** provision which allows agents to enter your prop without a warrant, no judicial oversight, when you’re not home and go through everything without ever telling you they’ve been there. Biggest threat to 4<sup>th</sup> amendment in history.

## **The Right to Advocate for Change**

- The First Amendment to the U.S. Constitution protects the rights of groups and individuals who advocate changes in laws, government practices, and even the form of government.
- However, the ICE can target non-citizens for deportation because of their First Amendment activities, as long as it could deport them for other reasons.

1<sup>st</sup> Amend right to free speech: right to sing, dance, yell, protest, complain about the government / protest

-Exceptions:

- 1) you can't yell "fire" in a crowded theater and
- 2) you can't slander someone (explain defamation – knowingly telling a lie about somebody that causes them damage, usually economical).

-If you are a non-citizen, and are here on a VISA, you may have waived the right to engage in political activities or other provisions which limits rights. If you violate that VISA condition, they can use that as a reason to deport you.

Laws cannot limit the content of speech, only the time place and manner. So by the law the police cannot tell you to stop protesting, but if a relevant statute exists, the police may be able to tell you to stop protesting at 2 am, or stop protesting in a residential neighborhood, or stop protesting if the protest is too large and you don't have the proper permit.

## **Juvenile Rights in the Criminal Justice System**

- ⇒ You have the right to be given a “Miranda Warning”
- ⇒ The right to know the charges against you within a reasonable time
- ⇒ You have the right to an attorney at your hearing.
- ⇒ You have the right to a trial.
- ⇒ You have the right against self-incrimination (telling on your self)
- ⇒ If you lose at trial, you have the right to appeal your case and have an attorney help you.

## Miranda Warnings

1. You have the right to remain silent
2. Anything you say can be used against you in court
3. You have the right to an attorney
4. If you can't afford an attorney, one will be appointed before any questioning if you want
5. You have the right to have your parent or guardian present during questioning -always ask to have your parent present at all times when being questioned by police or any adult.

## **“Demand of Rights”**

- ⇒ I will not talk to you or anyone about anything.
- ⇒ I demand to have an attorney present before I speak to you or anyone.
- ⇒ I will not answer any questions, or reply to any charges, without my attorney present.
- ⇒ I do not agree to perform any test, consent to any searches, or participate in any line-ups.
- ⇒ I will not sign anything unless my attorney agrees I should do so.
- ⇒ I will not waive any of my constitutional rights.

Instead of Miranda rights, YOU should state YOUR rights.

-For performing tests: they could get your urine, blood, DNA, voice or writing exemplars, line ups, etc. Don't let them. They can only do this if they have a warrant or if you consent.

-The only thing you should sign is the release agreement. If there's something suspicious about it, take it to your lawyer, but go ahead and sign it.

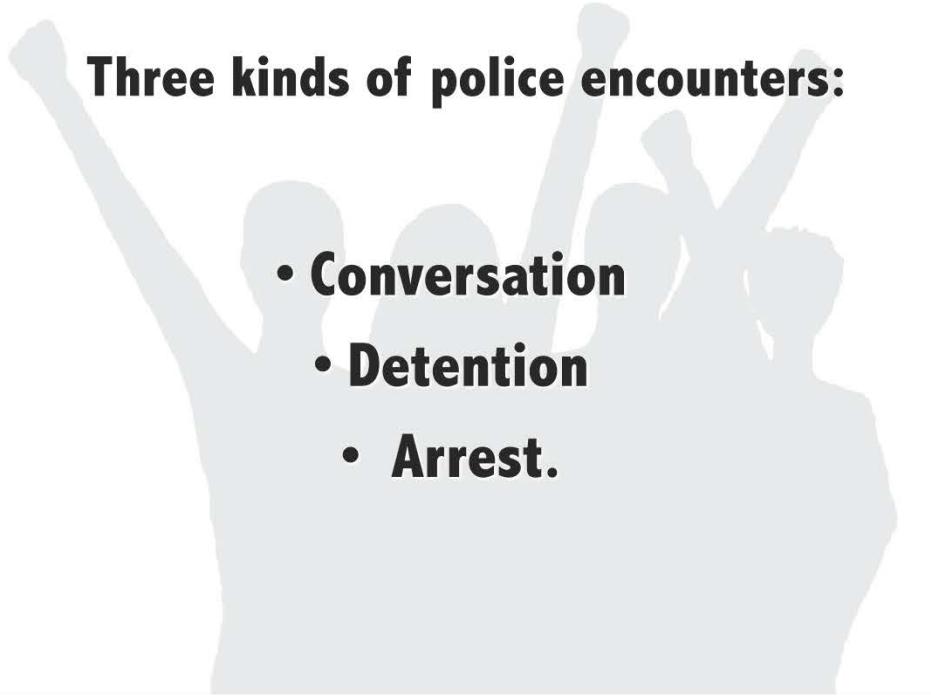
-There's 1 test in OR you're required to give. When you get your OR DL, you've already agreed to field sobriety tests and breathalyzer tests.

-The reason you have to consent to field sobriety and breathalyzer tests is because recent cases as far up as the Supreme Court ruled that these are “not **testimonial tests**, or they don't require you to say words that implicate yourself.”

-If you refuse the test, you automatically lose your license for 1 year. Most criminal defense lawyers advise their clients to blow. Also, there's a new OR statute that charges you \$1500

-If you DO blow for a DUI, you'll only lose your license for 90 days for a first offense.

-If you can remember the last one, it's the CYA statement. Your lawyer can usually mount a defense for you based on this.



## **Three kinds of police encounters:**

- **Conversation**
- **Detention**
- **Arrest.**

## **Tips for interacting with cops:**

- *Try and keep your hands visible at all times*
- Try to stay in **well-lit places** with witnesses if possible.
- You are **probably being recorded** by cop, especially if you end up inside cop car.
- You have the right to video or audio tape police in public as long as you tell them you are recording, and you are not interfering with an investigation.

- hands on the steering wheel of car, or on lap.
- Hands out of pockets and on thighs if on the street.
- If you are carrying a legal weapon, you may want to inform police of where it is located. They may temporarily take custody of it while interacting with you.
- Your word against cop word never strong place to be....
- No sarcasm, debate, etc. Assume your grandparent, jurors, judge may end up hearing this conversation in court....
- The laws regarding recording cops currently differ in some states
- In most, you have the right to record in public as long as on notice you are recording. . In Oregon – need to tell them you're recording, you can say it into your device.
- They can make you back up (normal copwatching can usually be 8-10 ft away from arrest/investigation, but this can vary greatly).
- Bottomline: don't get you and your footage arrested....

# Conversation



- *You do not have to speak to the police, an investigator or anyone **except a judge**.* If you agree to talk to the police, you might give them information that they need to arrest you or charge you or someone else with a crime.
- Your best bet is to *politely but firmly* refuse to speak to them. Always make your refusal to speak to them *clear*, in words, as opposed to simply shaking your head.
- **Am I being detained? Am I free to go?**

- The first level is “mere conversation.”

- Police same right as any other citizen to approach you and inquire about circumstances of interest, but you don’t have to answer them, just like you don’t have to answer a stranger on the street (Give example like asking for SSN)

-Say it verbally b/c silence = agreement in legal terms. Don’t rely on silence or gestures. In fact, in a NEW SUPREME COURT CASE: You now have to assert your rights in words. Silence is considered agreement. If you are silent, they will do what they want.  
Berghuis v. Thompkins (2010), reduces protections for criminal defendants even further.

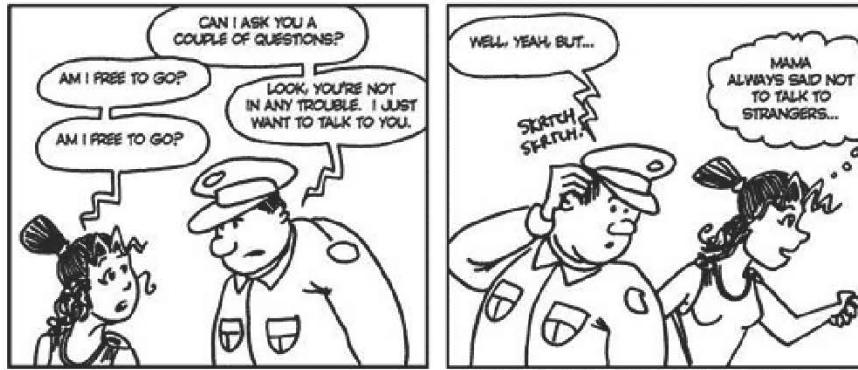
Limits of the “mere conversation” phase:

- absent any reasonable suspicion that you are involved in criminal activity, an officer cannot detain you.
- You do not have to answer any questions at this level of interaction.
- If you agree to speak with them, it’s voluntary. But the information that you give them will likely be used to arrest you or someone else.
- Most cops have a recording device. Think about this in terms of sarcasm. Whatever you say will be transcribed literally, so don’t say “Oh yeah, I just robbed that house.”
- In OR, You do not have to provide identification to an officer at this level, unless you are in a motor vehicle. Providing an ID is based on state law, as some states are different.

## **CONVERSATION**

- COP: “Hi, can I ask you a couple of questions?”
  - **YOU: “Are you detaining me or am I free to go?”**
  - COP: “I just want to talk to you.”
- (Ask “am I free to go?” until given “yes” or “no”)
- **YOU: “I choose not to talk to you.” (you walk away)**

## Smart Police Interaction



## Tricks to get your cooperation

- “If you answer truthfully, you can go home.”
- “If you tell what your friends did, nothing will happen to you.”
- “If you tell the truth, you don’t need an attorney.”
- “If you don’t confess, you can go to trial as an adult.”



"You have to write to remain silent ..."

## **Don't incriminate yourself, your family or your friends!**

- You may get charged if you tell what your friends did, and you may be tried as an adult even if you confess.
- The police do not control whether or not charges are filed; nor what types of charges are filed.



## **Liar, Liar**

- If police make promises to you, you cannot enforce these promises later, **they are allowed to lie.**
- **IF YOU ARE NOT SURE WHAT TO DO,  
ALWAYS ASK FOR AN ATTORNEY  
BEFORE YOU ANSWER ANY  
QUESTIONS.**
- You can't always go home.



# **Detention**

- ⇒ A Police officer may **only** detain you (or make you stay where he/she want you to) if the officer has a *reasonable suspicion that you are involved in a crime*.
- ⇒ “**Reasonable suspicion**” must be more than a mere *hunch or guess*.
- ⇒ Police must be able to put their “**reasonable suspicion**” into words. Ex. “We think you stole that bike.”
- ⇒ **Why am I being detained? What is your reasonable (or articulable) suspicion?**

- The next level is detention.
- If an officer reasonably suspects you have been involved in a crime, they may detain you for questioning.
- Define reasonable suspicion = “Reasonable suspicion” is more than a hunch. The officer must suspect that you either just committed or are about to commit a crime and they need to be able to articulate to you what crime he or she suspects you were involved in.
- Ask, “Why am I being detained?”
- Remember what the officer tells you is the basis for his or her reasonable suspicion, because if what they tell you differs from the police report, your defense lawyer may be able to use that difference to get the charges thrown out.
- In OR, you actually never have to give them your physical ID unless you’re driving, but if you’re being detained, you do have to tell them your 3 basic pieces of info. We’ll cover this in a second.

## **What to do if you are stopped by the police...**



- Remember! What you say can and will be used against you. **Stay calm and in control of your words and actions.** Avoid arguing with the police but firmly assert your rights.
- **Never run or physically resist the police, you will only make things worse.**
- **Ask if you are free to leave;** if they say yes, do so. You are not required to provide identification if they are not detaining you (unless you are the driver of a car).

Stop. Take a deep breath. All of your actions can be misinterpreted in an incident/police report. You never want to give them ammunition.

- Your first step when interacting with the police should be to ask if you are free to leave; if they say yes, then do so. Remember that you do not need to provide them with identification if they are not detaining you, unless you are the driver of a vehicle.
- You may invoke your 5th amendment rights and remain silent.
- - It's important to remember that anything you say can and will be used against you or someone else.
- - Your best bet is to stay calm and firmly (verbally) assert your rights.
- Don't run away even if you believe what is happening to you is unreasonable or unlawful; this may lead to your arrest.
- NEVER CONSENT TO A SEARCH, even if cop can lawfully search you, still don't consent (cause you never know...)

## **If you are not free to go, ask why you are being detained**



- You must provide **name, address and date of birth**. if detained but are not required to say anything else. It is a crime to give a false name.
- You may be patted down and any possessions within your reach may be searched if police reasonably suspect you pose an imminent threat of serious physical injury.
- **Write down everything you can remember** about the police interaction including officers' names and badge numbers.

- At the detention level, you are required to provide them with your identifying info upon request.

-- Identification consists of name, address, and date of birth. You do not need to provide your social security number or any other information; you do not necessarily need to provide an ID card as long as you provide them with name, address and DOB.

-- Giving a false name is a criminal offense.

**-STILL HAVE 5<sup>TH</sup> AMENDMENT RIGHT TO REMAIN SILENT, BUT IF YOU DON'T ID YOURSELF, THEY CAN TAKE YOU TO JAIL IN ORDER TO VERIFY IDENTITY THROUGH FINGERPRINTS.**

-Police may pat down your clothing if they have a reasonable suspicion that you are carrying a concealed weapon; do not physically resist but make it clear that you do not consent to any further search. What you choose to say to the police is important—it can be used against you later and can provide the police with probable cause to arrest you.

-- Test: “Imminent threat of serious physical injury” is the basis for the pat down search. The officer can only go so far as to ascertain that you do not have a concealed weapon / pose an “imminent threat of serious physical injury” to the officer. They cannot look inside your altoids tin for your pot. (grandmas pose an imminent threat)

-You do not have to consent to a search.

-- However, if the police have probable cause or a warrant, then your consent is not required. It's still important to verbally refuse to consent to the search. This will not stop them, but if the search is illegal, then

## **DETENTION**

- COP: “Hi, can I ask you a couple of questions?”
- **YOU: “Are you detaining me or am I free to go?”**
- COP: “I'm detaining you. Hands against the wall, feet back, and spread 'em.”
- **YOU: “Why am I being detained? What is your reasonable (articulable) suspicion?”**

(Memorize and report the response.)



## Am I Under Arrest?



- ⇒ **The police cannot move you** unless you are under arrest
- ⇒ **If you are arrested, immediately ask for a lawyer. Do not answer any police questions until your parent or lawyer arrives.**
- ⇒ Juveniles have the same rights as adults, but normally you will only be released from jail to your parent/guardian.
- ⇒ If you are injured or need medications, seek medical attention and take photographs.

\*continue framing the timeline of an encounter. This is the next step. This would be stage 3.

At conversation phase, you can walk away, detention phase you must stay, at arrest phase the police can physically move you.

-If the police say you are under arrest, then at that point, you may likely be going to jail, so try to stay calm and remember your rights.

-- You should immediately ask for a lawyer when taken into custody and immediately thereafter assert your right to remain silent. Then wait for your attorney before saying anything.

If the police try to re-locate you to another area, before they move you, ask if you are under arrest.

Anyone under 18 has the same rights, but normally the jail will only release them to a parent or guardian who personally comes down to the jail as opposed to adults who can be released “on their own recognizance”

If you refuse to provide a name and address while in custody, you will not be eligible for release or a court appointed attorney in most circumstances. You will be booked as a John/Jane Doe.

## **ARREST**

- COP: “I’m placing you under arrest.”
- **YOU:** “**I am going to remain silent. I want to contact an attorney.**”
- COP: “That’s fine. You’ll be able to contact your lawyer at the police station.”



## **"I am going to remain silent, and I want to contact an attorney."**

Once you say these words, the police are **legally required** to stop questioning you.

Even if you don't already have an attorney, police must provide you with a phonebook or call your parents collect.



These words put a magic bubble around you, questioning will stop. If you say anything, this pops the bubble, even if it's just small talk, you need to restate that you wish to remain silent.

## **Notice of Charges**

- ⇒ Complaint will be filed by prosecutor
- ⇒ Must list all charges against you
- ⇒ Must give you enough time to prepare for a court hearing.
- ⇒ Ask for an attorney--if you are asked to "waive counsel" say **NO**.
- ⇒ Ask the attorney all questions you have about the case and make sure you understand it all. Your attorney works for YOU only.



## **Right to a Trial**



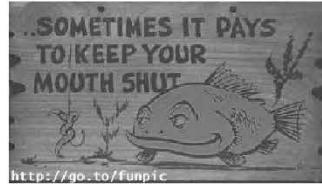
**NOT GUILTY**



- At court you will be asked to admit or deny the charges against you.
- **Plead not guilty or you waive your right to a trial!**
- You do not have the right to a jury trial if you are charged as a juvenile. If tried as an adult, you have the right to a jury of your peers.

## **Right against self-incrimination**

- Means you do not have to say or do anything that helps the state prove its case against you.
- Includes when police are asking you questions and it applies to your trial.
- **You do not have to testify at your trial.**



## **Be careful with your information**



- ⇒ Things that you say can be used against you.
- ⇒ This includes things you put on the **INTERNET** for the public to see, like MySpace or Facebook posts.

# Weapons



Cannot have on your person:

- ⇒ Any knife with a blade that projects or swings into position by force or spring (switchblades)
- ⇒ Dirk, dagger, ice pick, slingshot, metal knuckles, or any similar instrument which could cause serious injury.
- ⇒ It is unlawful for a minor to possess a firearm (handguns).
- ⇒ Minors *can* possess certain firearms for hunting or target practice, with consent of the minor's parent or guardian.
- ⇒ **NO WEAPONS OF ANY KIND IN SCHOOL!**





## Weapons at school

- A person may not possess a loaded or unloaded firearm or other dangerous weapon while in or on *a public building or school property, including scholastic activities* (football games, dances, etc.)
- It is a **Class C Felony criminal charge**.
- School policy requires a minimum of one year expulsion from school.

## **Special Concerns for Teens**

- ⇒ The Law says that any person under the age of 18 cannot consent to a sexual act. Felony rape charges are possible if either, or both teens are under 18 & if more than 3 yrs apart in age.
- ⇒ Even if you are later acquitted, you can still be arrested, prosecuted, and may be put on a sex offender list for the rest of your life!



=



Safety tip: don't brag, gossip, or get caught in sexual acts.  
Serious consequences can follow!

## **More Concerns**

- ⇒ Lying about your name or age to police is a crime. If you lie about your age, *you can lose your driver's license for 1 year.*
- ⇒ Truancy: all youth between the ages of 7-18 who have not completed 12th grade or a GED program are required to attend school full time. Parents can get in trouble for their kids' truancy too.

## Your Rights at School

⇒ At school, students can have their backpacks and lockers searched by school officials without a warrant, if the school official suspects that you are involved in criminal activity or are in possession of drugs or weapons.

Do not consent to the police or school officials searching your property, but **do not physically resist** or you may face criminal charges.



When you step onto school property, your possessions are fair game for school officials.

## **Being Questioned at School**

- ⇒ Students can be stopped and questioned by school officials at school
- ⇒ However, they should not stop and question you for engaging in political activity or because of your beliefs, ethnicity or religion.



## **Drug Tests**



## **at School**

- Random drug tests are allowable as a prerequisite for participating in some school sports.
- However, if you feel that the collection of samples is done in an inappropriate manner or that the results are shared with inappropriate people, you may be able to challenge the procedures used to conduct the testing.

## **Military Recruiters at School**

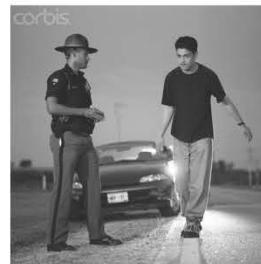
- ⇒ If a military recruiter comes to your school, you have the right to not speak to them and to withhold your personal information by “opting out.”  
**Your principal has information on how to do this.**
- ⇒ You do not have to take any of their tests including the Armed Services Vocational Aptitude Battery (ASVAB).



## **Minor in Possession of Alcohol**

Class B violation

- A minor cannot purchase, possess, or consume alcohol unless 21 years old. (Alcohol on your breath counts as "possessing" for purposes of "MIP").
- You will lose your driver's license or right to apply for a license for one year.
- Punishment also includes drug and alcohol treatment, community service, and a fine not to exceed \$360.00



## Tobacco

- No minor shall have personal possession of tobacco products.
- Except when in a private house or apt. with parent consent.
- Class D violation: punishment =fine of no more than \$90.00, tobacco education program, community service related to diseases like lung cancer.





## Marijuana

- Possession of less than an ounce of marijuana is a violation punishable by a fine of \$500-\$1000.
- If over an ounce, class B felony
- Delivery (selling) is Class B felony
- Manufacturing (growing) is Class A felony

## **Marijuana**



- **Does not apply if Oregon Medical Marijuana Act card holder. Minors need consent of parent/guardian.**
- **Penalties are more severe if you are caught within 1,000 feet of a school.**

## Inhalants

- ⇒ Includes glue, cement or any other solvent, material, substance, or chemical having the property of releasing toxic vapors or fumes that are capable of causing intoxication.
- ⇒ Intoxication means any mental or physical impairment or incapacity ("drunk or high").
- ⇒ Violation-- fine of not more than \$300.00, treatment and counseling
- ⇒ 2nd offense--class B misdemeanor, jail, probation, treatment and counseling
- ⇒ \*death by asphyxiation is most often the result in abusing inhalants--3rd most abused drug in minors. 1 in 5 8th graders has used an inhalant.



# **Emancipation**

(Suddenly, you're 18)



- Emancipation means that a minor has been given certain rights normally possessed only by adults.
- Ends parent-child relationship
- Minor can enter into contracts and rental agreements, and can sue and be sued in court.
- Minor can be subject to the adult criminal laws of the state.
- Cannot drink alcohol until 21.

# **Assault**

- Person intentionally, knowingly or recklessly causes physical injury to another person.
- Can be a felony if a weapon is used, if injuries are serious, or if it occurs in front of minors.



## **Endangerment of Minors**

- Child endangerment occurs when:
- a person induces, causes, or permits a minor to witness a sex act; or
- Permits a minor to be in a place where unlawful activity involving drugs
- Induces or allows a minor to participate in gambling;
- Distributes or sells tobacco to a minor
- Sells a minor a pipe



## **Child Abuse**

- Means an action where the victim is a child
    - child abandonment
    - child neglect
    - criminal nonsupport--parent/ guardian fails to provide food, shelter, etc.
- \*\*Report child abuse to a trusted adult, or call 911 or DHS Child Welfare--names can be confidential\*\*

## **Harassment**

- ⇒ A person subjects another person to offensive physical contact or publicly insults person with abusive words or gestures intended to provoke a violent response (not constitutionally protected words)
- ⇒ Telephonic harassment- “causing the telephone of another person to ring while having no communicative purpose.” If you have been forbidden to call a certain number, it is harassment to call again.

## **Trespassing**

- To enter or remain unlawfully in a car or a premises (house, building, etc.)
- Misdemeanor crime.
- If you are asked to leave, and refuse to leave, you may be trespassing unless you have a lawful right to be there.
- Loitering (just hanging around) may be a form of trespassing in Oregon

**NO TRESPASSING**

**Violators  
will be  
shot.  
Survivors  
will be shot  
again.**

## Graffiti

- Violation to apply graffiti without having permission.
- Graffiti means any inscriptions, words, figures, or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of property.
- May receive fine and up to 100 hours of community service removing graffiti from the city (yours and more)

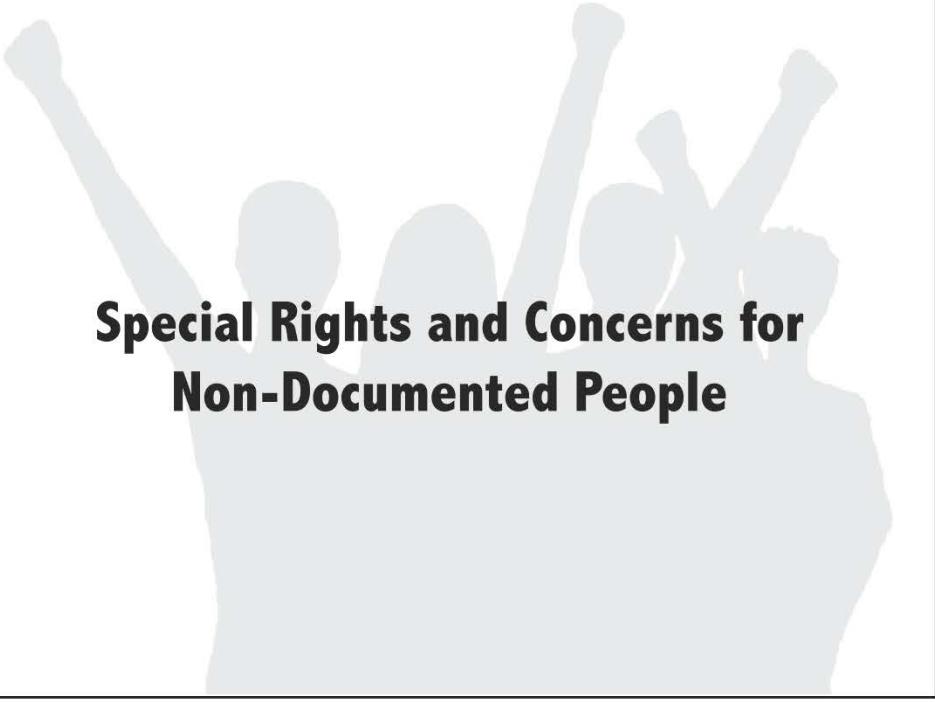


## Theft by Receiving

- Theft-- physically taking the property of another-- punishment depends on the worth of the item.
- If a person receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of a theft.
- If a deal seems too good to be true, be careful-- *you can get in trouble for it if stolen.*



**Shoplifters  
will be  
Prosecuted**



## **Special Rights and Concerns for Non-Documented People**

## **What if I am not a citizen and La Migra/ICE or police contact me?**



- ⇒ You **DO NOT** have to answer questions about your immigration status, where you are from, or any other questions.
- ⇒ You **DO NOT** have to let them in your house or apartment unless a search warrant is shown.
- ⇒ You **DO** need to carry your immigration papers if you have them.
- ⇒ **Assert your rights!**  
**Failure to do so will result in a waiver of them**

ICE = immigration and customs enforcement

In order to deport, ICE must prove 3 things – that you are not a citizen, your country of origin, and that you are not legally in the United States (entered without inspection, overstayed a Visa)

ICE cannot enter your home, if they come to your door you can have them give you the papers they have by slipping them under the door, and then give them back.

## **Talk to a lawyer**

- You are not entitled to a free lawyer if you cannot afford one in immigration proceedings
- You have the right to an interpreter who speaks your native language. **Do not sign papers without a lawyer**
- Always carry the name and telephone number of an immigration lawyer who will take your calls. You must also carry your papers if you have them.
- The immigration laws are complex and changing. ICE will not explain your options to you.
- **As soon as you encounter an ICE agent, call your attorney.**

You must carry your immigration papers such as "green card," I-94, or work authorization with you as well.

You are not entitled to a free lawyer if you cannot afford one in immigration proceedings. However, in criminal cases, you will be assigned a free lawyer if you cannot afford one.

You have the right to an interpreter who speaks your native language. **Do not sign papers without a lawyer**

Native language doesn't just cover English and Spanish, but also indigenous languages, Nahau, mixtec, zapotec, quechua

Always carry the name and telephone number of an immigration lawyer who will take your calls. You must also carry your papers if you have them. ("green card," I-94, or work authorization)

The immigration laws are complex and changing. ICE will not explain your options to you.

**As soon as you encounter an ICE agent, call your attorney.**

## Make a Plan

- **Talk to your parents and family members about making an emergency plan**
- Many groups (Amigos Multicultural Services Center, CAUSA, Centro Latinoamericano) have **emergency packets**, ask if your parents have one
- If somebody is arrested and taken to jail **bail them out as soon as possible**. Check to see if your community has a bail fund!

### **Talk to your parents and family members about making an emergency plan**

--This includes a Power of Attorney - After 6 months of detention, the state is permitted to place your children up for adoption and terminate your parental rights.

Many groups (Amigos, CAUSA, Centro Latinoamericano, PCUN) have **emergency packets**, ask if your parents have one

If somebody is arrested and taken to jail **bail them out as soon as possible**. Check to see if your community has a bail fund!

Most common ways to get into deportation proceedings – getting put in jail! Often after getting pulled over for driving infractions and being found without a license

**Prevent deportations: Don't drive if your car isn't in legal compliance with driving laws, don't drive drunk, don't go to jail!**

## **Deferred Action for Childhood Arrivals (DACA)**

- **WHAT IT DOES**

- Temporarily shields eligible youth from deportation and enables them to live and work with authorization in the US.
- Allows some to work legally
- It lasts up to 2 years if approved
- Can be done when already in the deportation process, even if final deportation order has been served
- People in immigration detention may not request consideration.

- **WHAT IT DOES NOT DO**

- DACA is not a path to citizenship
- A long term solution for 11 million people

All individuals who believe they meet the guidelines, including those in removal proceedings, with a final removal order, or with a voluntary departure order (and not in immigration detention), **may affirmatively request** consideration of deferred action for childhood arrivals from USCIS through this process.

Individuals who are currently in immigration detention and believe they meet the guidelines **may not request** consideration of deferred action from USCIS but may identify themselves to their detention officer or to the ICE Office of the Public Advocate through the Office's hotline at 1-888-351-4024 (staffed 9 a.m. – 5 p.m., Monday – Friday) or by email at [EROPublicAdvocate@ice.dhs.gov](mailto:EROPublicAdvocate@ice.dhs.gov).

## **Deferred Action Checklist**

- Must have come to the US before the age of 16;
- Must have not yet turned 31 when the application is submitted;
- Must have continuously resided in the US since June 15, 2007, and must have been physically present in the US in June 15, 2012;
- Must be currently enrolled in school, or have received a high school diploma or the equivalent GED, or been honorably discharged from the US Armed Forces or the Coast Guard
- Must not have been convicted of a felony, a “significant misdemeanor,” multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety. Anyone applying for deferred action would need to go through a criminal background check.

DHS has defined “*significant misdemeanor*” as “violence, threats or assaults, including domestic violence; sexual abuse or exploitation; burglary, larceny or fraud; driving under the influence of alcohol or drugs; obstruction of justice or bribery; unlawful flight from arrest, prosecution, or the scene of an incident; unlawful possession or use of a firearm; drug distribution or trafficking; or unlawful possession of drugs

## Costs and Forms

- Forms
  - I-821D “Consideration for Deferred Action for Childhood Arrivals
  - I-765 “Application for Employment Authorization
  - I-765WS
- Costs
  - \$360 application fee,
  - \$85 biometrics fee (fingerprints and photograph)

Requests for fee exemptions must be filed and favorably adjudicated before an individual files his/her request for consideration of deferred action for childhood arrivals without a fee.

### Fee Exemption requirements

- You are under 18 years of age, homeless, in foster care or under 18 years of age and otherwise lacking any parental or other familial support, and your income is less than 150% of the U.S. poverty level.
- You cannot care for yourself because you suffer from a serious, chronic disability and your income is less than 150% of the U.S. poverty level.
- You have, at the time of the request, accumulated \$25,000 or more in debt in the past 12 months as a result of **unreimbursed medical expenses** for yourself or an immediate family member, and your income is less than 150% of the U.S. poverty level.

## **Applying**

- Talk to a lawyer or non-profit organization that helps with immigration cases
  - Applications are processed on a case by case basis
  - DHS can deny any application even if the applicant meets all requirements
- Be careful of scams, fraud and *notarios*
  - They may promise you faster processing or a guarantee of approval if you pay them more, do not believe them!

## **Concerns with DACA**

- DHS can deny any application, even if applicant meets all requirements
- If application is denied some people may be referred to ICE and put in deportation proceedings, according to USCIS they will only do this if the case involved a criminal conviction or fraud
- Deferred action, once granted, can be terminated at any time without justification or review.
- There is no right to appeal or review *unless* there was an administrative error
- Very few opportunities for fee waivers

DHS – department of homeland security

USCIS - United States Citizenship and Immigration Services

Also when applying, in the future if it changes the government now has information (addresses, names, fingerprints) of people who are undocumented. Could go after people. This could also be used in the future as probable cause that an entire family is undocumented.



## Know Your Rights!



- Learn about the constitution
- Learn about your civil rights
- Learn your history!

Contact the CLDC if you have questions

**[Info@cldc.org](mailto:Info@cldc.org)**

## Immigration Help

- **NLG – National Immigration Project**  
References to immigration lawyers and help for lawyers on immigration cases  
617.227.9727 <http://www.nationalimmigrationproject.org>
- **American Immigration Lawyers Association**  
References to immigration lawyers and help for lawyers on immigration cases  
1-800-954-0254, [www.aila.org](http://www.aila.org)
- **Access the Law – 245 West 13th Avenue, Eugene, Oregon**  
Affordable lawyers and legal advice  
(541) 686-4890 <http://accesstheslaw.org/>
- **American Civil Liberties Union**  
<http://www.aclu.org/immigrants-rights>
- **Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)**  
Information about rights, deferred action  
213-353-1333 <http://www.chirla.org/>
- **Causa Oregon**  
Legal offices in Salem, orientations and information about Deferred Action  
(503) 409-2473 <http://causaoregon.org/>

Here area few organizations that you can contact to find an immigration attorney.