

# Racial History of Immigration Law

**Enoka Herat, Police Practices & Immigration Counsel**

**August 30, 2018**

**ACLU**

Washington

# Turn and Talk: Migration Stories



1. Pair up
2. Two roles: Speaker and Listener

Speaker's job: Share your migration story from as far back as you know. How did you and your people get here? Why did they come?

Listener's job: Sole job is to listen. Don't ask them questions, don't talk. Give them space. Give them your complete attention. Just listen to understand, to learn something.

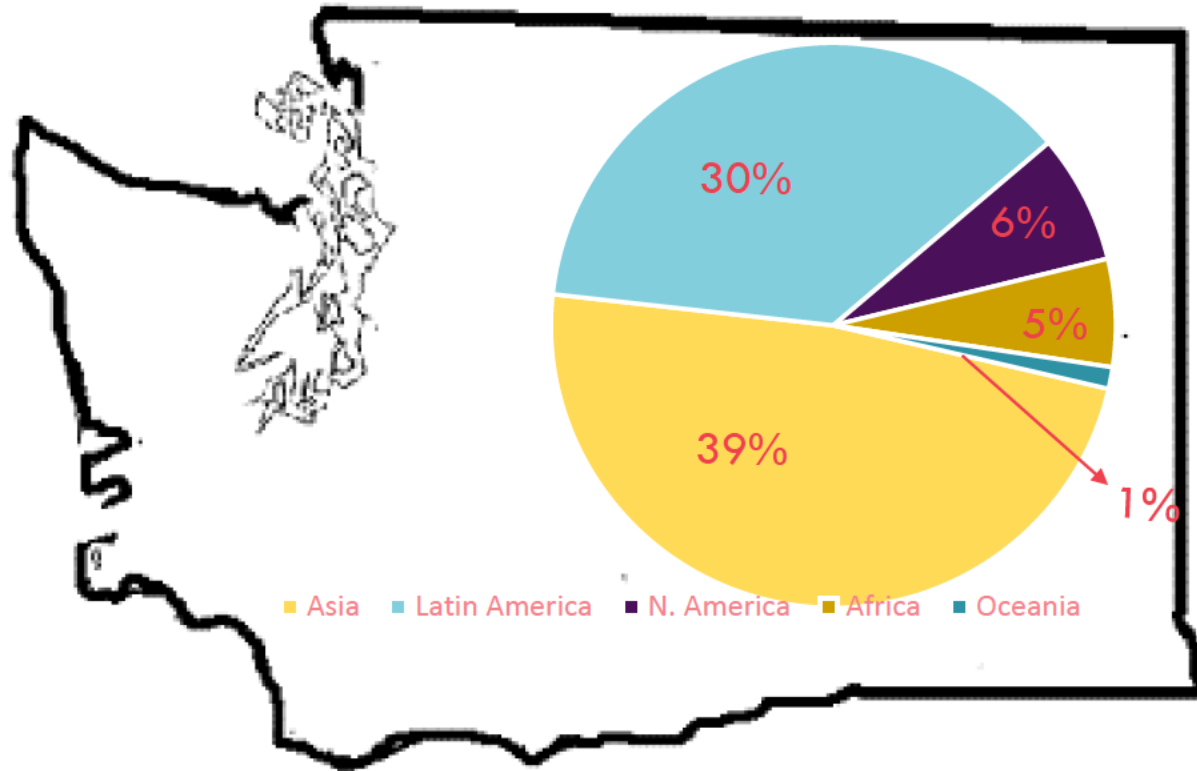
3. Take turns - 2 mins, then we'll switch

# United States: 2018



- **U.S. Foreign born population = 40 million**
  - 29 million are legal immigrants
  - 11 million are considered ‘undocumented’

# Washington's Immigrants



# Racial History of Immigration Law



**Immigration  
law:**

**Who can come  
Who can stay, and  
Who can become one of us**

# Naturalization Act of 1790

## ACTS OF THE FIRST CONGRESS OF THE UNITED STATES,

*Passed at the second session, which was begun and held at the City of New York on Monday, the fourth day of January, 1790, and ended on the twelfth day of August, 1790.*

GEORGE WASHINGTON, President, JOHN ADAMS, Vice President of the United States, and President of the Senate, FREDERICK AUGUSTUS MUHLENBERG, Speaker of the House of Representatives.

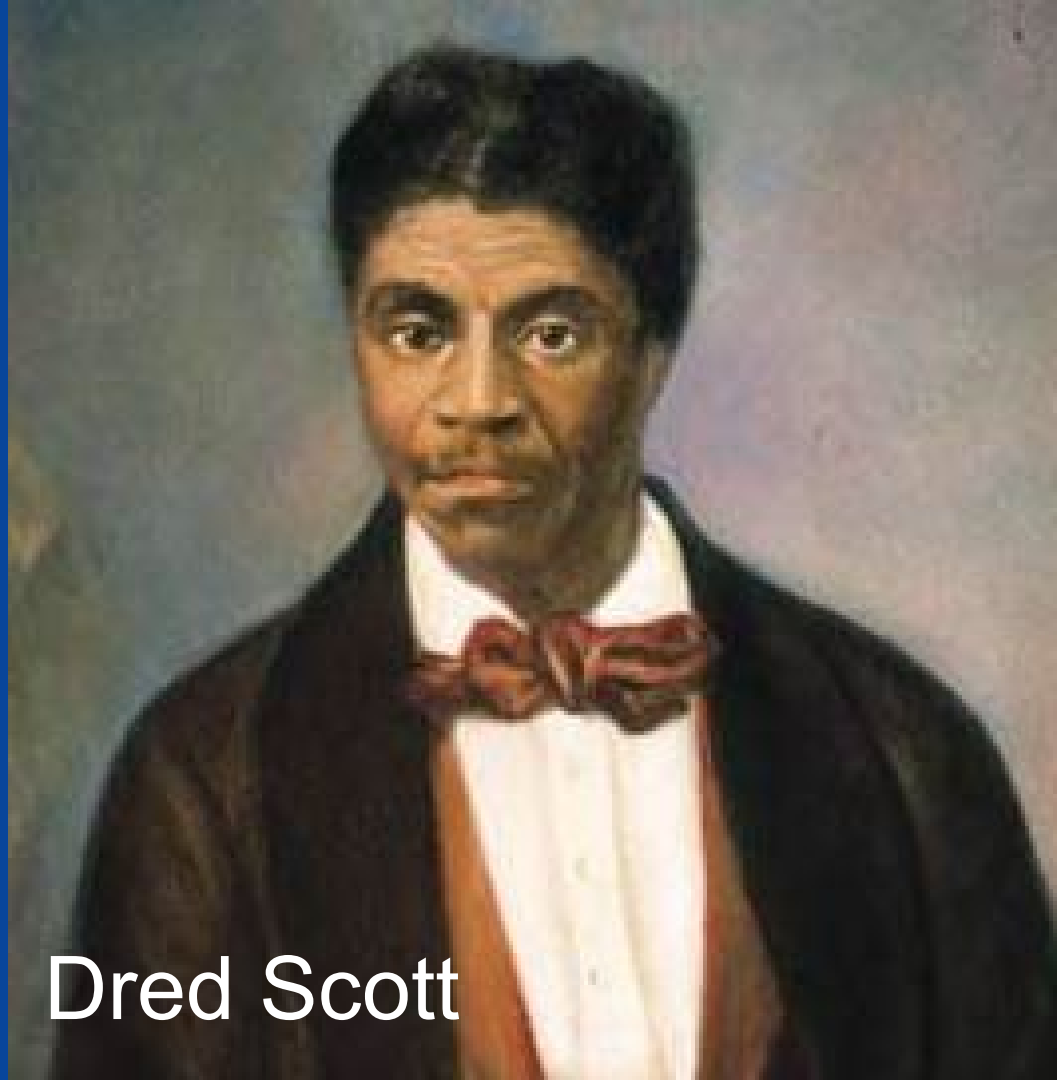
SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any com-*

# Dred Scott v. Sandford, 1857

- US Supreme Court:

“The Black man has no rights that the White man is bound to respect.”

- Black people were not and could never be citizens of the US
- Native people referred to as “subjects of a foreign government”



Dred Scott



# 14th Amendment, 1868

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.

*Excludes most native people*

# Chinese Exclusion Act - 1882

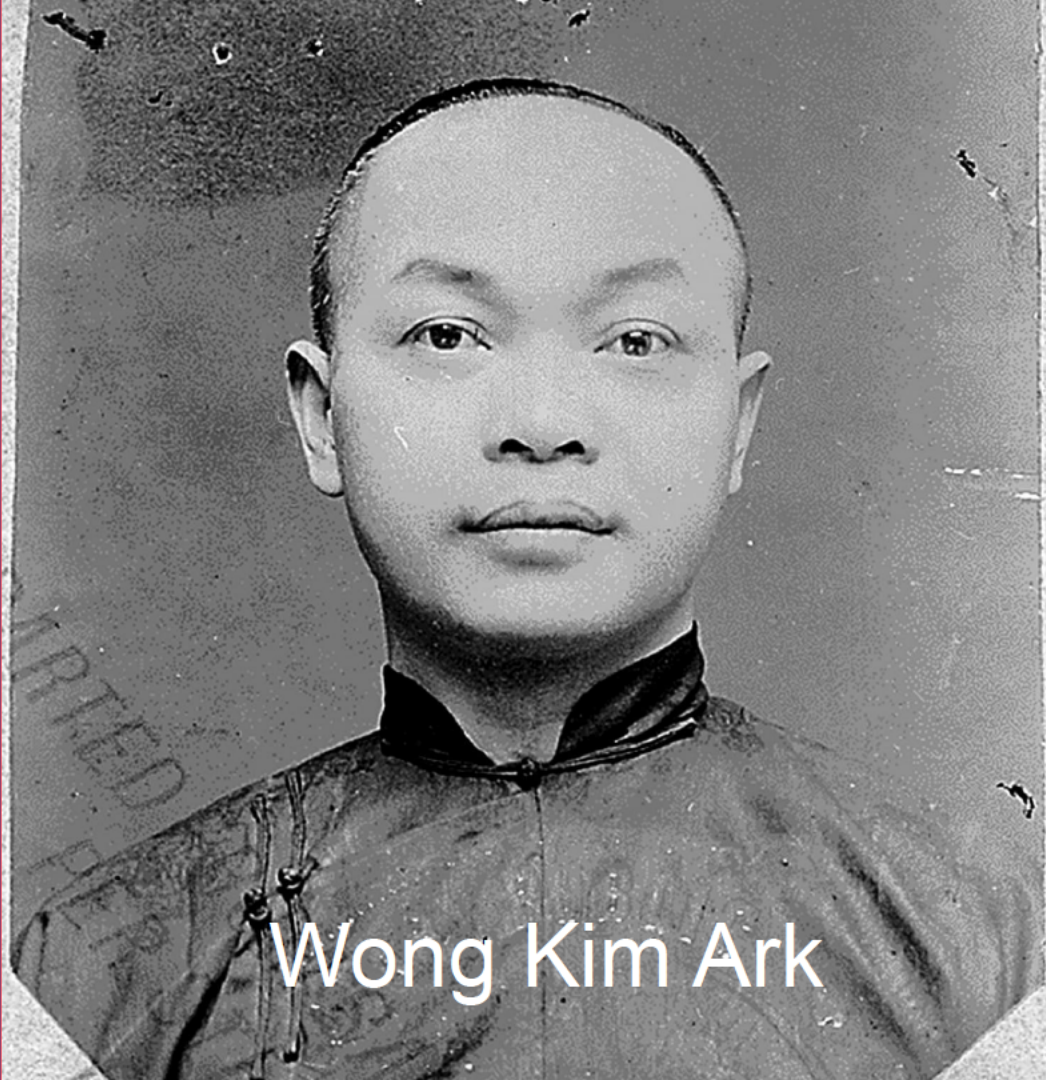


**Birthright  
Citizenship:  
*US v. Wong Kim  
Ark, 1898***

**WONG KIM ARK IS A CITIZEN.**

**Supreme Court Decision in Case of Chinese Born in America.**

The case of the United States against Wong Kim Ark was decided in the United States Supreme Court yesterday, Justice Gray handing down the opinion of the court. The case was appealed by the United States from the District Court for the Northern District of California, and it involved the citizenship of a person born in this country of Chinese parents, which had never hitherto been decided by the Supreme Court. Yesterday's decision will have the effect of confirming the citizenship of such persons.



Wong Kim Ark



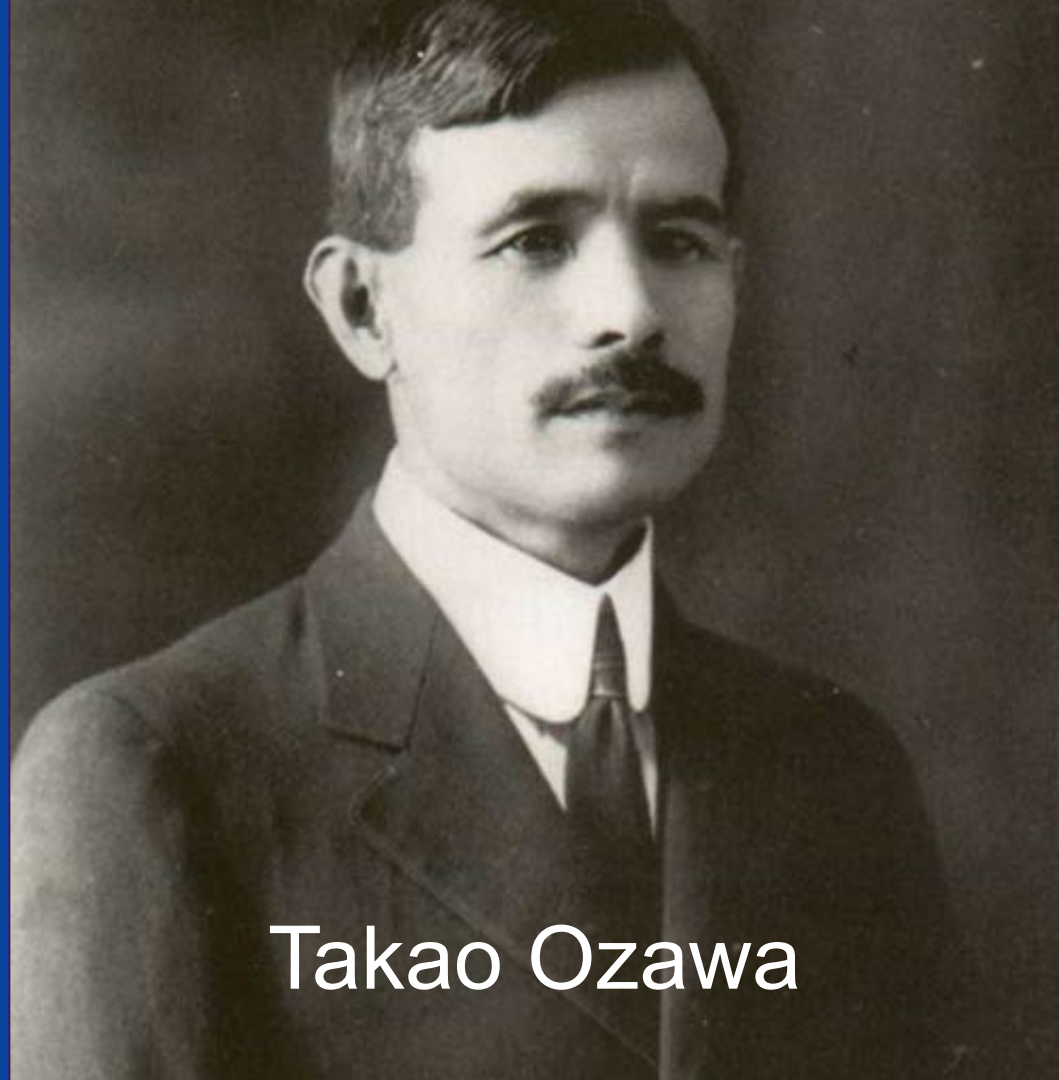
# Naturalization Act of 1906

Only "free white persons"  
and "aliens of African nativity and  
persons of African descent"  
can become United States citizens by  
naturalization

-

# Ozawa v. US, 1922

- Didn't challenge constitutionality of racial restrictions
- Argued that Japanese people are "White"
- Unanimous court: White means "Caucasian"
- Japanese = perpetually, inherently foreign



Takao Ozawa

# US v. Thind, 1923

- Indians were classified by “science” as Caucasian
- SCOTUS unanimous: We didn’t mean “science” we meant “Caucasian” + popular meaning of “white person” (skin color)
- Indians = perpetually, inherently foreign



Bhagat Singh Thind

# Immigration Law after 1923

- **1924:** Bans all immigration from Asia, Country quotas limits number of immigrants – quotas don't apply to Western Hemisphere. Sought to “preserve the racial composition” and “preserve the ideal of U.S. homogeneity,” favored British and European immigrants
- **1924:** Indian Citizenship Act, only applies to those born after the act (1940 for full birthright)
- **1930s:** Deportation and repatriation programs targeting Mexicans including 1 million Mexican American children in the Southwest
- **1942:** Japanese internment – 120,000 (2/3 were US citizens)
- **1943:** Chinese Exclusion Act repealed by Magnuson Act
- **1952:** Immigration and Nationality Act (INA), First time race is eliminated as a basis for citizenship. Bar on Asian immigrants lifted. New system of skills and family unity. 85% of visas allotted to Northern and Western Europeans.



# Can Mexicans Become Citizens?

- 1848: Treaty of Guadalupe Hidalgo – Mexicans are eligible for citizenship
- 1924: Western Hemisphere allowed to enter; Border Patrol created; Restricting Quota; criminal penalties for entry
- 1935: *Andrade* – Mexicans are white, by law



# 1948 Displaced Persons Act

- 1941 – Otto Frank's family and thousands of Jews fleeing Nazi Germany denied US visas
- 1948 – Displaced Persons Act allows 400,000 post WWII displaced Europeans

"Anne Frank could be a 77-year-old woman living in Boston today – a writer."



# 1965 INA

- First time that US commits to accepting immigrants of all nationalities on a roughly equal basis
- Focus on Family Unification over skills to increase European immigration – wrong!
- In 1960, 90% of immigrants were from Europe, by 2010, 90% were from non-European countries

➤ Trump: "Chain Migration"

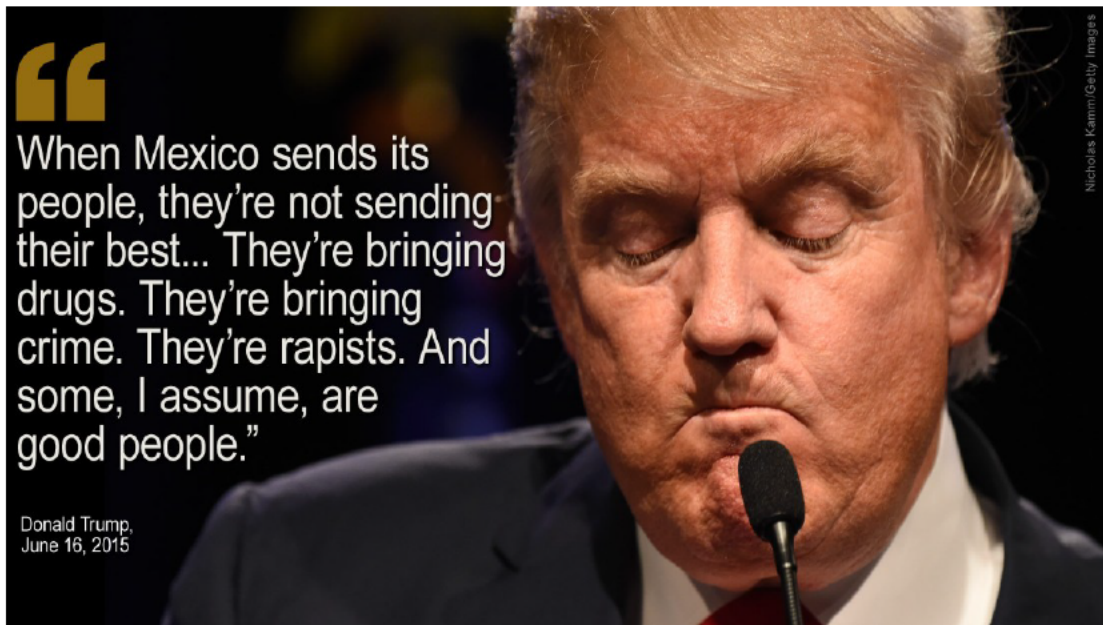


# Immigration under Trump

## Trump's Immigration Agenda:



- Deport 3 Million People
- Build a Wall
- Ban Muslim immigration
- Cut Legal Immigration in Half
- Switch from family-based to wealth-based legal immigration
- Halt refugee program
- Zero Tolerance for unlawful crossing
- Separate Families as a deterrence
- Denaturalization Task Force
- Self-deportation
- Repealing birthright Citizenship
- Troops to the Border
- Restricting asylum



## Dehumanizing Immigrants

# Muslim Ban



*Eduardo Munoz Alvarez/Getty Images*



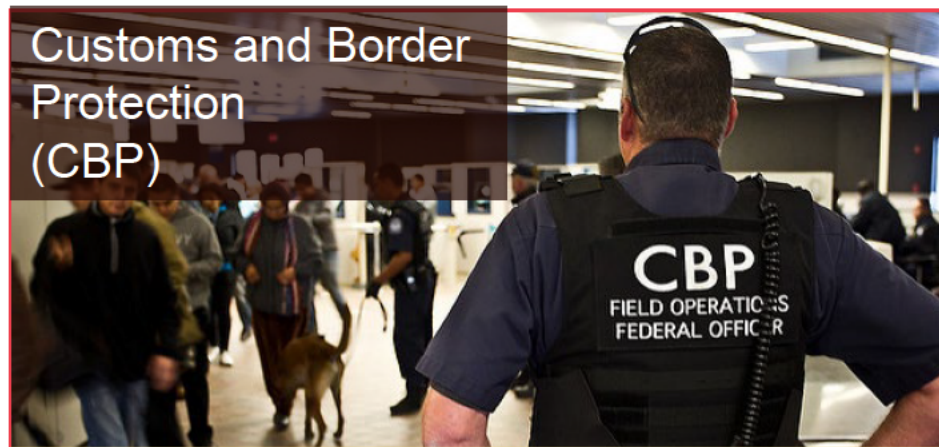
**Coercing  
Police**



# Department of Homeland Security (DHS) – Immigration Agents

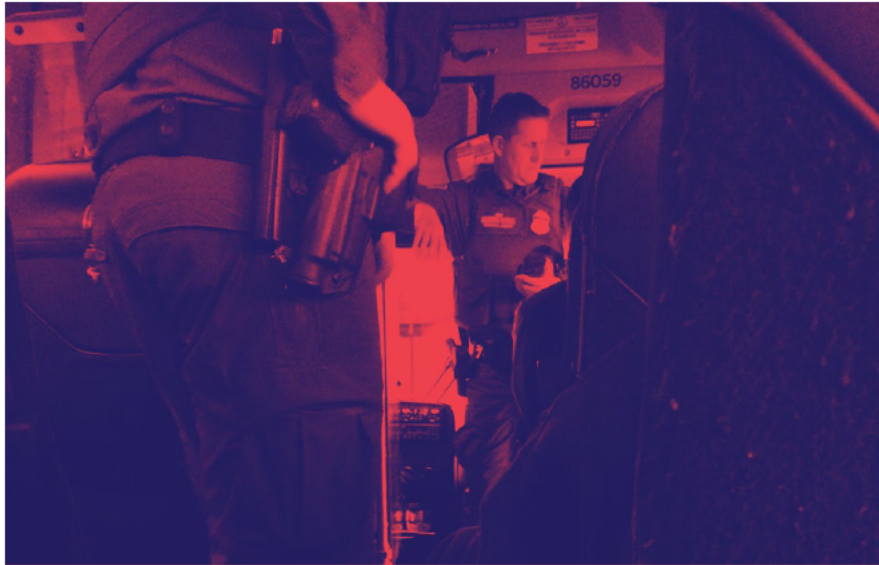


- Enforces immigration laws
- Identify, apprehend, detain and deport noncitizens



- Manages and controls the border
- Has jurisdiction within 100 miles of the border

# CBP in Spokane



**Border Patrol:  
Nobody should be  
afraid to ride the bus...**

**ACLU**  
Washington



# What the ACLU-WA is Doing

# 1. Defending the Rights of Noncitizens

- Advocate for Sanctuary Cities
- Fight discrimination against noncitizens
- Advocate for State and Nat'l legislation



## 2. Stopping WA Institutions from Collaborating with Immigration Enforcement

- Police
- Jails
- Department of Licensing
- Department of Corrections
- WA State Patrol



# 3. Limiting ICE/CBP's Footprint in WA



- Northwest Detention Center - Tacoma
- Intergovernmental Service Agreement – Yakima, Spokane, Kittitas

# What You Can Do

# ACLU Activism



- Join People Power – [www.peoplepower.org](http://www.peoplepower.org)
- Become an E-Activist – Visit [aclu-wa.org/get-involved](http://aclu-wa.org/get-involved)



Questions?  
Enoka Herat

[eherat@aclu-wa.org](mailto:eherat@aclu-wa.org)

**ACLU**

Washington

**WE THE PEOPLE**