WHAT YOU DON’T KNOW CAN HURT YOU:

Myths About Immigrants in the Criminal Justice System
Myth # 1

“It’s not a crime to come back to the United States illegally.”
WRONG:

If you’ve been deported before, being in the United States is a felony.

Punishment of up to 2, 10 or 20 years depending on any criminal history.
Myth # 2

“They can’t use my past against me. I’ve already paid for that.”
WRONG:

Prior criminal history and risk of recidivism are building blocks of criminal sentencing.
Myth # 3

“"I wasn’t deported because I never got taken in front of a judge.""
WRONG:

If you are not a legal permanent resident, commission of certain crimes leads to administrative removal.
Myth # 4

“I have my green card, and I am not a criminal. So I don’t have anything to worry about.”
WRONG:

Legal permanent residency can be taken away, especially for commission of crimes, even if longstanding.

“Aggravated felony” can result in removal with no way out.
Myth # 5

“I just need to get out of immigration jail even if I get deported. I can fix my papers later.”
WRONG:

Strict limits on reopening cases.

Once deported, ineligible for visas to return with limited exceptions.
Myth # 6

“I shouldn’t have been deported, and the law has changed. So they should let me back in.”
Fifth Circuit case law establishes that subsequent court decisions do not necessarily permit an alien to obtain new determination.

Example: DWI as grounds for removal.

Importance of counsel.
Myth # 7

“I got a deferred adjudication, so I’ve never been convicted of that crime and can’t be deported for it.”
Immigration laws were changed to define “conviction” so as to include most deferred adjudication-type proceedings if admissions.
Myth # 8

“I have a spouse and children here. They have to let me fix my papers.”
WRONG:

Illegal presence in the U.S. is itself a grounds for removal.

Very limited ability to adjust status from illegal or undocumented.
“So I came back to the U.S. It’s not like I killed anyone, so I shouldn’t get a long sentence. They should just send me back.”
WRONG:

Federal sentencing guidelines can produce longer sentences for illegal return than for actual drug smuggling.
Myth # 10

“I was born outside U.S., and I never naturalized. So I can’t be a U.S. citizen.”
WRONG:

- Automatic transmission of citizenship: Birth abroad to U.S. parent.
- Derivative citizenship: Naturalization of parent.
- Can even be through grandparent if trace through generations.