

# EDUCATING ABOUT IMMIGRATION

## Special Order 40

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### Time

One class period (or one-and-a-half if students do the reading in class)

### Overview

The Panel Discussion activity provides teachers and students alike with a format for structured discussion of controversial issues. In this discussion, students enrich their understanding of immigration policy in the article on Special Order 40 in Los Angeles.

### Standards Addressed

**Grades Six Through Eight Historical and Social Science Analysis Skills: Chronological and Spatial Thinking:** (1) Students explain how major events are related to one another in time.

**Historical Interpretation:** (3) Students explain the sources of historical continuity and how the combination of ideas and events explains the emergence of new patterns.

**California History-Social Science Standard 11.9: Students analyze U.S. foreign policy since World War II.** (7) Examine relations between the United States and Mexico in the twentieth century, including key economic, political, immigration, and environmental issues.

**California History-Social Science Standard 11.11: Students analyze the major social problems and domestic policy issues in contemporary American society.** (1) Discuss the reasons for the nation's changing immigration policy, with emphasis on how the Immigration Act of 1965 and successor acts have transformed American society.

**California History-Social Science Standard 12.7: Students analyze and compare the powers and procedures of the national, state, tribal, and local governments.** (7) Identify the organization and jurisdiction of federal, state, and local (e.g., California) courts and the interrelationships among them.

### Materials

You will need a copy of both the article “Special Order 40” and Handout A for each student.

### Procedure

**Step One.** Focus Discussion: After reading the article, ask students: “What do you think was the most important fact about Special Order 40 in the reading? Why?” Hold a brief discussion.

**Step Two.** Inform students that they are each part of a panel of local lobbyists who intend to urge the Los Angeles City Council to take action on Special Order 40. Divide the class into groups of five or six students. The students are going to discuss issues raised by the article “Special Order 40” in their own panels. Each panel may advise the city council to repeal, amend, or maintain Special Order 40 but must always provide reasons for its decision.

Distribute **Handout A—Panel Discussion** to each student. Review the handout. Give students time limits on the discussion and have them begin.

**Step Three.** Call time. Call on reporters from each group to tell their answers to question #1. Repeat the process for each question.

# EDUCATING ABOUT IMMIGRATION

## Special Order 40

**In the 1970s, it was common for Los Angeles police officers to investigate and arrest residents for violations of Title 8 of the U.S. Immigration Code, which sets forth the requirements for immigration. Officers would even make “sweeps” of local businesses and neighborhoods to look for undocumented immigrants. The LAPD’s Special Order 40 changed those practices.**



Special Order 40 prevents Los Angeles police officers from questioning suspects about their immigration status.

Between 1970 and 1980, the population of California grew by over 3.5 million people. Most of these people were born in California, but many were immigrants to the state. Some came from other states within the United States. Others immigrated from foreign countries. The city of Los Angeles, the most populous city in the state, absorbed many new immigrants.

On November 27, 1979, Los Angeles Police Chief Daryl Gates issued a new order to the city’s police officers. It banned the officers from inquiring into the immigration status of those they came in contact with. Known as Special Order 40, the order stated that “officers shall not initiate police action with the objective of discovering the alien status of a person.”

The word “alien” in the order is a legal term. It refers to a person who was born outside the United States and who has not been naturalized as a citizen.

Chief Gates instituted the order to facilitate better relations between the police and Los Angeles’ growing immigrant population. He stated that the police department “is sensitive to the principle that effective law enforcement depends on a high degree of cooperation between [the LAPD] and the public it serves.” To achieve that cooperation, Special Order 40 was intended to allow undocumented immigrants to report crime to the police without fear of being deported.

Chief Gates also believed that the city’s police should not be held responsible for the federal government’s control of the U.S.-Mexico border. In the language of the order, “[o]fficers shall not arrest nor book persons for violation of Title 8...of the United States Immigration Code (Illegal Entry).” Instead, Chief Gates felt that was a task for federal law enforcement.

Since 1979, the order has been a part of the police officers’ manual. The manual is a publication that officers use to understand the law, tasks, and responsibilities of their job. Special Order 40 has been incorporated into Section 264.50 of that manual. Officers are routinely trained not to inquire into the immigration status of either witnesses or suspects.

# EDUCATING ABOUT IMMIGRATION

## Special Order 40

Not everyone agrees that officers should be restricted in this way. Critics of Special Order 40 point to changes in Los Angeles and the nation that lead them to oppose the order. One changed circumstance is the dramatic increase of undocumented residents in Los Angeles since Special Order 40 was enacted. One estimate is that by 2005, approximately 800,000 undocumented residents lived in Los Angeles County. The effect of Special Order 40, critics say, is to make Los Angeles a safe haven for undocumented immigrants. Other large cities have initiated similar ordinances or police orders, including Washington, D.C., San Francisco, and New York City.

Another circumstance is the aftermath of the 9/11 terrorist attacks in 2001. Some critics of the special order cite the 9/11 Commission Report to say that local and state law enforcement agencies are supposed to cooperate with federal authorities in enforcing immigration laws. The report states, “It is elemental to border security to know who is coming into the country.... There is a growing role for state and local enforcement agencies.” These agencies, critics say, must assist in the apprehension of terrorist suspects, and Special Order 40 interferes with their ability to do that.

Supporters of Special Order 40, including the current Los Angeles Chief of Police William Bratton, counter that the order enables LAPD officers to effectively police immigrant communities. They say the original purpose of the order is still relevant. Chief Bratton has stated that “[the order has] worked for almost 30 years.”



Supporters also argue that nothing in the order precludes police from inquiring into the immigration status of suspects after they have been arrested for a separate, serious crime. Section II of the order gives police a specific procedure to follow “[w]hen an undocumented alien is booked for multiple misdemeanor offenses, a high grade misdemeanor or a felony offense, or has previously been arrested for a similar offense....” The procedure includes marking the arrest report face sheet “Undocumented Alien.”

Controversies have arisen around enforcement of the order. In 2006, the non-profit watchdog group Judicial Watch sued the LAPD to end the order. The group claimed that it violated Article VI, Clause 2, of the U.S. Constitution (the supremacy clause), which states that the Constitution and laws made by the federal government “shall be the supreme Law of the land.” In June 2008, however, Los Angeles Superior Court Judge Rolf M. Treu dismissed the lawsuit, saying that the order neither violated federal law nor interfered with communication between police and federal immigration officials.

A related controversy pertains to the shooting death of Jamiel Shaw. Shaw was a 17-year-old student and college-bound football player at Los Angeles High School. On March 2, 2008, he was shot to death. The alleged perpetrator was a 19-year-old named Pedro

# EDUCATING ABOUT IMMIGRATION

## Special Order 40

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Espinoza. Espinoza allegedly is a member of the infamous 18th Street gang and also an unauthorized immigrant. He had been released from custody from the Los Angeles County Jail. (He was never in LAPD custody.)

As a result of the fatality, local politicians, activists, and Shaw's family have proposed that the Los Angeles City Council rescind the ordinance that gave rise to Special Order 40. One suggestion is for the council to adopt a new ordinance now commonly known as "Jamiel's Law." The ordinance would amend Special Order 40 to allow police to investigate suspected violations of the federal immigration code by gang members. It would also mandate that the police and the city's mayor cooperate with the federal government to "identify, arrest, deport and/or prosecute and imprison gang members who are in the country illegally...."

The Los Angeles City Council did not pass Jamiel's Law. Supporters gathered signatures to place the measure on the spring 2009 ballot as a city initiative. They failed, however, to get enough signatures.

With the election of Donald Trump to the presidency of the United States in 2016, new questions arose around Special Order 40. Trump had campaigned on a pledge to deport millions of unauthorized immigrants. In response, both Los Angeles Police Chief Charlie Beck and Mayor Eric Garcetti announced that the LAPD would not alter its policy under Special Order 40.

"We are not going to engage in law enforcement activities," Chief Beck said, "solely based on somebody's immigration status. We are not going to work in conjunction with Homeland Security on deportation efforts. That is not our job, nor will I make it our job."

### **For Discussion**

1. What were the reasons for the Los Angeles police to adopt Special Order 40?
2. What major events and circumstances led to criticism of the order?
3. Do you agree with Judge Treu's decision in the lawsuit over Special Order 40? Why or why not?
4. What are the pros and cons of Jamiel's Law?

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# EDUCATING ABOUT IMMIGRATION

## Special Order 40

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### Panel Discussion—Handout A

As a final activity, you are part of a panel who seeks to lobby the Los Angeles City Council on what to do about Special Order 40. In your panel, you will discuss issues raised by the article “Special Order 40” and decide what position to take.

**In your group, do the following:**

- 1. Decide on roles for group members.** Select who will be...  
Discussion Leader—leads the discussion.  
Recorder—takes notes on the discussion.  
Reporter—reports the discussion to the class.  
Timekeeper—keeps track of time for the group.  
Task master—makes sure the group follows the discussion rules below.
- 2. Discuss each question below fully.**
- 3. Prepare to report your discussion to the class.** All members should help the recorder prepare.

#	Discussion Questions
1	What was the policy of the Los Angeles Police Department (LAPD) prior to Special Order 40? Why did that policy change?
2	What do you think are the most important issues related to Special Order 40?
3	In your opinion, what should the Los Angeles City Council do to address both the needs of the LAPD in fighting crime and the immigrant community?

#### Discussion Rules

1. Everyone should participate in the discussion.
2. Listen carefully to what others are saying.
3. Ask clarifying questions if you do not understand a point raised.
4. Be respectful of what others are saying.
5. Focus on ideas, not personalities.