Through the eyes of a cop: the interpretation of gestures of a non-native speaker defendant

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Abstract:

“A search without a warrant or any level of suspicion can be conducted if, under the totality of the circumstances, the officers have obtained voluntary consent, regardless of whether the officers advised that consent could be refused.” United States v. Drayton, 536 U.S. 194, 206-07 (2002); Schneckloth v. Bustamonte, 412 U.S. 218 (1973).

In 2005, I served as an expert witness sociolinguist to ascertain whether nodding by a non-native speaker of English constituted informed consent in a warrantless search. At issue was whether nodding could be universally construed as assent, and whether casual translation by a bystander could be legally considered as enough of an effort to explain a subject his/her rights. This presentation explores some of the avenues available to officers and people who come into contact with them in dealing with warrantless searches across language barriers.

Dr. Norma Mendoza-Denton is a Professor of Anthropology at UCLA. Until last academic year, she worked as a Professor of Anthropology at the University of Arizona, Tucson, where she founded the linguistic anthropology lab. She is the author of over fifty articles and book chapters and the book Homegirls: Language and Cultural Practice among Latina Youth Gangs (Wiley-Blackwell 2008). She is active in the fields of sociophonetics, gesture analysis, bilingualism and migration, youth subcultures, and institutional interaction.