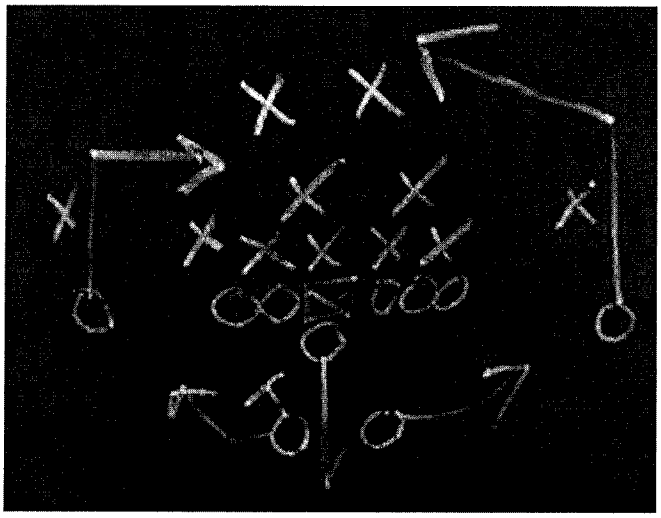
THE THEODORE ROOSEVELT INN OF COURT

PRESENTS

IMMIGRATION LAW

FROM THE



TO THE

Nassau County Bar Association

One West Street Mineola, New York 11530

March 23, 2015 5:30-8:00 p.m.

THEODORE ROOSEVELT INN OF COURT

IMMIGRATION LAW FROM THE X'S AND O'S TO THE BIG PICTURE
Presented March 23, 2015 - 6:00 p.m. to 8:00 p.m.

PROGRAM OUTLINE

Description	*Time*
PART I **Scene One** - Case Evaluation by and between Scott Dunn, Esq., and Millicent Clarke, Esq. and Josefina Cuervo (Jossity Vasquez) -Discussion **Scene Two** - Case Evaluation by and between Scott Dunn, Esq., and Millicent Clarke, Esq. and Vladimir Zonov (Jorge Macias) -Discussion **Scene Three** - Case Evaluation by and between Scott Dunn, Esq., and Millicent Clarke, Esq. and Bobbie Kingston (Corinthia Carter) -Discussion	50 Minutes
PART II Immigration Law the Big Picture – Presented by Paul F. Millus	40 minutes
PART III Panel discussion and audience questions	10 minutes

THE STORY OF JOSEFINA CUERVO

My name is Josefina Cuervo, I am a 39 year old native and citizen of El Salvador. While living in El Salvador I was tormented by members of Mara Salvatrucha ("MS-13"). They constantly plagued me and demanded that I join the gang, but I refused. One day in May of 1990, I was standing at the bus stop on my way to work when a car with four MS-13 members drove by and started shooting at me. I was able to escape untouched, but I was terrified. I had to leave El Salvador; otherwise, MS-13 would kill me because I refused to join the gang.

I telephoned my aunt, Consuela Rodriguez, the sister of my deceased mother, living in New York. I told her what happened. She was extremely worried about my safety. It is common knowledge what happens to people in El Salvador if they refuse to join the gang. So she lent me $10,000. I used that money to secure the services of a coyote to bring me across the border. Although I was married with a baby on the way, I could not take my husband, Martino Cuervo, with me because we had enough money for only one of us to make the journey across the border. I was devastated, but I had to leave if I wanted to survive. I left El Salvador in June and travelled through Guatemala and Mexico, and finally two weeks later I arrived in Texas. From Texas I took a greyhound bus to New York, at the advice of my aunt.

Once I made it to New York, my aunt found me a job working as waitress at an Italian Restaurant in Westbury, New York. My aunt also found me a place where I could sleep. I could not stay with her, because she lived in a two bedroom apartment with her husband and four children and had no room for me. I slept in a room with 10 other women like me, but it accommodated 20, so we had to take turns sleeping. Those of us who worked at night slept during the day and vice versa. My work schedule was hectic. I worked 6 days a week for 14 hours a day and was paid a measly $250 per week. The people at my job did not know my real name. I was scared to use my real name. Right before starting my job I purchased a New York state driver's license in the name of Josephine Bermudez for a $1,000. That was all the money I had saved up from working in El Salvador. Josephine Bermudez was a United States citizen. I used that driver's license to obtain a social security number.

My life remained this way for approximately 10 years. During those ten years I would send money to my family in El Salvador to support them, and also paid my aunt for the loan she gave me. All I did was sleep and work. In January 2000, I met, Sal Gomez, while shopping at Compare Foods. He worked there as a stock boy. He was a native of Mexico, and a naturalized citizen of the United States. I was extremely lonely so we started hanging out. Five months later

I find out that I was pregnant with a child. He did not want to marry me because he was a recent divorcee and was not ready for marriage. I told him that I would pay him $5,000 if he married me. She agreed. Two months later we got married at City Hall in Hempstead, New York. I was still married to Martino. Two months after that, in October 2000, Sal filed a Petition for Alien Relative (Form I-130), along with an Application to Register Permanent Residence or Adjust Status. Two weeks ago I gave birth to my second son, and a week ago we received an interview notice for my adjustment application. We must appear at the United States Immigration and Services ("USCIS") office in Holtsville, New York, next month, but I am scared to go.

The Russian Roofer

My name is Vladimir Zonov, I am 39 years old, and originally from Russia. My father owned and operated a Construction company in Russia which I started working for as soon as I graduated High School. As a result, I learned a variety of skills, and inherited a considerable amount of money. After my father died, I came to the United States in 1997 on a B-2 Visitor's Visa, and have never left. I live with my wife Anya, here in New York. Anya and I have been married for 10 years. Anya also came to the U.S. on a Visitor's Visa and has never left. We have a 6 year old son named Pyotr who was born here in New York.

Shortly after coming to the United States, I started working for various construction companies in Connecticut as a self-employed Marbleizing Painter and Interior Renovator. I considered myself to be one of the best in the business, and I made a lot of money working for reputable Construction companies. In January of 2001, one of those companies offered to hire me exclusively, on a full- time basis. Because of my immigration status, they were advised that an application had to be filed with the Department of Labor, and if approved, an Employment Based Visa petition could to be filed on my behalf.

In April or May of 2001, my application with the Department of Labor was filed. A long time passed before it was approved, in fact I have no recollection of the approval date, but I know that in June of 2003, my Employment Based Visa Petition was finally filed with USCIS. About 1 year later I received a call from the Attorney who filed the Visa petition, saying that it was approved. However, by that time, I had moved to New York because someone called immigration to report that the Construction Company was employing illegal immigrants and there had been a raid by ICE. Several people had gotten arrested but I happened to be out that day. The owner therefore told me he could no longer employ me.

In New York, I continued working for various Construction companies, but the majority of my work entailed Roofing. By 2005 I began working solely for Commercial Roofing companies and learned the various skills and installation methods used in commercial roofing which are very different from residential roofing. I continued to make a considerable amount of money working for several companies, and added to the funds I brought with me from Russia, I have managed to save almost $500,000.00.

In 2009, I decided to work full time for one Construction company, PPP Construction, LLC, which specializes in complex European model commercial roof membrane systems. Working for PPP Construction for the past 5 years has greatly expanded my knowledge and skills in the commercial roofing field.

Now that I have a son, I have been thinking more and more about my immigration status and inability to travel out of the United States. I would love for my son to see my homeland Russia, and my wife deserves the opportunity to work and travel freely as well. All the years I have lived here I have never been arrested, and I obtained a Tax ID number, so I have always paid my taxes. My current employer is now willing to assist me in filing for a green card but we are unsure of our options.

BOBBIE KINGSTON WANTS TO BE NATURALIZED

My name is Bobbie Kingston. I am a Lawful Permanent Resident (LPR) of the United States and have been for the past 20 years. I would like to become a United States Citizen (USC), but I've been arrested a few times in the past for minor stuff. Most were thrown out but I'm not sure how they will affect my chances of becoming a citizen.

I am 40 years old. I was born in Montego Bay, Jamaica on January 1, 1975. I reside at 123 Sunset Highway, Freeport, NY, 11520. I am a singer. I have never been married. I have one child, 10 year-old child, Ziggy Kingston. He was born on January 2, 2005 in Freeport, NY. He lives with his father, Lonny Hilton, in Freeport, NY. I was never ordered by a court to pay child support, but I give my former husband some cash from time to time to buy Ziggy food and clothes, whenever I can afford it. Ziggy has suffered from severe asthma since he was 2 years old, and has been hospitalized over 20 times because of this condition.

I first entered the United States on January 1, 1995, at JFK Airport in Queens, NY, as LPR, and I have never left the United States since. I obtained my LPR status through my USC mother, Rita Kingston. She returned to Jamaica after retiring as nurse, 5 years ago. She recently had hip replacement surgery and she is not well enough to travel by plane. I would like to visit her in Jamaica to assist with her recovery, as we have no close relatives in Jamaica available to assist her.

I was arrested 3 times that I can remember. They were all in New York. The first arrest was around 2000. I believe it was in Brooklyn. I got into a fight at a nightclub. I was dancing with Lonny and a guy came up to me and grabbed me I then slapped him and kicked him in the groin. He punched me and I tackled him to the floor. The next thing I remembered I was the one being arrested for assault. I appeared before the criminal judge once. I was represented by a legal aid attorney. All I remembered about the hearing, was the criminal attorney telling me I would be freed the same day if I paid a surcharge. I do not remember pleading guilty or not guilty. I paid the surcharge and was released, so I figured the case had to have been thrown out because I would not have been allowed to go free if it was not. And besides, I was only defending myself.

The next time I remember being arrested was in 2009. I was with a former friend, Dennis Black. He is also from Jamaica. We were in his car in Queens, NY, in the parking lot of a Wrong Aid Pharmacy. Dennis offered to give me a ride to Brooklyn to visit my mother and I accepted. While on our way from Long Island to Brooklyn, Dennis said he needed to stop by the pharmacy to collect money from someone who owed him and that it would only take 5 minutes. While we were in the parking lot, a guy came out of a black BMW car and walked over to us. Dennis exited his car and spoke to the gentleman. I did not hear what they were saying, nor could I see them, as they were standing at the back of Dennis' car. Two minutes later, Dennis came back into the car and said "good to go", and the guy returned to his vehicle. As Dennis was driving out

of the parking lot, 4 NYPD cars cordoned us off and about 8 police officers with guns drawn, ordered us to shut off the engine, and step out of the car with our hands up. We did as they said and we were both arrested. The guy in the black BMW was really an undercover officer. He claimed that Dennis had just sold him a pound of marijuana and that I was Dennis' accomplice. I told the cops that I did not have anything to do with selling marijuana, but the undercover officer said that Dennis told him I was his "partner". In Jamaica "partner" can mean friend, but I guess to the NYPD, "partner" meant accomplice.

I have never had any dealings with any kind of drugs. I had no idea that Dennis was a drug dealer or that he was in the parking lot to sell drugs that day. Had I known, I would not have accepted a ride from him. I appeared in the Queens Court about 5 or 6 times for this matter because the DA kept asking for adjournments. I was represented by a legal aid attorney in this case as well, because I could not afford a private attorney. I explained to the Legal Aid lawyer, that I was not a citizen of the United States and that I was not involved with Dennis' drug dealings in anyway. He told me that the DA was offering me probation, and no jail time, if I pled guilty to marijuana sale, and he thought I should take it, because he didn't see how I was going to win at trial. He did not tell me anything about the possibility of me being deported because of this guilty plea, so based on his advice I agreed to the plea deal. I do not remember how long my probation was for. And I do not know if this conviction was for a felony or a misdemeanor.

The last time I remember being arrested was on April 1, 2014. I was over at Lonny's house in Freeport, NY to visit Ziggy. Lonny wanted to talk about our old problems, but I wanted none of it. He started shouting at me and accusing me of being a slut. He said that I was setting a bad example for Ziggy. I told him that he needed to calm down because Ziggy could hear us. That made her angrier. He said I couldn't come into her house and tell him to calm down, and he started pushing me out of the front door, punching me, and screaming at me to get out. As I was exiting Lonny's gate, the 2 Freeport Police Officers drove up to the front of the house and told me to they received a complaint about a disturbance. I believe one of the neighbors called them, because I did not and I do not recall seeing Lonny with her phone. I told the officer that there was no disturbance, but they saw Lonny standing at her front door in tears and told me not to leave, and that they were going to get to the bottom of this. One officer spoke to Lauren and the other spoke to me. When they were finished they spoke to each other and then came over to me and told me that Lonny claims that she told me to leave her home, I refused to go, and that I pushed her into a wall. I told the officer that I never touched Lauren, I left when he asked me to, and that he was the one who pushed and punched me. The cops said that they didn't know who to believe so they were going to arrest both of us, and let the court decide who's telling the truth. Lonny and I appeared in the Nassau County Criminal Court the next day and we were both represented by legal aid lawyers. This was our only court appearance. My only understanding of what happened at that hearing, was that Lonny and I had to stay away from each other and out of any trouble for a year, and our cases would be dismissed at the end of the one-year period.

Since I first got my green card in 1995, I renewed it once, in 2005. I do not remember if I mentioned my 1995 arrest in my 2005 application to renew the green card. The card will expire again later this year. I want to obtain my citizenship rather than renew the green card when it expires. I have already purchased my plane ticket to go visit my mother in Jamaica. I am due to travel next week and return a month later. I want my citizenship interview to be scheduled for a date shortly after my return. Kindly assist me.

BIOGRAPHIES

MILLICENT Y. CLARKE, ESQUIRE,
Clarke & Associates
11 West Sunrise Highway
Suite 1
Freeport, NY 11520
(516) 536-2680

Millicent has been described as "A Brilliant and Fearless Litigator." She has practiced Immigration Law for over 30 years. Ms. Clarke obtained a Bachelor of Arts Degree from Fordham University, and a Juris Doctor from Temple University School of Law. Upon graduation from Law School, she was selected as a United States Department of Justice Honors Graduate. As a result, her first formal legal position was with the United States Justice Department in Chicago as a General Attorney for the Immigration and Naturalization Service (INS), now known as the Department of Homeland Security. While serving in that capacity, she represented the then INS, before the Immigration Court, served as a designated Naturalization Examiner, and defended the former INS in equal employment opportunity cases.

Ms. Clarke's professional path subsequently led her to the United States Department of Justice, Office of Immigration Litigation, (OIL) in Washington, D.C. There she authored appellate briefs and argued cases before the various United States Courts of Appeals, nationwide. While at OIL, she was responsible for a number of precedent decisions involving the development of appellate immigration law pertaining to *in absentia* hearings.

In April of 1986, Ms. Clarke began working as a Special Assistant for the INS at the United States Attorney's Office for the Eastern District of New York, in Brooklyn, comprised of Staten Island, Brooklyn, Queens and Long Island. She was responsible for the prosecution and defense of all cases arising under the Immigration and Nationality Act, including the preparation of INS search warrants for presentation to the Federal Magistrate Judge, in that district. As such, she successfully prosecuted and defended a number of high profile cases and cases of first impression in Immigration and International law. They included, *inter alia,* the first effort to denaturalize and deport a Jewish Nazi *collaborator*, as well as the defense of Bertrand Aristide, President of Haiti, who was at the time, in exile, in the United States. She defended, over a four-year period, a complex class action federal tort claim and *Bivens* action involving the detention of excludable aliens. Ms. Clarke has also litigated numerous Employment Discrimination, False Claims, Social Security, Tort, Attorney Fees, Personal Injury and Forfeiture cases on behalf of the United States, and its respective agencies. In 1995, Ms. Clarke was appointed to the Immigration

Bench by then U.S. Attorney General Janet Reno, a position she ultimately declined, opting to enter private practice. Ms. Clarke subsequently founded Clarke & Associates. The practice deals with the full range of immigration and consular law, including litigation in the Federal Courts.

Since entering private practice, she has defended a number of cases which have garnered the attention of the national media including The New York Times, The Washington Post, The Washington Times, The New York Daily News, the San Jose Mercury News, and the Korean Times. She was also featured in New York Newsday's Question and Answer Immigration column. In the year 2000, the Board of Immigration Appeals published one of her asylum cases, Matter of S- A-, as a precedent decision. In 2009, she won two extensively and arduously fought removal cases before the United States Court of Appeals for the Second Circuit. During 2014, her office defended and won a number of complex cases, including identifying as a United States Citizen, and compelling the release of, a Jamaican national, held by ICE for 5 ½ months for imminent removal from the U.S.

Ms. Clarke has spoken locally and nationally on immigration issues in a number of forums, *such as*, the Federal Courts Committee of the Nassau County Bar, and the National Bar Association. She has served as a panel member on the U.S. and Caribbean Issues Forum at the Congressional Black Caucus Legislative Conference in Washington, D.C., and on an Immigration panel sponsored by the Federal Bar Council. She regularly speaks to church and community groups. Additionally, Ms. Clarke was a regular speaker on Drive Time Radio, WPAT 930AM on Saturdays, where she addressed the full range of immigration issues. From January 2011 to the July 2013, Ms. Clarke served as an Adjunct Professor of Law at the Bread & Life: Immigration Clinic at St. John's University School of Law, New York. She sits on a number of local boards and has received numerous commendations in the course of her career for her commitment to her profession and community.

Scott Dunn, Esq.

U.S. Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn NY 11201

718-254-6029

EXPERIENCE

January 1989-

Present

United States Attorney's Office, Eastern District of New York
Assistant United States Attorney
Chief, Immigration Unit

- responsible for overseeing all immigration litigation in District
- extensive civil litigation and trial experience
- prosecution of criminal cases
- manage Circuit Court litigation for District
- Counsel USCIS attorneys and represent Agency in federal court

April 1987 –

January 1989

Department of Justice, United States Immigration and Naturalization Service, Office of the General Counsel, Washington D.C.

Deputy Chief, Employer Sanctions Program

- coordinated national Employer Sanctions Program
- oversight of two hundred field attorneys nationwide
- trained government personnel in Employer Sanctions
- co-chairman Employer Sanctions Legal Advisory Committee
- drafted regulations published in the Federal Register

October 1984 –

April 1987

Department of Justice, United States Immigration and Naturalization Service
Miami, Florida

Trial Attorney, Honors Law Program

- represent INS in exclusion and deportation hearings
- coordinated investigations, discovery and witness preparation for trial
- advised operational personnel on legal questions which arose in connection with INS activities

EDUCATION

Fordham School of Law, New York, New York

J.D. 1984

Dean's List

Urban Law Journal: Publication "The Effect of Collective Bargaining on the Baseball Anti-Trust Exemption."

Cornell University, College of Arts and Sciences, Ithaca, New York B.A. Government, Psychology

Dean's List

Lettered lightweight football, tennis

MILITARY

United States Air Force

Captain, 60th AES, Andrews AFB, Maryland

Medical Service Corp Officer

Served in Operation Desert Storm

TEACHING EXPERIENCE

- Adjunct Professor of Law, Brooklyn School of Law, Immigration Law Clinic (2005-present)
- Adjunct Professor, John Jay School of Criminal Justice (2009-2011)
- Adjunct Professor of Law, Benjamin N. Cardozo School of Law (2010-present)

BACKGROUND

- Awarded The Henry L. Stimson Medal, Outstanding Assistant U.S. Attorney, EDNY, 2007
- Admitted to New York Bar
- Triathelete

Corinthia-Carter
First Year -Touro Law School

I am a wife and mother of 4 boys. I have an M.A. in Political Science and an M.S. in Human Resource Management. In my academic career I have received several awards including High Achievement in Political Science Graduate Studies Award, Human Resource Management Faculty Award, and a Cali Award for Criminal Law. I am also very active in my community

which located in Downtown Brooklyn working with elected officials as well as the 5th Avenue Committee and South Brooklyn Legal Services on Landlord/Tenant issues. I have always had an interest in immigration law. Realizing that oftentimes immigrants have labor issues I find it practical to also study labor law as they are sometimes mistreated by employers due to their immigration status. They believe that they do not have rights in the workplace therefore they remain quiet and their voices go unheard. I believe that it is my obligation as a child of an immigrant to be their voice.

Jossity Vasquez
First Year- Touro Law School.

Before attending law school she was a Senior Immigration Paralegal in New York City and also an Elementary School Teacher in the South Bronx. She hopes to be an Immigration Attorney in the future.

Jorge Macias Bio
First Year- Touro Law School.

I am a 1L student at Touro Law Center and a retired NYPD detective. I am pursuing a law degree because I want to practice in immigration and criminal defense.

Paul F. Millus
Meyer Suozzi English & Klein P.C.

Paul Millus is of Counsel to Meyer, Suozzi, English & Klein, P.C. and practices in the Litigation and Employment Law Departments located in both Meyer Suozzi's Garden City, Long Island and New York City Office. Mr. Millus has been involved in all aspects of state and federal litigation throughout his legal career handling a variety of litigated matters from inception, motion practice, trial and appeals. Mr. Millus has tried both jury and non-jury matters dealing with a wide range of issues from civil rights, commercial, constitutional, real estate, employment, tort and Surrogate's Court matters. If the matter needs to be tried before a judge or a jury in state or federal court, Mr. Millus stands ready to do so in almost any area of the law. Mr. Millus regularly provides advice to employers and employees concerning their rights and obligations in the workplace including consultation on employee handbooks, HR training, discrimination policies, FMLA, FLSA, employment contracts, wage and hour concerns and all manner of workplace issues.

Mr. Millus began his litigation career as a former Special Assistant United States Attorney for the Eastern District of New York from 1987 through 1989. There he worked with elite attorneys representing the U.S. Government in commercial matters; false claims act cases, civil forfeiture to name a few. He joined the firm of Snitow & Pauley in 1989 and became a partner in Snitow & Cunningham LLP in 1998 which became known as Snitow Kanfer Holtzer & Millus LLP. Mr. Millus has represented many municipalities on Long Island including the Towns of Brookhaven, Hempstead, and North Hempstead, the City of Long Beach, and the Counties of Nassau and Suffolk trying numerous cases in state and federal courts. He continued to successfully represent municipalities throughout Long Island as a partner in addition to expanding his private client base.

Mr. Millus is rated "AV" by Martindale-Hubbell which is the highest level of professional excellence and ethics and confirms that Mr. Millus is recognized for the highest levels of skill and integrity in the practice of law. Mr. Millus has also been named as a "Super Lawyer" in the 2010 and 2014 editions of "Super Lawyers" magazine in its Corporate Counsel Edition for Top Attorneys in Employment and Labor Law.

Mr. Millus is active with various bar organizations in and around New York City and Long Island. He is the Former Chair of the Federal Courts Committee of the Nassau County Bar Association, a Master , Executive Board Member and current President of The Theodore Roosevelt American Inn of Court and a member of the Eastern District Association of former Assistant and Special Assistant U.S. Attorneys. Mr. Millus also served as an Adjunct Professor of Law at the Jacob D. Fuchsberg Touro Law Center teaching Sales. Mr. Millus has lectured on cutting edge issues affecting the Bar focusing on employment law, federal practice, trial practice and civil rights law for the Nassau County Bar Association, Lorman Continuing Legal Education, the New York City Bar Association and Theodore Roosevelt American Inn of Court.

Mr. Millus has written extensively on many aspects of the law publishing articles in the New York Law Journal, Nassau Lawyer, Suffolk Lawyer and New York State Bar Journal. Recent publications include:

•Author, "Browning–Ferris: A Potential Game Changer for the Union Movement," Nassau Lawyer, January 15, 2015

•Co-Author, ""Misclassification and the "Fluctuating Work Week": A Potential Schism in Wage and Hour Litigation," New York State Bar Association, December 30, 2014

•Author, "Executive Orders: Constitutional Underpinnings and Legality," New York Law Journal, November 18, 2014

•Co-Author, "Cannabis Conundrum: Medical Marijuana Law and Employers," New York Law Journal, August 6, 2014

•Author, "New Avenue for Payment of Medical Care: the Prompt Pay Law," New York Law Journal, May 8, 2014.

•Co-Author, "Social Media: Changing the Face of Employment Law," New York Law Journal, March 10, 2014.

•Author, "Faragher and Ellerth: Revisited 12 Years Later," New York Law Journal, May 9,2013.

•Co-Author, "Court's Discretion in Changing Venue, Counsel's Obligation to Act Promptly," New York Law Journal, Vol. 245-No.: 33, February 18, 2011.

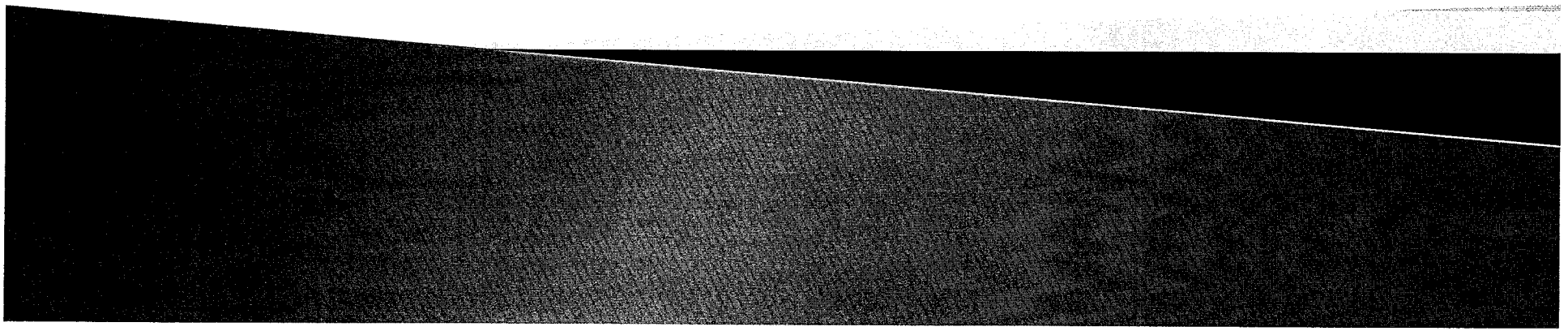
•Co-Author, "Caution on Whistleblowing: Not All Reporting Is Protected," New York Law Journal, August 23, 2010.

•Co-Author, "Getting Paid: the Interplay Between the Judiciary Law and Part 137," New York Law Journal, June 17, 2010.

•Author, "An Employer's Guide to the FMLA," Nassau Lawyer, October 1, 2007.

IMMIGRATION

THE BIG PICTURE



reform
border
DEMOCRACY
documents
illegal
life America
secure
STATES
citizenship
naturalization
visa legal
REFORM
LEGAL
BORDER

THE DEBATE RAGES

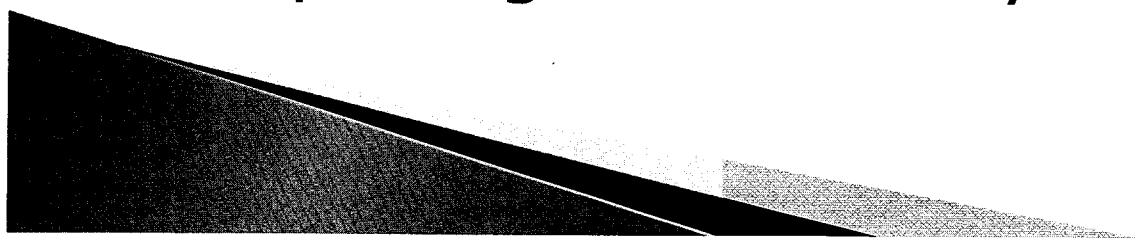
THE DEBATE RAGES

THE DEBATE RAGES

- According to a January 2015 Gallup Poll
- 60% of Americans say they are dissatisfied with the levels of immigration in the U.S.
- 39% would like to see immigration levels decrease
- 84% of Republicans are dissatisfied
- 54% of Independents are dissatisfied
- 44% of Democrats are dissatisfied

THE DEBATE RAGES

- HOW POLARIZING IS THIS ISSUE?
- What should be the main focus of the U.S. government in dealing with the issue of illegal immigration:
- (A) developing a plan that would allow illegal immigrants who have jobs to become legal U.S. residents, or
- (B) developing a plan for stopping the flow of illegal immigrants into the U.S. and for deporting those already here?"



THE DEBATE RAGES

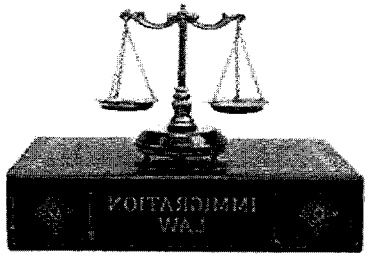
- Supporting legal residency
- **49%**
- Stopping flow /deport
- **49%**
- Unsure **-1%**

THE LAW

- The Constitution never uses the word immigration.

- The Supreme Court has ruled that the Congressional power to regulate naturalization, from Article 1, Section 8, includes the power to regulate immigration (see, for example, Hampton v. Mow Sun Wong, 426 U.S. 88 [1976]). It would not make sense to allow Congress to pass laws to determine how an immigrant becomes a naturalized resident if the Congress cannot determine how, or even if, that immigrant can come into the country in the first place. Just because the Constitution lacks the word immigration does not mean that it lacks the concept of immigration.

THE LAW



- The first official written explanation of American citizenship was included in the 14th Amendment to the Constitution (1868). Section 1 of this amendment declares that "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." The wording of this amendment places national citizenship before state citizenship. In other words, an American is first a citizen of the United States and then a citizen of the state in which he or she lives. Citizens are entitled to the rights granted by both the national government and their own state's government.

- The 14th Amendment was passed to guarantee citizenship to blacks who were freed from slavery after the Civil War (13th Amendment, 1865). The amendment made the rule of *jus soli* (place of birth) a law for all U.S. citizens. This means that any child born in the United States becomes a citizen at birth, even if its parents are aliens. (However, the rule does not apply to children born to foreign diplomats or United Nations officials.)

THE LAW

- **Chinese Exclusion Act OF 1882**
- The Act was one of the most significant restrictions on free immigration in US history, prohibiting all immigration of Chinese laborers.
- It was initially intended to last for 10 years, but was renewed in 1892 and made permanent in 1902.
- The Chinese Exclusion Act was the first law implemented to prevent a specific ethnic group from immigrating to the United States. It was finally repealed by the Magnuson Act on December 17, 1943.

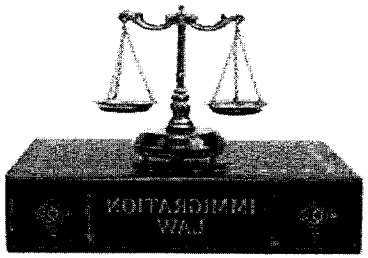
THE LAW

- **The Immigration Act of 1924 (The Johnson-Reed Act)**
- The Immigration Act of 1924 limited the number of immigrants allowed entry into the United States through a national origins quota. The quota provided immigration visas to two percent of the total number of people of each nationality in the United States as of the 1890 national census.
- It completely excluded immigrants from Asia.

THE LAW

- **The Immigration and Nationality Act (INA) a/k/a The McCarran-Walter Act of 1952.**
- The Act has been amended many times over the years, but is still the basic body of immigration law.
- The Immigration and Nationality Act of 1952 upheld the national origins quota system established by the Immigration Act of 1924
- It also ended Asian exclusion from immigrating to the United States and introduced a system of preferences based on skill sets and family reunification

THE LAW



- **1965 Immigration and Nationality Act, a.k.a. the Hart-Cellar Act**

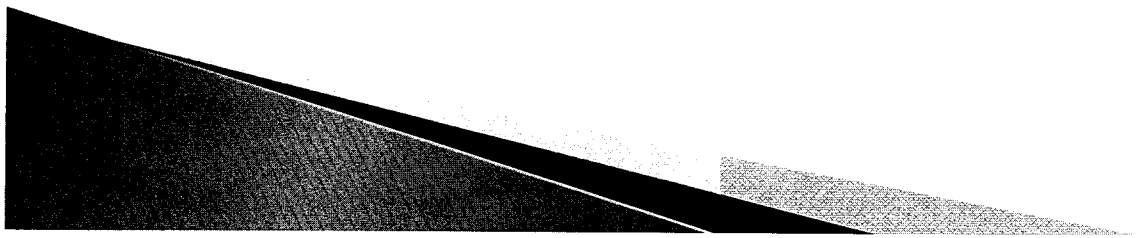
- The Hart-Cellar Act abolished the national origins quota system that had structured American immigration policy since the 1920s, replacing it with a preference system that focused on immigrants' skills and family relationships with citizens or residents of the U.S. Numerical restrictions on visas were set at 170,000 per year, not including immediate relatives of U.S. citizens, nor "special immigrants" (including those born in "independent" nations in the Western hemisphere; former citizens; ministers; employees of the U.S. government abroad).

THE LAW

- **1986 Immigration Reform and Control Act, a.k.a. The Simpson-Mazzoli Act**
- An act to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.
- The purpose of this legislation was to amend, revise, and reform/re-assess the status of unauthorized immigrants set forth in the Immigration and Nationality Act. The content of this bill is overwhelming and is divided into many sections such as control of unauthorized immigration, legalization and reform of legal immigration. The focus of this précis will be on the legalization aspect of the bill.

- This bill gave unauthorized aliens the opportunity to apply and gain legal status if they met mandated requirements. The fate or status of all those who applied fell into the hands of "Designated Entities" and finally the U.S. Attorney General. Applicants had to prove that they lived and maintained a continuous physical presence in the U.S. since January 1st, 1982, possess a clean criminal record, and provide proof of registration within the Selective Service. Moreover, applicants had to meet minimal knowledge requirements in U.S. history, government and the English language or be pursuing a course of study approved by the Attorney General.

- This bill also outlined previsions for temporary residents' travel, employment, false statements, numerical limitations, adjustments for status and treatment of applications by "Designated Entities". Furthermore, after an applicant was assigned a legal status or deemed a temporary lawful resident, they were disqualified from receiving all forms of public welfare assistance for five years.
- The rules for applications and welfare assistance did not apply to Cuban or Haitian immigrants

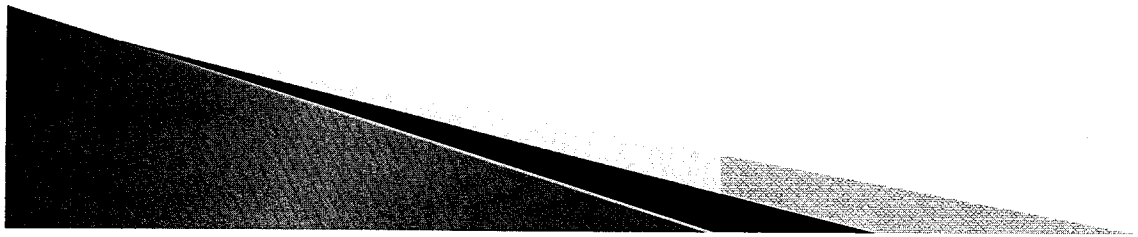


THE LAW

- 1990 Immigration and Nationality Act
- An act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes)
- Among other provisions, the 1990 Immigration Act instituted the Diversity Visa Lottery Program. Starting in 1991, every year the Attorney General, decides from information gathered over the most recent five year period the regions or country that are considered High Admission or Low Admission States.
- A High Admission region or country is one that has had 50,000 immigrants or more acquire a permanent residency visa. The High Admission regions are not given visas under this act in order to promote diversity.
- There are 6 different regions: Africa; Asia; Europe; North America; Oceania; South America, Mexico, Central America, and the Caribbean. Visas are given to countries in these regions that do not meet the quota.
- To qualify for this visa the immigrants must have a high school diploma or its equivalent. They must have at least 2 years of work experience along with 2 years of training at that job.
- The Secretary of State must keep track of the immigrants' age, occupation, education, and what they consider important characteristics or information. The Secretary of State issues visas to the immigrants who meet all these qualifications using random selection. The children and the spouses of the immigrants that are approved are also granted visas to obtain permanent residency. Displaced Tibetans were given 1,000 immigrant visas starting in 1991 for a 3 year period.

THE LAW -1990 INA (CONT'D)

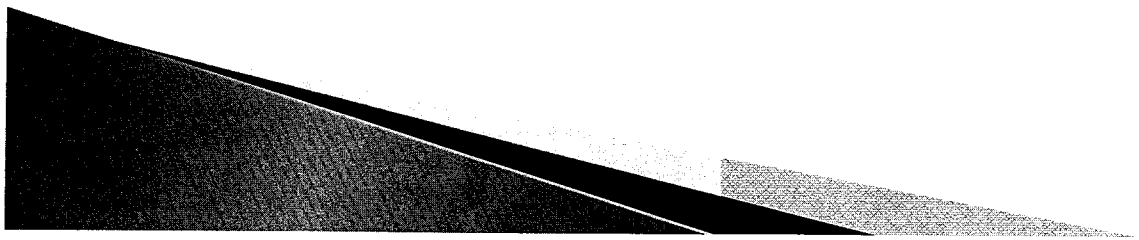
- Comprehensive immigration legislation provided for (1) increased total immigration under an overall flexible cap of 675,000 immigrants beginning in fiscal year 1995, preceded by a 700,000 level during fiscal years 1992 through 1994, (2) created separate admission categories for family-sponsored, employment-based, and diversity immigrants, (3) revised all grounds for exclusion and deportation, significantly rewriting the political and ideological grounds and repealing some grounds for exclusion, (4) authorized the Attorney General to grant temporary protected status to undocumented alien nationals of designated countries subject to armed conflict or natural disasters, and designated such status for Salvadorans, (5) revised and established new nonimmigrant admission categories, (6) revised and extended through fiscal year 1994 the Visa Waiver Program, (7) revised naturalization authority and requirements, and (8) revised enforcement activities.



THE LAW ??????????????

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

- On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.



THE LAW ??????????????

- DACA 2.0

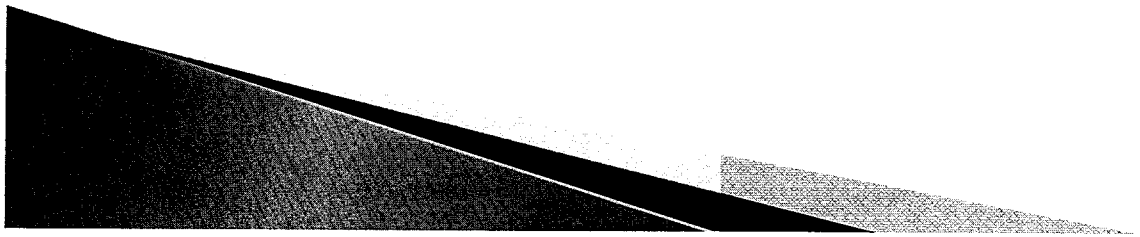
- DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents)

  - On November 20, 2014, President Obama announced sweeping changes to the immigration system via executive action.

  - The most substantial change extends protection from deportation to about 4.3 million more unauthorized immigrants in the US. Immigrants will be eligible to apply for three years of relief from deportation, and work permits, if they

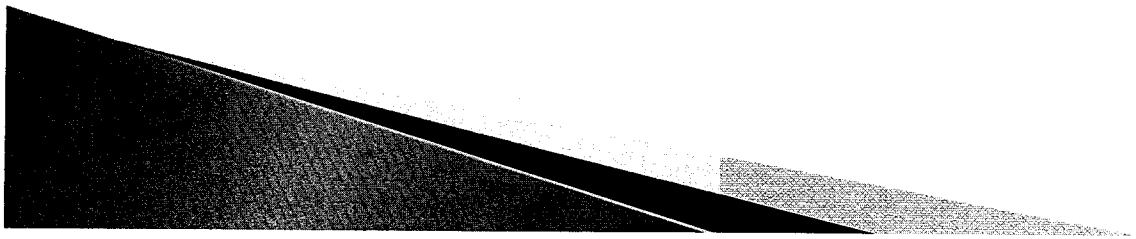
  - arrived in the US before 2010, and arrived in the US under the age of 16; or

  - arrived in the US before 2010, and have at least one child who is a US citizen or legal resident.



THE LAW - THE STATES

- *ARIZONA V. THE UNITED STATES* 132 S.Ct. 2492 (2012)
- The Supreme Court is recognizing that the federal government has broad powers to determine how far to go in prosecuting people who are not in the country legally.
- The court, citing the Supremacy Clause, invokes the rule that allows federal law to pre-empt state law on many critical issues, especially when Congress states the principle explicitly in legislation.
- The Court noted that, "As a general rule, it is not a crime for a removable alien to remain present in the United States," and so an arrest "based on nothing more than possible removability" conflicts with a federal system that sets rules and procedures for removal. "The result could be unnecessary harassment of some aliens" who after further investigation might not qualify to be removed. "This is not the system Congress created," the court writes. "By authorizing state officers to decide whether an alien should be detained for being removable, Section 6 violates the principle that the removal process is entrusted to the discretion of the federal government."



THE LAW – THE STATES

- *State of Texas v. United States of America*
  2015 WL 648579

States and state officials sought injunctive relief against United States and officials of Department of Homeland Security (DHS), to prevent implementation, pursuant to directive from DHS Secretary, of program of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), which would provide legal presence for illegal immigrants who were parents of citizens or lawful permanent residents, and to prevent expansion of Deferred Action for Childhood Arrivals (DACA) program. Plaintiffs filed motion for preliminary injunction.

State of Texas v. United States of America
2015 WL 648579

- State of Texas sufficiently alleged injury, as element for Article III standing;
- States' parens patriae action was not ripe;
- States sufficiently alleged standing based on federal abdication;
- judicial review of directive was available under Administrative Procedure Act (APA);
- presumption of judicial unreviewability under APA, for agency action committed to agency discretion by law, was inapplicable; and
- States showed a substantial likelihood of success on merits of claim that Secretary's directive was subject to APA's notice and comment requirements

THE "BROKEN" IMMIGRATION SYSTEM

- White House.org: "Our nation's immigration system is broken. Fixing it is an economic and national security imperative."
- House Speaker John Boehner (R-Ohio) during a radio interview in North Dakota in August 2014: "We have a broken immigration system. Broken in hundreds of different ways."
- Former President George W. Bush speaking at the Bush Library in July of 2013: "The laws governing the immigration system aren't working; the system is broken."

HOW IS IT BROKEN?

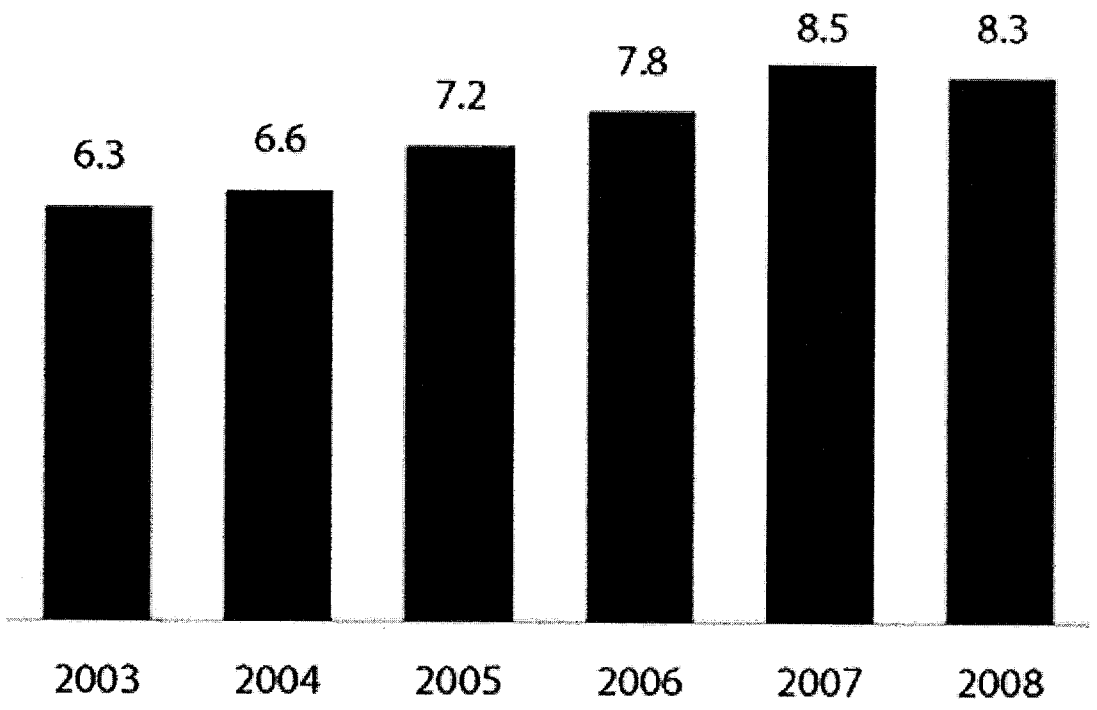
THE "BROKEN" IMMIGRATION SYSTEM

- The immigration system does not permit enough aliens to migrate to the us
- Employers regularly hire undocumented workers
- 11 million people are "living in the shadows"
- The visa entry system does not work
- Border security is non-existent
- Deportation separates parents form their children
- Illegal immigration costs are skyrocketing in border states

Figure 4

Unauthorized Immigrant Workers in U.S. Civilian Labor Force, 2003-08

(millions)



Source: Pew Hispanic Center tabulations from augmented March Current Population Surveys. See text for details.

In 2008, 8 percent of births in the U.S. were children with unauthorized immigrant parents.

Table 1

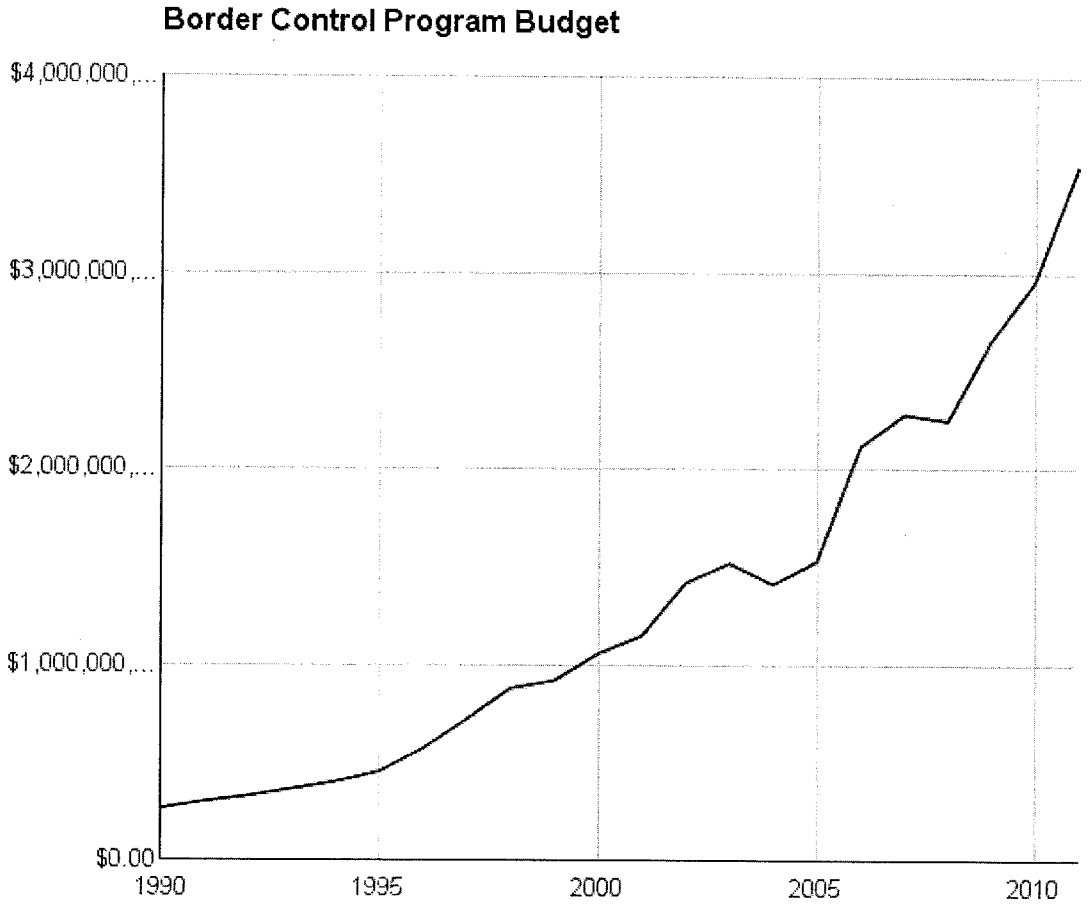
Estimates of Births in the United States, by Parents' Status, Annual Average, 2008

(millions)

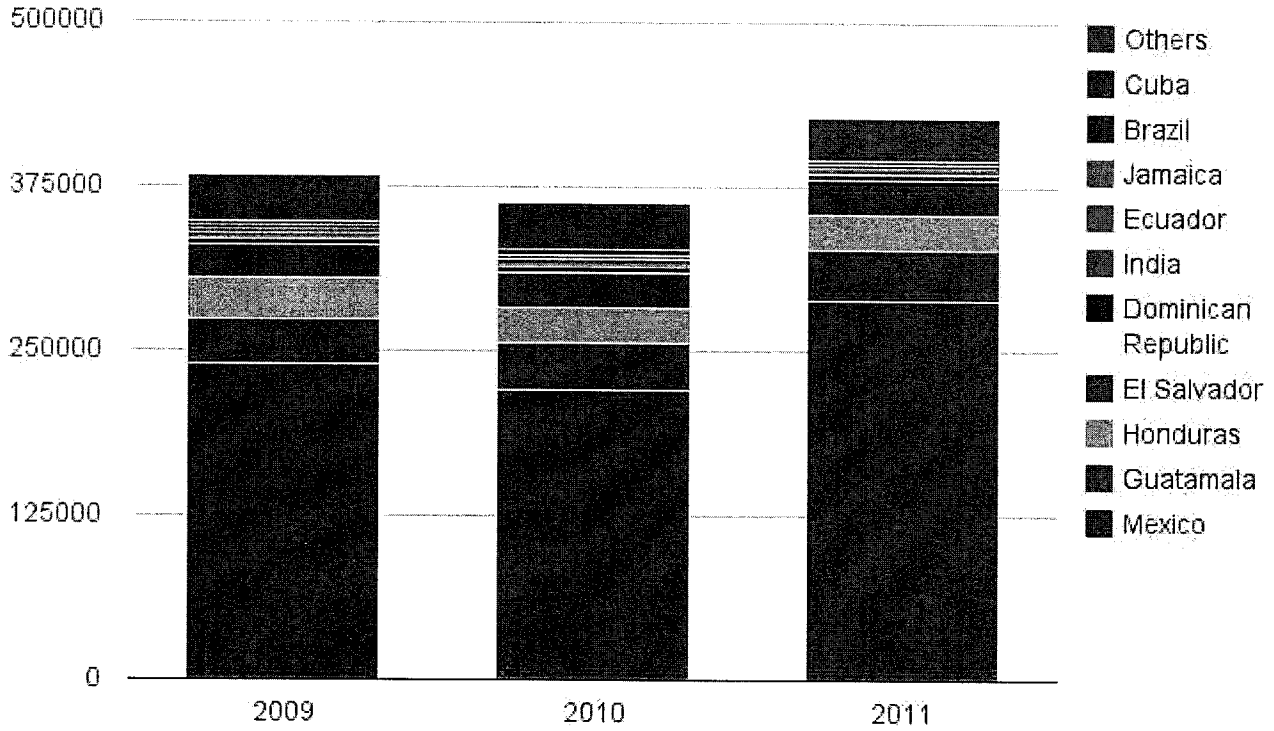
	NUMBER	PERCENT
All Births	4.3	100%
U.S.-born parents	3.3	76%
Immigrant parents	1.0	24%
Legal immigrant parents	0.7	16%
Unauthorized immigrant parents	0.3	8%

Note: A child has unauthorized immigrant parents if either parent is unauthorized; a child has U.S.-born parents if all identified parents are U.S. born.

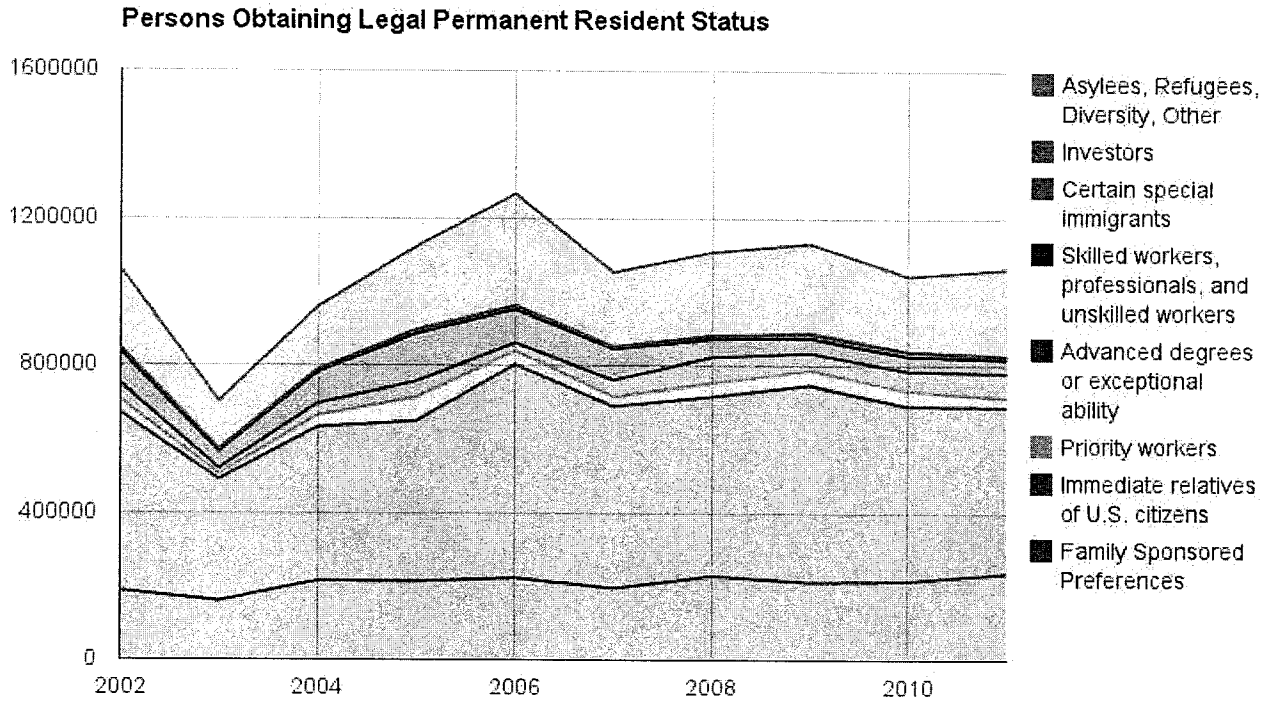
Source: Pew Hispanic Center estimates based on children under 2 years old from March Current Population Surveys of 2008 and 2009, augmented with legal status assignments and corrected for survey omissions. See Appendix B and Passel and Cohn (2009, 2008) for methods, assumptions and definitions.


Border Control Program Budget
$4,000,000,...
$3,000,000,...
$2,000,000,...
$1,000,000,...
$0.00
1990
1995
2000
2005
2010

Admissions to ICE Detention Facilities

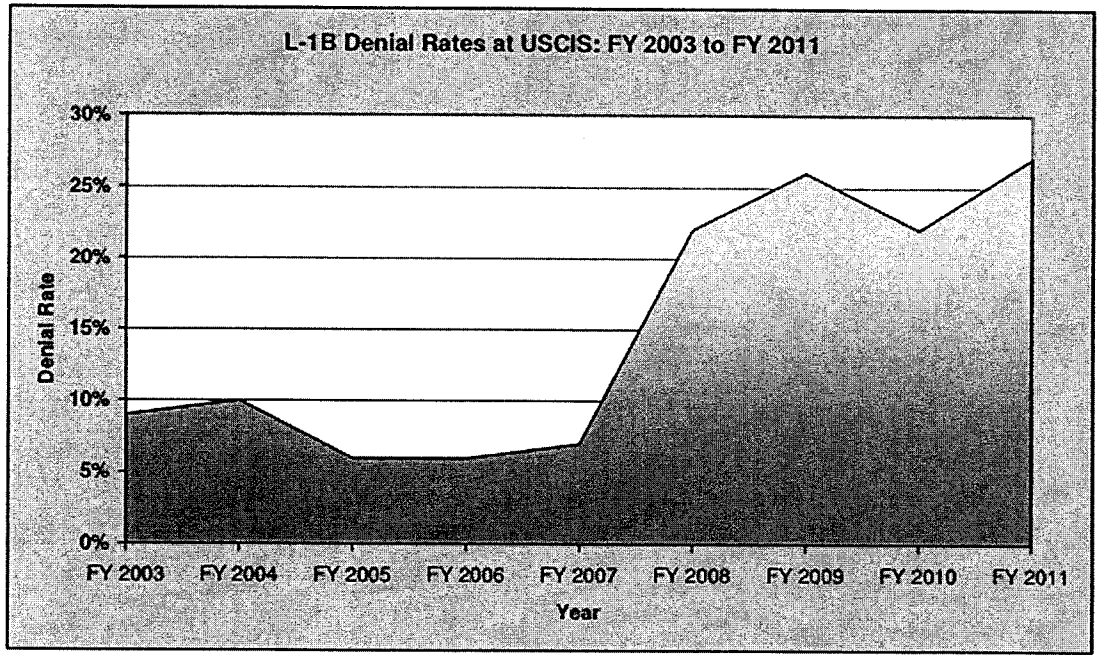


The vast majority of people who obtain permanent residency — "green cards" — are relatives of U.S. citizens.
Since at most 7 percent of green cards can legally come from a single country, it's difficult for skilled professionals with no ties to the U.S. to get permanent residency



As a result, the nation is having trouble getting high skilled workers into the U.S. The L-1B visa allows companies to bring people with "specialized knowledge" like engineers and programmers into the U.S. Denial rates have jumped since the 1990s.

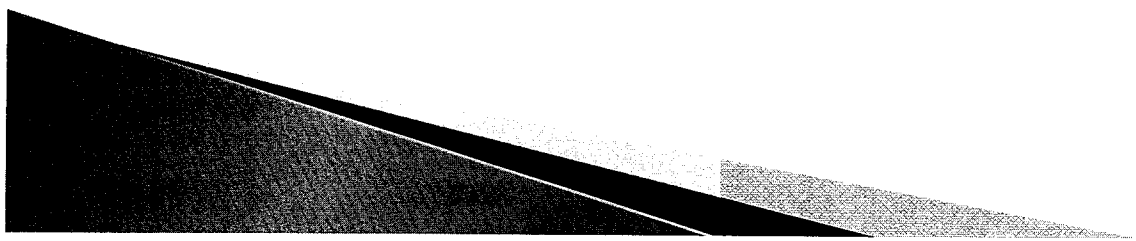
Figure 1



Source: U.S. Citizenship and Immigration Services; National Foundation for American Policy; Data run for all nationalities of Citizenship and Immigration Services Centralized Operational Repository (CISCOR). Note: Data include both initial applications and renewals and are calculated by USCIS by measuring approvals and denials in a category in a year. USCIS labels its data fiscal year but CISCOR states the calendar year is used for data on I-129 petitions for L-1, H-1B, and O-1 petitions.

Discussion

- Based on all of this what is the most important single thing that must be done first to begin healing the immigration system for the benefit of all citizens and immigrants alike?



Outside Counsel

Executive Orders: Constitutional Underpinnings and Legality

Paul F. Millus,

November 18, 2014

Executive orders take two forms: These orders can require action on the part of the federal government and, at times, can direct inaction by the government. Significantly, nowhere in the Constitution is there any reference to the president's right to issue "Executive Orders." Likewise, there is no express grant of authority by Congress to the president to issue such orders. However, the arguable basis for executive orders can be found in several parts of the Constitution: Article II, Section 1 of the U.S. Constitution reads, in part, "The Executive power shall be vested in the President of the United States of America"; Article II, Section 2 states: "The President shall be the Commander in Chief of the Army and Navy of the United States...;" and Article II, Section 3 directs that, "The President shall take care that the laws be faithfully executed..." Yet, Article II, Section 2, which lists the powers of the President, does not include the powers to write laws.[1]

As for the power to write laws, the Executive is to "faithfully" execute those laws passed by Congress as provided by Article I, Section 1, which vests all legislative power (the power to write and pass laws) with Congress—the only process by which this can be accomplished is outlined in Article I, Section 7. An executive order that implements a policy in direct contradiction to the law is null and void unless the order can be justified as an exercise of the president's exclusive and independent constitutional authority.[2]

'Youngstown': Seminal Case

In the 1952 *Youngstown Sheet & Tube* case, the Supreme Court was asked to decide whether President Harry Truman was acting within his constitutional power when he issued an order directing the Secretary of Commerce to take possession of and operate most of the nation's steel mills in response to a strike that had crippled the industry.[3] The government argued that Truman's actions were necessary to avert the national catastrophe which would inevitably result from a stoppage of steel production, and that in meeting this grave emergency, the president was acting within the aggregate of his constitutional powers as the nation's chief executive and the commander in chief of the U.S. Armed Forces.

The mill owners argued that the president's order amounted to lawmaking, a legislative function which the Constitution has expressly delegated to Congress and not to the president. Justice Hugo Black delivered the opinion of the court stating, "[t]he President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself. There is no statute that expressly authorizes the President to take possession of property as he did here."

Pushing back on the contention that presidential power should be implied from the aggregate of his powers under the Constitution—in particular, Article II, Sections 1, 2 and 3—Black made it clear that, insofar as Article II, Section 2 was concerned, "we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the nation's lawmakers, not for its military authorities."

In regard to Article II, Section 3, Black added "the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad." In sum, this was not an executive order that facilitated what Congress had authorized; rather, it was a direction "that a presidential policy be executed in a manner prescribed by the President."[4]

Justice Robert H. Jackson issued a concurring opinion which set the framework for analyzing future presidential actions. Jackson's view was that the extent of a president's power in connection with the issuance of executive orders may depend on

what that president faces in terms of the actions or inactions of Congress evoking a less than a bright-line standard, to wit, "Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress."[5]

Justice Jackson outlined three areas of potential presidential authority. The first was when the president acts pursuant to an express or implied authorization of Congress. Under such circumstances, Jackson opined that the president's "authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate."

The second is when the president acts in absence of either a congressional grant or denial of authority. Then, "he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility." In other words, where there is a void left by Congress, the president may be permitted to weigh in through executive order.

The third area of potential presidential authority is when the president acts "within his domain" which is "beyond the control of Congress." Here, the president would need to cite to actual constitutional authority which essentially trumps any such authority enjoyed by Congress. Jackson readily recognized that the president's authority in this instance is at its "lowest ebb."[6]

In a more recent case, the Supreme Court used Justice Jackson's three-part scheme in connection with President George W. Bush's use of a military commission to try a prisoner held at Guantanamo Bay, Cuba. The court held that the military commission exceeded the bounds Congress had placed on the president's authority and "because Congress has prescribed these limits, Congress can change them, requiring a new analysis consistent with the Constitution and other governing laws."[7]

Mandating Inaction

Presidents have been accused over the years of taking executive action to mandate that no action be taken in connection with various spheres that the federal government normally would have the power to act. For example, the Clinton and Bush administrations were accused of neglecting enforcement of gun safety laws, and the Reagan administration was questioned as to whether it deliberately failed to enforce antitrust statutes.[8] Under President Barack Obama there have been several examples of mandated inaction including directives pertaining to non-enforcement of drug laws pertaining to marijuana in states where its use is legal.[9]

The issues associated with the president's power to issue executive orders mandating inaction in deportation decisions have never been more pronounced than they are today, specifically in light of the imminent prospect of Obama's issuance of an executive order altering the landscape for millions of immigrants presently without legal status. When and if he does, what will be the president's legal authority?

The most recent executive order issued by the president in connection with immigration was the Deferred Action for Childhood Arrivals (DACA) which was a memorandum authored by the Obama administration on June 15, 2012.[10] It was implemented by the Secretary of the Department of Homeland Security directing the U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement to practice prosecutorial discretion toward some individuals who immigrated to the United States as children and are currently in the country illegally. It did not confer lawful immigration status, alter an individual's existing immigration status, or provide a path to citizenship.

There is no reported case directly challenging the DACA on the grounds that the president exceeded his authority in authorizing the issuance of the "memorandum." In *Arizona Dream Act Coalition v. Brewer*, the U.S. Court of Appeals for the Ninth Circuit granted a preliminary injunction prohibiting the State of Arizona from enforcing its policy by which the Arizona Department of Transportation refused to accept plaintiffs' Employment Authorization Documents, issued to plaintiffs under DACA, for purposes of obtaining an Arizona driver's license.[11]

Although decided on Equal Protection grounds, the court noted that Congress has given the Executive discretion to determine when noncitizens may work in the United States, and the Executive has determined that DACA recipients may—indeed, should—work in the United States.[12] In *Heckler v. Chaney* there is some support for the view that the executive branch cannot simply refuse to act in accordance with laws passed by Congress. In that case the Supreme Court held, in reference to the Administrative Procedure Act, that "[C]ongress did not set agencies free to disregard legislative direction in the statutory scheme that the agency administers. Congress may limit an agency's exercise of enforcement power if it wishes, either by setting substantive priorities, or by otherwise circumscribing an agency's power to discriminate among issues or cases it will pursue."[13] However, the court also noted the "general unsuitability" for judicial review of agency decisions to refuse enforcement.[14]

Based on recent reports from the government, it appears that "deferred action" will be used as the basis for the president's anticipated action with respect to millions of undocumented immigrants. Under this program, the immigration authorities may decline to institute proceedings, terminate proceedings, or decline to execute a final order of deportation.[15]

A case may be selected for deferred action treatment at any stage of the administrative process and approval of deferred action status means that, for humanitarian reasons, no action will thereafter be taken to proceed against an apparently deportable alien.[16] Deferred action is an "informal administrative stay of deportation which is granted only where the District Director, with the Regional Commissioner's approval, finds it to be warranted."[17] It is the "result of an administrative policy to give low priority to the enforcement of the immigration laws in certain cases [and]...the prosecutorial discretion exercised in granting deferred action status is committed exclusively to the Service enforcement officials."[18]

The question is: Will a possible grant of some form of status through the exercise of "prosecutorial discretion" for millions of undocumented immigrants at once, directed by the president, be ultra-virus under the Jackson tripartite analysis?

Prosecutorial Discretion

Looking at the first element of Justice Jackson's three-part analysis, whether the president's action is taken pursuant to an express or implied authorization of Congress will be the subject of spirited debate. The president may cite to 8 C.F.R. §274a.12 (c)(14) which references "deferred action" and provides a lawful basis for "aliens" who have been granted deferred action to obtain authorization form the federal government to seek employment.[19] There is no question that, while Congress writes the laws on immigration, the executive has significant authority as to how those laws are executed.

Those supporting the view that the president can, on a wholesale basis, effectively suspend laws passed by Congress providing for the deportation of those in this country illegally through "prosecutorial discretion," will argue that the president has "exclusive authority and absolute discretion to decide whether to prosecute a case"—even in this wholly unique situation where said discretion is to be exercised for millions of similarly situated individuals.[20] Further, it is well settled that judicial supervision of prosecutorial decisions is limited by the separation of powers and is guided by "the recognition that the decision to prosecute is particularly ill-suited to judicial review."[21] Nevertheless, whether the government actor, in this case, the President or the Attorney General, is "abusing" their discretion as a matter of law will surely be examined.[22]

Likewise, there is arguably concurrent authority between Congress and the president on the issue of immigration where Congress passes the laws and the president implements them or declines to do so.

Finally, as for the third element of Justice Jackson's analysis, a strong argument can be made that the measures expected to be taken by the president are "incompatible with the express or implied will of Congress..." insofar as the exercise of prosecutorial discretion, not on a case-by-case basis, but on a class-wide basis for millions, would appear to make Congress superfluous in large respect on the immigration front. This would be an unprecedented act for which legal authority either way is lacking and would appear to run contrary to the constitutional authority imbued on Congress as the only branch of government empowered "to establish a uniform rule of naturalization."[23]

In sum, these are interesting times in which we live. Unless Congress acts in a way that makes the executive action irrelevant or expressly unlawful, in the end, the courts will determine the legality of such an act by the president.

Endnotes:

1. Constitution of the United States Art. II, Secs. 1,2 and 3.

2. Executive orders; Issuance, Modification, and revocation, Congressional Research Service April 16, 2014 citing *Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579 (1952).

3. *Youngstown Sheet & Tube*, 343 U.S. 582.

4. Id. at 587-589.

5. Id. at 635.

6. Id. at 637.

7. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006).

8. Zachery S. Price, "Enforcement Discretion and Executive Duty." 67 Vand. L. Rev. 671 (2014).

9. Memorandum from James M. Cole, Deputy Att'y Gen., to U.S. Att'ys, Guidance Regarding Marijuana Enforcement 3 (Aug. 29, 2013).

10. The establishment of DACA was not by actual executive order; rather, it was in the form of a "memorandum" issued by the president's Secretary of Homeland Security. See Memorandum from Janet Napolitano, Sec'y of Homeland Sec., on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012).

11. *Arizona Dream Act Coalition v. Brewer*, 757 F.3d 1053 (9th Cir. 2014) ("[t]he memorandum does not have the force of law.

12. See *Saldana v. Lahm*, 2013 WL 5658233, *1 (D.Neb. 2013) (DACA is a form of prosecutorial discretion, through which immigration authorities make a discretionary determination not to remove an individual from the United States during a specified period).

13. *Heckler v. Chaney*, 470 U.S. 821, 833 (1985).

14. Id. at 832.

15. *Barahona-Gomez v. Reno*, 236 F.3d 1115, 1119 n. 3 (9th Cir. 2001); see also *Matter of Quintero*, 18 I. & N. Dec. 348 (noting that deferred action status, giving a person permission to remain in the United States indefinitely, is a matter of prosecutorial discretion.)

16. 6 C. Gordon, S. Mailman, and S. Yale-Loehr, Immigration Law and Procedure §72.03 [2][h] (1998).

17. *Victoria v. Napolitano*, 2013 WL 3746133 (S.D.Cal. July 15, 2013) quoting *Matter of Quintero*, 18 I. & N. Dec. 348, 349 (Nov. 16, 1982).

18. Id.

19. 8 C.F.R. §274a.12(c)(14).

20. *United States v. Nixon*, 418 U.S. 683, 693, (1974).

21. *Wayte v. United States*, 470 U.S. 598, 607, (1985).

22. See *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 485 (1999).

23. Constitution of the United States Art. I Sec. 8.
