

# Where are we on Immigration: *Trump, DACA, TPS, and More*

January 26, 2018

UCSB

Vivek Mittal, Esq.



Immigrant  
Legal Services  
Center

# What is the UC Immigrant Legal Services Center?

- We work for the University of California and we provide **free immigration legal services** to undocumented students and/or undocumented immediate family members of UC students on most UC Campuses: Davis, Irvine, Los Angeles, Merced, Riverside, Santa Barbara, Santa Cruz, San Diego, San Francisco.
- If you are a UCSB student or family member of a UCSB student, contact UCSB's Undocumented Student Program to schedule an appointment:  
**Diana.Valdivia@sa.ucsb.edu** .
- If you are a student at another UC campus, or the family member of a UC student (not UCLA), please contact us at [ucimm@law.ucdavis.edu](mailto:ucimm@law.ucdavis.edu).
  - For more info about our staff, google: UC Undocumented Legal Services Center. Go to the "About Us" link on the side bar.
- If you are a non-UC affiliated community member seeking legal services, we can provide you with a list of referrals.

# Overview

- DACA
- DREAM Act
- TPS
- Muslim Ban
- Immigration Enforcement
- Know Your Rights
- REAL ID Act
- Statement of Principles
- Immigration Law Reminder

# DACA

- September 5, 2017: DACA Rescinded by USCIS
- January 9, 2018: DACA Rescission stopped by Injunction
  - At this moment, DACA applications are being accepted by USCIS
    - Only for those who received DACA in the past
- February 16, 2018: Supreme Court will decide whether to review the District Court decision
- Again, right now DACA is mostly in effect
  - No new DACA applications
  - No Advance Parole applications

# DREAM Act

- What's happening in Congress?
- No deal on DREAM Act, led to shutdown last Friday
  - DREAM Act would provide a path to citizenship
    - Introduced by Senators Dick Durbin and Lindsey Graham
- Shutdown averted after Senator McConnell agrees to bring the DREAM Act to a Senate Vote
- But what about the House?

# Temporary Protected Status (TPS)

- TPS is given to individuals from certain countries that have faced humanitarian or other catastrophes, or are war-torn
- Recently, USCIS announced they would be ending TPS for:
  - Sudan: Termination on 11/2/2018
  - Nicaragua: Termination on 1/5/2019
  - Haiti: Termination on 7/22/2019
  - El Salvador: Termination on 9/9/2019
- Honduras has been extended to July 5, 2018

# Muslim Ban

- Muslim Ban 1.0 and 2.0 have been repealed by the Administration
- Muslim Ban 3.0 issued on September 24, 2017
  - Indefinite Ban on Chad, Iran, Libya, Somalia, Syria, and Yemen
  - Ban on Diplomats from North Korea, Venezuela
  - Nationwide injunction upheld by the Ninth Circuit Court of Appeals
    - Except for those who cannot show a ‘Bona Fide Connection’ to the United States

# New Priority Enforcement Areas (1/25/2017 & 2/17/2017)

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national interest
- Otherwise deportable/inadmissible crimes



# What Are My Rights?

## Your Rights:

- ◆ You have the right to remain silent.
- ◆ You have the right to refuse to consent to a search of yourself, your car or your home.
- ◆ If you are not under arrest, you have the right to calmly leave.
- ◆ You have the right to a lawyer if you are arrested. Ask for one immediately.
- ◆ Regardless of your immigration or citizenship status, you have constitutional rights.
- ◆ You have the choice to not answer questions about:
  - ◆ Your immigration status
  - ◆ Where you were born
  - ◆ Where you are citizen
  - ◆ Whether you have documents

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America,  
Plaintiff,

v.

The Premises Known As,  
Swift & Company, located at 1700  
Highway 60 NE, Worthington,  
Minnesota, and all its  
appurtenances, parking areas,  
and outdoor working areas  
Defendant.

CIVIL NO. 06-1000

**ORDER  
FOR WARRANT FOR  
ENTRY ON PREMISES TO  
SEARCH FOR ALIENS  
WHO ARE IN THE UNITED  
STATES WITHOUT LEGAL  
AUTHORITY**

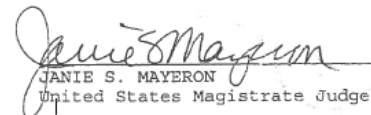
The United States of America, having filed an application to authorize officers of United States Immigration and Customs Enforcement to enter the building on the premises described above in order to search for persons who are aliens in the United States without legal authority, together with an Affidavit and memorandum of Points and Authorities in support of the application, and the Court finding on the basis of the affidavit that there is probable cause to believe that located within the business premises described above are persons who are aliens in the United States without legal authority and subject to removal proceedings pursuant to Section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a (1996).

IT IS THEREFORE ORDERED that the officers of U.S. Immigration and Customs Enforcement are authorized to enter the building and

areas on the premises described herein and to make such search as is necessary to locate aliens present in the United States illegally and counterfeit, altered, or imposter documents possessed and/or used by the aliens who are not lawfully entitled to reside within the United States and who are employed at present within Swift, Inc. (See Attachment B). In making this search, the agents of ICE are authorized to enter any locked room on the premises in order to locate persons who may be such aliens in the United States without legal authority and, if any such persons are found on the premises, to exercise their authority pursuant to section 287 of the Immigration and Nationality Act, 8 U.S.C. § 1357, to question them to determine whether they are such aliens and, if there is probable cause to believe they are such aliens, to arrest them.

IT IS FURTHER ORDERED that U.S. Immigration and Customs Enforcement shall conduct the entry and search during daylight hours with ten (10) days of the issuance of this warrant, and make its return to this Court with ten (10) days of the date the entry and search have been completed.

Dated: December 8, 2006

  
JANIE S. MAYERON  
United States Magistrate Judge

**ATTACHMENT A  
LOCATION OF PROPERTY TO BE SEARCHED**

The entire premises and vehicles within the cartilage located at Swift & Company, located at 1700 Highway 60 NE, Worthington, Minnesota, further described as:

Parcel Number 31-3787-000 and Parcel Number 31-3790-000 in the county of Nobles, in the state of Minnesota. A commercial industrial meat processing plant with one main building and several out buildings on the property.

Directly to the north of the facility is Interstate 90 and to the west of the facility is Highway 60. The facility has one main vehicle gate. A chain link fence surrounds the facility on three sides with barbed wire on top. Security personnel housed in an access control booth man the main gate.

**ATTACHMENT B  
DESCRIPTION OF ITEMS TO BE SEARCHED FOR**

1. Aliens who are not lawfully entitled to reside within the United States who are employed at present within Swift & Company; and
2. Counterfeit, altered or imposter documents possesses and/or used by the aliens who are not lawfully entitled to reside within the United States and who are employed at present within Swift & Company.

RETURN		
Date Warrant Received <i>9</i> <i>12-18-06</i>	Date and Time Executed <i>12-12-06</i> <i>0733</i>	Copy of Warrant and Receipt for Items Left with <i>G.M. WACHER</i> <i>V.P. GENERAL MANAGER</i> <i>SWIFT &amp; COMPANY</i>
Inventory Made in the Presence of <i>GERALD COLLE</i>		
Inventory of Person or Property Taken Pursuant to the Warrant  <i>SEE ATTACHED LIST OF PERSONS DISCOVERED AND ARRESTED.</i>		
CERTIFICATION		
I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant.		
Subscribed, sworn to, and returned before me this <i>15th</i> day of <i>December</i> , 2006.		
<i>[Signature]</i> Affiant		
<i>[Signature]</i> United States Magistrate Judge		

U.S. Department of Justice  
Immigration and Naturalization Service

**Warrant of Removal/Deportation**

File No: \_\_\_\_\_

Date: \_\_\_\_\_

To any officer of the United States Immigration and Naturalization Service:

\_\_\_\_\_ (Full name of alien)  
who entered the United States at \_\_\_\_\_ on \_\_\_\_\_ (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a district director or a district director's designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

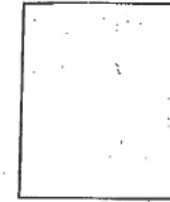
and pursuant to the following provisions of the Immigration and Nationality Act:  
Section 241(a)(5) of the Immigration and Nationality Act, as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

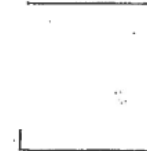
\_\_\_\_\_  
(Signature of INS official)  
\_\_\_\_\_  
(Title of INS official)  
\_\_\_\_\_  
(Date and office location)

To be completed by Service officer executing the warrant:  
Name of alien being removed: \_\_\_\_\_

Port, date, and manner of removal: \_\_\_\_\_



Photograph of alien removed



Right index fingerprint of alien removed

\_\_\_\_\_  
(Signature of alien being fingerprinted)

\_\_\_\_\_  
(Signature and title of INS official taking print)

Departure witnessed by: \_\_\_\_\_  
(Signature and title of INS official)

If actual departure is not witnessed, fully identify source or means of verification of departure:  
\_\_\_\_\_  
\_\_\_\_\_

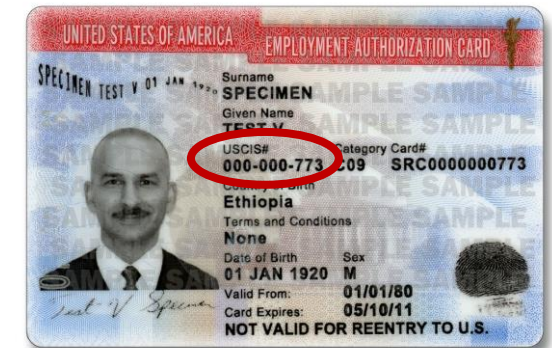
If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here.

Departure Verified by: \_\_\_\_\_  
(Signature and title of INS official)

# Have a Safety Plan!

## BEFORE you are in deportation proceedings, do the following:

1. Have your valid CA state ID on you or valid U.S. government ID on you.
  2. Have a copy of your valid immigration paperwork easily available. **Do not** carry false documents!
  3. Keep your red card (rights card) on you at all times.
  4. Have an immigration attorney (*not a notario*) who is trustworthy and who specializes in removal defense in mind.
  5. Know your “A #” and leave it in a safe place in your home where your family can find & access it.
  6. If you have minor children, prepare a document that authorizes another adult to take care of them.
1. Check out <https://www.ilrc.org/family-preparedness-plan> for a plan



U.S. Department of Justice  
Immigration and Naturalization Service

Receipt Number  
Check case online

Notice of Action

**UNITED STATES OF AMERICA**

RECEIPT NUMBER L13-D-000-00000	CASE TYPE 1129F
RECEIPT DATE November 25, 2002	PRIORITY DATE
NOTICE DATE May 15, 2003	PAGE 1 of 1
BENEFICIARY A00-000-000 My name - ชัยชนะ	PETITION FOR FIANC(E) Us citizen - ชัยชนะ ผู้จดทะเบียน NOA 2
SALT LAKE CITY UT 84121 เอกสารในการขอรับสัมภาษณ์ 4 เดือน Extending the Petition	Notice Type: Approval Notice Valid from 05/15/2003 to 09/15/2003 Consulate: BANGKOK

The above petition has been approved. We have sent the original visa petition to the Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909. The NVC has completed all action/ further inquiries should be directed to the NVC.

The NVC now processes all approved fiance(e) petitions. The NVC processing should be complete within two to four weeks.

# Takeaways

- Safety first – try to de-escalate the situation.
- Exercise your right to remain silent.
  - IF you are undocumented, do NOT provide information about:
    - Your citizenship
    - Your immigration status
    - Where you were born
    - Whether or not you have documents
- Do not sign any documents (*exception: traffic tickets*).
- Do not answer questions for anyone except yourself.
- You CAN invoke your rights at any time.
- Make a family preparedness plan

# REAL ID Act

- What is it? REAL ID cards will only be accepted by the Federal Government
  - Must prove, among other things, valid immigration status
- January 22, 2018: Date when CA is starting to issue REAL ID compliant licenses
- October 1, 2020: Date when all States must comply with REAL ID Act
  - Practically speaking: Must travel with REAL ID identification or produce another form of identification (i.e. Passport)

# “Sanctuary” at UCSB / UC’s

- “Sanctuary” is a term that has multiple meanings
  - Anywhere from providing physical sanctuary to non-cooperation with Immigration authorities
- UC’s Office of the President came out with a Statement of Principles that discusses a few important issues:
  - Protecting the Privacy Rights of Students
  - UCPD will not join state and local law enforcement in enforcing immigration law, or undertake joint efforts to investigate, detain, or arrest individuals for violation of immigration law
  - UCPD will not contact, detain, question or arrest an individual solely on the basis of suspected immigration status or to discover their immigration status
    - But will be called in to prevent injuries or property damage
    - But will work with other agencies to enforce criminal laws
  - UCPD should avoid actions that create a disincentive to report crime or to offer testimony as a witness to crime



## ”Sanctuary” at UCSB / UC’s

- UCPD will not detain any individual in response to an immigration hold request from ICE, or any other law enforcement agency, unless
  - Required by law or
  - The individual has been convicted of a serious or violent felony
- UCPD Chiefs should review any other request for information from ICE or any other law enforcement agency enforcing immigration law before responding
- Opposition to any registry based on protected characteristics
- UC Medical Facilities will continue serving patients regardless of status

# ”Sanctuary” at UCSB/ UC’s

- Additional Items from FAQs, Issued March 20, 2017
  - UC cannot prevent immigration officials from coming onto campus or entering hospitals
    - But public access is limited due to privacy concerns, operational needs or safety considerations
  - UC does not know if ICE will conduct enforcement actions on UC campuses
    - UCs are a “sensitive location” but we do not know how its going to look
      - Schools, University Campuses, Hospitals, Institutions of Worship, Public demonstrations (marches, rally or parade)

# What are some other forms of immigration relief?

## Family Visas/Petitions

Immediate Relatives	
Petitioner	Beneficiary
U.S Citizen	Child (unmarried and <21)
U.S Citizen > 21	Parents
U.S Citizen	Spouse

# What are some other forms of immigration relief?

## Family Visas/Petitions

Preference Categories		
Category	Petitioner	Beneficiary
F1	U.S Citizen	Unmarried sons and daughters (>21)
F2A	Lawful Permanent Resident	Spouses Children (unmarried and <21)
F2B	Lawful Permanent Resident	Unmarried sons and daughters (>21)
F3	U.S. Citizen	Married sons and daughters (>21)
F4	U.S. Citizen (>21)	Brothers and sisters

# What are some other forms of immigration relief?

## Asylum & Convention Against Torture (CAT)

### You may be eligible for Asylum if

- ... you are in the U.S. and meet the legal definition of a “refugee”:
  - have suffered persecution OR fear persecution
  - if returned to your home country
  - by the government OR individuals/groups that the government is unwilling or unable to control
  - **on account of** your (1) **race**, (2) **religion**, (3) **political opinion**, (4) **nationality**, or (5) **membership in a particular social group**.

**The Convention Against Torture (CAT)** is a lesser form of protection for individuals who cannot succeed in claiming asylum BUT can prove it is *more likely than not* that you would be tortured if returned to your home country.

# What are some other forms of immigration relief?

## U nonimmigrant status – U-Visa

### You may be eligible for a U-Visa if ...

- ... you (or certain family members) have been the **victim of a serious crime** in the U.S. – “qualifying crimes.”
- ... you must have suffered **substantial physical or mental abuse** as a result of being a victim of this criminal activity.
- ... **AND you were helpful, are helpful, or are likely to be helpful** to law enforcement in the investigation or prosecution of the crime.

# What are some other forms of immigration relief?

## Violence Against Women Act (VAWA)

**You may be eligible for relief under VAWA if you are...**

- ... an **abused noncitizen child or spouse** of a U.S. citizen or lawful permanent resident parent.
- ... an **abused noncitizen parent** of a U.S. citizen.
- ... OR a **child (whether abused or not) of a parent who was abused** by a U.S. citizen or lawful permanent resident spouse.

# What are some other forms of immigration relief?

## T nonimmigrant status – T-Visa

### You may be eligible for a T-Visa if

- ... you have been the victim of a severe form of human trafficking;
- ... you are in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking;
- ... you comply with reasonable requests for assistance in the investigation or prosecution of the trafficking;
- ... AND you would suffer extreme hardship involving unusual and severe harm if you were removed from the U.S.



# What are some other forms of immigration relief?

## Special Immigrant Juvenile Status (SIJS)

### **You may be eligible for Special Immigrant Juvenile Status (SIJS) if**

- ... you are under 21 and unmarried;
- ... you cannot be reunited with one or both parents because of abuse, neglect, abandonment (or a similar basis in state law);
- ... a court has declared you to be the dependent of a court, or legally committed to a state agency, or legally committed to an individual or appointed entity;
- ... AND a court finds that it is not in your best interest to return to your country of origin.

# AVOID SCAMS

- **Avoid fraudulent attorneys, consultants, “notarios,” or anyone who offers an “express service.”**
- **Only 2 groups of people may provide legal advice and services on your immigration case:**
  - (1) attorneys and
  - (2) Board of Immigration Appeals (BIA) accredited representatives.
- *A professional may be able to help assess your eligibility for a more permanent form of status and identify red flags.*

# Resources & Contacts

UCSB Undocumented Student Program

[Diana.Valdivia@sa.ucsb.edu](mailto:Diana.Valdivia@sa.ucsb.edu)

UC Immigrant Legal Services Center

<https://law.ucdavis.edu/uc-undocumented/>  
[ucimm@law.ucdavis.edu](mailto:ucimm@law.ucdavis.edu)

**CARRY YOUR RED/RIGHTS CARD ON YOU!**