

# **DIGGING DEEPER INTO EXECUTIVE ACTION: A FURTHER EXAMINATION OF THE IMPACTS**



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# Presenters

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# Overview

- On November 20 and 21, President Obama announced a series of executive actions to amend the U.S. immigration system
- New actions fall into four categories:
  - New enforcement practices
  - Relief for unauthorized immigrants
  - Expansion of opportunities for high-skilled immigrants
  - Promotion of integration and naturalization
- Details available at [www.dhs.gov/immigration-action](http://www.dhs.gov/immigration-action) and <http://www.whitehouse.gov/the-press-office/2014/11/20/fact-sheet-immigration-accountability-executive-action>



# New Enforcement Practices

- Removal priorities: Department-wide enforcement and removal policy
- Border security: New southern border enforcement strategy
- Secure Communities: Replaced with new Priority Enforcement Program (PEP)
- Additional reforms to immigration courts, Department of Labor, and ICE personnel



# Removal Priorities

- Announced: Johnson enforcement priorities memo
  - Explicitly covers all DHS agencies and full enforcement process
  - Reorganizes and redefines existing enforcement priorities to take certain cases out of enforcement queue
  - Clarifies relationship between enforcement priorities and grounds for discretion
- Next steps:
  - Department-wide guidance effective on Jan. 5, 2015
  - Additional data collection to monitor results
- Questions:
  - Projected impact on deportations?
  - How many priority cases remain?



# Border Security

- Announced: “Southern Border and Approaches Campaign Strategy” – 3 new inter-agency task forces
  - SW land border and West Coast
  - Gulf of Mexico maritime border
  - Border investigations
- Next steps: DHS operational components to develop implementation strategy by February 20, 2015
- Question:
  - How will this work given DHS agency structure?
  - What will this mean for border and interior resource allocation?



# Secure Communities/Priority Enforcement Program

- Announced: Eliminate Secure Communities; replace with Priority Enforcement Program (PEP)
  - ICE to focus only on *convicted* criminals who meet certain standards in Johnson enforcement priorities memo
  - ICE to request notification prior to release instead of immigration detainer in most circumstances
- Next steps:
  - Agency guidance effective immediately
  - Additional data collection to monitor new program
- Questions:
  - How will implementation vary across ICE jurisdictions?
  - Will ICE take additional steps to centralize control?





# Additional Enforcement Reforms

- Announced:
  - Efforts to reduce backlog in immigration courts
  - New Department of Labor policies on T and U visas + worksite enforcement working group
  - ICE personnel pay reform
- Next steps:
  - Specific recommendations pending from these agencies
- Questions:
  - How will new priorities and court reforms affect immigration dockets?



# Relief for Unauthorized Immigrants

- Expansion of existing Deferred Action for Childhood Arrivals (DACA) program
- New Deferred Action for Parental Accountability (DAPA) program
- Expansion of I-601A provisional waivers
- Clarify advance parole rules
- Expansion of parole in place for military families\*

\*Not discussed in this presentation.



# Deferred Action for Childhood Arrivals (DACA) Expansion

- Announced: Expanded parameters of existing DACA program

- Date of entry requirement shifted to January 1, 2010 (from June 15, 2007)
- Maximum age cap lifted (previously DACA excluded those older than 31)
- Extend DACA validity period and work authorization from 2 to 3 years (including for issued renewals)
- MPI estimates **300,000** newly eligible (total of **1.5 million** now immediately eligible for DACA)

- Next steps:

- USCIS will begin accepting application under the new criteria by February 20, 2015

- Questions:

- How many people will apply?
- How will the two larger deferred action programs affect state policies on eligibility for drivers' licenses, in-state tuition, and other benefits?



# Deferred Action for Parents

- Announced: New deferred action program
  - For unauthorized immigrants who are:
    - Parent of a U.S. citizen or legal permanent resident (LPR) (any age)
    - Continuously present since before Jan. 1, 2010
    - Physically present on Nov. 20, 2014 and when application submitted
    - Not a removal priority
  - Deferred action + work permit for 3 years
  - \$465 application fee; no waivers
  - No permanent status or path to citizenship
  - MPI estimates **3.7 million** parents are potentially eligible
- Next steps:
  - ICE/CBP immediately to begin identifying eligible people in custody for defensive applications
  - USCIS to begin accepting affirmative applications by May 20, 2015
- Questions:
  - How many people will apply?
  - How will USCIS handle the application surge?
  - How will applicants prove continuous residence?



# I-601A Provisional Waivers

- Announced: Expand pool of unauthorized immigrants eligible for provisional waivers of the 3/10 year bars of inadmissibility
  - Includes spouses and children of U.S. citizens and LPRs (current program covers spouses of U.S. citizens)
    - MPI estimates **about 1.5 million** unauthorized immigrants are spouses of a U.S. citizen or LPR, including **about 1 million** who are not eligible for DACA or DAPA
  - Clarify “extreme hardship” standard
  - Consider criteria for a presumption of extreme hardship
- Next steps:
  - USCIS will amend its 2013 regulation
  - USCIS will issue guidance on the definition of hardship
- Questions:
  - How will USCIS change extreme hardship guidelines?
  - Who will have a *presumption* of extreme hardship?



# Advance Parole

- Announced: Clarification that leaving on advance parole does not trigger a 3- or 10-year bar to re-entry
  - Deferred action beneficiaries are among those eligible to apply for advance parole
- Next steps:
  - DHS will issue department-wide legal guidance
- Questions:
  - Will advance parole for deferred action recipients lead to legal entry upon return, and thereby permit them to adjust to LPR status?
  - How many have qualifying relationships?



# Expanded Opportunities for High-Skilled Immigrants

- Increase options for innovators/entrepreneurs
- Make spouses of some H-1Bs eligible for work permits
- Expand Optional Practical Training program for foreign students
- Increase consistency in L-1B intra-company transferee program
- Allow temporary workers with pending green card applications to change jobs more easily
- Streamline the employment-based visa system



# Increased Options for Innovators/Entrepreneurs

- Announced:

- Expand opportunities for innovators/entrepreneurs to receive national interest waiver (NIW) in the EB-2 visa category
- Grant parole to enter the U.S. to certain innovators/job creators who have been awarded investor financing or show other promise


- Next steps:

- USCIS guidance or regulations on revised NIW standards
- USCIS regulations on innovator/entrepreneur parole program

- Questions:


- How will criteria for innovator/entrepreneur parole be defined?
- How many innovators/entrepreneurs will obtain EB-2 visas?





# Additional Changes to Employment-Based Visas

- Announced:
  - Clarify policies on “porting” H-1B and other temporary visas while permanent visa application is pending/approved
  - Expand Optional Practical Training (OPT) program
  - Standardize “specialized knowledge” requirements for L-1B intra-company transferees
  - Permit work authorization for spouses of some H-1B workers
- Next steps:
  - Policies on porting H-1B visas require agency guidance or regulations
  - OPT changes require a new regulation
  - Changes to PERM process at agency level
  - L-1B changes require agency guidance
  - Work authorization for H-1B spouses requires final regulation



# Streamlining the Employment-Based Visa System

- Announced: Presidential memorandum directing State Department and DHS, in consultation with other relevant agencies and stakeholders, to recommend changes to:
  - Improve service, speed processing, reduce costs, and fraud
  - Ensure that the system uses all available visa numbers
- Next steps:
  - Recommendations due by March 20, 2015
- Questions:
  - Will recommendations include exempting derivative visas from numerical limits?
  - Will recommendations include recapture of previously unused visas?



# Integration and Naturalization

- Announced:
  - Credit card payment option for \$680 naturalization fee
  - Study on the feasibility of partial fee waivers
  - USCIS media campaign to encourage naturalization in key immigrant states
  - White House Task Force on New Americans
- Next steps:
  - Credit card acceptance no later than the end of 2015
  - Study will be part of the next USCIS fee study
  - Task Force to issue national Integration Plan by February 20, 2015
- Questions:
  - Is cost a significant barrier to naturalization—will new payment options increase naturalization rates?

# Get the Data

To access MPI data estimating the size of potential deferred action populations nationally and by state, as well as for detailed U.S. and state profiles of unauthorized immigrants, visit

[bit.ly/unauthdata](http://bit.ly/unauthdata)





# For More Information

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