

The First 100 Days: Summary of Major Immigration Actions Taken by the Trump Administration

By Sela Cowger, Jessica Bolter, and Sarah Pierce

I. Travel Ban and Refugee Resettlement

One week after taking office, President Trump signed an executive order suspending the entry of nationals from seven countries and pausing the U.S. refugee resettlement program. The order was swiftly challenged in the courts and its implementation blocked, resulting in the signing of a narrower executive order that rescinded and replaced the original.

Executive Order 13759: Protecting the Nation from Foreign Terrorist Entry into the United States (signed January 27, 2017)

- **Suspension of entries.** Immediately upon signing, suspended entry into the United States for 90 days of citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.
- **“Extreme” vetting.** Required relevant federal agencies to develop more rigorous screening procedures for all new applicants for admission to the United States.
- **Refugees.** Paused the U.S. refugee resettlement program for 120 days; reduced the fiscal year (FY) 2017 refugee admission ceiling from 110,000 to 50,000; indefinitely halted entry of Syrian refugees; and, upon reinstatement of the refugee program, mandated prioritizing claims of religious-based persecution by applicants who are religious minorities in their country of nationality.

Developments: Several court rulings enjoined various parts of the executive order at the national level or specifically to people in particular jurisdictions. On February 3, 2017, a U.S. district judge in Washington State granted a nationwide temporary restraining order in *Washington State v. Trump*, preventing implementation of the suspension of entries, the refugee resettlement pause, the halt on Syrian refugee admissions, and the prioritization of religious minorities within the refugee program. On February 9, 2017, a three-judge panel of the 9th U.S. Circuit Court of Appeals unanimously affirmed the district court’s temporary restraining order on the travel ban.

Current status: On March 6, 2017, President Trump rescinded and replaced this executive order with a new one.

Executive Order 13780: Protecting the Nation from Foreign Terrorist Entry into the United States (signed March 6, 2017)

- **Suspension of entries.** Restricts nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen from entering unless they are lawful permanent residents of the United States, have visas that were valid as of January 27, 2017, or receive a case-by-case waiver; and removes Iraq from the group of countries listed in the earlier order.

- **“Extreme” vetting.** Requires relevant federal agencies to develop more rigorous screening procedures for all new applicants for admission to the United States.
- **Refugees.** Suspends the U.S. refugee resettlement program for 120 days; reduces the FY 2017 refugee admission ceiling from 110,000 to 50,000; and removes the provision mandating the prioritization of minority-religion refugees for resettlement.

Presidential Memorandum: Implementing Heightened Screening and Vetting of Applications for Visas and Other Benefits (signed March 6, 2017)

- Requires federal agencies to produce a report examining costs of the U.S. refugee resettlement program and to publish the number of visas issued by each consular office in the previous month, beginning April 28, 2017.

Developments: The revised executive order was enjoined by two federal district courts in Hawaii and Maryland before it was to take effect on March 16, 2017. The federal government appealed the Maryland and Hawaii rulings. The 4th U.S. Circuit Court of Appeals will hear oral arguments in the Maryland case on May 8; appeal of the Hawaii ruling will be heard by the 9th U.S. Circuit Court of Appeals on May 15. On March 24, a federal judge in Virginia ruled the revised executive order “falls within the bounds” of the President’s authority, going against both the Maryland and Hawaii rulings and increasing the chances of a split among federal appellate courts. There has been no appeal yet in the Virginia case, and it continues to be litigated in the original court.

As of April 20, 41,320 refugees had been admitted for this fiscal year, drawing closer to the 50,000 ceiling for the fiscal year that ends September 30 (though the imposition of the 50,000 cap has been enjoined by the Hawaii court).

To implement the order on “extreme” vetting, the Secretary of State has issued a series of memoranda to consular officials on strengthening screening procedures and developing criteria for identifying “populations warranting increased scrutiny.”

The U.S. Department of Homeland Security (DHS) said it has not undertaken any steps to develop “extreme” vetting procedures, contending the federal injunctions halting implementation of the executive order have stopped it from moving forward.

Though the 90-day ban on noncitizen arrivals from the six countries has been enjoined, there have been reports of decreased interest in travel to the United States. For example:

- Emirates, the Middle East’s largest airline, announced that it will cut flights to the United States by 20 percent because of the executive order as well as a recently imposed DHS ban on using electronics on some flights originating in the Middle East.
- The analytics firm Tourism Economics estimates that 4.3 million fewer visitors will travel to the United States in 2017 than in 2016, resulting in a loss of \$7.4 billion in revenue. The firm projects there could be 6.3 million fewer tourists and \$10.8 billion in losses in 2018.

II. Border Security

Executive Order 13767: Border Security and Immigration Enforcement Improvements (signed January 25, 2017)

- **Border wall.** Directs DHS to begin construction of a barrier along the Southwest border in order to “obtain complete operational control,” which is defined here as the “prevention of all unlawful entries.”

- **Detention.** Directs allocation of DHS resources for construction of detention facilities or lease of existing space at or near the U.S.-Mexico border for both short-term and standard immigrant detention. Instructs that asylum officers and immigration judges be sent to detention centers. Directs that all noncitizens apprehended for immigration violations be detained pending the outcome of their removal proceedings.
- **State and local enforcement.** Calls upon state and local governments to enter into agreements under section 287(g) of the *Immigration and Nationality Act* (INA), authorizing them to perform the functions of federal immigration enforcement officers in the investigation, apprehension, or detention of noncitizens.
- **Hiring.** Directs the hiring of 5,000 additional Border Patrol agents.
- **Return to country of entry pending removal decision.** Directs that noncitizens crossing into the United States from Mexico or Canada without prior authorization may be returned to the country of entry to await a decision in their removal proceeding.
- **Reporting requirements:**
 - Directs DHS to conduct a comprehensive study of security at the Southern border within 180 days.
 - Mandates the head of each executive department and agency to report amount of aid directed to the Mexican government over the past five years.
 - Directs DHS to issue monthly reports of apprehensions at or near the Southwest border.

Memorandum: Implementing the President's Border Security and Immigration Enforcement Improvements Policies (issued by Homeland Security Secretary John Kelly on February 20, 2017)

- Parents (or other relatives) in the United States who pay for smugglers to bring their children into the country may be subject to removal or criminal prosecution.
- Extends the possible use of expedited removal beyond the border to all foreign nationals who have entered the United States during the prior two years, subject to the issuance of new regulations.

Memorandum: Renewed Commitment to Criminal Immigration Enforcement (issued by Attorney General Jeff Sessions on April 11, 2017)

- Responds to instructions in Executive Order 13767 directing the Attorney General to establish prosecution guidelines and allocate resources to prioritize the prosecution of offenses having a nexus to the U.S.-Mexico border. The memo directs U.S. attorneys to prioritize prosecutions for transportation and harboring of noncitizens, improper entry, illegal re-entry, aggravated identity theft and document fraud, and "assaulting, resisting, or impeding" government officials. It also instructs all 94 U.S. Attorney districts to appoint a border security coordinator by April 18 to direct the prioritization of immigration crimes.

Developments: The President's FY 2018 budget requests \$1.5 billion in supplemental funding for construction of a border barrier to be used in FY 2017, as well as \$2.6 billion for FY 2018. In advance of congressional action, U.S. Customs and Border Protection (CBP) identified \$20 million in existing funds to redirect toward construction of additional border barriers. Design proposals for the wall have been submitted, and CBP will

select 20 prototypes to be built over the summer in Otay Mesa, California.

The budget requests \$314 million to recruit, hire, and train 500 new Border Patrol agents and 1,000 new U.S. Immigration and Customs Enforcement (ICE) officers. It also seeks \$1.5 billion for expanded detention, transportation, and removal of unauthorized immigrants. GEO Group won a \$110 million federal contract to build a 1,000-bed facility in Conroe, Texas that is set to open by the end of 2017. And the Justice Department has sent 25 immigration judges to conduct removal hearings at detention centers along the

U.S.-Mexico border. Also on the detention front, Attorney General Jeff Sessions announced in April that all adults apprehended at the border will be detained.

In response to the provision that individuals awaiting decisions in immigration proceedings may be returned to the country through which they entered the United States, the Mexican Foreign Minister stated that Mexico does not have to accept unilateral measures imposed by the United States. DHS has indicated it is working with the Mexican government and the State Department to implement this provision.

Table 1. Apprehensions at the U.S.-Mexico Border, January–March, 2017

| | January | February | March | Total | Change January to March (%) |
|--------------------------|---------------|---------------|---------------|---------------|-----------------------------|
| Unaccompanied minors | 4,412 | 1,914 | 1,043 | 7,369 | -76 |
| Family units | 9,300 | 3,124 | 1,125 | 13,549 | -88 |
| All apprehensions | 31,577 | 18,754 | 12,193 | 62,524 | -61 |

Family units = U.S. Customs and Border Protection (CBP) terminology for a parent traveling with a minor child. Source: CBP, “Southwest Border Migration,” updated April 12, 2017, www.cbp.gov/newsroom/stats/sw-border-migration.

Table 2. Changes in Apprehensions at the U.S.-Mexico Border, January–March, 2016–17

| | | January | February | March | Total (January-March) |
|--------------------------|---------------------------|---------------|---------------|---------------|-----------------------|
| Unaccompanied minors | 2016 | 3,089 | 3,092 | 4,209 | 10,390 |
| | 2017 | 4,412 | 1,914 | 1,043 | 7,369 |
| | % change (2016-17) | 43 | -38 | -75 | -29 |
| Family units | 2016 | 3,143 | 3,050 | 4,451 | 10,644 |
| | 2017 | 9,300 | 3,124 | 1,125 | 13,549 |
| | % change (2016-17) | 196 | 2 | -75 | 27 |
| All Apprehensions | 2016 | 23,758 | 26,072 | 33,316 | 83,146 |
| | 2017 | 31,577 | 18,754 | 12,193 | 62,524 |
| | % change (2016-17) | 33 | -28 | -63 | -25 |

Sources: CBP, “Southwest Border Migration;” and CBP, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016,” updated October 18, 2016, www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016.

CBP has begun publishing monthly reports of noncitizen apprehensions at or near the Southwest border. Apprehensions dropped 40 percent from January to February and 35 percent from February to March (see Table 1). In the last 17 years, apprehensions have always increased during these periods.

III. Interior Enforcement

Executive Order 13768: Enhancing Public Safety in the Interior of the United States (signed January 25, 2017)

- **Removal priorities.** Significantly broadens the categories of noncitizens who are priorities for removal.
- **State/local cooperation in immigration enforcement.** Reinstates the Secure Communities program, calls for adding 287(g) federal-local agreements under which state and local law enforcement agencies are authorized to enforce aspects of federal immigration law.
- **Sanctuary jurisdictions.** Directs that federal funds be withheld from jurisdictions that have failed to comply with 8 U.S.C. § 1373, which mandates that no government entity or official can be prohibited from exchanging information with DHS regarding the immigration status of any individual.
- **Hiring.** Orders the hiring of 10,000 additional ICE officers.
- **Reporting requirements:**
 - Requires the collection of relevant data on immigration status of all noncitizens in the Federal Bureau of Prisons, in pretrial detention under the supervision of the U.S. Marshals Service, and in state prisons or local detention centers

- Calls for a weekly Declined Detainer Outcome Report of jurisdictions that fail to honor ICE requests to detain noncitizen inmates beyond the conclusion of their sentence for pickup by the agency, as well as criminal actions committed by these noncitizens.

Memorandum: Enforcement of Immigration Laws to Serve the National Interest (issued by Homeland Security Secretary Kelly on February 20, 2017)

- Requires ICE to provide monthly reports on noncitizens apprehended by the agency and a weekly report of nonfederal jurisdictions that release noncitizens from their custody, where subject to a detainer or similar request for custody issued by ICE.

Developments: Arrests of removable noncitizens within the U.S. interior rose 32.6 percent from January 20 to March 13 compared to the same time period in 2016, with 21,362 noncitizens arrested. The arrests of those without criminal records more than doubled to 5,441 during this period. Arrests of noncitizens with criminal records increased by 15 percent compared to 2016. Even as arrests were up, removals were down 1.2 percent from the January 20 to March 13 period, as compared to the same period in 2016. There were 54,741 removals during this period in 2017.

On March 27, Attorney General Sessions threatened to restrict Justice Department grants from “states and local jurisdictions who fail to comply with all federal laws, including 8 U.S.C. Section 1373.” That provision requires certain information sharing between local and federal authorities. On April 21, the Acting Director of the Justice Department’s Office of Justice Programs sent letters to nine so-called sanctuary jurisdictions, asking them to provide evidence of compliance with the statute. The jurisdictions that received letters are the state of California; Chicago; Cook County, IL; Las Vegas; Miami-Dade County, FL; Milwaukee; New Orleans; New York City; and Philadelphia.

At least 33 states have debated or enacted legislation preventing local jurisdictions from enacting policies that limit compliance with ICE, while a few others have moved in the opposite direction. Legislation in California, for example, would prohibit state and local law enforcement from utilizing resources for immigration enforcement without a judicial warrant.

State and local officials have begun weighing whether to defend or oppose existing sanctuary policies. Miami-Dade County rescinded its 2013 policy that limited cooperation with federal immigration enforcement. Cities such as New York City and Chicago are defending their policies of limiting cooperation with ICE. Three cities in California (Richmond, San Francisco, and Santa Clara) and two in Massachusetts (Chelsea and Lawrence) have filed legal challenges against the sanctuary city provisions of the executive order.

Three jurisdictions have signed new 287(g) agreements with the federal government—Henderson and Mecklenburg Counties, North Carolina; and Jackson County, Texas.

ICE began publishing the weekly Declined Detainer Outcome Report on January 28. Criticism from local jurisdictions about the accuracy of the first three weekly reports led the agency to suspend it until further notice.

IV. Employment-Based Immigration

Executive Order: Buy American and Hire American (signed April 18, 2017)

- Requires federal agencies to review their policies to ensure they are utilizing American-made goods and enforcing laws that protect the interests of U.S. workers, including by rooting out fraud or abuse in the immigration system.
- Calls for the Departments of Homeland Security, Justice, Labor, and State to sug-

gest reforms “to help ensure that H-1B visas are awarded to the most skilled or highest-paid petition beneficiaries.”

The administration had taken a number of prior actions with regards to H-1B visas, including:

- The Labor Department on April 4 announced it will (1) investigate program violators, (2) consider changes to the Labor Condition Application to increase transparency, and (3) engage stakeholders on how the program may be improved to provide greater protection for U.S. workers.
- U.S. Citizenship and Immigration Services (USCIS) on April 3 announced a more targeted approach to its H-1B site visits, focusing on (1) cases where USCIS cannot validate the employer’s basic business information; (2) H-1B dependent employers (i.e., with H-1Bs representing at least 15 percent of the staff); and (3) employers petitioning for H-1B workers who work offsite at another company’s location.
- The Justice Department on April 3 reasserted its commitment to investigate and prosecute claims of discriminatory hiring preferences that favor H-1B visa holders over U.S. workers.
- USCIS suspended premium processing of H-1B visa petitions starting on April 3, 2017, the first day of the FY 2018 H-1B application season, and lasting for up to six months. Under premium processing, for an extra fee, USCIS had guaranteed processing within 15 calendar days. Processing may now take a year or more.

Developments: USCIS received 199,000 H-1B petitions during the first week of acceptance for the FY 2018 cap. The annual statutory limit for approved petitions is 85,000. For the fifth year in a row, USCIS will select which petitions are considered through a computer-generated lottery.

V. Cabinet and Agency Appointments

Cabinet

- Secretary of Homeland Security: John Kelly (confirmed by the Senate, 88-11, on January 20)
- Attorney General: Jeff Sessions (confirmed, 52-47, on February 8)
- Secretary of State: Rex Tillerson (confirmed, 56-43, on February 1)

Department of Homeland Security

- **CBP:** Acting Commissioner Kevin K. McAleenan, former CBP Deputy Commissioner.
- **ICE:** Acting Director Thomas D. Homan, former executive associate director of ICE Enforcement and Removal Operations.
- **USCIS:** President Trump on April 8 announced his intent to nominate as USCIS Director Lee Francis Cissna, currently Director of Immigration Policy in the DHS Office of Policy. In the interim, the USCIS Acting Director is James McCament, former Deputy Associate Director of USCIS Service Center Operations.
- **Department-level positions:**
 - Assistant Secretary, International Affairs: Dimple Shah, former Staff Director for the National Security Subcommittee of the House Oversight Committee, is serving as acting Assistant Secretary.
 - Assistant Secretary, Office of Policy: Vacant. Dimple Shah is performing the duties of this position.

- Assistant Secretary, Border, Immigration, and Trade Policy: Michael Dougherty, former CEO of the Secure Identity and Biometrics Association, is serving as acting Assistant Secretary.
- General Counsel: President Trump on April 11 announced his intent to nominate John Marshall Mitnick, Senior Vice President, General Counsel, and Secretary at the Heritage Foundation, as DHS General Counsel. Joseph Maher, former Principal Deputy General Counsel at DHS, is serving as acting General Counsel.

Department of Justice

- Director of the Executive Office for Immigration Review: Juan P. Osuna, who was appointed in 2011.

Department of State

- Assistant Secretary of the Bureau of Population, Refugees, and Migration: Simon Henshaw, former Director of Andean Affairs in the State Department's Bureau of Western Hemisphere Affairs, is serving as acting Assistant Secretary.
- Assistant Secretary for Consular Affairs: David T. Donohue, Principal Deputy Assistant Secretary for Consular Affairs, is serving as acting Assistant Secretary.

Department of Health and Human Services

- Director, Office of Refugee Resettlement: Ken Tota, former ORR Deputy Director, is serving as acting Director.

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