



An Overview of President Trump's Executive Actions on Immigration

JACQUELINE VARAS | MARCH 13, 2017

Since taking office, President Trump has prioritized restructuring the U.S. immigration system. Within a week of his inauguration, he issued three executive orders which carry significant implications for unauthorized immigrants, legal immigrants, and American taxpayers. The following paper explains each executive order in detail and examines their effects.

Enhancing Public Safety in the Interior of the United States

The [first executive order](#) on immigration signed by the president urges the government “to employ all lawful means to enforce the immigration laws of the United States.” In accordance with this guidance, the order directs the secretary of homeland security to identify sanctuary cities, i.e. jurisdictions that do not comply with federal enforcement efforts. It also empowers the attorney general to take action against those cities by withholding non-mandatory federal funding.

A jurisdiction can be designated a sanctuary city for a variety of reasons. Local officials may decline to notify U.S. Immigration and Customs Enforcement (ICE) of known unauthorized immigrants, refuse to detain unauthorized immigrants, or refuse to continue detaining unauthorized immigrants past the expiration of their local sentences. Reuters [recently found](#) that withholding federal funds from the ten largest sanctuary cities could cost them \$2.27 billion in annual grants.

The president's executive order also aims to improve the enforcement of immigration laws related to removable immigrants within the United States. It equally prioritizes the removal of seven categories of immigrants, including those who have been convicted of a crime, been charged with a crime but not yet convicted, and have committed acts that constitute a criminal offense. This includes all unauthorized immigrants who entered the country illegally or overstayed their visas, regardless of whether they have committed a separate crime within the United States. It [also applies](#) to lawful immigrants who have committed crimes which qualify them for removal. Accordingly, the president ordered ICE to hire an additional 10,000 enforcement and removal officers, which will [triple its size](#).

President Trump's guidelines will result in stricter enforcement than under the previous administration. In 2015, President Obama [changed ICE's enforcement policy](#) by prioritizing the removal of immigrants with felonies or serious misdemeanors and those determined to be a threat to national security. The executive order terminates these priorities and reinstates the Secure Communities Program, which was first put in place in 2008. This program directs local police officers to detain immigrants who are arrested for any offense and found to be removable. However, it was [met with backlash](#) after non-criminal unauthorized immigrants with roots in the United States were discovered and removed based on insignificant offenses such as speeding tickets.

This executive order grants more discretionary power to apprehension officers, which has resulted in immigration raids with [a stronger focus on non-criminals](#). However, every immigrant within the United States is entitled to legal counsel and an immigration hearing. President Trump must therefore address the current [540,000 case backlog](#) within the immigration court system in order to successfully carry out his priorities.

Border Security and Immigration Enforcement Improvements

President Trump's [second executive order](#) is aimed at enhancing security along the southern border. It orders the construction of a wall between the United States and Mexico to curb unauthorized immigration. By signing this order, President Trump took the first step toward fulfilling one of his biggest campaign promises.

The executive order calls for a wall constructed with “appropriate materials and technology to most effectively achieve complete operational control of the southern border.” It also orders the Secretary of Homeland Security to identify all sources of federal funding which can be allocated for construction and to prepare Congressional budget requests. This contradicts Trump's previous statements that Mexico will pay for the wall. However, the president [maintains](#) that Mexico will reimburse the United States for all costs.

It is worth noting that Congress already passed legislation authorizing the construction of a physical barrier between the United States and Mexico. The Secure Fence Act, signed by George W. Bush in 2006, called for 700 miles of double-layered fencing along the southern border. At this point, U.S. Customs and Border Protection (CPB) [has constructed](#) 654 miles of primary border fencing. However, only 37 miles of secondary fencing and 14 miles of tertiary fencing have been built.

The Department of Homeland Security (DHS) [estimated](#) that the president's border wall would cost \$21.6 billion and take 3.5 years to construct. President Trump has proposed several methods for obtaining the funds from Mexico: as a candidate, he [threatened](#) to halt remittances sent by unauthorized immigrants. These are funds sent from individuals in the United States to their family or friends in Mexico. He also suggested [levying tariffs](#) on Mexican imports, imposing visa fees on Mexican immigrants, or cancelling visas to Mexicans altogether.

Most recently, the administration proposed raising funds for the wall through a [border-adjustable business cash flow tax](#), which would replace the current corporate income tax. While this tax reform could raise [roughly \\$12 billion](#), any new income will likely be used to offset the lost revenue from a lower tax rate on business.

The president's efforts to control unauthorized immigration may be futile if current trends continue. Since the Great Recession, [more Mexicans have left the United States](#) than have entered. This may explain why the Mexican unauthorized population has been steadily declining since 2007 and the total unauthorized population [has remained stable](#). Furthermore, [almost half](#) of all unauthorized immigrants came to the United States on legal visas. Building a wall will do little to prevent visa overstays.

President Trump's executive action also changes DHS procedure. It orders the detention of all unauthorized immigrants apprehended at the border, including individuals seeking asylum. This differs from previous policy, which allowed apprehended immigrants to be released into the United States and monitored while waiting for an immigration court date or asylum interview. Instead, both Mexican and non-Mexican unauthorized immigrants caught at the border who do not pose a risk of illegal re-entry will be returned to Mexico until a formal removal proceeding can take place.

In FY 2016, [almost 60,000](#) unaccompanied minors were apprehended at the southern border. These individuals are often the children of unauthorized immigrants who are seeking to reunite with their families or escape persecution. A [DHS memo](#) on Trump's executive order indicates that family members who helped unaccompanied minors illegally enter the United States may be removed or criminally prosecuted. Finally, the president ordered CPB to hire an additional 5,000 border patrol agents and 500 air & marine agents to enforce these new guidelines.

Protecting the Nation from Foreign Terrorist Entry into the United States

Trump's [most controversial executive order](#) introduced a 90 day travel suspension for immigrants from Iraq, Syria, Iran, Libya, Somalia, Sudan, and Yemen. This order blocked the entry of both immigrants (green card holders) and nonimmigrants (temporary visa holders) into the United States. It was widely perceived to be a Muslim ban, as Trump [vowed to impose](#) "a complete shutdown of Muslims entering the United States" during his campaign. However, the president [contends](#) that the order does not discriminate on the basis of religion.

The countries singled out by President Trump were first [identified by the Obama administration](#) in 2015. After the San Bernardino terrorist attack, President Obama signed a law identifying these nations as countries of concern. This means that individuals who had recently lived in or visited the countries listed could no longer participate in the [Visa Waiver Program](#). While this did not prevent anyone from traveling to the United States, it did prevent them from traveling to the United States without first obtaining a visa.

The purpose of President Trump's executive order was "to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism." However, it faced immediate backlash after [legal permanent residents](#) traveling home to the United States were barred from entering the country. The secretary of homeland security subsequently issued [a memo](#) excluding lawful permanent residents from the travel suspension.

The travel suspension also resulted in adverse consequences for the United States. For instance, after the U.S. travel ban was put in place, both [Iraq](#) and [Iran](#) vowed to place reciprocal travel bans on U.S. citizens. This has negative implications for U.S. military and strategic interests in the Middle East. Additionally, the U.S. travel industry lost approximately [\\$185 million](#) in business travel bookings in the week after Trump signed the order.

This executive order also impacts refugees. It suspends all refugee admissions into the United States for 120 days as well as suspends the entrance of Syrian refugees indefinitely. Furthermore, it directs the secretaries of state and homeland security to prioritize the admission of refugees facing religious persecution. This effectively allows the administration to prioritize Christian, Bahá'í, Yazidi or other refugees from the Middle East over others. Finally, it lowers the current limit on refugee entry to the United States from 110,000 per year to 50,000. Over the last ten years, the United States has accepted an average of [62,000 refugees](#) annually.

At least eight groups filed lawsuits alleging that this executive order is unconstitutional. As a result, a U.S. District Judge in Seattle issued [a temporary restraining order](#) which halted enforcement of the travel and refugee suspensions nationwide. This restraining order was [upheld](#) by the Ninth Circuit Court of Appeals in San Francisco. While the president has the option of taking his case to the Supreme Court, the administration [indicated](#) that it will not appeal the ruling. Instead, President Trump signed a revised executive order that he believes can better withstand legal scrutiny.

Revised: Protecting The Nation From Foreign Terrorist Entry Into the United States

The president issued a [new travel suspension](#) on Monday which differs from the original in several ways. First, it explicitly excludes green card and other visa holders from the 90-day travel ban. Only individuals applying for new U.S. visas will be affected.

Second, Iraq is no longer included in the temporary travel ban. This comes after [concern](#) from the Pentagon and State Department that an Iraqi travel ban would negatively affect joint efforts to fight terrorism. The executive order justifies this change by outlining superior screening measures Iraq has put in place, including “enhance(d) travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal.” The remaining six countries are still named.

The new order also changes its provisions regarding refugees. Instead of indefinitely barring Syrian refugees from entering the United States, Syrians are now included in the general 120-day refugee suspension. Furthermore, it drops the language prioritizing religious minorities in the refugee program. However, the cap on refugee entry is still lowered to 50,000 per year.

To avoid confusion at U.S. ports of entry, the president’s revised order does not go into effect until March 16th. This gives local officials ten days to fully understand its provisions and whom they apply to. It also provides time for officers to prepare and coordinate their enforcement efforts.

The president defended his executive order by [declaring](#) “the U.S. government must ensure that those entering this country will not harm the American people ... (and) do not bear malicious intent toward the United States.” However, [DHS concluded](#) last month that “country of citizenship is unlikely to be a reliable indicator of potential terrorist activity.”

Not surprisingly, the new travel suspension is just as controversial as the first: [seven states](#) have already joined a lawsuit against it. It remains to be seen whether the president’s revised executive order will hold up in court.