

Recent Immigration Actions:

Executive Policies on Immigration Enforcement

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UR Community

Information – accurate, up-to-date

Planning – personal decisions

Concerns – anxiety, separation, uncertainty

You are not alone! Find support & take advantage of campus/community resources!

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Our Presenters

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Executive Orders – 1/25/2017

- ***Border Security and Immigration Enforcement Improvements*** (#13767)
 - Securing southern border; Detention & removal
- ***Enhancing Public Safety in the Interior of the United States*** (#13768)
 - Prioritize removal for criminal acts & safety
- **Memos on Homeland Security policy** (2/17/17)

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Border Security (#13767)

Physical security of the southern border of the United States with Mexico

- Plan, design, and construct a wall along border
 - Secure, contiguous, impassable barrier
- Achieve complete “operational control”
 - Prevent unlawful entry by terrorists, other aliens
 - Prevent terrorist items, narcotics, contraband
- Contingent on funding & resources

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Border Security (#13767)

Facilities & Detainment for illegal entry

- Operate detention facilities at or near border
 - Asylum officers & immigration judges on-site
- Detain individuals apprehended for immigration violations, pending removal proceedings
 - Termination of “catch and release” practices

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Border Security (#13767)

Parole, asylum, and removal practices

- Provisions for parole & asylum programs to be applied by plain language of existing laws only
- Exception authorized on narrow, case-by-case basis

Additional Border Patrol agents

- 5,000 new hires, Customs & Border Protection

Enhancing Public Safety (#13768)

Priorities for immigration enforcement

- Enforce existing laws against ‘removable aliens’, per Immigration & Nationality Act (INA) citations
 - Conviction or admission to criminal offense
 - National security threat (terrorism, export laws)
 - Willful misrepresentation for US visa or entry
- Additional criteria specified for prioritized removal
 - Broad scope and considerable discretion

Enhancing Public Safety (#13768)

Partnerships to enforce immigration law

- Authorize State & local law enforcement officers to perform functions of Federal immigration officers
 - Investigation, apprehension, & detention
- Agreements made with consent of local agencies
- Sanctuary jurisdictions ineligible to receive grants
 - Existing law requires agency communications
 - Known info on citizenship / immigration status

Enhancing Public Safety (#13768)

Reinstate “Secure Communities” program

- Collect fingerprint info from local law enforcement
- Detainment & agency transfer for removable aliens
- Priority Enforcement Program (PEP) rescinded

Privacy: Personally Identifiable Information

- US citizens & Lawful Permanent Residents only
- In accordance with Privacy Act of 1974 definitions

Enhancing Public Safety (#13768)

Civil fines and penalties

- Collection from those unlawfully present in US
- Also applies to those who facilitate their presence
- Guidance and/or regulation within 1 year

Additional enforcement & removal officers

- 10,000 hires, Immigration & Customs Enforcement

DHS Memos – 2/17/2017

- EO implementation, with notable directives:
 - Rescind all conflicting memos, guidance, etc.
 - DACA & DAPA orders are maintained ...
 - Rescind prior Privacy Policy Guidance (1/7/09)
 - Expansion of ICE Criminal Alien Program
 - Prosecution & removal order prior to release
 - Terminate ICE advocacy/outreach (VOICE)
 - Detention release: Valid status, Refugee, TPS

Removal / Deportation

- New priorities for immigration removals
 - *Scope*: Broader definitions and discretion
 - *Capacity*: Increases in agents, officers, judges
 - *Process*: Detention facilities and practices
- Current climate remains uncertain ...
 - Objectives and intent of new administration, vs.
 - Agency directives on enforcement practices

Removable Aliens

- A person who has violated the immigration laws of the United States, *i.e.* someone who:
 - Is undocumented
 - Violates the terms of their nonimmigrant visa
 - Overstayed their visa category
 - Violates immigration law by committing certain crimes
- Ultimately, details matter ... get a lawyer!

Removal Proceedings

- Hearing before an Immigration Court
 - Initiated by serving a Notice to Appear (accusation of what you have done wrong)
 - Admit / Deny allegations, before Immig. Judge
 - Present a defense
- You have the right to legal counsel
 - At no cost to government (vs. criminal cases)

Removal: Criminal Offenses

- Provisions of Executive Order (#13768)
 - Conviction of ANY criminal offense
 - CHARGED with any criminal offense
 - Committed acts that are CHARGABLE
- Broad parameters, but relies on information
 - Fingerprint identification shared with FBI for criminal check; To ICE (“Secure Communities”)

Criminal Offenses (cont.)

- Provisions of existing law under INA
 - Conviction of, or admission to criminal offense:
 - Aggravated Felony
 - Crimes involving “moral turpitude”
 - Controlled substance offense
 - Firearms or destructive device offense
 - Domestic Violence offense (which includes child abuse, neglect, and endangerment)

Removal: Misrepresentation

- Provisions of Executive Order (#13768)
 - Engaged in fraud or willful misrepresentation to a government agency, for any matter
- Provisions of existing law under INA
 - Willful misrepresentation to obtain a US visa, or to enter US with out inspection / admission

Removal: Other Conditions

- Provisions of Executive Order (#13768)
 - Abuse of any program for public benefits
 - *Note:* Scrutiny of Medicaid, food stamps, etc.
 - Subject to removal, but failure to depart
 - “Otherwise pose a risk” to safety or security
- Provisions of existing law under INA
 - Threat includes violation of export control laws

Common Examples

- Many criminal offenses are inadvertent
 - Situations may escalate quickly, unintentionally
 - Lack of knowledge of US laws is no defense
- Critical challenges seen at UR / ISO
 - Driving Under the Influence (DUI)
 - Domestic Violence

Impaired Driving

- Due to either alcohol or drugs (DUI, DWI)
 - INA is more strict for controlled substances
- Arrest subject to visa revocation already
 - Notification by US Consulate, Dept. of State
 - To date, no travel but status has remained valid
- Executive Order now implies removability
 - *High risk:* Info is already available to DOS

Domestic Violence

- Wide scope of DV behaviors & scenarios
 - Heated argument becomes physical, threatening
 - Child welfare, especially in public areas
 - Impact to campus residential communities
 - Do NOT hesitate to report any concerns!
- Mandated arrest is common, per NY law
 - Protective order often issued, pending resolution

Some Legal Pitfalls

US laws & regulations often vary from home!

- *Alcohol:* Underage drinking; Social host law
- *Marijuana:* Possession; Distribution
- *Sex Acts:* Solicitation; Pornography
- *Behavior:* Disorderly conduct; Minor assault
- *Property:* Shoplifting; Vandalism
- *File Sharing:* Copyright; Fair Use

Also Consider: Visa Applications

- Disclosures required on DS-160 application
 - Arrest or conviction for any offense or crime
 - Violation of law relating to controlled substance
 - Mental or physical disorder that is likely to pose a threat to the safety of self or others
- Removability suggests visa denial is likely
 - Obtain court documentation of final outcome and be able to speak to situation, if asked

UR Public Safety (DPS)

- Resource & Liaison to other campus services
 - Goals to protect UR people, property, community
- Investigation practices
 - DPS will not inquire as to citizenship or status
 - No related reporting requirements externally
 - No way to record or maintain such information
 - No authority to hold anyone on these grounds

Law Enforcement Considerations

- Contact vs. Offense (esp. “fingerprintable”)
 - Arrest will not include status information, but connects to Federal database once fingerprinted
- Appearance Ticket may be issued = Arrest
 - Disorderly conduct, Harassment, Trespass, etc.
- Alternative resolutions, i.e. Dean’s Office
 - UR crime report, but does not hit criminal system

DPS is here to help!

Officers will not investigate status, but YOU may choose to disclose for referral purposes.

- * Not inquiring
- * No authority
- * Available 24hrs/7days

585-275-3333

If you do face an Arrest ...

- Constitutional right to remain silent (5th Am.)
 - Do not have to answer questions or say anything
 - If you choose to speak, do NOT lie!!
 - Cannot claim rights were violated, if given up
- Get an attorney ... or two, or more!
 - Right to counsel; Appointed, if cannot afford one
 - Confidentiality between attorney & client
 - Disclose your immigration status!

Support via ISO

- Immigration, travel, personal planning, etc.
 - SEVIS reporting, permissions, documentation
 - Information & research on immigration policy
- Collaboration with UR service offices
- Referral to immigration & other attorneys

Life happens ... ISO’s “Meliora Mantra”

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Thank You!

Recording will be posted on ISO website:

www.iso.rochester.edu/events/archive.html

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