



Issued February 11, 2017

New Immigration Update

The Impact of President Trump's Executive Orders on Immigration and Who is Affected

Within the past 2-3 weeks, President Donald Trump issued four Executive Orders related to Immigration policy. We have seen the immediate impact and changes from the previous administration. You may have been impacted directly, or most certainly you are concerned about what this means for your current situation and future.

The purpose of this update is to help clarify the **truth** from the **rumors** and to assist you with preparation and planning for what may come next. It is important to understand two main things:

- 1) The Executive Orders have not changed any actual law that exists. Instead, the orders direct the agencies under the control of the Executive Branch of U.S. government to operate differently. It changes policies, but it does not eliminate or change any legal benefit, right or protection provided by federal statutes or the Constitution of the United States.¹
- 2) This is all moving very fast. Tomorrow, some of this information may be outdated or no longer relevant. However, it's critical that we do not act with haste simply based on sensational media reports or public fear campaigns. These tactics used by the federal government are intended to create fear and encourage non-U.S. citizens, both new arrivals and even long-time local residents, to flee the country. Before you make any significant decision regarding your status in the U.S., it is critical that you seek the advice of your trusted immigration attorney or do careful research to find one with a reputation for honesty and diligence. *Make sure to subscribe to <https://www.facebook.com/STERNLawLLC/> for important updates.*

This Immigration Update Announcement focuses on three main topics: International Travel, I.C.E. Enforcement of Immigration Laws within the U.S., and the immediate future of DACA protections.

¹ However, it is a **reality** that these policies will motivate the Legislative Branch (U.S. Congress and Senate) to act in the creation and proposal of actual laws that attempt to either support or prevent the Immigration policy changes prioritized by the President.



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Who is Affected by the Executive Orders on Immigration?

International Travel

The majority of the attention has focused on the travel ban against entry into the U.S. from non-U.S. citizen nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. [As of today's date, the travel ban Order is on hold](#) during back-and-forth federal court litigation after the States of Washington and Minnesota sued to protect the rights of its citizens and businesses affected by the travel ban.

Travel - What does the Order really say? This Order calls for:

- prohibition on the entry/admission of non-U.S. citizen visa holders and lawful permanent residents (even those who have been previously admitted into U.S.) from 7 listed countries for at least 90 days;
- prohibition on the entry/admission of new refugees (even those already vetted and approved) from any country worldwide for at least 120 days;
- prohibition on the entry/admission of new refugees (even those already vetted and approved) from Syria indefinitely.
- review of admission requirements and vetting;
- new standards for the U.S. Refugee Admissions Program;
- prioritization of refugee applications with claims of religious persecution only for applicants who are in the “minority religion in the individual’s country of origin.”

Travel - What is happening right now?

- At present, U.S. Embassies will grant and reissue visas to nationals of the 7 listed countries to use for entry into the U.S.
- At present, Customs and Border Protection (“CBP”) will admit nationals of the 7 listed countries with valid visas and lawful permanent residency.
- At present, the U.S. Refugee Admissions Program continues to process and vet refugees for admission.

Travel - What is going to happen next?

- The White House will most likely issue a new Executive Order on travel restrictions as early as next week.
- Any new Order will modify travel restrictions in a way that the Executive Branch hopes will pass constitutional scrutiny and will be allowed by the Courts.
- Most likely, any new Order will remove the restriction on lawful permanent residents and visa holders who have been previously admitted; it may also remove the prioritization of applications for those from a minority religion.
- Most likely, any new Order will still affect refugee admissions and first-time visa entrants with employment and family-based visas.



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Travel - What should I do now?

As a non-U.S. citizen national of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen:

- If you are currently within in the United States, you SHOULD NOT DEPART the U.S. for routine travel until further notice.
- If you are outside of the U.S. holding a valid entry visa and can travel immediately prior to February 13, 2017, you should try to enter before any new Order is issued restricting your travel (in spite of the halt on the existing travel ban Order).

As a non-U.S. citizen national of other countries:

- Most do not have reason to fear your travel will be blocked.
- The U.S. Department of State has denied plans to add additional countries to the list of those restricted for travel. However, until we know the contents of any new Order, it is recommended that non-critical travel plans for departure from the U.S. are postponed temporarily.²

For all non-U.S. citizens:

- Remember that admission into the U.S. is never guaranteed, even with an approved entry document. This has always been the case. Violations of grounds of inadmissibility could complicate your admission, such as: a previous stay in the US without status, arrest or deportation history (even if now cleared) and known issues of fraud related to your employer or immigration attorney.
- Make emergency plans prior to travel re: notification of family, legal counsel, and your country's consulate.
- Make sure to have strong documentation of the purpose for your entry and any recent, previous admissions under the same status.
- If you are detained by CBP at a port of entry, do not make any statements or sign any documents without the advice of a lawyer.
- If you are a lawful permanent resident, or have been previously admitted on your visa, the protections of the U.S. Constitution apply to you. Demand a lawyer.
- If you can support a strong claim of "reasonable fear of persecution" in your country based on your race, religion, nationality, political opinion or membership in a particular social group and have fled your country for this reason, you must notify U.S. immigration officials at the earliest opportunity.³

² The Executive Branch may try to demonstrate that the travel ban is not a "Muslim Ban" by adding other non-Muslim countries to any new Executive Order.

³ You should be afforded due process of law and have the chance to present your claims in an Immigration Court. It is likely that you'll be detained throughout the court process.



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Interior Immigration Enforcement – Stateside I.C.E. Detention and Raids

Immigration and Customs Enforcement (“ICE”) is the law enforcement arm of the Department of Homeland Security within the interior borders of the U.S.. ICE arrests people suspected of violating civil immigration laws – usually related to violations of grounds for deportability/removal.

From November 2014 until the new administration’s Executive Order on January 25, 2017, ICE limited its enforcement resources to only seek detention/removal of non-U.S. citizens *convicted* of certain categories of criminal offenses. The Obama Administration’s Priority Enforcement Program (“PEP”) focused in on those with the most risk to public safety and resulted in more deportations than any other administration. This was possible because it did not spend time or resources on the detention or removal of long-present non-U.S. citizens whose only violation of law was based on their unlawful presence in the U.S..

ICE Enforcement - What did the January 25th Executive Order Change?

President Donald Trump eliminated PEP. This means that ICE will no longer use discretion in the enforcement of deportation/removal against any particular category of individuals. ICE will no longer differentiate between those with criminal convictions versus those who are simply undocumented without any other proven violations of law. *At this time, ICE has been instructed to detain anyone who is unlawfully present in this country.*

It is important to remember, that ICE detention does not result in immediate deportation/removal. Every single person within U.S. borders has constitutional rights and protections. You have the right to due process of law – which means – you will have the right to challenge the charges of removal in Immigration Court and defend against your deportation. Many detained for removal may even be eligible for a bond for release by an Immigration Judge.

ICE Enforcement – Who is at risk?

Anyone without lawful status in the U.S. can be detained. Based on what we are currently seeing, the most likely causes for ICE detention are:

- routine traffic violations and stops;
- traffic roadblocks;
- any criminal arrest;
- pending criminal case information obtained from the courts (prior to conviction);
- criminal conviction information obtained from courts and probation departments;
- mere presence of undocumented bystanders in or around area of detention raids where ICE is looking for those with the above circumstances.



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Lawful Permanent Residents (“LPRs”) and those in lawful visa status are not the focus of this Executive Order. The federal laws, contained in the Immigration and National Act, regarding removability for criminal convictions and other immigration violations control the detention and removability of those who are lawfully present in the U.S.e. However, as always, those with “deportable” criminal convictions are at significant risk for detention.

ICE Raids

- It is confirmed that ICE has conducted raids with the assistance of local law enforcement in the areas around Georgia near Atlanta, Augusta, and Savannah, in Los Angeles, Chicago, New York, North Carolina, and South Carolina.
- ICE has conducted these large sweeps at homes and workplaces – mainly searching for undocumented individuals with *pending* criminal cases (prior to a finding of guilt) and older removal orders for those who didn’t fit the PEP priorities after 2014.
- It is significant that enforcement efforts ramped up to actively seek out the detention of individuals with solely minor immigration violations and no proven public safety risk.
- A commonly-reported practice used by ICE and local enforcement is to trick the homeowner to allow them inside. There will be a knock on the door and a claim that they’re looking for a certain individual. They will have a photograph and a name. They insist on searching the home for this individual. When the homeowner allows them inside, they will search the entire home and ask all occupants for I.D. If the individual cannot prove lawful status, they are detained.
- These detentions are taking place in the family’s home – many of which contain a U.S citizen spouse and U.S. citizen children.

ICE Enforcement – What Should I Know/Do?

- If you are undocumented and have a pending criminal case, make sure to hire an experienced CrImmigration lawyer immediately.
- If you have a U.S. citizen spouse or child, gather the records that prove these relationships (birth and marriage certificates) and proof of any pending immigration applications. It’s a good idea to carry this on you at all times. You may also want to have a lawyer ready to defend you should detention occur.
- Unless the police show you a warrant, you have the right to not answer the door or let the police in your home. You may want to consider asking for any warrant to be slid under the door.
- You have the right to remain silent and the right to a lawyer.
- You should decline to say or sign anything until you have the advice of a lawyer.



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- However, be aware that if you attempt to flee from ICE detention, the Government may use this to argue a denial of your release on bond based on risk that you will not return to court to answer to the removal charges.

Helpful information to protect you from ICE Detention:

- <http://www.immdefense.org/ice-home-and-community-arrests/>
- <http://www.glahr.org/>
- <https://www.splcenter.org/issues/immigrant-justice>

Domestic Travel – Unconfirmed Rumors

There is rumor that CBP has boarded domestic flights within the U.S. to request proof of lawful immigration status from passengers. This has not occurred in the past and it has not yet been confirmed, but it may be important to mention at this stage.

Status of DACA Protections

Deferred Action for Childhood Arrivals (“DACA”) and its program benefits, granted by President Obama’s Executive Action, have not yet been repealed. DACA still exists for the moment.

However, we anticipate that President Trump will soon issue an Executive Order that suspends the existence of DACA moving forward. It may be that those with existing DACA approvals are allowed to maintain this status until it expires (within a period of less than two years). However, it’s likely that any Order will involve:

- suspension of any new DACA applications;
- termination of the DACA application process;
- prohibition on Advance Parole travel permission;
- a call for legislative action to reinstate any desired protections for young arrivals, prior to 2012, who are undocumented and deportable.

Advisory for DACA Recipients:

- If you travel on any previously approved Advance Parole document, you take the risk that you will be denied entry because this Order can be signed at any time while you’re outside of the U.S.
- DO NOT TRAVEL on any previously approved Advance Parole document, unless you are prepared and qualified to seek admission through some other lawful admission process for an immigrant visa and unlawful presence waiver.
- Discuss the options with your school or university for continued admission and funding.
- Seek the support of community organizations and legal advisors committed to defending the “DREAMers”.



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- www.freedomuniversitygeorgia.com
- <http://unitedwedream.org/>
- <http://www.maldef.org/education/litigation/index.html>

The mission of STERN Law, LLC is to change the dialogue about immigrants and people charged with crimes. We do this through educating the public, training other lawyers how to properly represent their non-U.S. citizen clients, and by seeing our clients at eye-level – making sure they know we believe that they're not defined by the worst thing they (may) have done; they deserve the chance at the American Dream.

If we can help you or a loved one, please let us know. Call 404-990-4112 or email intake@sternlawfirm.us

In solidarity,
Jessica Stern
and STERN Law Team