Recent Immigration Actions:
Executive Policies on Immigration Enforcement

Thursday, February 23, 2017 • 3:30 pm

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

UR Community
Information – accurate, up-to-date
Planning – personal decisions
Concerns – anxiety, separation, uncertainty

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)

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

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
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

**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

**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

**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