

PRESIDENT OBAMA'S IMMIGRATION ANNOUNCEMENT

Changes to Immigration Enforcement

NOVEMBER 26, 2014

On November 20, 2014, the president announced executive actions that his administration will be taking to help fix our dysfunctional immigration system. Some of these changes affect border, detention, and deportation policies.

Changes to Secure Communities (S-Comm), to be replaced by PEP

	S-Comm	Priority Enforcement Program (PEP)
Timeline	S-Comm began as a pilot program in 2008, with nationwide coverage as of January 22, 2013.	The exact timing is not clear, but PEP will replace S-Comm in the near future.
Fingerprint Sharing	Begins with fingerprint information obtained when a person is booked into a state or local jail. The fingerprints are sent to the Department of Homeland Security (DHS) for checks against immigration databases.	No change (fingerprints taken at booking will continue to be shared with DHS).
ICE Request to State or Local Agency	If the submitted fingerprints match a record in the DHS databases, Immigration and Customs Enforcement (ICE) may issue an immigration detainer . The detainer requests that the state or local law enforcement agency continue to detain (hold) the person for a period not to exceed 48 hours after he/she would otherwise be released.	Generally, ICE will replace detainers (requests for detention) with requests for notification — a request that the local agency notify ICE of a pending release during the time the person is in custody under state or local authority. In “special circumstances” (not defined in the memo), ICE may issue a request for detention if the person has a final order of removal or “there is other sufficient probable cause to find that the person is a removable alien.”
Enforcement Priorities	ICE was instructed to prioritize enforcement according to a 2011 prosecutorial discretion memo . ¹ The memo laid out various factors to consider in deciding whether to pursue deportation and suggested ICE focus resources on certain categories of people, including “known gang members” and individuals with a record of “illegal re-entry.”	According to the new November 20, 2014, memo, ICE should seek the transfer only of people who have been convicted of certain offenses ² or those whom ICE has found present a “demonstrable risk to national security.” ³

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T & U visas

- The U.S. Department of Labor (DOL) will be able to provide certification for three additional qualifying crimes if they arise in the workplace and are related to a violation of a law that the DOL enforces: extortion, forced labor, and fraud in foreign labor contracting.
- The DOL will issue T-visa certifications for survivors of human trafficking if trafficking activity is found in the course of DOL's workplace investigations.

Prosecutorial discretion

- The November 20, 2014, memo creates new "priority" levels. DHS will prioritize the detention and deportation of people who are priority levels 1, 2, and 3.
- Priority level 1 includes people apprehended at the border while attempting to unlawfully enter the U.S., people who have felony convictions, and people who "pose a danger to national security."
- Priority level 2 includes people convicted of a "significant misdemeanor"⁴ and people convicted of three or more misdemeanors.
- Priority level 3 includes people with deportation or removal orders issued on or after January 1, 2014.

Border

- Funds will be redirected for border enforcement even though the Border Patrol has massive problems with corruption, excessive use of force, and lack of accountability. DHS will commission three joint task forces that will be responsible for the southern border and West Coast. The task forces will further several goals, which include stopping people attempting to enter the U.S. unlawfully between ports of entry.

What you can do

- **Do not take advice about your immigration case from a notary public or an immigration consultant.** Contact *only* a [qualified immigration lawyer or an accredited representative](#) for legal advice about your case. If you encounter notario fraud, [report it!](#)
- **Stay informed and sign up** at www.nilc.org/relief.html to receive updates. We'll share materials and information about new developments. To receive these updates by email, subscribe to our [Immigration Issues](#) email list (<http://tinyurl.com/mxbmyse>).

¹ See www.nilc.org/document.html?id=215.

² Those include an offense for which an element was active participation in a criminal gang or, for individuals older than 16, participation in an organized gang to further the illegal activity of the gang; an offense classified as a felony, other than a state or local offense for which an essential element was the individual's immigration status; an offense classified as an "aggravated felony" according to section 101(a)(43) of the Immigration and Nationality Act; conviction of three or more misdemeanors, other than minor traffic offenses or offenses for which an essential element was the individual's immigration status; and a conviction of a "significant misdemeanor" (defined in the memo).

³ The memo notes that ICE may also seek transfer of an individual "otherwise determined [a priority] under the November 20, 2014" memo if the state or local agency agrees to "cooperate" with such a transfer. The memo does not define what it means to "cooperate" with the transfer.

⁴ Domestic violence, sexual abuse or exploitation, burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or driving under the influence. For an offense not listed above, one for which the person was sentenced to custody for 90 days or longer (this does not include a suspended sentence).