



TRUMP'S DAY 1 EXECUTIVE ORDERS: FOCUS ON CRIMINALIZATION AND DETENTION

On January 20, 2025, Donald Trump issued more than a dozen Executive Orders (EOs) that seek to sow fear in immigrant communities. These orders seek to militarize our borders and immigration enforcement more broadly, massively expand the existing deportation and detention machinery, punish organizations that care for immigrants as well as local governments that prioritize protecting their residents, and misinterpret the U.S. Constitution and immigration laws. They attempt to do everything from effectively ending asylum and birthright citizenship to teeing up immigration bans and expansive indefinite detention. They are steeped in white supremacist ideology and criminalizing narratives about immigrants. Together, the EOs create a web of entanglement among immigration, military and criminal law enforcement at federal, state, and local levels.

The EOs would, as a whole, expand the power of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), which have a long history of abusing immigrants, harassing and arresting U.S. citizens, and killing people of color in their custody. But they are simply a distraction from the real problems that people in the United States face. The policies and the rhetoric surrounding them are an attempt to use the concepts of public safety and national security to pit communities against each other and whip up nationalist fervor in order to legitimize Trump's presidency. No nuance, no new ideas, just cruelty and chaos undergirded by racist stereotypes.

Public safety and security is created by social and economic stability, not by over-policing, racial profiling and immigration enforcement. Tearing families apart is cruel and dangerous and will never make our communities more safe. These EOs will devastate families, communities, and the U.S. more broadly.

This document outlines portions of the EOs that use contact with the criminal system and immigration detention to further criminalize, detain and deport immigrants.

MORE CRIMINAL PROSECUTIONS

Trump and his allies have long used tragedies and criminalizing rhetoric to scapegoat and villainize immigrants. The EOs further weaponize the criminal legal system - which is already rife

with racism in policing, prosecutions and sentencing decisions - to impose increasingly harsh criminal penalties on immigrants and citizens by:

- [Directing the Attorney General](#) to “prioritize the prosecution of criminal offenses related to the [unauthorized entry](#) or [continued unauthorized presence](#)” of immigrants in the United States and shifting ICE Homeland Security Investigations’ primary mission to enforce immigration and federal laws related to [illegal entry](#) and [unlawful presence](#). Unauthorized entry became a federal crime in the late 1920s and has [roots in eugenics](#) and white supremacist ideology. It was also the cornerstone of the family separation policy during the first Trump Administration, which resulted in [separating thousands of children](#) from their families. The EO contemplates its use for people coming into the country and those already here. “Continued unlawful presence” is not a federal crime, and we do not yet know the full range of conduct the administration will attempt to prosecute under this directive.
- [Calling generally for criminal charges](#) against immigrants who violate immigration law. This order does not further describe the specific criminal charges, but could be a call for expending federal resources to search for any possible criminal statute to wield against people who may be violating civil immigration laws.
- Calling for [criminally prosecuting persons who “facilitate](#) [an immigrant’s] unlawful presence in the United States.” The order does not further describe what conduct will be [targeted](#), or what existing criminal laws will be used.
- Prioritizing investigation and prosecution of [border-related offenses](#).
- Directing the Attorney General to consider [criminal charges against local officials](#) in jurisdictions that protect their immigrant residents and refuse to let their resources be used for immigration arrests (also known as “sanctuary jurisdictions”).
- Mandating the Attorney General to pursue the [death penalty](#) in every case possible involving an undocumented person and encouraging states to do the same.

Note: News reporting on January 22, 2025 reveals a [Department of Justice memo](#) that implements many of these EOs and lists some of the federal crimes to be prosecuted, including failure to register or provide change of address information and prosecutions against public officials in sanctuary jurisdictions.

DETENTION EXPANSION

The first Trump administration relied on the immigration detention system to facilitate his anti-immigrant agenda, and the most recent EOs continue down that path. Today there are over 39,000 people in ICE detention, a system with an extensively documented history of abuse and neglect. The EOs issued on day one will lead to a massive increase in the number of people detained and would require massive infrastructure investment to expand immigration detention capacity. The EOs impact detention by:

- Explicitly directing immigration authorities to [expand immigration detention](#) capacity and to detain noncitizens throughout the duration of their deportation proceedings.

- Directing immigration agencies to [expand the use of expedited removal](#) to the full extent allowed under law, beyond how it has traditionally been used. It would be expanded [nationwide](#) and to anyone who [entered without inspection or parole](#) and cannot prove to an immigration agent that they have been continuously present in the United States for [two years](#). Expedited removal is a fast-tracked deportation “process” that effectively denies people the ability to fully prepare their case and present it to an immigration judge and denies them ability to appeal decisions. People are detained throughout this process, where ICE or CBP officers act as both prosecutor and judge, and unlawful deportations are common.
- Requiring [“maximum” immigration detention](#) for any person arrested “on suspicion of violating Federal or State law.”
- [Terminating various legal pathways and calling for the termination of parole programs](#), meaning people who would have otherwise qualified to go through their immigration proceedings in community will be detained. On January 21, 2025, DHS issued a directive specifically calling for an end to the “broad use” of [humanitarian parole](#).
- Rescinding the Biden administration’s [enforcement priorities](#) and any resulting memos and directives, meaning that more people will be [targeted for detention and deportation](#).
- Rescinding the Biden administration’s EO that ended the use of [private prisons](#) by the federal government. While Biden’s EO shamefully excluded ICE detention, its rescission opens the door to restoring and initiating new federal Department of Justice contracts with private prison corporations, and with that, the possibility of any additional federal prison capacity being used to detain immigrants.

SEIZING LOCAL AND MILITARY RESOURCES FOR IMMIGRATION ARRESTS, DETENTION AND DEPORTATION

The EOs seek to siphon personnel and resources from institutions that should not have a role in immigration arrests, detention and deportation, including state and local governments and the military. They also entangle ICE and local law enforcement agencies more deeply, enable racist and anti-immigrant elected officials to further harm their immigrant residents, and coerce and threaten localities that refuse to be used to enact the administration’s hateful policies. They do this by:

- Calling for [expanding the use of 287\(g\) agreements](#) or other mechanisms to use local law enforcement for immigration arrests, detention and deportation.
- Directing the Attorney General and Secretary of Homeland Security to [withhold federal funds](#) from all jurisdictions with sanctuary policies “to the maximum extent possible under law.”
- Authorizing the Attorney General and Secretary to take [“any measures \(civil or criminal\)” against the jurisdictions](#) that uphold sanctuary policies.
- Directing the Attorney General and DHS Secretary to establish federal [“Homeland Security Task Forces”](#) with local and federal personnel across states.
- Declaring a [national emergency](#) and directing the military to assist DHS at the southern border, construct physical barriers, and use aerial surveillance on border communities (within 5 miles

of border).

- Assigning [immigration responsibilities to the military](#) via United States Northern Command (USNORTHCOM).
- Enabling DHS and the military to [more freely use force](#) against people.

MORE DOUBLE PUNISHMENT FOR CRIMINAL SYSTEM CONTACTS

Immigration law already imposes a double punishment of detention and deportation on immigrants who have been convicted of certain crimes. The EOs use criminal system contacts - and even the theoretical possibility of criminal system contacts - to deny entry into the United States, bar relief, and deport more people. They do this in several ways:

- Directing multiple agencies to heighten [investigations \(“vetting”\)](#) of people applying for admission and those already here.
- Calling for the [suspension of entry](#) or access to status for people who cannot provide adequate medical or criminal background information before entering the US, despite the difficulty of obtaining documents in many countries, especially for those fleeing persecution.
- Directing agencies to develop [new enforcement priorities](#), using the false frames of “protecting public safety and national security,” that have been used to target immigrants who are already subject to racist policing and prosecutions but don’t actually promote public safety.
- Calling for more criminal prosecutions (see above), which themselves can trigger deportation or make immigrants ineligible for relief from deportation.
- Requiring [“maximum” immigration detention](#) for any person arrested “on suspicion of violating Federal or State law.”
- Reestablishing the [VOICE office](#) within ICE, initially created under the first Trump Administration. It purported to provide assistance to survivors of violence (which was already a function of the existing Office for Victims of Crime within DOJ), but instead was largely a platform to advance false narratives about immigrants and crime.

ATMOSPHERE OF UNCERTAINTY, FEAR, AND CHAOS

The EOs are intended to create an atmosphere of uncertainty, fear and chaos in communities across the United States. The EOs target and scapegoat immigrants using various criminalizing labels to justify harsh enforcement tactics and surveillance. They seek to deny people the opportunity to argue their immigration cases or seek pathways for staying or migrating to the United States by using these labels to deny any due process. They do this by:

- Directing agencies to publish instructions for immigrants to [register with the government](#) and designating the failure to do so as a civil *and criminal* enforcement priority.
- [Directing agencies to expansively designate cartels and gangs as terrorists](#) to pave the way for

the detention and deportation of purported members without any hearings or process using archaic laws not designed for this purpose. This order also sets the administration's intent to invoke the Alien Enemies Act (AEA) to quickly expel people covered under this designation.

- The AEA is an outdated and dangerous law that has only been invoked during wartime. It purports to allow the president, once a declaration has been made, to detain and deport noncitizens of a given country without further due process.
- ICE and criminal law enforcement agencies have a long history of profiling young Black and Brown men, claiming they are members of gangs with little more than the existence of tattoos, clothing, neighborhood or associations with others as proof.
- Calling for the adjustment of regulations, policies and procedures related to [criminal and security inadmissibility grounds](#), including by using visa sanctions to coerce other countries to cooperate with the administration's deportation agenda.
- Calling for [additional resources from multiple agencies to be directed towards](#) heightened vetting and screening of all people seeking to enter the United States and those already here, as well as towards denaturalization and revocation of citizenship.
- On January 21, 2025, DHS issued a [directive rescinding](#) a memo prohibiting ICE from enforcement activities at or near sensitive locations like schools, places of worship, healthcare sites, shelters and relief centers has been revoked.