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Gibson Dunn Launches Immigration Task Force

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Gibson Dunn is proud to launch an Immigration Task Force, which will bring together the firm's expertise in humanitarian immigration law, employment law, appellate and constitutional law, and administrative law and policy. One primary goal of the Immigration Task Force will be to provide our clients with timely, thoughtful updates on immigration developments, including newly issued executive orders, court decisions, and other developments across both the business and humanitarian immigration sectors. This work will, of course, dovetail with our robust pro bono immigration practice, which has long stood for the belief that lawyers have a responsibility to promote safety, freedom, and justice for those seeking refuge from persecution, safety from physical and sexual violence, and the chance to build a better life. In the past, that practice has included representing Dreamers at the Supreme Court, mobilizing firmwide efforts to assist Afghans seeking safety from the Taliban, and assisting vulnerable child migrants obtain legal status. You can learn more about our pro bono immigration practice here. We are closely monitoring developments in the area and will prepare regular updates to help our clients, nonprofit partners, and our larger community navigate a rapidly evolving landscape. The first of these updates appears below. Should you have any questions about developments in this space, including how changes might impact your workforce or your community, please do not hesitate to reach out to any member of our Immigration Task Force, listed below. Stuart F. Delery – Co-Chair, Administrative Law & Regulatory Practice Group, Washington, D.C. (+1 202.955.8515, sdelery@gibsondunn.com) Naima L. Farrell – Partner, Labor & Employment Practice Group, Washington, D.C. (+1 202.887.3559, nfarrell@gibsondunn.com) Nancy Hart – Partner, Litigation Practice Group, New York (+1 212.351.3897, nhart@gibsondunn.com) Katie Marquart – Partner & Chair, Pro Bono Practice Group, Los Angeles (+1 213.229.7475, kmarquart@gibsondunn.com) Laura Raposo – Associate General Counsel, Gibson Dunn, New York (+1 212.351.5341, lraposo@gibsondunn.com) Matthew S. Rozen – Partner, Appellate & Constitutional Law Practice Group, Washington, D.C. (+1 202.887.3596, mrozen@gibsondunn.com) Ariana Sañudo – Associate, Pro Bono Practice Group, Los Angeles (+1 213.229.7137, asanudo@gibsondunn.com) Betty X. Yang – Partner & Co-Chair, Trials Practice Group, Dallas (+1 214.698.3226, byang@gibsondunn.com) **Immigration Updates: One Week After Inauguration** Immigration and border security, which were central themes of Donald Trump's 2024 presidential campaign, have been clear priorities during the first days of his new administration.[1] Within hours of taking office, President Trump signed numerous executive orders (EOs) and other similar documents addressing various aspects of immigration enforcement and border security.[2] EOs—official documents through which the President directs and manages the federal government's operations—have become a frequently-used tool enabling presidents to change government policy in the early days of a new administration with immediate effect. Several of President Trump's day-one EOs will have far-reaching implications for immigrants in the United States, refugees seeking safety in the United States, mixed-status families across the country. Although the EOs issued so far do not directly address non-immigrant employment-based visas (like H1-Bs), some provisions may be relevant to the visa process generally or have other indirect effects on non-immigrants with employment-based visas. For example, certain EOs seem to impose enforcement cooperation requirements on individuals or companies who interact with noncitizens; others impose broad new requirements on all aliens seeking to enter the country, even nonimmigrants on temporary visas. The impact of many of those orders will only be magnified by other EOs, new agency rules, and legislative actions anticipated for

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the coming weeks and months While the immigration enforcement landscape is rapidly evolving, this Client Alert provides an overview of certain noteworthy recent developments. **Section I** analyzes recent EOs (1) restricting U.S. citizenship; (2) imposing changes to border enforcement; (3) increasing immigration detention and removal of noncitizens; and (4) suspending refugee admissions. **Section II** provides an overview of recent guidance and directives issued by federal agencies that oversee and interact with the immigration system under President Trump. **Section III** details the Laken Riley Act, a measure increasing immigration detention that is soon expected to be signed into law. Finally, **Section IV** provides an update regarding a court challenge to the Deferred Action for Childhood Arrivals (DACA) program. **I. Executive Orders**

1. Citizenship

"Protecting the Meaning and Value of American Citizenship"[3] This EO declares that an individual born in the United States is not a citizen if, at the time of their birth, (1) their mother is "unlawfully present" or (2) their mother's presence is "lawful but temporary," if in either circumstances their father is not a U.S. citizen or lawful permanent resident. The EO applies to any child born after thirty days from its issuance on January 20, 2025.[4] The EO posits that the Citizenship Clause of the Fourteenth Amendment to the U.S. Constitution ("Citizenship Clause") was not meant to extend "universally to everyone born" in the United States, and that it has "always excluded from birthright citizenship persons who were born in the United States but not 'subject to the jurisdiction thereof.'"[5] The EO then asserts that "[a]mong the categories of individuals born in the United States and not subject to the jurisdiction thereof" are the two described above. This reading of the Citizenship Clause is contrary to longstanding legal, social, and historical precedent on the issue; the Constitution has long been interpreted in law and policy to guarantee citizenship to those born on American soil regardless of race, creed or class.[6] By way of background, the Citizenship Clause was born out of the Reconstruction Era following the Civil War and the end of slavery, guaranteeing the citizenship of all persons born in the United States.[7] This guarantee was clarified in *United States v. Wong Kim Ark*, a landmark 1898 Supreme Court case that confirmed the Citizenship Clause extended to children born in the United States to noncitizen parents - the exact population targeted by this EO.[8] *Wong Kim Ark* excluded children born in the United States to foreign diplomats from the Citizenship Clause, establishing the paradigmatic class of persons "not subject to the jurisdiction" of the United States.[9] Individuals who are "not fully subject to the sovereign authority of the United States," better understood as those that "enjoy[] common law immunity from local law," would be excluded from the automatic guarantees of the Citizenship Clause.[10] This longstanding interpretation of the Citizenship Clause has not been without its opponents. Several (unsuccessful) legislative efforts at narrowing the "subject to the jurisdiction" requirement have been made over the years.[11] The issue of birthright citizenship has not been directly taken up by the Supreme Court in the past 125 years, but conservative judges on lower appellate courts have indirectly opined on the issue.[12] Further, there is a body of legal scholars who have long argued that the Citizenship Clause's guarantee of birthright citizenship lacks legitimacy.[13] On January 20, the same day the EO was issued, the American Civil Liberties Union (ACLU) and other immigration nonprofits filed a lawsuit against the Trump Administration, arguing that the order violates the Citizenship Clause and other statutory provisions.[14] Relying on Supreme Court precedent, the ACLU seeks an injunction against the order, asking for the continued protection of "America's most fundamental promise."[15] The following day, on January 21, eighteen states similarly filed suit against the Trump Administration.[16] That complaint details the longstanding history of the right of citizenship to all persons born in the United States, arguing that there are no other exceptions in the Citizenship Clause besides limited exclusions to those "not fully subject to United States law."[17] The complaint also alleges that President Trump acted outside of his authority because a president's power to set immigration policy does not extend to the actions detailed in the order.[18] On the same day, four additional states brought a separate lawsuit in a different jurisdiction.[19] In establishing that the EO will cause "immediate and irreparable harm," the complaint discloses that in 2022, approximately 153,000 children were born in the United States to two undocumented parents.[20] Both

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suits are seeking a preliminary injunction to block the order before it is implemented. Last week, other immigrants-rights organizations also filed similar suits seeking an injunction against the order.[21] On January 23, a federal judge in Seattle, Washington presiding over the four-state suit granted a temporary restraining order against the implantation of order, calling it "blatantly unconstitutional."[22] The order will remain in effect for fourteen days and applies nationally. Notably, other EOs issued on the same day are based on the premise that this category of individuals – noncitizens, including those born on United States soil – *are*, in fact, subject to the jurisdiction of the United States. For example, one other EO issued the same day requires noncitizens to register and present their fingerprints to the U.S. government[23]; another subjects them to the death penalty for qualifying offenses.[24]

2. Border Enforcement

In his inaugural address, President Trump stated that the U.S. government "fails to protect our magnificent, law-abiding American citizens but provides sanctuary and protection for dangerous criminals, many from prisons and mental institutions, that have illegally entered our country from all over the world."[25] He went on to say that "all illegal entry will immediately be halted, and we will begin the process of returning millions and millions of criminal aliens back to the places from which they came."[26] Immediately following his inauguration, President Trump issued several presidential actions with stated goals of repelling "invasions" of migrants at the country's borders, expanding funding and power for border security, and increasing militarization at the southern border space overlap significantly and provide related, similar, or identical directives. Certain pertinent directives are outlined below. **"Declaring a National Emergency at the Southern Border of the United States; "Clarifying the Military's Role in Protecting the Territorial Integrity of the United States"** Invoking Sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the first of these presidential actions is a proclamation that "declare[s] that a national emergency exists at the southern border of the United States [27] This proclamation reinstated the national emergency President Trump declared in his first term and rescinded the Biden Administration EO that terminated that earlier emergency.[28] In February 2019, President Trump declared a national emergency at the southern border as a way to direct the construction of a border wall.[29] That declaration faced legal challenges on the basis that using the National Emergencies Act without a true emergency was a contravention of Congress's will.[30] Because crossings at the southern border have fallen dramatically in the last year,[31] similar challenges are likely here, although historically presidents have received substantial deference in the definitions of national emergencies. The emergency declaration and a second EO, "Clarifying the Military's Role in Protecting the Territorial Integrity of the United States," direct an expansion of the military's role in border enforcement. The national emergency declaration (1) directs the Secretary of Defense to order members of the U.S. military to support the Secretary of Homeland Security's efforts at the southern border, including by providing detention space and transportation and logistical support; (2) directs the Secretaries of Defense and Homeland Security to construct additional physical barriers along the southern border; and (3) directs the Secretaries of Defense and Homeland Security, in consultation with the Attorney General, to prioritize the impedance and denial of unauthorized entry at the southern border.[32] The proclamation directs the U.S. military that 10 U.S.C. Section 12302 (the Ready Reserve provision) and 10 U.S.C. Section 2808 (the emergency military construction provision), are both in effect.[33] Further, it is notable that this proclamation does not mandate the construction of a "border wall," but rather "additional physical barriers" at the border. During the first Trump administration, Congress passed a funding bill specifically to construct a 55-mile-long border wall;[34] no such legislation is currently in effect. In the "Clarifying the Military's Role" EO, President Trump ordered that, within 10 days of its effective date, the Secretary of Defense will assign U.S. Northern Command[35] "the mission to seal the borders and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities."[36] The EO further directs that several requirements be added to the Contingency Planning Guidance and Guidance for

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the Employment of the Force, including (1) a requirement to "seal the borders . . . by repelling forms of invasion, including unlawful mass migration"; (2) a requirement "to provide steady-state southern border security"; and (3) "[c]ontinuous assessments of all available options" to further the purpose of the order.[37] Active-duty military had already been used in support functions at the border during previous administrations, including during the Biden administration,[38] but this executive order appears to contemplate expanding the military's presence and role in border security in a way, and to a degree, not previously seen. On January 22, the Department of Defense (DOD) announced a deployment of 1,500 troops to the southern border, in addition to the 2,500 troops already at the borders.[39] DOD anticipates executing additional missions to the border, following an internal Customs and Border Protection announcement to dispatch around 10,000 troops.[40] DOD also announced that it will provide airlift support for the deportation of over 5,000 individuals detained by CBP in California and Texas.[41] During the first Trump administration, the Department of Justice's (DOJ) Office of Legal Counsel (OLC) issued an opinion concluding that DHS's request that DOD perform various duties to support Customs & Border Protection at the southern border was permitted.[42] The OLC opinion found that several specific requests for DOD to support DHS efforts at the border[43] did not violate the Posse Comitatus Act, which "generally prohibits the use of the military to engage in civilian law enforcement activities," or DOD regulations.[44] It is unclear whether the OLC will sanction additional activities resulting from these new orders, which appear to be broader on their face than that at issue during the first Trump administration.

"Securing Our Borders" The stated goal of the EO titled "Securing Our Borders"[45] is to "marshal all available resources and authorities to stop [an] unprecedented flood of illegal aliens into the United States." This EO provides less detailed operational guidance than others, and it includes some elements discussed elsewhere in this alert (and outlined in other overlapping orders)—notably directing the Secretary of Defense and the Secretary of Homeland Security to build "temporary and permanent physical barriers" on the border (though as noted above, not explicitly to build a "wall" along the entire border); and directing those secretaries to "deploy sufficient personnel along the southern border of the United States to ensure complete operational control."[46] The "Securing Our Borders" EO does include several additional directions. It (1) commands the Secretary of Homeland Security to detain individuals violating immigration laws "to the fullest extent permitted by law," including the prompt removal of aliens who enter *or remain* in the United States in violation of federal law and by terminating "the practice commonly known as 'catch-and-release,'" where individuals in immigration detention may be released on bond as they await immigration court proceedings; (2) orders enforcement actions against those who are in the United States unlawfully *and* those who "facilitate their unlawful presence in the United States"; and (3) requires migrants and asylum-seekers to "remain in Mexico" as they await adjudication of their cases.[47] The latter of these steps was accomplished through rescinding a Biden-era EO and revamping the first Trump administration's Migrant Protection Protocols ('MPP'),[48] a program that went into effect in January 2019 and resulted in sending nearly 70,000 migrants back to Mexico in its first wave (creating massive logistical issues and exacerbating human rights violations and violence at the border).[49] The reinstatement of MPP will again require border officials to instruct migrants seeking asylum to wait in Mexico for their hearings in immigration court. MPP requires the cooperation of the government of Mexico; on January 22, Mexico's president Claudia Sheinbaum stated that Mexico had not agreed to accept non-Mexican migrants.[50] She clarified that Mexico was prepared to offer some forms of humanitarian aid to migrants of other nationalities as well as voluntary repatriation. Finally, this EO includes a requirement of full cooperation with immigration enforcement – presumably including by companies and their representatives. While it is presently unclear how and to what extent this EO will be implemented in the corporate sphere, it appears to open the door to require companies to participate in enforcement actions against noncitizens by the federal government.

"Guaranteeing the States Protection Against Invasion" In this far-reaching proclamation, President Trump "determined that the current situation at the southern border qualifies as an invasion under Article IV, Section 4 of the Constitution" and "suspend[ed] the physical entry of aliens involved in an invasion into the United States across the southern border until I determine that the invasion has concluded."[51] This proclamation disallows migrants from "invoking provisions of the [Immigrant and

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Nationality Act] that would permit their continued presence in the United States."[52] President Trump grounds his authority for this proclamation in Article IV of the Constitution, which guarantees that the federal government will protect the States from "invasion," and the president's Article II power over foreign affairs (as well as section 212(f) of the Immigration and Nationality Act, which allows a president to "suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate."[53] Thus, the combination of these powers, according to the proclamation, allows President Trump to declare that there is an active "invasion" against the states at the southern border, and gives him the "ability to prevent the physical entry of aliens involved in an invasion into the United States, and to rapidly repatriate them to an alternative location."[54] Notably, the President seems to recognize in the proclamation that many of the directives in this (and other) orders arguably conflict with the language of the INA, setting up a direct conflict between statutes and the President's constitutional authority. The President noted that Congress "created a complex and comprehensive Federal scheme" in the INA. He argued that "[i]n routine circumstances, this complex and comprehensive scheme can protect the national sovereignty of the United States by facilitating the admission of individuals whose presence serves the a national interest and preventing the admission of those who do not," but that "screening under those provisions can be wholly ineffective in the border environment" and "[t]he sheer number of aliens entering the United States has overwhelmed the system and rendered many of the INA's provisions ineffective." While "[t]he INA provides the President with certain emergency tools," the statute "does not, however, occupy the Federal Government's field of authority to protect the sovereignty of the United States, particularly in times of emergency when entire provisions of the INA are rendered ineffective by operational constraints, such as when there is an ongoing invasion into the United States." These robust assertions of inherent constitutional authority to override provisions of statute are reminiscent of earlier debates about the scope of the President's authority vis-à-vis Congress in foreign affairs and as Commander in Chief.[55] President Trump previously relied on section 212(f) in his first term to ban travelers from seven predominantly Muslim countries from entering the United States—this faced numerous court challenges, but the Supreme Court ultimately upheld his ban.[56] While he has not yet issued another "travel ban," he has signed an EO requiring the "enhance[d] vetting and screening of illegal aliens."[57] It is possible that this could presage an upcoming travel ban for individuals from certain countries to be issued in the near future. More broadly, this proclamation relies on sections 212(f) and 215(a) of the INA to require noncitizens who enter the country to provide sufficient and verifiable documentation of medical and criminal history "as to enable fulfillment of the requirements of sections 212(a)(1)-(3) of the INA" before being granted such permission.[58] President Trump reasoned that "the Federal Government currently lacks an effective operational capacity to screen all illegal aliens crossing the southern border for communicable diseases of public-health concern" and "[a]s a result, innumerable aliens potentially carrying communicable diseases of public health significance illegally cross the southern border and enter communities across the United States."[59] Notwithstanding the rationale outlined in the preamble, however, the proclamation is not limited to noncitizens entering through the southern border and may therefore impose additional medical and criminal background check requirements on those entering the United States even on non-immigrant visas and via different ports of entry. This may result in processing delays for noncitizen travel to the United States. This provision may connect back to President Trump's first term where he sought to limit entry and remove migrants under 42 U.S.C. §§ 265 and 268 (Title 42) during the COVID-19 pandemic.[60] Relying on the rationale that crowded ports of entry could lead to the spread of COVID-19 and the entrance of migrants into the country could have exacerbated the pandemic, the Trump Administration recommended that Title 42 be invoked and enforced to disallow migrants from entering the country and remove those without legal status, suspending migrants' right to seek asylum at this time.[61] The decision to prohibit entry under Title 42 continued under President Biden[62]; under both administrations, it was criticized as both ineffective from a public health perspective and counterproductive from a border security perspective.[63] Nevertheless, this proclamation seeks to continue to appeal to public health concerns in deciding to impose additional burdens on those seeking to enter the

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United States. Later on the same day he issued the EOs and proclamations, President Trump's administration started the process of implementing these directives. Within hours of his inauguration, for example, U.S. border authorities shut down the CBP One mobile application.[64] CBP One is a Biden-era program that allowed migrants to submit advance information and schedule appointments to seek lawful entry into the United States, allowing them to assert claims for asylum or other forms of relief authorized under international and national law at designated ports of entry.[65] Prior to June 2023, the program granted appointments to 1,000 migrants per day and, since then, 1,450 migrants were granted appointments daily.[66] On January 20, 2025, however, a notice on the CBP website stated that the application is no longer available and that existing appointments made through the application have been cancelled.[67] In practice, the shutdown of the CBP One system has effectively shut off asylum access at the southern border entirely, including for families who have been waiting for months for their chance to get to safety in the United States. In response, the ACLU, which has been litigating a case since the Biden administration (*Las Americas Immigrant Advocacy et al. v. U.S. Dep't of Homeland Sec. et al.*) moved for an emergency status conference to address the abrupt cancellation of the CBP One mobile application and program.[68] The original suit challenged the Biden administration's mandatory usage of the CBP One app to apply for asylum, alleging that it was violating 8 U.S.C. § 1158(a)(1) which provides any noncitizen who arrives in the United States the right to seek asylum, whether or not they enter through a designated point of entry.[69] However, now with the complete elimination of the CBP One app and the suspension of entry through the border altogether, the ACLU argues in its motion for an emergency hearing that "the right to seek asylum at the border no longer exists, no matter how great the danger faced by migrants, including families with children."[70] It also argues that such a result is a further violation of 8 U.S.C. § 1158(a)(1) because now no one can seek asylum at the border, through the app or otherwise.

3. Detention and Removal of Noncitizens, and Other Enforcement Actions

"Protecting the American People Against Invasion" Similar to other orders described in this alert, this order's preamble recites claims of danger to native-born U.S. citizens by "criminal aliens" and of the ills of continued strain on government resources posed by noncitizens' presence in the country.[71] This sweeping order contains numerous provisions that will impact the logistical and legal frameworks for processing and evaluating migrants' claims for immigration relief. Certain of the key sections of this EO are outlined here:

- *Section 2:* This section includes a policy statement that immigration laws should be enforced against "all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people" and that "it is the policy of the United States to achieve the total and efficient enforcement of those laws."[72]

- *Section 4:* This section calls on DHS to set enforcement priorities—presumably in recognition of the fact that the government lacks the resources to carry out the policies outlined in Section 2.[73] In fact, the Supreme Court recognized in *United States v. Texas* (2023) that "the Executive Branch does not possess the resources necessary to arrest or remove all of the noncitizens covered by" arrest and removal statutes, and "[f]or the last 27 years . . . all five Presidential administrations have determined that resource constraints necessitated prioritization in making immigration arrests."[74]

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- *Section 6:* This section directs the Secretary of Homeland Security and the Attorney General to create Homeland Security Task Forces (HSTFs), comprised of representatives from various law enforcement agencies, in all States nationwide.[75] The purpose of these task forces is to address crimes associated with immigration and execute immigration laws. The announcement of these task forces follows models used in other areas by other agencies, and, as discussed further in Section II below, DOJ has instructed that FBI Joint Terrorism Task Forces will be used to fill this mandate until the HSTFs are established.[77] Companies who employ noncitizens or individuals with temporary work authorization may want to consider preparing for enforcement actions by these task forces (such as workplace raids), including by establishing action plans, points of contact, and trainings for management-level employees.

- *Sections 7 and 8:* These sections impose requirements that certain noncitizens register their presence with the U.S. government or risk prioritized enforcement actions against them or the levying of fines and penalties.[78] This is arguably analogous to the post-9/11 National Security Entry Exit Registration System program which, for many years, also required registration of certain people present in the United States, mostly those from Muslim and Arab-majority nations.[79] That program was ended in 2016 following findings of its ineffectual nature and unlawful racial profiling.[80] A registration requirement that applies to all noncitizens without regard to nationality may avoid such concerns.

- *Section 9*: This section requires the increased usage of expedited removal procedures whereby certain noncitizens are quickly removed from the country without ever seeing a judge or being permitted to raise claims for relief in a court.[81] Before this EO, expedited removal was only available to individuals who crossed a land border if they were apprehended within 14 days of their arrival in the country within 100 miles of the border; now, this is available anywhere in the country against any undocumented individual who cannot prove they have been in the United States for at least two years before apprehension.[82] On January 22, 2025, an immigrant advocacy group called Make the Road New York filed a lawsuit claiming that this expansion of expedited removal violates the Fifth Amendment's Due Process Clause, the INA, and the Administrative Procedure Act.[83]

- *Section 10*: This section reflects the stated policy of the Trump administration that all migrants be detained pending resolution of their removal proceedings (although, as reflected elsewhere, this is currently an impossibility based on existing detention facility capacity).[84]

- *Section 11:* This section expands the use of the 287(g) program, named for the section of the INA that allows DHS to enter into written agreements with state or local law enforcement agencies to deputize selected law enforcement officers to perform functions of federal immigration agents.[85] This program existed before the Trump administration; as of December 2024, ICE had 287(g) agreements with 135 state or local law enforcement agencies across 21 states, but we can expect those numbers to increase.[86]

- *Section 16*: Indirectly, this section calls for limiting grants of humanitarian parole, Temporary Protected Status (TPS), and employment authorization to existing statutory requirements.[87] From context, this appears to be based on the assumption that the Biden administration did not comply with statutory requirements when granting these forms of relief to noncitizens.[88] It is unclear how this will be specifically enforced in practice; however, it does signal the Trump administration's general intent to restrict the usage of these mechanisms.

- *Section 17:* This section seems to broadly curtail the disbursement of *all* federal funds to so-called "sanctuary jurisdictions" (a nonlegal term generally referring to a policy that limits the extent to which a local or state government will share

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information with federal immigration law officers).[89] During the first Trump administration, following a similar order, then-Attorney General Jeff Sessions narrowed the funds at issue to DOJ and DHS funds only, rather than all federal funds.[90] It remains to be seen whether a similar narrowing will take place here.

- *Section 19:* In addition to the enforcement tactics directly targeted against immigrants in the United States, the order seeks to remove resources that support those individuals via ancillary resource curtailing. For example, this section directs DHS and the Office of Management and Budget (OMB) to review/audit funding to non-government organizations supporting or providing services to noncitizens and pause distribution of further funds to those organizations until the review is complete.[91]

- *Section 20:* Relatedly, this section requires the OMB to take action to stop agencies from making public benefits available to noncitizens who are not authorized by statute to receive them.[92]

"Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists" This order declares a national emergency to deal with the "extraordinary threat to the national security, foreign policy, and economy of the United States" that drug cartels and other similar organizations pose.[93] Although the order does not itself designate these organizations as terrorist organizations, it "creates a process" to designate cartels and other organized criminal organizations, such as Tren de Aragua and MS-13, as terrorist organizations.[94] Foreign Terrorist Organization (FTO) status and Specially Designated Global Terrorist (SDGT) status have serious consequences. Among other things, FTO and SDGT members are not admissible to the United States, persons subject to U.S. jurisdiction face criminal liability for knowingly providing FTOs "material support or resources," and there are certain private rights of action against FTOs.[95] The order does not specify the intended consequences of the terrorist designations in the immigration context, but such designations could present an obstacle for asylum-seekers and others who enter the United States through the southern border, as individuals often pay money to a cartel at some point in their journey to the United States, because cartels have cornered the migrant-smuggling market. Anyone who pays a designated organization, even just to secure their own safe passage to the United States, may be found to have "engaged in terrorist activity" by providing "material support" (including money) to a "terrorist organization," thereby making them inadmissible to the United States.[96] **"Restoring the Death Penalty and Protecting Public Safety"** This EO requires the Attorney General to "seek the death penalty regardless of other factors" for every federal capital crime involving a "capital crime committed by an alien illegally present in this country."[97] The Attorney General is also directed to take all necessary actions to encourage state attorneys general and district attorneys to pursue the death penalty with the same intensity.[98]

4. Refugee Admissions

"Realigning The United States Refugee Admissions Program" The US Refugee Admissions Program (USRAP) is a program managed by the Department of State, Department of Homeland Security, and Department of Health and Human Services by which refugees registered with the United Nations High Commissioner for Refugees (UNHCR) are resettled in the United States.[99] The number of refugees admitted each year through USRAP is decided by the President in consultation with Congress.[100] In the 2024 fiscal year, around 100,000 refugees resettled in the United States, the most in nearly three decades. A hallmark of the refugee admissions process is the extensive vetting that these individuals receive before being approved to relocate to the United States – they can enter the country only after receiving a referral from a government agency or U.S.-based NGO and passing serious security screenings. EO's purpose section states: "The United States lacks the ability to absorb large numbers of migrants, and in particular, refugees, into its communities in a manner that does not compromise the availability of resources for Americans, that protects their safety and security, and that

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ensures the appropriate assimilation of refugees."[101] The order therefore "direct[s] that entry into the United States of refugees under the [United States Refugee Admissions Program (USRAP)] be suspended" beginning at 12:01am EST on January 27, 2025.[102] The order provides for very limited, small-scale exceptions, whereby "the Secretary of State and the Secretary of Homeland Security may jointly determine to admit aliens to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the entry of such aliens as refugees is in the national interest and does not pose a threat to the security or welfare of the United States."[103] The order also requires the Secretary of Homeland Security to suspend decisions on applications for refugee status until the program is resumed.[104] The EO also directs the Secretary of Homeland Security to "examine existing law to determine the extent to which, consistent with applicable law, state and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions, and shall devise a proposal to lawfully promote such involvement."[105] It also requires the Secretary of Homeland Security and the Secretary of State to, within 90 days of the order, "submit a report to the President through the Homeland Security Advisor regarding whether resumption of entry of refugees into the United States under the USRAP would be in the interests of the United States, in light of the policies outlined in section 2 of this order."[106] It further requires additional reports of the same nature "every 90 days thereafter until [President Trump] determine[s] that resumption of the USRAP is in the interests of the United States."[107] **II. Agency Guidance**

1. Department of Homeland Security

In the first week of the administration, President Trump's Acting Department of Homeland Security Secretary Benjamine Huffman issued two notable directives. The first rescinds the Biden-era Sensitive Locations Memorandum, a policy of that administration's DHS instructing Immigrations and Customs Enforcement and Border Patrol agents to not arrest undocumented individuals at or near various sensitive locations where people access "essential services" or engage in "essential activities" – including schools, places of worship, healthcare facilities, shelters, and public demonstrations.[108] The now-defunct policy was first adopted in 2011 and later expanded in 2021 by the Biden Administration. Currently, organizations who operate or facilitate attendance at these sorts of locations (including schools and hospitals) should be prepared for the strong possibility of increased enforcement activity. It is unclear whether an earlier version of sensitive location guidance will be reinstated or whether DHS will have free rein to engage in enforcement activity regardless of location. Note that various state and local governments (including the so-called "sanctuary jurisdictions" mentioned above) may provide their own versions of sensitive location protection. The other DHS directive implements one of the EO's mandates to rescind categorical eligibility for humanitarian parole for nationals of certain countries, requiring case-by-case assessment for all humanitarian parole applications (which is already the case for the vast majority of those applications).[110] The order specifically ends categorical parole for Cubans, Haitians, Nicaraguans, and Venezuelans.[111] It is not clear whether parole will be revoked for current parolees.

2. Immigration and Customs Enforcement

The guidance supersedes a 2021 Biden Administration memorandum that limited immigration enforcement actions in or near courthouses, on the basis that such actions have "a chilling effect on individuals' willingness to come to court or work cooperatively with law enforcement."[113] The new guidance authorizes enforcement actions in or near courthouses when agents "have credible information that leads them to believe the targeted alien(s) is or will be present at a specific location, and where such action is not precluded by laws imposed by the jurisdiction." [114] However, the guidance instructs that agents "should generally avoid enforcement actions in or near courthouses . . that are wholly dedicated to non-criminal procedures." Though ICE is meant to "target[]" individuals with these enforcement actions, they may sweep in "[o]ther aliens encountered . . . such as family members or friends accompanying the target alien to court appearances or serving as a witness in a proceeding." [115]

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3. Department of Justice

On January 21, 2025, Acting Deputy Attorney General Emil Bove sent a memorandum to all DOJ employees regarding interim policy changes impacting immigration enforcement. Section II of this memorandum specifically references cooperation with state and local law enforcement in support of enforcing President Trump's immigration priorities, including directing the Organized Crime Drug Enforcement Task Force and Project Safe Neighborhoods program to establish "national initiatives to provide focused resources and attention to immigration-related prosecutions at the federal, state, and local levels."[116] The memorandum additionally directs the FBI's Joint Terrorism Task Force to coordinate with DHS and state and local law enforcement regarding President Trump's immigration priorities until the announced Homeland Security Task Forces (addressed above) are in place. This coordination will include the circulation of identifying information and biometric data in order to identify noncitizens present illegally in the U.S.[117] Though the memorandum asserts that the "Supremacy Clause and other authorities require state and local actors to comply with" the President's immigration orders and forbid obstructing them,[118] the ultimate impact of these directives will depend on the degree of cooperation states afford DOJ, as well as if and how DOJ pursues coercive action against uncooperative states. Such actions may include criminal prosecution by the U.S. Attorney's Offices and civil investigations by the Sanctuary Cities Enforcement Working Group within the DOJ's Civil Division. During President Trump's first term, DOJ sent letters to jurisdictions with sanctuary city policies indicating that they may be in violation of 8 U.S.C. 1373, which bars states and localities from prohibiting the sharing of immigration status information with INS.[119] If the new administration pursues coercive action, it may face legal challenges, given the Tenth Amendment anti-commandeering principle, to attempts to compel state and local governments to carry out federal law enforcement.[120] In the first Trump Administration, the Department of Justice attempted to circumvent this limiting principle by barring sanctuary cities from its annual grant program for local law enforcement, with mixed results in the courts.[121] **III. The Laken Riley Act** Laken Riley Act would amend the INA to require *mandatory* detention of any undocumented individual who "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of" theft or related crimes, including burglary, larceny, or shoplifting.[123] An amendment offered by Senator John Cornyn of Texas and approved in the Senate expanded this list to also include "assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person."[124] The bill also provides for state attorneys general to be able to sue the Secretary of Homeland Security for failure to enforce provisions of the INA related to the inspection, apprehension, and detention of immigrants. The House passed the original version of the bill on January 7, 2025, and the Senate passed their version of the bill on January 21, 2025.[125][126] The Act would require a massive expansion of resources at ICE. The latest ICE estimate indicates that the agency would need 110,000 additional detention beds, 10,000 additional removal personnel, and 7,000 additional attorneys and support personnel for immigration proceedings.[127] ICE estimates that the bill will cost approximately $27 billion in the first year. Absent additional funding to meet these expanded resource needs, ICE has indicated it may have to release thousands of immigrants currently being detained, including some who have been deemed to be public safety threats.[128] Various groups have raised due process concerns with the Act's detention provisions and standing concerns with the Act's state attorneys general provisions, suggesting that the Act may face legal challenges.[129] **IV. *Texas v. United States*** On Friday, January 17, 2025, the Fifth Circuit affirmed a 2023 district court ruling in *Texas v. United States* that held parts of the Biden Administration's 2022 Deferred Action for Childhood Arrivals (DACA) rule are unlawful—but the Circuit's order contains significant limitations that will allow DACA to continue in most of the country.[130] The DACA policy was started by the Obama Administration with a 2012 memorandum. The policy allows persons with generally good records and proof of educational attainment, attendance, or military service, to seek deferred action, a practice in which the government elects not to seek removal of certain individuals.[131] The policy also permits participants to obtain work authorization.[132] The first Trump Administration purported to rescind the policy, but in 2020, the Supreme

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Court held in *Department of Homeland Security, et al. v. Regents of the University of California, et al.* that the rescission was unlawful.[133] Gibson Dunn represented six individual DACA recipients in obtaining and defending on appeal the first nationwide preliminary injunction halting the termination of DACA. The late Gibson Dunn partner Ted Olson represented DACA recipients, businesses, and nonprofits challenging the policy in presenting oral argument before the Supreme Court. In 2021, following the *Regents* decision, a Texas district court enjoined the DACA policy as operated through the 2012 DACA memorandum.[134] In 2022, the Department of Homeland Security engaged in formal rulemaking and issued a Final Rule that continued the DACA policy,[135] and the Fifth Circuit ordered the Texas district court to revisit its ruling in light of the Final Rule.[136] The district court again found the DACA policy substantively unlawful and enjoined the DACA policy nationwide.[137] On appeal of the nationwide injunction, the Fifth Circuit affirmed that the Final Rule is substantively unlawful, but limited its ruling, allowing the DACA policy to remain in effect everywhere except Texas and preserving the "deferred action" component of the rule that allows federal officials to deem DACA recipients a low priority for removal and to decide not to remove them.[138] The order also allows current DACA recipients (even in Texas) to renew their DACA status while the case remains on appeal, in anticipation of a potential petition for *certiorari* that could bring the DACA policy back before the Supreme Court.[139] In parallel with the *Texas* lawsuit, in May 2024, the Biden Administration issued a separate final rule that for the first time permits DACA recipients to purchase healthcare plans through Affordable Care Act (ACA) exchanges.[140] DACA recipients had previously been barred from accessing those exchanges as a result of regulations promulgated when the DACA policy was first adopted.[141] Seventeen states challenged the regulation in the District of North Dakota, and Gibson Dunn has moved to intervene on behalf of DACA recipients, to defend the rule.[142] In December, the district court granted a preliminary injunction and stay of the rule that continues to block DACA recipients in the nineteen states challenging the regulation from accessing the ACA exchanges.[143] The rule remains in effect in the remaining thirty one states. An appeal from the preliminary injunction and stay is currently pending before the Eighth Circuit Court of Appeals. [1] "Seal the border and stop the migrant invasion" and "Carry out the largest deportation operation in American history" were the first and second of President Trump's "20 Core Promises to Make America Great Again." *See* Agenda 47, DonaldJTrump.com (last accessed Jan. 21, 2025), available at https://www.donaldjtrump.com/platform. And "Make America Safe Again" along with seven action items related to immigration and border security, is the first of four priorities listed on the White House website. *See The Trump-Vance Administration Priorities*, White House (last accessed Jan. 21, 2025), available at https://www.whitehouse.gov/issues/. [2] Lexie Schapitl & Franco Ordoñez, *Trump Signs Executive Actions on Jan. 6, TikTok, Immigration and More*, NPR (Jan. 20, 2025), https://www.npr.org/2025/01/20/g-s1-43698/trump-inauguration-executive-orders-2025-day-1; *see also Initial Rescissions of Harmful Executive Orders and Actions,* White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/. [3] https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-meaning-and-value-of-american-citizenship/ [4] *Id.* [5] *Id.* [6] Complaint at 78, *State of New Jersey et al. v. Donald J. Trump*, No. 1:25-cv-10139 (D. Mass. filed Jan. 21, 2025). [7] Citizenship Clause, U.S. Const. amend. XIV § 1. [8] 169 U.S. 649 (1898). [9] *Id.* [10] Complaint at 84, *State of New Jersey et al. v. Donald J. Trump*, No. 1:25-cv-10139 (D. Mass. filed Jan. 21, 2025). [11] H.R. 1940, § 2(b); Sandra L. Rierson, *From Dred Scott to Anchor Babies: White Supremacy and the Contemporary Assault on Birthright Citizenship,* 38 Georgetown Imm. L. J. 1, 46 (2023). [12] U.S. v. Abbot, (W.D. Tex., 2024) (Ho, J., concurring),. [13] *See, e.g.*, John C. Eastman, *Born In The U.S.A.? Rethinking Birthright Citizenship In The Wake Of 9/11*, 42 Univ. Richmond L.R. 955, 964 (2008). [14] *Id.* [15] *Id.* at 1. [16] The eighteen states include the following: New Jersey, Massachusetts, California, Colorado, Connecticut, Delaware, Hawai'i, Maine, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Rhode Island, Vermont, Wisconsin, as well as Washington, D.C. and the City and County of San Francisco. Complaint, *State of New Jersey et al. v. Donald J. Trump*, No. 1:25-cv-10139 (D. Mass. filed Jan. 21, 2025). [17] *Id.* at 78-94. [18] *Id*. at 95-105. [19] These four states include Washington, Arizona, Illinois

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and Oregon. Complaint, *State of Washington et al. v. Donald J. Trump*, No. 2:25-cv-00127 (W.D. Wash. filed Jan. 21, 2025). [20] *Id.* at 3 [21] *See e.g.*, Complaint, *Casa, Inc. et al., v. Donald J. Trump*, No. 8:25 (D. Md. filed Jan. 21, 2025). [22] Order, *State of Washington et al. v. Donald J. Trump*, No. 2:25-cv-00127 (W.D. Wash. filed Jan. 21, 2025). [23] Securing Our Borders, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/ [24] Restoring the Death Penalty and Protecting Public Safety, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/restoring-the-death-penalty-and-protecting-public-safety/ [25] Donald J. Trump, The Inaugural Address (Jan. 20, 2025), available at https://www.whitehouse.gov/remarks/2025/01/the-inaugural-address/. [26] *Id.* [27] Proclamation, "Declaring A National Emergency at the Southern Border of the United States" (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/. [28] *Id.* [29] Proclamation No. 9844, 84 Fed. Reg. 4949 (Feb. 15, 2019). [30] *Border Wall Emergency Declaration Litigation*, Brennan Ctr. (Oct. 16, 2020), available at https://www.brennancenter.org/our-work/court-cases/border-wall-emergency-declaration-litigation (collecting cases). [31] John Gramlich, *Migrant encounters at U.S.-Mexico border have fallen sharply in 2024*, Pew Rsch. Ctr. (Oct. 1, 2024), available at https://www.pewresearch.org/short-reads/2024/10/01/migrant-encounters-at-u-s-mexico-border-have-fallen-sharply-in-2024/. [32] Proclamation, "Declaring A National Emergency at the Southern Border of the United States" (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/. [33] *Id.* [34] H.R.J. Res. 31, 116th Cong. (Feb. 15, 2019). [35] The U.S. Northern Command is responsible for "provid[ing] command and control of Department of Defense homeland defense efforts and to coordinate defense support of civil authorities." *Our Story*, U.S. N. Command, available at https://www.northcom.mil/About/ (last visited Jan. 24, 2025). [36] Exec. Or., "Clarifying the Military's Role in Protecting the Territorial Integrity of the United States" (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/clarifying-the-militarys-role-in-protecting-the-territorial-integrity-of-the-united-states/ [37] *Id.* [38] *Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act*, Dep't of Homeland Sec. (Sept. 20, 2023), available at https://www.dhs.gov/archive/news/2023/09/20/fact-sheet-biden-harris-administration-takes-new-actions-increase-border ("The Department of Defense is providing additional military personnel – on top of the 2,500 steady state National Guard personnel – to support the Department of Homeland Security (DHS)."). [39] Matthew Olay, *DOD Orders 1,500 Troops, Additional Assets to Southern Border,* Dep't of Def. (Jan. 22, 2025), available at https://www.defense.gov/News/News-Stories/Article/Article/4037935/dod-orders-1500-troops-additional-assets-to-southern-border/. [40] Camilo Montoya-Galvez, *Trump administration weighs sending 10,000 troops to border, using bases to hold migrants,* CBS News (Jan. 22, 2025), https://www.cbsnews.com/news/trump-troops-us-mexico-border/ [41] *Id.*; Olay, *supra* note 38. [42] Military Support for Customs and Border Protection Along the Southern Border Under the Posse Comitatus Act, 45 Op. O.L.C. 1–3, 13 (2021) (slip op.). [43] *Id.* at 2 ("[T]he rail-support duty would have military personnel assist CBP personnel responsible for inspecting unoccupied, unlocked vehicles being transported across the southern border in bulk on rail cars. The seal-check duty would involve visually verifying whether commercial cargo trucks and containers have intact and unbroken seal tags, which CBP requires for trucks and containers passing through ports of entry. The port-of-entry and checkpoint observers would monitor the output of CBP's electronic systems that automatically collect and process data, such as license-plate information, about individuals and vehicles passing through a port of entry or U.S. Border Patrol checkpoint, and display an alert message if the system identifies a concern."). [44] *Id.* at 2–3. [45] *Securing Our Borders*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders. [46] *Id.* [47] *Id.* [48] *Initial Rescissions of Harmful Executive Orders and Actions*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions. [49] *Trump revives 'remain in Mexico' policy as part of anti-immigration crackdown*, Guardian (Jan. 21,

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2025), https://www.theguardian.com/us-news/2025/jan/21/trump-remain-in-mexico-program. [50] *Mexico has not agreed to accept non-Mexican US asylum seekers, says president*, Reuters (Jan. 22, 2024), https://www.reuters.com/world/americas/mexico-has-not-agreed-accept-non-mexican-us-asylum-seekers-says-president-2025-01-22. [51] *Guaranteeing the States Protection Against Invasion*, White House (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/guaranteeing-the-states-protection-against-invasion [52] *Id.* [53] *Id.*; 8 U.S.C. § 1182(f). [54] *Id.* [55] *See, e.g., Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635, 644 (1952) (Jackson, J., concurring) ("Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress… That military powers of the Commander-in-Chief were not to supersede representative government of internal affairs seems obvious from the Constitution and from elementary American history."); *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 17 (2015) ("…. Congress has an important role in other aspects of foreign policy, and the President may be bound by any number of laws Congress enacts. In this way ambition counters ambition, ensuring that the democratic will of the people is observed and respected in foreign affairs as in the domestic realm"). [56] *Trump v. Hawaii*, 585 U.S. 667, 683–84 (2018). [57] Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-united-states-from-foreign-terrorists-and-othernational-security-and-public-safety-threats/ [58] Guaranteeing the States Protection Against Invasion, White House (Jan. 20, 2025), available: https://www.whitehouse.gov/presidential-actions/2025/01/guaranteeing-the-states-protection-against-invasion/ [59] *Id.* [60] Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing, The Trump White House Archives (Mar. 20, 2020), available at https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing/; Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, Ctr. Disease Control (Mar. 20, 2020), https://immpolicytracking.org/policies/covid-19-cdc-order-authorizes-border-patrol-expulsion-of-all-persons-arriving-by-land-from-mexico-or-canada-without-valid-documents-under-42-usc-265-public-health-act/#/tab-policy-documents. [61] 85 Fed. Reg. 59, 17060 (Mar. 26, 2020). [62] 86 Fed. Reg. 148, 42828 (Aug. 5, 2021); *see also* 86 C.F.R. § 9942 (2021). [63] Michael Ulrich & Sondra Crosby, *Title 42, asylum, and politicizing public healt*h, 7 Lancet Reg. Health Am. 1 (March 2022); *Public Health and Former CDC Experts Warn Against Renewed Misuse of Title 42 Public Health Authority*, Physicians for Human Rights (Jan. 17, 2025), available at https://phr.org/news/public-health-and-former-cdc-experts-warn-against-renewed-misuse-of-title-42-public-health-authority/. [64] CBP One Mobile Application, U.S. Cust. & B. Protection (Jan. 20, 2025), https://www.cbp.gov/about/mobile-apps-directory/cbpone. [65] *Id.* [66] Press Release, CBP One™ Appointments Increased to 1,450 Per Day, U.S. Cust. & B. Protection (June 30, 2023), https://www.cbp.gov/newsroom/national-media-release/cbp-one-appointments-increased-1450-day. [67] CBP One Mobile Application, U.S. Cust. & B. Protection (Jan. 20, 2025), https://www.cbp.gov/about/mobile-apps-directory/cbpone; Rebecca Santana, Elliot Spagat & Gisela Salomon, *Trump seeks to remake border security but his efforts will face challenges*, Associated Press (Jan. 20, 2025, 6:44 PM), https://apnews.com/article/trump-deportation-immigration-homan-asylum-inauguration-ac10480dc636b758ab3c435b974aeb19. [68] Motion for Emergency Status Conference and for Leave to File Supplemental Briefing in Light of President Trump's January 20 Action Ending CBP One, *Las Americas Immigrant Advocacy et al. v. U.S. Dep't of Homeland Sec. et al.*, No. 1:24-cv-01702-RC (Jan. 20, 2025), https://www.aclu.org/cases/las-americas-immigrant-advocacy-center-v-u-s-department-of-homeland-security?document=Motion-for-Emergency-Status-Conference [69] Complaint, *Las Americas Immigrant Advocacy et al. v. U.S. Dep't of Homeland Sec. et al.*, No. 1:24-cv-01702-RC (June 12, 2024), https://www.aclu.org/cases/las-americas-immigrant-advocacy-center-v-u-s-department-of-homeland-security?document=Complaint [70] *See* Motion for Emergency Status Conference and for Leave to File Supplemental Briefing in Light of President Trump's January 20 Action Ending CBP One at 2, *Las Americas Immigrant Advocacy et al. v. U.S. Dep't of Homeland Sec. et al.*, No. 1:24-cv-01702-RC (Jan. 20, 2025). [71] *Protecting the American People Against Invasion*, White House (Jan.

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Reg. 94231 (Dec. 23, 2016), available at https://www.federalregister.gov/documents/2016/12/23/2016-30885/removal-of-regulations-relating-to-special-registration-process-for-certain-nonimmigrants. [80] *Id.*; *see also* Christ Rickerd, *Homeland Security Suspends Ineffective, Discriminatory Immigration Program*, ACLU (May 6, 2011), available at https://www.aclu.org/news/immigrants-rights/homeland-security-suspends-ineffective-discriminatory-immigration-program. [81] *Protecting the American People Against Invasion*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/; *see also* 8 U.S.C. § 1225(b)(1)(A). [82] *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139 (Jan. 24, 2025), available at https://www.federalregister.gov/documents/2025/01/24/2025-01720/designating-aliens-for-expedited-removal#:~:text=SUMMARY%3A,fullest%20extent%20authorized%20by%20Congress. [83] *Make the Road New York v. Huffman et al.*, D.D.C. No. 1:25-cv-00190 (Jan. 22, 2025). [84] *Protecting the American People Against Invasion*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/. [85] *Id.* [86] *The 287(g) Program: An Overview*, American Immigration Council (Jan. 20, 2025), available at https://www.americanimmigrationcouncil.org/research/287g-program-immigration. [87] *Protecting the American People Against Invasion*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/. [88] *Id.* [89] *Id.* [90] *Implementation of Executive Order 13768, "Enhancing Public Safety in the Interior of the United States,"* Office of the Attorney General (May 22, 2017), available at https://www.justice.gov/opa/press-release/file/968146/dl?inline=. [91] *Protecting the American People Against Invasion*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/. [92] *Id.* [93] *Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/. [94] *Id.* [95] *See, e.g.,* Robbie Gamer & Jack Detsch, *So You Want to Sanction a Terrorist Group*, Foreign Policy: Situation Report (Jan. 18, 2024). [96] *See* 8 U.S.C. Section 1182(a)(3)(B). [97] *Restoring the Death Penalty and Protecting Public Safety*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/restoring-the-death-penalty-and-protecting-public-safety/. [98] *Id.* [99] *Refugee Admissions*, U.S. Department of State 2021-2025 Archived Content (last accessed Jan. 22, 2025), available at https://2021-2025.state.gov/refugee-admissions/. [100] *Id.* [101] *Realigning the United States Refugee Admissions Program*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/. [102] *Id.* [103] *Id.* [104] *Id.* [105] *Id.* [106] Section 2 of the order reads: "It is the policy of the United States to ensure that public safety and national security are paramount considerations in the administration of the USRAP, and to admit only those refugees who can fully and appropriately assimilate into the United States and to ensure that the United States preserves taxpayer resources for its citizens. It is also the policy of the United States that, to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees." [107] *Id.* [108] *Statement from a DHS Spokesperson on Directives Expanding*

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