

Press Release

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SECRETARY NAPOLITANO ISSUES IMMIGRATION AND BORDER SECURITY ACTION DIRECTIVE

WASHINGTON – U.S. Department of Homeland Security (DHS) Secretary Janet Napolitano announced today a wide-ranging action directive on immigration and border security.

The directive requires specific department offices and components to work together and with state and local partners to review and assess the plans and policies to address: criminal and fugitive aliens; legal immigration benefit backlogs; southbound gun smuggling; cooperation with the National Guard; widows and widowers of U.S. citizens; immigration detention centers; and electronic employee verification.

Secretary Napolitano has already issued 11 action directives: Federal Emergency Management Agency (FEMA) state and local integration; national planning, cybersecurity; northern border strategy; critical infrastructure protection; risk analysis; state and local intelligence sharing; transportation security; state, local and tribal integration; first responder health surge capacity and Hurricane Katrina.

Today's directive is the last in an initial series on a wide variety of issues impacting the department's critical missions: Protection, Preparedness, Response, Recovery and Immigration.

The full action directive is below:

- **Immigration and border security.** America is a nation of immigrants – and it is the Department of Homeland Security's role to manage America's borders in a way that furthers this heritage, promoting legal immigration and cross-border commerce, while upholding the rule of law. The department must also enforce the law, targeting border criminals who use violence and fraud to smuggle people and drugs into the United States. But, the department must facilitate international travel and the naturalization of immigrants into our society. Smart, resolute enforcement by the department can keep Americans safe, foster legal immigration to America, protect legitimate commerce, and lay the groundwork for a more comprehensive reform.

To this end, the relevant components and offices of the department are asked to provide the following assessments about current programs, including metrics of success, gaps in service/resources, partnerships with state and local governments and other federal agencies as well as offer suggestions for reforms, restructuring, and consolidation where needed.

For each assessment, a final report is due Feb. 20.

Criminal and Fugitive Aliens

The **Secure Communities Program** works with state, local, and tribal law enforcement to identify and remove aliens unlawfully present who are involved in criminal activity. How can we best accelerate its development and expansion?

The **Institutional Removal Program** facilitates the entry of final removal orders before aliens convicted of crimes are released from criminal custody. What measures are needed, and with what priority, to secure expansion of this resource-saving program? Which state or federal facilities are the main targets of opportunity for efficient expansion? What specific cooperation is needed from the Department of Justice (DOJ) to facilitate expansion?

Fugitive Operation Teams. Please provide the current metrics of fugitive apprehension and removal (clearly differentiate the number of fugitives that are actually removed versus those aliens unlawfully present who are simply encountered by the teams while on assignment). How can fugitives be more effectively prioritized for these purposes and what steps can be taken to expedite removal?

The **Electronic Travel Document Program** facilitates the travel of persons subject to removal orders. How can the department best secure an expansion of this program to include the consulates of additional countries?

The **287(g) program** provides for agreements whereby federally trained and supervised state and local law enforcement officials can participate in the investigation, apprehension, and transport of unauthorized aliens. How many officers have been trained to date? How many agreements have been signed with state and locals to date and how many are ready to be signed? What is the current turnaround time to sign an agreement and what can be done to expedite more agreements? How does this model compare in cost, effectiveness, and administration, to other forms of cooperation with these officials or entities? What are the strengths and challenges with jail model agreements versus task force model agreements?

Legal Immigration Benefit Backlogs. What progress has been made in reducing the significant backlogs that had developed in the adjudication of naturalization petitions and adjustment of status (green card) applications? Which regional offices still lag behind in making progress toward target processing times, and what specific steps are recommended for providing priority resources to those offices?

Please provide an assessment of information-sharing with the Department of State's Bureau of Consular Affairs on projected adjustment caseloads, to be used by that Bureau in setting each month's cutoff dates on waiting lists for immigration categories that are limited by a yearly quota. What steps have been taken and what further steps are recommended to make sure that the full quota of permanent immigration spaces is used each fiscal year? What regulatory or legislative changes (including a possible pre-application filing procedure for adjustment cases) are recommended to facilitate caseload planning and make optimum use of U.S. Citizenship and Immigration Services

adjudication capacity?

Southbound Gun Smuggling. A growing wave of criminal violence in Mexico's border communities and in the interior of the country, fueled by the availability of guns and currency smuggled south from the U.S. poses a serious threat to Mexico's security and portends deepening problems for our nation's border regions. How are U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection currently addressing southbound smuggling and how can these efforts be improved? Include an assessment of potential infrastructure needs, investigative and interdiction capabilities, and cooperation with other agencies or offices such as the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration (DEA), or the Department of State Bureau of International Narcotics and Law Enforcement Affairs, and with intelligence centers (the DEA El Paso Intelligence Center and DOJ National Drug Intelligence Center). Also assess the prospects for enhanced use of investigations and prosecutions for money laundering or other financial offenses to disrupt the illicit firearms trade. Please explain how these efforts will be enhanced with funding from the Merida Initiative and how this is being coordinated with the states and the Office of National Drug Control Policy.

National Guard. Describe and assess the current deployment of the National Guard at or near the border. What overarching plans exist for coordinating with the Guard at the border? How could the arrangements for the Guard's presence be made more effective for support of DHS missions?

Widows and Widowers of U.S. Citizens. Recent media accounts have highlighted the cases of widows and widowers of U.S. citizens who had petitioned for the alien spouse's immigration, but whose petitions were not adjudicated before the citizen spouse's death. Because of the death of the petitioning spouse, the petitions were denied. What are the regulatory, legislative, and litigation options that could be considered to immediately address the situation of these widows and widowers?

Immigration Detention Facilities. What is the current status of the Performance Based National Detention Standards (Standards), and in what ways do they improve upon previous detention standards? To which facilities do they apply at present, and what are the plans for full application of the standards to all facilities housing ICE detainees? How do the Standards address concerns associated with the treatment of families and unaccompanied children? What are the arrangements for monitoring compliance with the Standards, and what corrective actions or sanctions are applied in the case of violation or shortfall? What steps are taken to segregate ordinary detainees from those with a serious criminal record (either immigration detainees or other inmates of a facility that may also house prisoners in the criminal justice system)? What are the prospects, advantages, and disadvantages of expanding the use of community-based alternatives to detention or of less-restrictive models of detention as have been used in Broward County, Fla.?

Electronic Employment Verification. Reducing unauthorized employment is crucial for controlling the problem of illicit migration. E-Verify has been a key component in proposals for comprehensive immigration reform and holds real promise as a central element in effective immigration enforcement that combines border efforts with interior measures. But E-Verify has encountered criticism both for false negatives (persons who are authorized to work but who nonetheless receive a tentative non-confirmation from the system) and for false positives (unauthorized aliens who receive a confirmation because they have borrowed or stolen the identity of an authorized worker).

What is the status of the employer monitoring and compliance efforts of the E-Verify system? How can DHS expand such monitoring, including alternative strategies such as electronic detection of suspicious patterns, with an indication of resource requirements?

What strategies are available to minimize false negatives? What steps and resources are needed to secure a systematic and detailed study of the origin, prevalence, and types of erroneous non-confirmations, including measuring the rate of correct non-confirmations, and how much time would be required for such a study?

What is the status of measures (such as photo tools) designed to minimize false positives? Currently, photo tools are useful for only certain types of documents presented by the worker. What would be needed to make the photo tool applicable to all identity documents presented by covered employees? What is the prospect for using biometrics as part of the screening (done either by the employer or at an offsite location by specialized offices)? What role could data-mining or other innovative strategies play in helping to identify false positives and false negatives? What steps would be most effective both in the short and long term to deter and detect identity fraud? Please also provide an assessment of the laws and regulations on administrative fines for employers.

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