



**FAIR** FEDERATION FOR AMERICAN IMMIGRATION REFORM

# Immigration

## REPORT

DECEMBER 2013/JANUARY 2014

### Inside . . .

ADMINISTRATION GRANTS AMNESTY TO STILL MORE ILLEGAL ALIENS  
**PAGE 2**

OBAMA'S ILLEGAL ALIEN UNCLE ALLOWED TO REMAIN IN U.S.  
**PAGE 2**

GUEST WORKERS WILL GET TO STAY LONGER  
**PAGE 3**

NEW DHS SECRETARY HAS NO RECORD OR EXPERTISE IN IMMIGRATION POLICY  
**PAGE 3**

ACROSS THE COUNTRY  
**PAGE 4**

OREGON VOTERS WILL DECIDE ON LICENSES FOR ILLEGAL ALIENS  
**PAGE 6**



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## Boehner, House Leadership Refuse to Kill Amnesty in 2014

As 2013 drew to a close, House Speaker John Boehner (R-Ohio) tipped his hand about how he and the Republican leadership intend to proceed on immigration in 2014. In November, the Speaker declared that the House would not enter into conference negotiations with the Senate over S.744, the so-called Gang of Eight amnesty bill. Many people interpreted this to mean that amnesty for illegal aliens was a dead issue for the remainder of the 113th Congress.

Unfortunately, amnesty and massive increases in immigration are still very much alive. Barely a week after saying he would not go to conference on S.744, Boehner told reporters that he expects the House to take up much of what is in the



"I HAVE MADE CLEAR, GOING BACK TO THE DAY AFTER THE LAST ELECTION IN 2012, THAT IT WAS TIME FOR CONGRESS TO DEAL WITH [IMMIGRATION]."

CONTINUED on page 5

## Gearing Up for Amnesty: Staffing DHS with Open Border Advocates

The Department of Homeland Security has gone on a hiring spree lately. In recent months they have employed 26 new immigration "enforcement" attorneys to oversee and manage immigration litigation. Nearly every one of these new career employees (peo-

ple who will remain at their jobs long after President Obama has left office) has previously worked for organizations that are openly hostile to immigration enforcement.

According to former Justice Department attorney J. Christian Adams,

CONTINUED on page 6

## Obama Grabs More “Authority” to Decree De Facto Amnesty to Still More Illegal Aliens

In November, the Obama administration issued policy memos granting de facto amnesty to two additional classes of illegal aliens. The first memo grants “parole in place” to illegal aliens who are immediate relatives of active U.S. military personnel and veterans. A second memo instructs U.S. Citizenship and Immigration Services to use prosecutorial discretion to give green cards to individuals who overstay their authorized time in the U.S. under the Visa Waiver Program.

The amnesty for relatives of military personnel and veterans goes farther than the administration’s Deferred Action for Childhood Arrivals beneficiaries. Unlike DACA recipients, these illegal aliens will be eligible—without any penalty—to receive green cards and eventual U.S. citizenship. However, there is no statutory or regulatory authority for the parole in place.

While our immigration laws provide the executive branch with discretion to grant aliens what is commonly referred to as “humanitarian parole,” the Immigration and Nationality Act specifically states: “The Attorney General

may...in his discretion... parole into the United States **temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.**”

Nowhere do our laws give authority to the executive branch to grant parole for a broad class of illegal aliens already inside the U.S. with the express intent of enabling them to circumvent current law to

obtain a green card. Nevertheless, the Department of Homeland Security is now directing its agencies to do exactly that. While Americans respect and honor the service of our military personnel, in no other circumstances do we exempt them, or their family members, from complying with our laws.

Once again, President Obama has chosen to assert executive authority to implement a major de-

CONTINUED on page 7

## Obama’s Illegal Alien Uncle Granted the Right to Remain in the U.S. on Bizarre Grounds

President Obama’s uncle, Onyango (Omar) Obama, who has lived in the United States illegally for more than 40 years and who has failed to comply with a deportation order, was granted legal residency in the United States in December. Judge Leonard I. Shapiro — who also granted political asylum, and thereby legal residence, to Omar’s sister Zeituni Onyango in 2010 — cleared the way for the 69-year-old Framingham, Mass., resident to obtain a green card.

In 2011, Mr. Obama was arrested for drunk driving — registering a blood alcohol level nearly twice the legal limit — after nearly colliding with a police vehicle and endangering other motorists. Nevertheless, Judge Shapiro described Omar Obama as displaying “good moral character,” and called him a

“kind and decent person.” Shapiro noted that Mr. Obama had paid taxes and volunteered in the community. Neither the fact that Mr. Obama defied a court order to leave the country, or the very reason he was in the courtroom, figured into Shapiro’s assessment of his character.

**Mr. Obama’s statement in court also directly contradicted the president’s assertion that he had never met his uncle. Onyango Obama testified that his nephew had lived with him for several weeks during the 1980s while he was attending Harvard Law School.** The White House later confirmed that assertion. President Obama has never commented on whether he has known all along that his uncle was living illegally in the United States in violation of a deportation order.

## Immigration REPORT

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## Growing Guest Worker Visas Payoff to Chamber of Commerce

At the same time that the Obama administration issued policy memoranda identifying two new categories of illegal aliens to receive de facto amnesty, it also whetted the appetite of the business lobby, which has been demanding easier access to low-skilled foreign guest workers.

The administration's new policy effectively doubles the amount of time "temporary" foreign workers and trainees can remain in the U.S. Holders of H-2A visas for agricultural workers are limited to three years in the United States. Other categories of temporary worker visas are more limited. Guest workers are allowed to bring spouses and dependent children, who are subject to the same time lim-

its but are barred from employment in the U.S. Under the new policy announced by U.S. Citizenship and Immigration Services, the principal visa holder and the dependent spouse will be allowed to switch places after three years, thereby resetting the clock on a new three-year period.

Current regulations require that temporary workers leave the country, for as long as six months, upon expiration of their visas before they can be readmitted the U.S. However, this latest memorandum makes no mention of this departure requirement, making it possible for visa holders to switch status without ever returning home. In practice, this policy could allow seasonal and

temporary workers to establish de facto permanent residence in the United States.

Furthermore, very little would stop the new holders of derivative visas from continuing to work while remaining in the country, as all employers are not yet required to use the E-Verify employment eligibility system.

In addition to further undermining the integrity of our immigration laws, the new revolving guest worker regulation represents another blow to struggling low-skilled U.S. workers, who are disproportionately unemployed and face stagnant or declining wages.

## New DHS Secretary, Jeh Johnson, Lacks Record on Immigration Enforcement

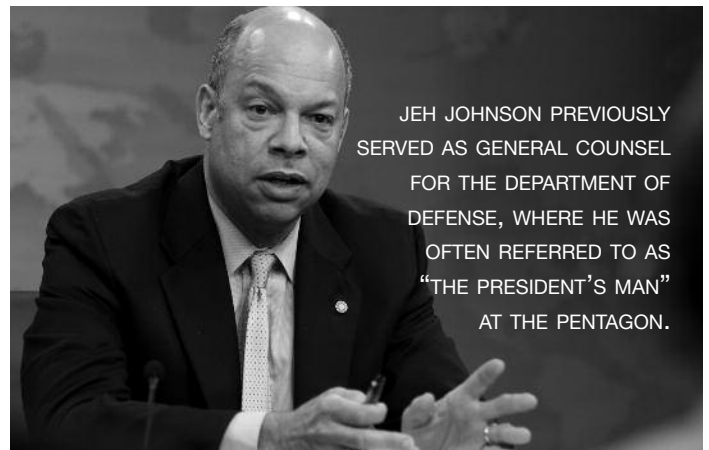
In December, the Senate, by a 78-16 vote, confirmed Jeh Johnson to be the next Secretary of Homeland Security. He replaces Janet Napolitano, who resigned to head the University of California system. Johnson previously served as general counsel for the Department of Defense, where he was often referred to as "the president's man" at the Pentagon.

Not surprisingly, Johnson supports President Obama's immigration policy objectives. "I support comprehensive common sense immigration reform. If reform is enacted into law I will work to prepare DHS to administer the changes in law and ensure that DHS has the staff, resources, and capability to do so," he told the Senate Homeland Security and Governmental Affairs Committee during his confirmation hearings.

As DHS Secretary, Johnson would be responsible for carrying out the massive amnesty and immigration increase

program that President Obama is pressing Congress to approve. Despite the enormity of that task, Johnson has no experience or expertise in immigration policy or immigration enforcement.

Thus, his appointment raises questions about whether he would truly be in charge of simultaneously implementing



JEH JOHNSON PREVIOUSLY SERVED AS GENERAL COUNSEL FOR THE DEPARTMENT OF DEFENSE, WHERE HE WAS OFTEN REFERRED TO AS "THE PRESIDENT'S MAN" AT THE PENTAGON.



## FAIR in Action: Across the Country

### New Jersey

Fresh off his landslide re-election, Gov. Chris Christie engaged in a bit of gamesmanship with the State Legislature over the New Jersey DREAM Act bill. The Democratic controlled Legislature approved a bill that, in addition to subsidized tuition at state universities and colleges, would have made illegal aliens eligible for financial aid. Christie vetoed that bill because he objected to the additional financial aid, and returned it to the State Senate with his recommendations. The Legislature quickly removed the financial aid provisions and the governor signed the revised bill. Only two weeks earlier, the 2016 presidential hopeful had voiced his opposition to in-state tuition for illegal aliens, telling ABC News, “Giving undocumented, out-of-state students benefits that out of state citizens aren’t eligible for, I’m not in favor of.”

### District of Columbia

While Oregon voters are preparing for a ballot initiative preventing illegal aliens from obtaining driver’s licenses, illegal aliens in the nation’s capital will now become eligible for licenses beginning in May. Mayor Vincent Gray signed legislation granting licenses to illegal aliens. Despite the mayor’s support for giving illegal aliens licenses that are identical to those issued to legal residents, the D.C. license for illegal aliens will be marked as invalid for federal identification purposes.

### Alabama

Succumbing to relentless pressure from the illegal alien advocacy network, and a lawsuit from the federal government, Alabama agreed to gut key provisions of the state’s immigration enforcement law, known as H.B. 56. It was democratically adopted in 2011 by the Alabama Legislature and signed by Gov. Robert Bentley. State efforts to deter illegal immigration continue to receive popular support in Alabama and elsewhere across the nation. However, the combined efforts of the U.S. Department of Justice and well-financed advocacy groups succeeded in thwarting both the democratic process and popular sentiment.

2014 AMNESTY PUSH *continued*

Senate bill during the new year. “I have made clear, going back to the day after the last election in 2012, that it was time for Congress to deal with [immigration],” he said.

Over the ensuing weeks, it became clear that the House Republican leadership’s approach to “dealing with this issue” will not be all that different from the Senate’s approach. In subsequent remarks and actions, it has become apparent that the Speaker’s primary objection to S.744 is its size — nearly 1,300 pages — not necessarily its content. The step-by-step approach to immigration reform favored by the House leadership appears to be little more than passage of S.744’s components as individual bills.

Moreover, the repeated promise by the House leadership that immigration reform must begin with enforcement seemingly refers only to the order in which the House takes up legislation. Eric Cantor (R-Va.), the House Majority Leader, affirmed that the step-by-step approach is designed to achieve “comprehensive” reform — a euphemism for a final package that includes amnesty for illegal aliens and substantial increases in overall immigration. In other words, like the Senate, the House leadership would not require implementation of enforcement measures before the demands of illegal aliens and other special interests are satisfied.

In early December, Boehner further signaled his intentions for moving ahead on immigration legislation when he announced the hiring of Rebecca Tallent to be his immigration policy advisor. Tallent is a long-time advocate for amnesty and immigration-on-demand. Tallent was most recently the director of immigration policy for the Bipartisan Policy Center, a business oriented group promoting amnesty and massive increases in permanent and temporary immigration. Prior to that she worked for Sen. John McCain and helped draft the McCain-Kennedy amnesty bills of 2006 and 2007. In a 2013 interview on CSPAN, Tallent stated, “The best things (sic) we can do for our border security is to have a realistic guest worker program that reflects the number of people who want to come every year.”



BOEHNER SIGNALLED HIS INTENTIONS FOR MOVING AHEAD ON IMMIGRATION LEGISLATION BY HIRING REBECCA TALLENT — A LONG-TIME ADVOCATE FOR AMNESTY — AS HIS IMMIGRATION POLICY ADVISOR.

Understanding that amnesty and massive immigration increases are not popular with voters (especially Republican voters), Boehner is also reportedly taking steps to shield House Republicans from political repercussions. Meeting with business interests lobbying for amnesty and increased immigration, the Speaker indicated that legislative efforts on immigration would occur after the filing deadlines for Republican congressional primaries, thereby assuring Republican members that an unpopular vote would not result in a primary challenge.

The emerging picture in the House seems to meet with the approval of Senate leaders and President Obama, who have indicated that they are not particular about the legislative vehicle that gets them to their goal of amnesty and higher levels of immigration. Senate Majority Leader Harry Reid (D-Nev.) confidently boasted that Boehner would “cave-in” on immigration and would ultimately agree to a package of reforms that closely mirror the Senate’s bill.

Of course, what Boehner and the House leadership want to happen and what actually will happen in 2014 are not necessarily the same thing. In spite of the Speaker’s efforts to provide political cover to his House colleagues, most are acutely aware that amnesty and immigration increases are anathema to their constituents because such policies do not constitute true immigration reform. FAIR and other opponents of an immigration sell-out are poised to respond to such efforts through grassroots organizing and in the media. Additionally, contentious political battles over the budget, the debt ceiling, and the implementation of Obamacare could also derail the House leadership’s plans to push their amnesty agenda.

ONCE AGAIN, THE VOICES OF THE AMERICAN PEOPLE WILL BE CRITICAL IN THE BATTLE TO AVERT DISASTROUS IMMIGRATION LEGISLATION IN 2014.

WE URGE ALL FAIR MEMBERS TO SIGN UP FOR LEGISLATIVE ALERTS AT FAIRUS.ORG, FOR UP-TO-THE-MINUTE INFORMATION ON WHAT’S TAKING PLACE IN WASHINGTON.

## Oregon Voters Will Have a Chance to Ban Driver's Licenses for Illegal Aliens

In 2013, the Oregon Legislature and Gov. John Kitzhaber decided to grant driver's licenses to illegal aliens. In 2014, Oregon voters will have the chance to overrule that decision.

Thanks to the work of a dedicated group of immigration reform activists, led by Oregonians for Immigration Reform, Referendum 301 will appear on the November 2014 ballot asking voters to decide whether the state should issue licenses to people who cannot provide proof of legal presence in the United States. In a remarkable grassroots effort, volunteers collected some 71,000 signatures — significantly more than the 58,000 required — to put the issue before the voters later this year. Qualifying the measure for the November ballot

also prevented the state from implementing the measure pending the outcome of the referendum vote.



Now comes the tough part. While national polls show that 68 percent of voters oppose granting driver's licenses to illegal aliens, the ballot measure is certain to draw the attention of the illegal alien advocacy network. We can expect these well-financed groups to pour money and organizers into the effort to defeat Referendum 301. Over the coming months, FAIR's field, state

legislative, and media teams will assist state immigration reform activists in their efforts to educate Oregon voters about the issues and the dangers of granting driver's licenses to illegal aliens.

### DHS HIRES OPEN BORDER ADVOCATES *continued*

IF YOU DON'T WANT IMMIGRATION LAWS ENFORCED VIGOROUSLY, GO OUT AND HIRE LAWYERS WHO DO NOT LIKE IMMIGRATION LAWS.

who broke the story, the slew of new attorneys were not hired to fill vacancies in DHS's immigration litigation division, but rather to pack the office with lawyers who will prevent immigration laws from being enforced. "This administration knows that personnel is policy and if you don't want immigration laws enforced vigorously, go out and hire lawyers who do not like immigration laws," Adams told Fox News.

Stephen Legomsky, who serves as chief counsel for DHS's Citizenship and Immigration Services agency, needed special approval in order to make the hires. It should be noted that, while in academia, Legomsky questioned the value of citizenship. "[C]itizenship serves few important internal functions in representative democracies. Residence seems a more finely tuned mechanism for identifying the beneficiaries of particular legal rights under municipal law," he wrote while a law professor at Washington University.

According to Adams, this new cadre of lawyers constitutes a fifth column within DHS that will have the

power to suspend immigration enforcement if President Obama does not get the amnesty legislation he wants. What Adams did not mention is that these career civil servants will also have the power to prevent any immigration enforcement provisions that may be included in an immigration bill from being carried out as well.

Among the former workplaces of the new DHS immigration "enforcement" attorneys are the American Civil Liberties Union, the Mexican American Legal Defense and Educational Fund, Latino Justice, and The Tides Foundation.

MORE DE FACTO AMNESTY *continued*

parture from the immigration policy legislated by Congress. The president could have sent a bill to Congress, but instead he chose to bypass Congress and assert broad powers not granted to him under the Constitution.

The second, less publicized, memo grants illegal aliens who are immediate relatives of U.S. citizens, who entered the country through the VWP and remained illegally beyond their authorized stay, the ability to obtain a green card and eventual citizenship with no penalty. The VWP allows nationals of 37 countries, who pose the lowest risk to security or of remaining in the U.S. illegally, the ability to enter the country without first having to obtain a visa.

THOUGH THE PRESIDENT HAS STATED THAT HE DOES NOT HAVE THE CONSTITUTIONAL AUTHORITY TO SUSPEND VIRTUALLY ALL DEPORTATIONS, THESE LATEST MOVES, COUPLED WITH DACA, INDICATE THAT CONTINUING TO EXPAND DISCRETIONARY AUTHORITY TO IGNORE THE LAW'S ENFORCEMENT PROVISIONS IS VERY MUCH A POSSIBILITY.

The administration's move, therefore, undermines the very premise of the program by encouraging some citizens of VWP nations to remain beyond their authorized stay in order to obtain a green card and eventual citizenship. The memo is so broad that it even permits VWP overstayers who have already been ordered deported to obtain a green card if Immigration and Customs Enforcement "rescinds or withdraws the removal order."

These policy memos are just the latest examples of the Obama administration's blatant disregard for the enforcement of U.S. immigration law. Moreover, they may be a harbinger of the course the administration will take if it fails to get Congress to enact a legislated amnesty. A December 5th letter to President Obama, signed by 29 House Democrats, calls on him to "suspend any further deportations and expand the successful deferred action program to all those who would be potential citizens under immigration reform." Though the president has stated that he does not have the constitutional authority to suspend virtually all deportations, these latest moves, coupled with DACA, indicate that continuing to expand discretionary authority to ignore the law's enforcement provisions is very much a possibility.

NEW DHS SECRETARY CONFIRMED *continued*

an amnesty program, significant expansions of our immigration system, and the enforcement measures called for under the legislation supported by the president. Instead, his nomination increases the likelihood that implementation (or non-implementation) of these provisions would be run from the White House by long-time illegal alien advocates like Domestic Policy Council director Cecilia Muñoz and the advocacy groups who helped shape the legislation.

Among those Johnson failed to win over during the confirmation process was Gang of Eight member Sen. John McCain (R-Ariz.), who sits on the Homeland Security Committee. Pressed by McCain for assurances that he would turn over information about the administration's border security efforts, Johnson refused to guarantee that such information would be forthcoming.

WE HAVE ALL REPEATEDLY EXPRESSED OUR STRONG DISAPPROVAL OF THE REFUSAL OF THIS ADMINISTRATION — AND DHS IN PARTICULAR — TO ENFORCE OUR IMMIGRATION LAWS.

Johnson's nomination also unsettled six of the eight Republicans who sit on the Senate Judiciary Committee. In a letter to Johnson, the senators sought reassurances that, under his leadership, DHS would carry out immigration enforcement as prescribed by law. "[W]e have all repeatedly expressed our strong disapproval of the refusal of this administration — and DHS in particular — to enforce our immigration laws, contradicting duly enacted federal law through administrative orders and internal memoranda," they wrote. Senators Lindsey Graham (R-S.C.) and Jeff Flake (R-Ariz.), both members of the Gang of Eight, declined to join their fellow Judiciary Committee Republicans in signing the letter.

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The name Seventh Generation Legacy Society is taken from the great law of the Iroquois Confederacy: "In our every deliberation, we must consider the impact of our decision on the next seven generations."

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