



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration

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Obama Moves to Decree Unconstitutional Executive Amnesty, Postpones Until After Elections

In June, President Obama announced his intention to use his "existing legal authorities" to grant de facto amnesty to millions of illegal aliens. He instructed Secretary of Homeland Security Jeh Johnson and Attorney General Eric Holder to come up with a plan for a broad executive amnesty "before the end of the summer," noting his intention to "adopt those recommendations without further delay."

As Labor Day passed, no plan had been announced. Finally, on Sept. 6, as the president was returning from a NATO summit in Wales, the White House announced that there would be no amnesty plan put forward until after the November elections. The official White House statement blamed the delay on "the Republicans' extreme politicization of this issue," adding "it would be harmful to the policy itself and to the long-term prospects for

CONTINUED ON PAGE 2

FAIR Convenes "Border Summit" for Sheriffs, Activists

Sheriff Sam Page of Rockingham County, North Carolina, observed that every county in America is now a border county because "what comes across the border doesn't stay at the border." As more and more sheriffs confront crime and security threats associated with large scale illegal immigration, many are looking for effective legal strategies to address the problems that have landed on their doorsteps.

In recent years, FAIR has built a strong working relationship with sher-



Participants convene in Hudspeth County, Texas at the start of 3 miles of fencing along the 98-mile border.

CONTINUED ON PAGE 3

EXECUTIVE AMNESTY DELAYED *continued*

comprehensive immigration reform to announce administrative action before the elections.”

The postponement is a clear admission that such a move lacks public support or a constitutional basis. In the weeks leading up to the postponement announcement, numerous Democratic senators—particularly those facing tough elections in November—beseached the president not to pull the trigger on an amnesty announcement. Driven by political considerations, the president recognized that acting before Election Day could doom his party’s chances of retaining control of the Senate.

Despite the administration’s best efforts to portray amnesty by executive fiat as a heroic intervention on the part of the president in the face of the House of Representatives’ refusal to pass an amnesty bill, the public overwhelmingly disapproved of the president acting unilaterally.

**“I have concerns about executive action.
This is a job for Congress.”**

—SEN. AL FRANKEN (D-MINN.)

And amnesty, which has never been popular with the American public, became even less popular as the American people witnessed the chaos occurring along our southern border in recent months. Even major media outlets like *The Washington Post* and *Los Angeles Times*, that are normally supportive of amnesty editorialized against the president overstepping his constitutional authority by acting without congressional approval.

If the president carries through on his promise to act before the end of the year, Democrats—like Senator Mark Pryor from Arkansas who don’t believe the president has “authority to sidestep Congress when he doesn’t get his way” will have a

very difficult time justifying why he would have that authority in November, after the elections.

The new timetable for executive action on amnesty now places the expected announcement right in the middle of congressional deliberations on the budget. Republicans are expected to attempt to block a presidential amnesty by including explicit language in future appropriations bills that will bar the use of funds to implement an executive amnesty program. Democrats who expressed opposition to executive action before the elections may find it difficult to vote to enable such an amnesty after the election.

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The postponement is a huge victory, albeit a temporary one, for true immigration reformers. The democratic lawmakers who prevailed on the white house to delay action on amnesty were responding directly to pressure they were receiving from voters in their home states and districts.

FAIR is using this time to rally public opposition to the president’s amnesty efforts. Our Media team, has conducted hundreds of media interviews on the subject over the summer months, and will continue to educate and inform the American public about the Obama administration’s efforts to grant amnesty to illegal aliens through an unconstitutional use of executive power. Meanwhile, as our Field staff works with activist groups across the country to increase pressure on members of Congress to respond forcefully if the president acts without authority, our Government Relations team is working with members of Congress to devise strategies to prevent implementation of the president’s plan.

BORDER SUMMIT *continued*

BORDER SUMMIT PARTICIPANTS

Top: FAIR's Northeastern Field Representative Robert Najmulski (left), and CIS Director of Policy Studies, Jessica Vaughn (right).

Bottom: Sheriffs from across the country.



iffs' departments across the country. Many of these elected law enforcement professionals have become strong advocates for better immigration enforcement and vocal opponents of amnesty for illegal aliens.

In July, FAIR hosted a group of sheriffs in McAllen, Texas, as they got a firsthand look at the crisis on the southern border. In September, we brought together a much larger group of sheriffs and leading immigration reform activists for a border summit in El Paso. The two-day event included a tour of the U.S.-Mexico border in Hudspeth County—just southeast of El Paso—as well as information and training on how to identify and address threats posed by criminal gangs and international terrorists who exploit

weaknesses in our nation's immigration enforcement system.

The sheriffs—representing Pennsylvania, Ohio, Georgia, Illinois, Utah, North Carolina, Louisiana, Maryland, Oregon, Kansas, and Missouri—were briefed by policy experts on FAIR's staff and outside experts in the areas of terrorism, cartel and gang activity, border issues, DHS policy, and law enforcement legal issues.

A modified version of the training was provided to FAIR state advisors and elected officials from around the country. The participants received information to help them address the illegal immigration issues in their communities at the grassroots and in state legislatures.

Thanks to the popularity and success of these border training events, FAIR is planning future events in order to accommodate the numerous sheriffs and local government officials who have expressed an interest in receiving training. These events provide the participants with the tools to address problems associated with illegal immigration in their jurisdictions, and help them to become effective voices for true immigration reform.

Obama Pledges to “Go as Far as He Can” on Executive Amnesty

To say that members of the Congressional Hispanic Caucus were disappointed by the postponement of an executive amnesty until after the November elections would be a gross understatement. They were fuming.

A few days after the White House's announcement, administration officials hastily convened a meeting at the Capitol to placate members of the CHC and other amnesty advocates. The president was represented by

his chief of staff, Dennis McDonough, director of the White House Domestic Policy Council Cecilia Muñoz, and General Counsel Neil Eggleston, who promised the group that the president will “go as far as he can go” in granting legal status to illegal aliens before the end of the year.

President Obama's three senior staff representatives assured CHC members that the president doesn't care

OBAMA BENDS TO HISPANIC CAUCUS *continued*

“We are very, very clear that there are no more excuses, there are no more delays...I don’t care what senator is dangling in the wind, I don’t care what Republican proposal is being put forward, I don’t care what happens. We are moving forward.”

—REP. LUIS GUTIERREZ (D-ILL.)

about constitutional restraints, or what the American public thinks about amnesty for illegal aliens, or even the outcome of the midterm elections. According to Rep. Juan Vargas (D-Calif.), “we got the promise that [the president is] going to act as generously as he possibly can before the end of the holiday season.”

CHC members expressed concern that a bad showing by Democrats in November, and possible loss of control of the Senate, might deter the president from asserting executive authority to declare a sweeping amnesty without congressional approval. Participants in the meeting reported that not even the outcome of the election will stop the president from acting. According to Politico, “McDonough said Obama still plans to act regardless of the results of the November elections or even if the political narrative around the issue worsens for Democrats, people familiar with the discussion said.”

Thus the president, who famously told Republican lawmakers in 2009 that “Elections have consequences and at the end of the day, I won,” is now on record vow-

ing to ignore the consequences of an election if it doesn’t go his way, and ignore his own assertions that he lacks constitutional authority to grant de facto amnesty to millions of illegal aliens.

Such an act would place the onus squarely on Congress to act in a bipartisan manner to prevent the president from carrying out an amnesty by executive fiat.

Congress’s most viable response is its power of the purse. FAIR is urging all members and activists to seek a commitment from their House and Senate members that they will support measures that explicitly prohibit the use of any federal money to implement the president’s unlawful amnesty.

Be sure that your voice is heard when the president carries through on his threat. Stay informed by visiting our website, FAIRus.org to sign up for legislative alerts.

Truth Revealed: Deportation Numbers Plummet in FY 2014

New data reveal that President Obama is no longer even pretending to be the “Deporter-in-Chief.” In March, Homeland Security Secretary Jeh Johnson admitted before a congressional committee that the administration’s “record levels” of deportations were largely

the result of including the removal of illegal aliens apprehended at the border in the grand tally.

Inflating deportation numbers has been an integral part of the administration’s effort to justify a massive amnesty. As it has become evident that Congress will not pass

amnesty legislation this year, and that the president is set to implement amnesty by executive fiat, the administration seems to be dropping even the pretense of carrying out deportations.

As of July 28, DHS had deported only 258,608 illegal aliens, put-

New Research from FAIR

Amnesty Border Enforcement Health Care Poverty
 FAIR Crime Sanctuary Cities Employer Sanctions Assimilation
 REFUGEE Environmental Degradation Economy
 FACTSHEET Unemployment Income Inequality In-State Tuition
 Wage Suppression National Security SPRAWL

Estimated Cost of K-12 Public Education for Unaccompanied Alien Children

By Eric A. Ruark, Research Director
 August 25, 2014

According to data from the Department of Health and Human Services, more than 37,000 of the unaccompanied illegal alien minors from the border crisis were released to relatives and other sponsors between January 1 and July 31.

Based on earlier estimates of the cost of educating LEP students in public schools, we came up with an estimate of how much it will cost taxpayers in each state to educate illegal alien minors in the coming school year.

Our estimate is based on the average spending per student in each state, plus the additional costs of educating those with Limited English Proficiency.

Price Tag: \$761 Million (per year) Taxpayers Get Annual Bill for Educating Unaccompanied Illegal Alien Minors

According to data from the Department of Health and Human Services, 37,472 unaccompanied minors who entered the country illegally between January 1 and July 31 were released to relatives and other sponsors across the country. Nearly all of them are now enrolled in public schools in the communities where they have settled.

New research from FAIR reveals that the price tag to American taxpayers in communities that are absorbing this surge of school-aged illegal aliens is \$761 million. This cost is in addition to the more than \$50 billion a year that taxpayers already spend to provide K-12 education for the children of illegal aliens.

Most of the school districts that have been forced to absorb the sudden influx of students had little time to prepare for the additional burden. State and local governments will have to divert funds from other programs, or seek additional funding from taxpayers. Either way, local taxpayers or American school kids will pay a hefty price for what is essentially the result of the Obama administration's policies that encourage illegal immigration.

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Illegal Alien: The Proper Terminology

Despite efforts to dilute the language of immigration policy, it remains perfectly fitting to acknowledge that an alien who is residing illegally in the United States has broken the law. It has only been recently, within the political context of the current immigration debate, that proper and unambiguous language has come under attack as inaccurate or derogatory.

FAIR's new Issue Brief, *"Illegal Alien" The Proper Terminology*, provides insight into the underlying "newspeak" by defenders of illegal aliens as well as the legal history of the terminology.

Amnesty Border Enforcement Employer Sanctions Health Care
 FAIR Crime Sanctuary Cities Assimilation
 REFUGEE Environmental Degradation Economy
 ISSUE BRIEF Unemployment Income Inequality In-State Tuition
 Wage Suppression National Security SPRAWL

"Illegal Alien" The Proper Terminology

An Issue Brief by Eric A. Ruark, Director of Research | August 22, 2014

For an earlier and more extensive version of this paper, refer to: Ruark, E.A., "Use of the Term 'Illegal Alien'" In Cass, J., Rugh, E.M., and Tolson, D.J., eds. *Debate on U.S. Immigration*. Los Angeles: Sage Publications, 2012.

"Those who object to the use of the term 'illegal alien' appear to believe that if they can convince the American public that illegal immigration is not really illegal, then amnesty no longer is amnesty, and enforcing immigration law is unnecessary."

Introduction

Under federal law, any non-U.S. citizen is an alien. Aliens who have entered the United States without permission, or who have violated the terms of their admission, are identified under the law as illegal aliens. That is a fact, not an issue for debate.

The term "alien" means any person not a citizen or national of the United States. —United States Code, Title 8, §1101(a)(2)

An illegal alien... is any alien (1) whose most recent entry into the United States was without inspection, or (2) whose most recent admission to the United States was as a nonimmigrant and—(A) whose period of authorized stay as a nonimmigrant expired, or (B) whose unlawful status was known to the Government, before the date of the commission of the crime for which the alien is convicted. —United States Code, Title 8, §1305(e)

It is also a fact that, according to U.S. law, it is a crime to enter the United States without permission. The first offense is a misdemeanor, the second, a felony. It is true, however, that most violations of immigration law are dealt with in a civil court and not in a criminal court. An administrative adjudicator who has authority under the Department of Immigration Review (EOIR) to determine whether or not an alien is in violation of U.S. law. This procedure for handling immigration cases is designed to be efficient; it should not be interpreted as an indication that illegal immigration is not a crime. Because illegal aliens are not U.S. citizens, they are not entitled to the same rights and privileges under the Constitution as are citizens. Thus, they are not entitled to a jury trial for their criminal violation of U.S. law.

On proper terminology, what is known in legal parlance as the correct term has arisen whose object is to substitute euphemism for

"Under federal law, any non-U.S. citizen is an alien. Aliens who have entered the United States without permission...are identified under the law as illegal aliens. That is a fact, not an issue for debate."

—EXCERPT FROM "ILLEGAL ALIENS": THE PROPER TERMINOLOGY

DEPORTATION DECLINE *continued*

The administration has taken no legal action against jurisdictions that refuse to honor ICE detainer requests, even though they impede the removal of criminal aliens.



ting the administration on pace for just 313,000 for the entire fiscal year (which ended on September 30). The FY 2014 deportation totals are likely to be the lowest since President Obama took office and well below the 400,000 deportations for which the administration says it has the funding for.

The sharp decrease in deportations coincides with a surge of illegal aliens pouring across the southern border. DHS estimates that about 90,000 unaccompanied minors will have entered the U.S. illegally during FY 2014. Despite statements from the White House and Homeland Security that the new arrivals would be sent home, as of August only 280 had been removed.

Another factor dragging down the number of deportations is the growing number of state and local governments adopting policies to hamper the removal of criminal aliens. Illegal alien-friendly jurisdictions are increasingly refusing to honor Immigration and Customs Enforcement detainer requests for illegal aliens who have

been arrested and charged with other crimes, except under very limited circumstances. California, home to the nation's largest population of illegal aliens, is among the jurisdictions refusing to comply with federal detainer requests.

Under the Obama administration's self-declared policies, deportations of illegal aliens from the interior of the country are largely limited to criminals. Thus, policies that constrain ICE from taking custody of criminal aliens who have been arrested by state and local law enforcement severely interfere with the department's ability to deport even criminal aliens.

In stark contrast to the administration's lawsuits against Arizona, Alabama and a number of other jurisdictions that passed laws allowing local police to detain suspected illegal aliens, the administration has taken no legal action against jurisdictions that refuse to honor ICE detainer requests, even though they impede the removal of criminal aliens. ■

Long-Time Foe of Immigration Enforcement Appointed Senior Counselor for USCIS

One of the ways the Obama administration has gone about dismantling the nation's immigration enforcement apparatus has been to appoint staunch opponents of enforcement to key positions in the White House and federal agencies. That trend continued in Sep-

tember with the appointment of Lucas Guttentag to serve as Senior Counselor to the U.S. Citizenship and Immigration Services's new director Leon Rodriguez.

In his own words Guttentag's role at USCIS will be "advising the director on policy matters in sup-

port of the administration's efforts to improve and reform the immigration system." Guttentag's entire career has been spent working to degrade and decimate interior U.S. immigration law enforcement. In his new role, he will have the opportunity to continue that effort

GUTTENTAG APPOINTMENT *continued*
from within a key agency tasked with implementing immigration laws.

Guttentag founded the Immigrants' Rights Project of the American Civil Liberties Union Foundation in 1985 and was its national director for 25 years. During that time, he was a fixture in one class action suit after another, challenging in federal courts nearly every attempt by Congress to try to rationalize the immigration system and make the law enforceable. These efforts included opposing state and local efforts to implement laws designed to discourage the settlement of illegal aliens, opposing efforts to limit illegal aliens' access to public benefits, opposing implementation of E-Verify, thwarting efforts to remove criminal aliens from the U.S., and much more.

Guttentag's role as senior counselor will be critical as the Obama administration gears up to implement the administrative amnesty the president will likely announce later this year. USCIS will be the agency tasked with processing, reviewing, and approving potentially millions of applications for deferred action and for work authorization. USCIS is already notoriously lax in approving applications for immigration benefits. In 2012, the Inspector General reported that USCIS personnel, under former director Alejandro Mayorkas (now Deputy Secretary of DHS), were being pressured to "find a way to get to yes" when reviewing applications.

Based on his track record, Guttentag can be expected to "advise" the director to bend all rules and requirements of the president's anticipated amnesty program to favor illegal aliens. At a time when the American people are becoming increasingly concerned about the administration's lack of commitment to immigration enforcement, Guttentag's appointment gives them even more reason to worry.

Rep. Barletta Offers Bill to Protect Communities from Impact of Unaccompanied Minor Resettlement

Rep. Lou Barletta (R-Penn.), a member of FAIR's National Board of Advisors, rose to national prominence as mayor of Hazleton, Pennsylvania, when his city pioneered in taking steps to discourage illegal aliens from settling there. Now, as a member of Congress, Barletta has introduced legislation to shield states and local governments from the burdens associated with the federal government's efforts to quietly resettle thousands of newly arrived unaccompanied illegal alien minors around the country.

The Unaccompanied Alien Children Transparency Act, H.R. 5409, would give governors and local officials the authority to stop the federal government from placing unaccompanied alien minors into their jurisdictions and empower them to deny relocation plans after holding a public hearing.

“This crisis certainly shouldn't be the problem of states and localities, which are right now being kept in the dark about the movements of illegal immigrants.”

—REP. LOU BARLETTA (R-PENN.)

The bill would require the Department of Health and Human Services to give state and local officials advance notice of plans to relocate unaccompanied minors into their communities, indicating how long they are likely to remain, their likely impact on the communities' public safety, educational and health systems; and provide assurances that the illegal aliens have undergone health screenings and do not pose a health risk.

Under the bill, state and local officials would have 30 days to review HHS plans to settle illegal alien minors in their communities. Only after the governors of each state and a majority of local elected officials in the designated communities approve the plans could HHS begin relocating illegal aliens.

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The immigration issue has never been bigger and that means the challenges we face, and opportunities, are greater than ever.

As America approaches a defining moment in its immigration history, your pledge to FAIR in the 2014 Combined Federal Campaign is needed now more than ever.

Please choose the **Federation for American Immigration Reform (#11696)** in the 2014 Combined Federal Campaign.



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