



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

# Immigration

## REPORT

NOVEMBER 2014

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## Taxpayers Forced to Pay \$9 Million to Lawyers Representing Illegal Aliens

“**O**ur message absolutely is don't send your children unaccompanied, on trains or through a bunch of smugglers... If they do make it, they'll get sent back.” That was President Obama's unequivocal statement in July as he attempted to manage the political fallout from the surge of illegal aliens crossing the southern border.

Since that statement, deeds have failed to match the president's rhetoric. Some 37,000 unaccompanied minors have been settled around the U.S. by the Department of Health and Human Services with little indication that they'll be leaving anytime soon. And, on Sept. 30, HHS announced further efforts to help many illegal aliens remain in the U.S. The department will

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## Illegal Immigration Spikes for Third Consecutive Year

**D**ata for Fiscal Year 2014 (which ended on Sept. 30) indicate that illegal immigration to the U.S. increased by 14 percent over the previous year. FY 2014 marks the third consecutive year that illegal immigration has surged.

The Department of Homeland Security extrapolates the flow of illegal immigration based on the number of people they apprehend attempting to gain entry to the country. In FY 2014, the Border Patrol apprehended

479,377 illegal aliens—an increase of more than 65,000 over the previous year. Last year's figures also represent a 45 percent spike since the low point of about 330,000 apprehensions in FY 2011. But even this increased number of apprehensions may not reflect the true magnitude of illegal immigration. Apprehension totals are easy to manipulate, as the administration can direct the Border Patrol away from high traffic routes as well as towards them.

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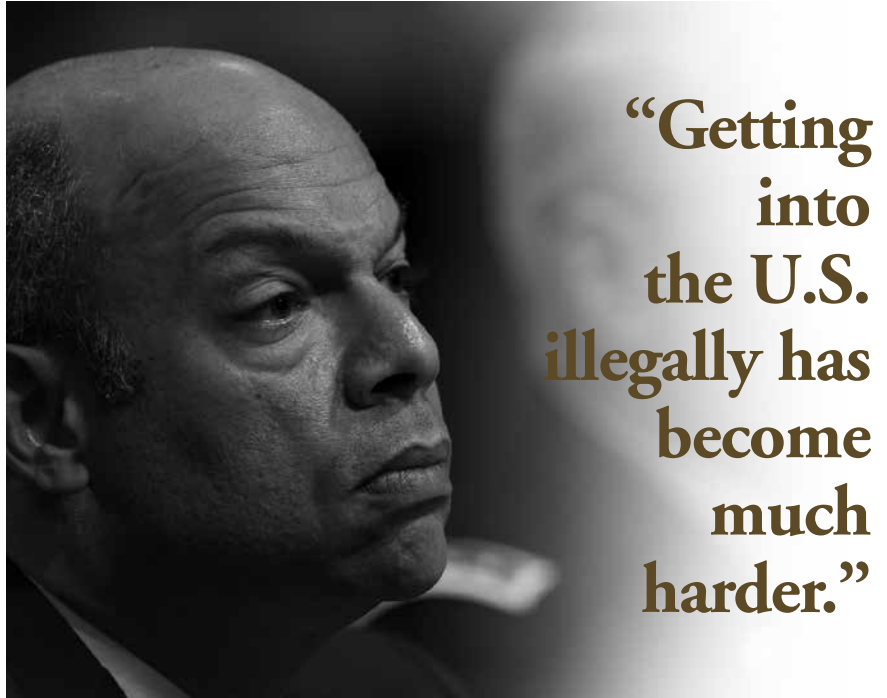
\$9 MILLION FROM TAXPAYERS  
FOR LAWYERS FOR ILLEGALS  
*continued*

award \$9 million in taxpayer-funded grants for direct legal representation of approximately 2,600 unaccompanied illegal alien minors facing deportation.

The HHS grants are in addition to the \$1.8 million that the Department of Justice awarded to 100 lawyers and paralegals representing illegal aliens under age 16 in removal proceedings through the “justice AmeriCorps” program in June. As was the case with the DOJ grants, taxpayer money will be funneled to a variety of advocacy groups who will challenge the government’s efforts (such as they are) to remove thousands of unaccompanied minors who have flooded into the country.

Even more stunning is the fact that neither house of Congress has approved the president’s funding requests to provide legal representation to these illegal aliens. In early August, the House approved a supplemental appropriations measure that did not include any funding for lawyers. The Senate has yet to act on the president’s supplemental funding request.

IMMIGRATION SPIKES *continued*



**Despite DHS’s own data, Secretary Jeh Johnson continues to insist that his department is doing a stellar job in controlling the border.**

Despite DHS’s own data, Secretary Jeh Johnson continues to insist that his department is doing a stellar job in controlling the border. In an early October speech to the Center for Strategic and International Studies, Johnson asserted that getting into the U.S. illegally has become “much harder” and that “people know that” (although apparently not the tens of thousands of people who surged across the border in recent months).

As we reported in last month’s edition of the FAIR *Immigration Report*, the sharp growth in new illegal immigration has coincided with a significant decrease in the number of aliens who are being deported. Preliminary data re-

leased over the summer project that the administration was on pace for just 313,000 deportations for the entire year.

The data suggest that the ebb in illegal immigration a few years ago was a response to the weak U.S. economy and job market. Despite the Obama administration’s efforts to take credit, the temporary lull appears to have occurred in spite of their policies, not because of them. As the administration’s efforts to dismantle immigration enforcement became known around the world, even the modest improvement in the U.S. economy has resulted in a significant increase in illegal immigration.

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## 8,800 Criminal Aliens Released as Local Governments Refuse to Honor ICE Detainers

According to Immigration and Customs Enforcement, some 8,800 criminal aliens were released from custody during the first eight months of 2014 as a result of state and local policies of refusing to honor federal detainer requests. Detainer requests are issued by ICE to a state or local enforcement agency that is holding a criminal alien whom ICE is seeking to deport.

In the past several years, numerous jurisdictions around the country have adopted policies that prohibit police and sheriffs from honoring ICE detainer requests except under extraordinary circumstances. The results of such policies have led to unnecessary tragedies. Virginia Kice, a spokeswoman for ICE, pointed to a deportable alien in Illinois who murdered a 15-year-old girl after authorities refused an ICE detainer request and released him back onto the streets. In 2013, an illegal alien arrested in Santa Clara County, California, was released as a result of local noncompliance policies. A month later,

**“There’s a lot of crimes we could probably prevent if people would just honor our detainers.”**

he brutally murdered the mother of his three children while the kids were in the next room.

“There’s a lot of crimes we could probably prevent if people would just honor our detainers,” said a frustrated ICE official in Southern California.

In contrast to the U.S. Department of Justice’s aggressive stance towards state and local governments that attempt to enforce federal immigration laws in contravention to Obama administration “policies,” it has taken no legal action against any of the jurisdictions responsible for releasing 8,800 criminal aliens ICE sought to deport during an eight-month period.

### NEW RESEARCH FROM FAIR

## *Cutting Through the False Rhetoric*

Nothing epitomizes doublespeak more than attempts to deny that allowing illegal aliens currently residing in the United States to remain permanently constitutes amnesty. Reasonable people may disagree about what is the best immigration policy, including what to do about the roughly twelve million illegal aliens now in the country, but what is indisputably, unambiguously clear is that to allow millions of illegal aliens to remain in the United States in violation of current law is the very definition of amnesty.

The reason amnesty advocates avoid a straightforward debate is because they know they cannot win on the facts or merits of their arguments.



Download the Issue Brief:  
***Defining Amnesty for the Factually Impaired***  
on our website [FAIRus.org](http://FAIRus.org).

## Holder's Legacy of Gutting Immigration Enforcement

On Sept. 25, Attorney General Eric Holder announced he will be stepping down from the post he has held since the start of the Obama administration. In his capacity as the nation's chief law enforcement official, Holder has played a central role in the systematic dismantlement of U.S. immigration enforcement.

During his six-year tenure at the Department of Justice, Holder relentlessly undermined immigration enforcement through dubious interpretation of statutes, intimidation and dereliction of duties. Holder dutifully found flimsy legal pretenses for how the administration could bypass the laws enacted by Congress under the guise of "prosecutorial discretion." Although intended to be used in rare and exceptional circumstances, the Attorney General interpreted prosecutorial discretion as a license to simply ignore laws and allow the Obama administration to selectively choose which aliens, if any, would be removed and which laws it would enforce.

Under Holder, DOJ was turned into a blunt force instrument to intimidate states and local governments that defied the administration's non-enforcement agenda. When Arizona and a number of other states enacted legislation designed to combat illegal immigration, Holder's DOJ sued to prevent those laws from taking effect. Although most of the key provisions of Arizona's law were upheld, the message to other jurisdictions was clear: fall into line, or face the full weight (and significant expense) of a federal lawsuit.

While Holder was zealously suing state and local governments for trying to carry out federal immigration laws, he willfully ignored actions by other jurisdictions intended to prevent the enforcement of U.S. immigration laws. Under Holder, DOJ took no action against dozens of jurisdictions that implemented sanctuary policies—although such policies are explicitly prohibited under federal statutes—nor did his department take action against state

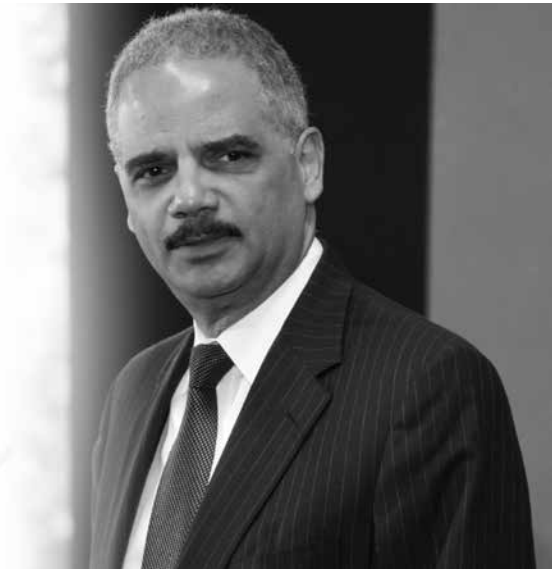
and local governments that refuse to honor federal requests to detain illegal aliens.

Holder is expected to burnish his legacy of undermining immigration enforcement as the architect of President Obama's broad executive amnesty which he has promised to unveil after the midterm elections. The president has tasked Holder and several other top officials with manufacturing a legal pretense for the administration to ignore countless immigration laws and grant de facto amnesty to an estimated 5-8 million illegal aliens.

The president has yet to nominate Holder's replacement. There is little reason to expect that Mr. Obama will appoint anyone who will uphold U.S. immigration laws, but it is hard to imagine that anyone will be able to outdo the damage that Holder has inflicted during his tenure. ■

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# Across the Country

## • *New York* •

In October, the New York City Council approved legislation that would prohibit police and corrections officials from honoring any detainer request without a judicial warrant — and even if there is a judicial warrant, the police department would only honor the request if the subject was “convicted of a violent or serious crime” within the last five years, or is on the terrorist watch list. The bill was sponsored by Council President Melissa Mark-Viverito (D-Manhattan/Bronx) and had the support of Mayor Bill De Blasio. The bill also bars Immigration and Customs Enforcement (ICE) from the city jail on Rikers Island. The new law will significantly impede ICE’s ability to remove foreign criminals from the United States. Between Oct. 2008 and Aug. 2014, ICE issued more than 900,000 detainer requests for people arrested in New York City.

## • *Colorado* •

All Colorado county jails have succumbed to intimidation by the American Civil Liberties Union by agreeing to ignore detainer requests by the United States Immigration and Customs Enforcement in all circumstances. Earlier this year, the ACLU sent letters to sheriffs’ offices all over the country urging them to stop honoring ICE detainees, arguing that any detention of an alien on the basis of an ICE detainer is a violation of the 4th Amendment. In bold letters, the ACLU threatened that jurisdictions honoring ICE detainer requests “may be held liable for damages” under federal law. The ACLU’s threats blatantly misrepresent a decision handed down by a federal court in Oregon in April. As a result, deportable and potentially dangerous aliens will be released in communities across Colorado.

## • *California* •

Illegal aliens in California will now be able to obtain professional licenses from the state, despite the fact that federal law prohibits their employment. In late September, Gov. Jerry Brown signed S.B. 1159, which requires that all 40 of the California Department of Consumer Affairs licensing boards consider applications irrespective of immigration status. As a result of the legislation, illegal aliens will now be licensed to practice in an array of trades and professions, ranging from electricians and plumbers, to doctors and dentists.

## 70 Percent of Illegal Alien Families Are No-Shows for Hearings

**S**urprise! An ICE official revealed that, as of mid-September, 70 percent of the illegal alien families who were apprehended after crossing the border this year have failed to appear at required follow-up appointments. That's 41,000 illegal aliens who have simply disappeared into the country.

The high no-show rate further belies claims by President Obama and other administration officials that illegal aliens flooding across the southern border will be given expedited hearings and promptly returned to their home countries if they do not have a valid claim to stay the United States.

They can't be removed if they don't show up for their hearings and, even under the best of circumstances,

**Undoubtedly, word is filtering back to sending countries that, in spite of tough rhetoric from the president, there is a very high probability that illegal aliens will be allowed to remain in the U.S.**

locating 41,000 missing illegal aliens would be a formidable task if the administration were to make an effort to find them. ■

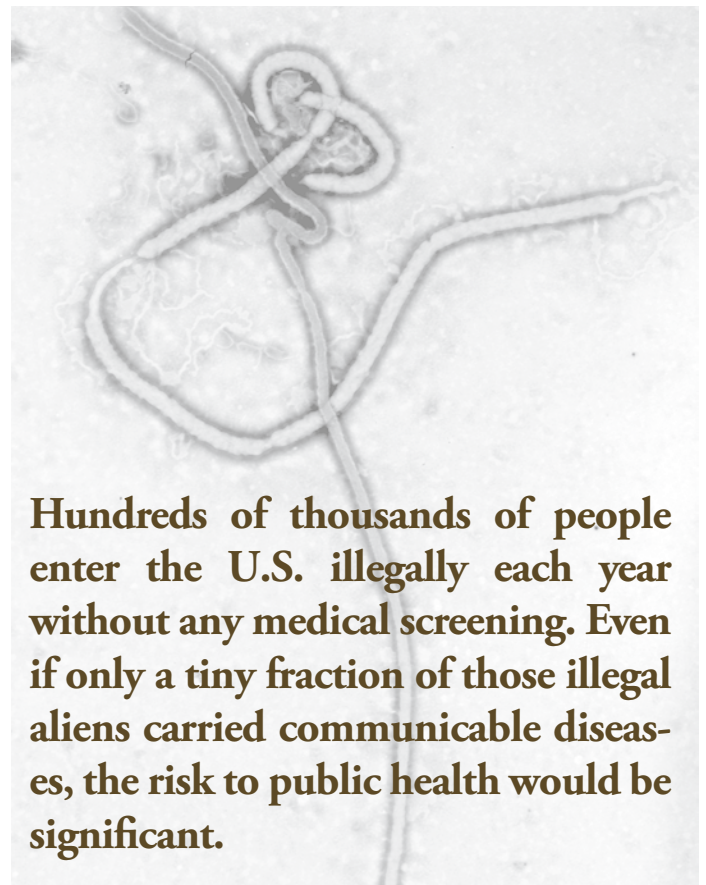
## FAIR Analysis: First U.S. Ebola Case Should Never Have Been Granted a Visa

**T**homas Eric Duncan, a Liberian national, became the first patient to be diagnosed with Ebola in the United States. Federal law provides that "any alien who is determined ... to have a communicable disease of public health significance" is inadmissible to the United States. Further, federal regulations provide that an applicant for a nonimmigrant visa shall be required to take a medical examination if the consular officer believes that a medical examination might disclose that the applicant is medically ineligible for a visa.

Although Duncan did not exhibit any symptoms of the deadly disease when he arrived in the U.S. on September 20, he should nevertheless have been denied a visa.

Even if he had been in perfect health, Duncan had all of the hallmarks of someone who intended to settle illegally in the United States: he was unemployed; he had family and other ties in the United States; and he had potential ties to Liberia, a country with a high overstay rate. Nevertheless, the State Department ignored all of these warning signs and issued him a visa anyway.

The threat of an Ebola outbreak in the U.S. further illustrates the health risks posed by our porous borders.



**Hundreds of thousands of people enter the U.S. illegally each year without any medical screening. Even if only a tiny fraction of those illegal aliens carried communicable diseases, the risk to public health would be significant.**

## Administration Invokes Nonexistent Parole Authority to Increase Haitian Immigration

The Obama administration once again seized a congressional recess as an opportunity to roll out a major and unauthorized change to U.S. immigration policy. While members of Congress were home campaigning in mid-October, the Department of Homeland Security announced that it will begin implementing a Haitian Family Reunification Parole (HFRP) program.

According a DHS press release, HFRP “will offer certain eligible Haitian beneficiaries of already approved family-based immigrant visa petitions, who are currently in Haiti, an opportunity to come to the United States up to approximately two years before their immigrant visa priority dates become current.” Essentially, the program will allow would-be Haitian immigrants to jump the line by as much as two years.

Early next year, DHS will begin contacting certain U.S. citizens or lawful permanent residents with approved petitions for Haitian family members, and offer them the opportunity to apply to the program.

Aside from being wholly unjustified, the administration is once again acting without legal authority to admit aliens to the United States. The president does not have the authority to parole broad categories of foreign nationals into the



United States. Parole power exists to address unique circumstances in which a compelling humanitarian concern is at stake, not to permit entire classes of aliens to gain entry to the U.S. Nevertheless, the president continues to abuse this authority to circumvent immigration laws and limits.

DHS justified the HFRP as a means to support “broader U.S. goals for Haiti’s reconstruction and development by providing the opportunity for certain eligible Haitians to safely and legally immigrate sooner to the United States.” However, DHS failed to offer any rational explanation as to how ex-

pediting emigration from Haiti will advance the goal of reconstructing and developing that nation. No nation has ever grown strong and prosperous by having its people emigrate en masse.

Deputy DHS Secretary Alejandro Mayorkas also argued that HFRP is an attempt to preempt renewed large-scale and dangerous illegal immigration from Haiti, much like the recent surge from Central America which was a response to Obama administration policies that reward illegal immigration. The inevitable consequence of the HFRP will be for other countries to demand similar treatment.

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**Aside from being wholly unjustified, the administration is once again acting without legal authority to admit aliens to the United States.**

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Charity Navigator has awarded FAIR four out of a possible four stars. In earning Charity Navigator's highest rating, FAIR has demonstrated exceptional financial health, outperforming most of our peers in our efforts to manage and grow our finances in the most fiscally responsible way possible.

# Our goals are the same as yours.



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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