



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

# Immigration REPORT

SEPTEMBER 2011

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## Obama Administration Declares Administrative Amnesty for Illegal Aliens

*Cases Against Non-Criminal Aliens to be Dropped Unilaterally*

In a policy statement posted on the White House website and in letters to leading members of Congress, the Obama administration declared what amounts to an administrative amnesty for nearly all illegal aliens without criminal records. Under the guise of setting enforcement priorities, the administration announced that it would review some 300,000 pending cases against deportable aliens, with the intent of dropping the cases, and would cease to initiate new proceedings against illegal aliens without criminal convictions.

The statement, posted on the White House website by Intergovernmental Affairs Director Cecilia Muñoz, lists broad

categories of illegal aliens whose cases are likely to be dismissed under the new policy. Simultaneously, in letters to Majority Leader Harry Reid (D-Nev.) and other Senate Democrats who support the DREAM Act, Department of Homeland Security (DHS) Secretary Janet Napolitano stated that potential DREAM Act beneficiaries would no longer be subject to removal.

The August 18th policy announcement takes dead aim not just at the integrity of U.S. immigration law, but on the constitutional separation of powers. Under our constitution, Congress has the exclusive authority to make immigration policies. It is the constitutional responsibility of the Ex-

IN SPITE OF REPEATED ASSERTIONS BY PRESIDENT OBAMA THAT HE LACKS THE CONSTITUTIONAL AUTHORITY TO GRANT AMNESTY TO ILLEGAL ALIENS WITHOUT LEGISLATIVE ACTION BY CONGRESS, THE POLICIES BEING IMPLEMENTED BY HIS ADMINISTRATION AMOUNT TO PRECISELY THAT.

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## FAIR Leads the Response to Administration's Amnesty Plan

It was no accident that the Obama administration chose mid-August to announce sweeping changes in U.S. immigration policy by administrative decree. Congress, which has exclusive constitutional authority to make immigration policy, was in recess. The American public was otherwise engaged in summer vacations, preparing the kids to return to school, or watching the value of their stock portfolios drop 14 percent in a single week. The administration saw these conditions as an opportunity to pander to the illegal alien advocacy lobby, while escaping an immediate reaction from Congress and the American public.

As FAIR has often done when big immigration stories break, we provided the immediate response in the media to the administration's policy announcement, and began to rally public opposition to this blatant attempt to enact a *de facto* amnesty without approval from Congress. During the first days after the administra-

tion's announcement, FAIR blanketed national and local media informing the American public about what the administration had done and the unconstitutional means by which they sought to achieve their political objectives.

Within a few days, FAIR spokespeople had addressed the administrative amnesty plan on national and local television, including the CBS Evening News, the PBS Newshour, three Fox News broadcasts, Univision and Telemundo. FAIR's comments and analysis appeared in dozens of leading newspapers, including the *Los Angeles Times*, *USA Today*, the *Chicago Tribune*, the *San Francisco Chronicle*, *Seattle Times*, and many others.

In addition FAIR was able to tap its strong ties with talk radio to speak directly to Americans about this issue.



*FAIR President Dan Stein discusses administration's amnesty policy on PBS's Newshour.*

In dozens of talk radio appearances during the first week after the administration's announcement, FAIR had the opportunity to let the public know what was happening and what they could do to respond.

Providing timely and factual information to the American public is at the core of FAIR's mission and our ability to rally public opposition to an unwarranted and unconstitutional plan to grant amnesty to millions of illegal aliens.

## Immigration REPORT

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## Ten Years After the 9/11 Attacks

FAIR has dedicated its report marking the tenth anniversary of the 9/11 terrorist attacks to the memory of the victims of that attack and their loved ones. The report surveys the change in the nation's defenses over the past ten years and highlights where we remain vulnerable.

The report's message is: We will not forget the victims of the September 11, 2001, terrorist attacks. We will not forget that America remains in the crosshairs of foreign terrorist groups. We will continue to promote immigration reforms that will lessen the nation's vulnerability to future attacks.

ADMINISTRATIVE AMNESTY *continued*

THE HINDER THE ADMINISTRATION'S LEGALIZATION TEMPTATION ACT (HALT) — H.R. 2497 — WAS INTRODUCED IN JULY WITH THE CLEAR OBJECTIVE OF PREVENTING THE ADMINISTRATION FROM CARRYING OUT THE VERY POLICIES THAT ARE BEING EXPANDED BY THIS RECENT ANNOUNCEMENT.

ecutive Branch of government to carry out and enforce the laws passed by Congress whether the administration in office agrees with them or not. The timing of the announcement, while Congress was in recess, was also designed to limit the Legislative Branch's ability to react.

The administration's new policy offers illegal aliens more than relief from deportation. DHS indicated that those whose cases will be dropped will be eligible to apply for work authorization in the United States and would almost certainly receive it. Thus, in spite of repeated assertions by President Obama that he lacks the constitutional authority to grant amnesty to illegal aliens without legislative action by Congress, the policies being implemented by his administration amount to precisely that.

In addition to illegal aliens who would be eligible for amnesty under the DREAM Act — legislation that Congress has repeatedly declined to enact since it was first proposed in 2000 — the policy would also protect illegal aliens who have family members in the United States. Even those who do not fall into those categories would be unlikely to face deportation so long as they refrained from committing other crimes in the U.S.

The administration offered the untenable excuse that enforcing laws against non-criminal aliens distracts from their effort to remove people who pose a greater danger to American society. Secretary Napolitano argued that deportation proceedings against non-criminal aliens are “clogging immigration court dockets” and consuming monetary and manpower resources from her department. While no one would dispute the need to prioritize the removal of violent criminals, no other legitimate law enforcement agency in the world would suggest that they should stop enforcing all other laws. It remains DHS's responsibility to enforce all of the immigration laws enacted by Congress.

The administrative amnesty is clearly tied to President Obama's re-election bid. The president has been under mounting pressure from Hispanic and illegal alien advocacy groups to take the steps his administration took on August 18. Concurrent with the policy announcements, the White House held a conference call with dozens of illegal alien advocacy groups to spell out the benefits that would be provided. The changes were greeted with praise by the illegal alien advocates. “Today's announcement shows that this president is willing to put muscle behind his words and to use his power to intervene,” stated Rep. Luis Gutierrez (D-Ill.), Congress's most outspoken amnesty supporter.

The responsibility to block the administration from carrying out this amnesty plan now rests with Congress when it returns to session. House Judiciary Committee Chairman Lamar Smith (R-Tex.), who termed the plan a “backdoor amnesty,” has already introduced legislation aimed at curbing the administration's abuse of prosecutorial discretion. The Hinder the Administration's Legalization Temptation Act (HALT) — H.R. 2497 — was introduced in July with the clear objective of preventing the administration from carrying out the very policies that are being expanded by this recent announcement.

FAIR immediately took a lead role in informing the American public about the policy and constitutional implications of the administration's amnesty plan. In the aftermath of the announcement, FAIR spokespeople appeared on national and local television and radio, and in leading newspapers, denouncing the administration's move. FAIR will also work with members of Congress in an effort to prevent the Obama administration from carrying out this harmful and unconstitutional quasi-amnesty.

## Obama Administration Sues Alabama to Make Sure No One Enforces U.S. Immigration Laws

In a prelude to the August 18 announcement that virtually all illegal aliens who have not committed other crimes in the U.S. would receive administrative amnesty, the Obama administration filed suit against Alabama in an effort to prevent that state's immigration enforcement policy from going into effect. The suit was filed in federal court in Birmingham, Alabama, on August 1. A federal judge issued a temporary injunction blocking the law's implementation while she reviews the case.

Alabama's immigration law, known as H.B. 56, would allow state and local police to inquire about immigration status when in the course of a legal stop they reasonably suspect that an individual is an illegal alien. The law mandates the use of E-Verify for all employers and imposes penalties against businesses found to be employing illegal aliens. Schools would be required to provide K-12 education as mandated by the U.S. Supreme Court, but school districts would be required

to determine the immigration status of students.

Just as it did when it sued Arizona to prevent that state's law from taking effect, the Obama Justice Department made it clear that it will not tolerate anyone enforcing U.S. immigration laws as it prepared to grant administrative amnesty to millions of illegal aliens. The federal suit argues that Alabama's law "ignores many other objectives that Congress has established for the federal immigration system." Among these are the interests of foreign governments (15 of which filed briefs in support of the lawsuit), which the Obama administration appears to take more seriously than the interests of Alabamans. The Obama administration also contends that Alabama's law interferes with their ability to establish policy priorities — implicitly meaning the ability to not enforce laws against broad classes of illegal aliens.

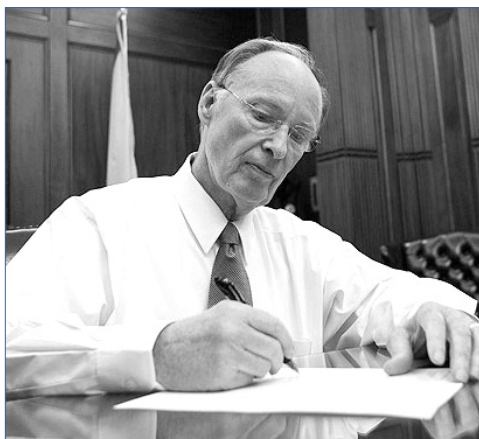
"To put it in terms we relate to here in Alabama, you can only have one quarterback in a football game. In

immigration, the federal government is the quarterback," said Joyce Vance, United States attorney for the Northern District of Alabama. However, as the subsequent administrative amnesty announcement made clear, the quarterback is being ordered to kneel with the ball.

Gov. Robert Bentley and the H.B. 56's sponsors in the Alabama Legislature have vowed to defend the law in court. The Immigration Reform Law Institute, FAIR's public interest law affiliate, quickly filed an amicus brief supporting Alabama's right to protect itself against the harmful effects of mass illegal immigration.

The repeated failure of the Obama administration to take legal action against state and local governments that enact laws and policies that protect illegal aliens demonstrates conclusively that the actions against Alabama and Arizona have nothing to do with protecting the federal government's authority over immigration policy. Rather, the Department of Justice has targeted only states that attempt to implement laws to discourage illegal immigration.

The federal government's message to the states is clear: Fall in line with its policy of non-enforcement, or face the costs of a federal lawsuit on top of the already formidable costs associated with illegal immigration.



"I CAMPAIGNED FOR THE TOUGHEST IMMIGRATION LAWS, AND I'M PROUD OF THE LEGISLATURE FOR WORKING TIRELESSLY TO CREATE THE STRONGEST IMMIGRATION BILL IN THE COUNTRY."

—ROBERT BENTLEY  
GOVERNOR OF ALABAMA



## Black Angelinos Harmed by Illegal Immigration, Ignored by Leaders

Perhaps no group of Americans is harmed more by mass immigration than black Americans, and no group of black Americans has been hit harder than those who live in Los Angeles. In response to increasing calls for help from black Angelinos, FAIR's Field Department organized a community meeting to help local residents make their voices and concerns heard.

The August 6 meeting drew about 100 people from across the greater Los Angeles area. Black Angelinos expressed their frustration about the impact of mass immigration — par-

ticularly illegal immigration — on their communities, their children's schools, and on their ability to find jobs. Among those who addressed the group was



Jamie Shaw Sr., whose 17-year-old son Jamie Jr. was murdered outside his home by an illegal alien gang member

who had recently been released from police custody. Notably absent from the event were any of Los Angeles' black political leaders. Twenty-two elected officials were invited to listen to the concerns of their constituents and not a single one bothered to show up.

The event was far more than just an opportunity to air grievances. As FAIR has done across the country when political leaders have refused to address the concerns of citizens, the event offered an opportunity for people in the community to organize and network to force change from the grassroots up.

## Gov. Brewer Asks Supreme Court to Rule on S.B. 1070

The ability of state and local governments to protect the interest of citizens from mass illegal immigration may finally be tested before the U.S. Supreme Court. Arizona Governor Jan Brewer, who signed S.B. 1070 into law last year, demonstrated her continued commitment to protecting the interest of Arizonans by petitioning the Supreme Court review a ruling by the 9th Circuit Court of Appeal which blocked implementation of key provisions of the law. Among those provisions was one that allows Arizona police to question people about immigration status when they reasonably suspect an individual is an illegal alien.

A ruling in the Arizona case would set a clear legal precedent for the roles state and local governments may play in immigration enforcement. Conflicting rulings by courts on a variety of state and local immigration enforcement laws

makes it likely that the Supreme Court will hear Arizona's appeal. Earlier this year, the Supreme Court upheld another Arizona law by a 5-3 margin (Justice Elena Kagan recused herself). In that decision, the Court majority asserted that Congress has granted states wide latitude to enforce existing federal immigration laws.

FAIR and its legal affiliate, the Immigration Reform Law Institute (IRLI), worked closely with Arizona lawmakers to draft S.B. 1070, and have submitted *amicus*, or friend of the court, briefs in support of the law as both the lower court and the 9th Circuit considered the federal government's suit. Both FAIR and IRLI expect to play an active role in supporting the state when an appeal is heard before the Supreme Court.

## Secure Communities Program to Continue Without Local Cooperation

### *DHS Forms Task Force to Assess “Community” Concerns*

On August 5, the Obama administration cancelled agreements with 39 state governments already participating in the Secure Communities program. Under Secure Communities, established by President Bush, fingerprints collected by state and local police would be cross-checked against Department of Homeland Security records to identify deportable aliens.

Responding to complaints from illegal alien advocacy groups and the decision by the governors of Illinois, New York, and Massachusetts to withdraw from Secure Communities, the Department of Homeland Security (DHS) stated that participation in the program is mandatory and that fingerprint records would continue to be cross-checked with or without state coopera-

tion. Advocates for illegal aliens and some state officials complained that in addition to aliens with criminal records, Secure Communities was resulting in the identification and deportation of non-criminal illegal aliens. These complaints ignore the fact that the people whose fingerprint records are being checked have been arrested (though not convicted) for some other offense and that merely being in the country illegally is grounds for removal.

While insisting that the program would continue, the Immigration and Customs Enforcement agency (ICE) announced that it would hold a series of meetings around the country to listen to the concerns of the community (read: illegal aliens and their advocates). One such meeting in Chicago resulted in

civil disobedience by illegal aliens in which protestors blocked the entrances to an expressway during rush hour.

The subsequent policy announcement by the Obama administration that it would all but cease enforcement and removal of non-criminal aliens would appear to render the complaints of the illegal alien advocacy network moot. Secure Communities will continue to function as a means to identify violent aliens for removal and promote the administration's charade that it is enforcing immigration laws. As the Obama administration moves to curtail the deportation of broad categories of illegal aliens, Secure Communities will play an increasingly important role in ensuring that overall deportation numbers do not drop precipitously.

■

### **A Message from the Chairman, Roy Porter**

In February, Dr. John Tanton, the original founder and first chairman of FAIR and a member of the Board of Directors for 33 consecutive years, decided not to seek another term on the board. Observing that at 77 years of age, “there is a time and place for everything,” he noted that some health problems encouraged that decision as well. Fortunately, he has agreed to stay involved as a member of the FAIR Advisory Board. A brief tribute to John and his legacy is planned for the upcoming Advisory Board Conference on October 1.

As the current chairman of the Board of Directors, I'd like to express the board's immeasurable gratitude to John, a man of extraordinary leadership ability, wisdom, courage, and compassion. Long before social networking existed, while continuing to work as an eye doctor far outside the Beltway in a small Michigan town, he established FAIR in Washington as America's first national immigration reform organization. Motivated by a deep concern for the well-being of his fellow Americans and the negative effects of a reckless and unfair immigration policy on their environment, security, and future quality of life, he worked tirelessly to fund, recruit, organize, and sustain FAIR as a nonpartisan, pragmatic, and intellectually credible advocate for common-sense policies that would serve the broad national interest. As a result, FAIR has grown into the country's most effective and respected organization dedicated to educating Americans on the need for real immigration reform. One measure of FAIR's impact has been the number of vicious and baseless personal attacks on John from some pro-amnesty groups. John's steady courage in standing up to this well-funded smear campaign has been truly inspirational.



John is very much a Renaissance man, with expertise in such diverse fields as medicine, chemistry, ecology, history, literature, philosophy, politics, demography, agriculture, and land conservation. However, John is as much a man of action as of ideas. An environmental activist who started well before the first Earth Day, he has led numerous national and local environmental organizations. Space does not permit a cataloging of his many other achievements as a civic activist. For more information on FAIR's remarkable founder, I encourage you to check out his website or read John Rohe's biography of John and his equally dedicated wife Mary Lou.

Former Democratic governor of Colorado and current FAIR Advisory Board member Richard Lamm recently declared, "I am an un-abashed friend of John Tanton. What a mix of virtues and abilities! John is a visionary, prophet, organizational genius and a warm and caring human being. Give me a thousand John Tantons and we could save the world." On behalf of the Board of Directors, I certainly echo that sentiment and give heartfelt thanks to John for a lifetime of outstanding public service.

*Roy Porter*

Roy Porter, Chairman  
FAIR Board of Directors

## Who Was Briefed About the Administrations Amnesty Plan?

On the same day that the Obama administration announced its administrative amnesty policy in a posting on the White House website and in letters to pro-amnesty senators, the White House also provided a briefing to the people they consider "stakeholders" in U.S. immigration policy. As was the case this spring, when the White House conducted meetings about immigration policy, the "stakeholders" included only supporters of amnesty. (*Partial list below*)

Angie Kelly  
Alicia Menendez  
Adam Luna  
Addey Fisshea  
Ali Noorani  
Ben Johnson  
Bishop Wester  
Bob Creamer  
Brent Wilkes  
Cara Morris Stern  
Cardinal McCarrick  
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Gabe Gonzalez  
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Gideon Aranoff  
Jaci Braga  
Jeanne Butterfield  
Jessica Reeves  
Jim Ferg Cadima  
Jim Zogby  
Joe Hansen  
John Hennley  
John Wilhelm  
Jorge Mursuli  
Josh Bernstein  
Karen Narasaki  
Kate Kahan  
Kevin Appleby  
Kristian Ramos  
Lillian Rodriguez Lopez  
Luis Cortes  
Maria Teresa Kumar  
Marielena Hincapie  
Nancy Zirkin  
Richard Trumka  
Sam Rodriguez  
Sister Ann Curtis  
Tom Saenz  
Wade Henderson  
Zuraya Tapia  
Simon Rosenberg  
Sheryl Sandberg  
Steve Case  
Julie Kruse  
David Smith  
Brad Jacklin

Center for American Progress (CAP)  
National Democratic Network (NDN)  
America's Voice  
National Immigration Law Center  
National Immigration Forum  
American Immigration Council  
Archdiocese of Salt Lake City  
Immigration Initiative  
League of United Latin American Citizens  
New Partners  
Washington Diocese  
New Organizing Institute  
United We Dream  
Hispanic Federation  
National Council of La Raza  
Migration Policy Institute  
Service Employees International Union (SEIU)  
Vestar Capital Partners  
America's Voice  
Center for Community Change  
Latino Leadership Circle  
Hebrew Immigrant Aid Society  
PICO (formerly Pacific Institute for Community Organizations)  
Raben Group  
Voto Latino  
MALDEF  
Arab American Institute  
United Food & Commercial Workers (UFCW) Union  
Immigration Initiative  
UNITE HERE  
Democracia USA  
SEIU  
Asian American Justice Center  
Center for Community Change  
Conference of Catholic Bishops  
NDN  
National Hispanic Leadership Agenda  
Esperanza USA  
Voto Latino  
National Immigration Law Center  
Leadership Conference on Civil Rights (LCCR)  
AFL-CIO  
National Hispanic Christian Leadership Council  
Sisters of Mercy  
MALDEF  
LCCR  
Hispanic National Bar Association  
NDN  
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## OUR GOALS ARE THE SAME AS YOURS.

- ▶ END ILLEGAL IMMIGRATION
- ▶ RESTORE COMMON SENSE TO  
IMMIGRATION POLICES
- ▶ ENFORCE IMMIGRATION LAWS  
STOP TERRORISTS AT OUR BORDERS
- ▶ FIND A BALANCE BETWEEN PEOPLE  
AND RESOURCES

The immigration issue has never been bigger or hotter – and that means the challenges we face – and the opportunities – are greater than ever. As America approaches a defining moment in its immigration history, your pledge to FAIR in the 2011 Combined Federal Campaign is needed now more than ever. Look for FAIR under our full name in your CFC brochure.

  
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