FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

APRIL 2013

Inside . . .

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ICE Uses Sequestration as an Excuse to Release Illegal Aliens

Even before the automatic budget cuts known as sequestration took effect on March 1, the Immigration and Customs Enforcement agency released more than 2,000 illegal aliens from detention centers across the country. As a result of sequestration, ICE's budget will be trimmed by 5.3 percent. And while Congress mandates illegal alien daily detention levels of 34,000, an internal ICE document circulated in mid-February reveals that the agency already had plans to use the budget crisis as an excuse to reduce illegal alien detainees to below 26,000 by the end of March.

Despite ICE being part of the Department of Homeland Security, Secretary Janet Napolitano claimed that the decision to release illegal aliens was made by ICE officials and that she had no advance knowledge of the action. However, not only did the secretary refuse to override ICE's decision, she appeared to endorse it, saying "We're going to continue to do that [release illegal aliens]…for the foreseeable future."

Even though mainstream media — including *The New York Times* — reported that criminals were among those released onto the streets of America, Secretary Napolitano expressed little concern for the security risk posed by ICE's move, asserting that those being released represented no threat to the public. Napolitano's statement was proven false when ICE Director John

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> WE ARE GOING TO CONTINUE TO DO THAT [RELEASE ILLEGAL ALIENS]...FOR THE FORESEEABLE FUTURE.
> —DHS SECRETARY JANET NAPOLITANO

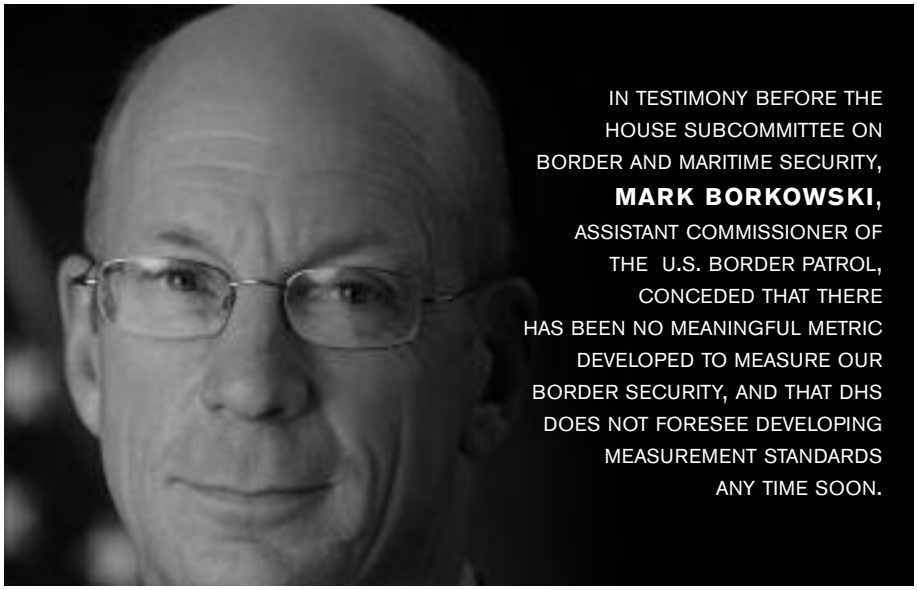
Obama Administration Affirms that Border Security Is Not a Precondition to Amnesty

As in past attempts to enact amnesty, proponents of the unpopular idea of legalizing millions of illegal aliens have tried to assure the American public that illegal immigration will be dealt with effectively in the future. History indicates that that is unlikely to be the case.

As the 2013 debate heats up, there is more than history to indicate that immigration enforcement promises will not be kept. Public statements by high ranking Obama administration officials and leading Democratic lawmakers make it clear that they have no intention of honoring enforcement commitments.

Testifying before the House Subcommittee on Border and Maritime Security in March, Mark Borkowski, Assistant Commissioner of the United States Border Patrol, conceded that for three years the department has failed to develop a meaningful metric to measure the security of our borders. Moreover, Borkowski told the committee, the Department of Homeland Security does not foresee developing measurement standards any time soon.

Another administration official later disclosed to *The New York Times* that the failure to come up with a reliable measurement of border security was "because the president did not want any hurdles placed on the pathway to eventual citizenship for immigrants in the country illegally."



IN TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON BORDER AND MARITIME SECURITY, **MARK BORKOWSKI,** ASSISTANT COMMISSIONER OF THE U.S. BORDER PATROL, CONCEDED THAT THERE HAS BEEN NO MEANINGFUL METRIC DEVELOPED TO MEASURE OUR BORDER SECURITY, AND THAT DHS DOES NOT FORESEE DEVELOPING MEASUREMENT STANDARDS ANY TIME SOON.

These admissions are the latest sign that amnesty proponents are bargaining in bad faith. During the previous month, three leading Senate Democrats promoting amnesty — Chuck Schumer (N.Y.), Majority Leader Harry Reid (Nev.) and Majority Whip Dick Durbin (Ill.) — have all stated that amnesty for illegal aliens should not be conditioned on securing our borders. Nor is it likely that any commitments to carry out any effective workplace or interior enforcement would be honored.

These admissions from the Obama administration and leading congressional Democrats make it clear that what is being negotiated behind closed doors is not "comprehensive immigration reform" but comprehensive amnesty for illegal aliens. An administration that will not even *define* border security clearly has no intention of *enforcing* border security. Moreover, Republicans can no longer maintain the pretense that they are bargaining away amnesty for assurances that laws against illegal immigration will be enforced in the future. ■

Immigration REPORT

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Illegal Alien Advocate Named as Head of Labor Department

One of the biggest challenges to American workers — both those who are unemployed, and those seeking to improve their wages — is the presence of an estimated 8 million illegal aliens in the U.S. labor force. Yet, for the second time, President Obama has named a Secretary of Labor who clearly places the interests of illegal aliens ahead of embattled American workers. Thomas Perez, former head of the Civil Rights Division of the Department of Justice, will replace another illegal alien advocate, Hilda Solis, as head of the U.S. Department of Labor.

While at the DOJ, Perez played a leading role in the legal assaults against state and local governments that enacted laws to discourage the settlement of illegal aliens. Most notably, Perez's division launched a three-year investigation of the law enforcement practices of Maricopa County, Arizona, sheriff Joe Arpaio, looking for evidence of discrimination against Hispanics. That investigation fizzled after wasting large sums of the public's tax dollars.

Similarly, the DOJ demanded extensive paperwork and costly manpower from Alabama schools after the state began to collect data on the number of children of illegal aliens attending public schools. Despite the lack of evidence that anyone was being denied an education, it threatened the schools with "further action" if it decided that the law might "chill or discourage" illegal aliens from sending their children to Alabama schools.

Perez's advocacy on behalf of illegal aliens did not begin with his stint at DOJ. Previously, he served as president of the board of directors of Casa de Maryland, a strident illegal alien advocacy group that runs hiring centers for day laborers and provides a variety of services to illegal aliens in Maryland. In addition to lavish state funding, Casa de Maryland also received $1.5 million in funding from the late Venezuelan strong man, Hugo Chavez.

Perez will join White House Domestic Policy Advisor Cecelia Muñoz as another key administration official with close links to the illegal alien advocacy lobby. In naming Perez to head DOL, President Obama is replacing an illegal alien advocate with a more strident one. Most importantly, Perez's appointment is another indicator that worksite enforcement, which is critical to deterring illegal immigration, will not be carried out.

IN NAMING PEREZ TO HEAD DOL, PRESIDENT OBAMA IS REPLACING AN ILLEGAL ALIEN ADVOCATE WITH A MORE STRIDENT ONE. MOST IMPORTANTLY, PEREZ'S APPOINTMENT IS ANOTHER INDICATOR THAT WORKSITE ENFORCEMENT, WHICH IS CRITICAL TO DETERRING ILLEGAL IMMIGRATION, WILL NOT BE CARRIED OUT.

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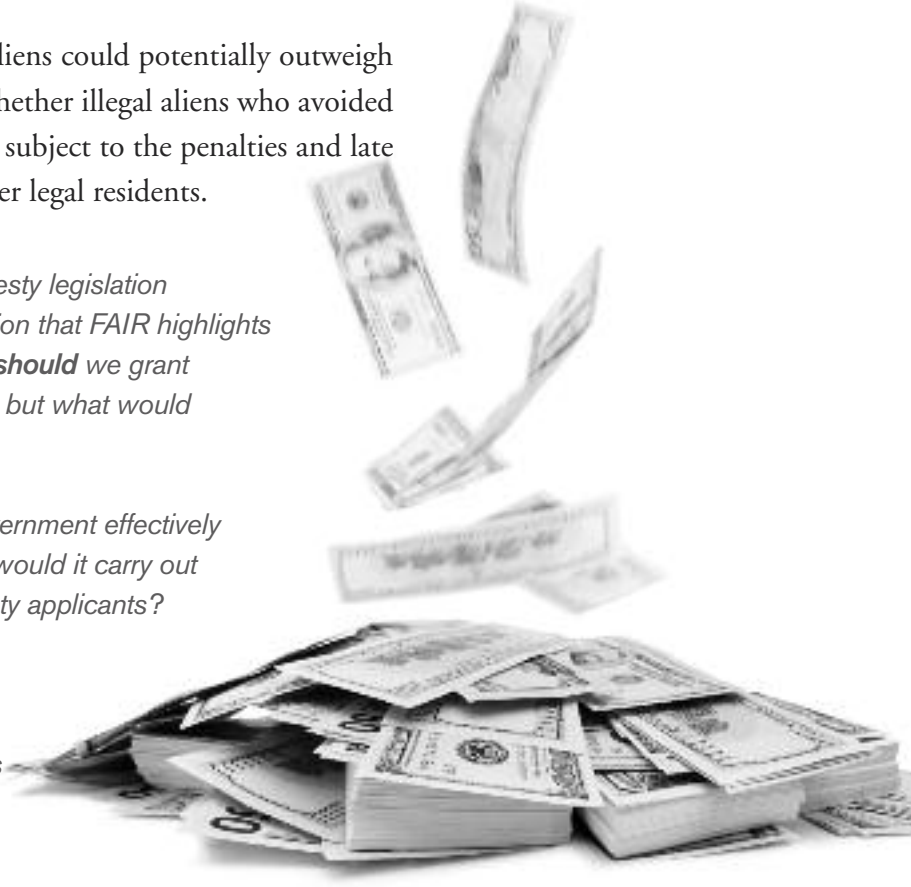
Another Potential Amnesty Nightmare: Collecting Back Taxes

Payment of back taxes and a fine in exchange for legal status makes for a fine sound bite but would be a nightmare to administer," warns Diana Furthgott-Roth, a former chief economist for the U.S. Department of Labor. Furthgott-Roth is referring to the ubiquitous promise found in every version of amnesty legislation, that illegal aliens would be required to pay back taxes as a condition of gaining legalization (even though they had a legal obligation to pay taxes all along).

Even if an illegal alien sincerely wanted to account for all of his or her earnings in the United States, pulling together the information and records would be virtually impossible. In addition to calculating earnings over many years of working off-the-books, or using a variety of false or stolen Social Security numbers, how would the amnesty applicant or the IRS determine what deductions or credits millions of illegal aliens might be eligible for? The amnesty bills considered by Congress in 2006 and 2007 avoided any mention of how back taxes would be calculated, and it's unlikely that any new legislation Congress considers will provide clarity.

> "CALCULATION OF TAX LIABILITY FOR UNDOCUMENTED IMMIGRANTS IS EXTRAORDINARILY COMPLICATED. IT IS DIFFICULT ENOUGH TO CALCULATE BACK TAXES FOR ONE INDIVIDUAL WHO HAS ALL THE RELEVANT DOCUMENTATION. CONSIDER THE NON-TRIVIAL PROBLEMS OF A U.S. CITIZEN WHO IS SUBJECT TO AN IRS AUDIT FOR TAX PAYMENTS WITHIN THE PAST FIVE YEARS. NOW TRY THE CALCULATION FOR 11 MILLION UNDOCUMENTED IMMIGRANTS, EACH WITH DIFFERENT FACTUAL CIRCUMSTANCES."
>
> —DIANE FURTHGOTT-ROTH
> FORMER CHIEF ECONOMIST, U.S. DEPARTMENT OF LABOR

The cost of collecting back taxes from illegal aliens could potentially outweigh any fiscal benefit. Furthgott-Roth also questions whether illegal aliens who avoided compliance with tax laws for many years would be subject to the penalties and late fees that would be assessed against citizens and other legal residents.



Furgott-Roth's analysis of the tax component of amnesty legislation illustrates the glaring deficiencies in amnesty legislation that FAIR highlights each time it is considered. The question isn't simply ***should*** *we grant amnesty to millions of illegal aliens – we shouldn't – but what would happen if we did?*

Besides calculating tax liabilities, how would the government effectively sort through millions of amnesty applications? How would it carry out meaningful background checks on millions of amnesty applicants?

The authors of amnesty legislation have an obligation to provide clear and practical processes for implementing an amnesty ***before*** *Congress votes on a bill.*

■

Report Shows Senior Administration Official Has No Interest in Enforcement

As Congress considers amnesty legislation, a report written by President Obama's top domestic policy advisor should raise some serious red flags.

In 1990 — when she served as a senior immigration policy analyst for the National Council of La Raza — Cecilia Muñoz published a report that sharply criticized the 1986 Immigration Reform and Control Act amnesty because it failed to maximize the number of illegal aliens who were "theoretically eligible for legalization." This viewpoint should be seen in the context of the universal acknowledgement that the 1986 amnesty was widely abused and riddled with fraud.

Muñoz was also highly critical of the employer sanctions provisions of IRCA, claiming that they were ineffective in preventing illegal aliens from working in the U.S. and resulted in discrimination against certain minorities. Allegations that employer sanctions resulted in discrimination were never proven, and if employer sanctions *were* ineffective, it was only because groups like NCLR and others fought efforts to make them effective.

AS DIRECTOR OF THE WHITE HOUSE DOMESTIC POLICY COUNCIL, **CECILIA MUÑOZ** WOULD PLAY A CRITICAL ROLE IN OVERSEEING IMPLEMENTATION OF LEGISLATION PASSED BY CONGRESS AND HAVE A HAND IN SHAPING KEY REGULATIONS.

This dusty old report from 1990 is extremely relevant to the Obama administration's efforts to enact amnesty in 2013. As director of the White House Domestic Policy Council, Muñoz would play a critical role in overseeing implementation of legislation passed by Congress. She would have a hand in shaping key regulations that are as important, if not more so, than what Congress writes into a bill.

Muñoz on Amnesty

Complaints about the 1986 amnesty

- "EMPLOYER SANCTIONS ARE INHERENTLY DISCRIMINATORY."
- "…THE FIRST STAGE OF LEGALIZATION FAILED TO MAXIMIZE PARTICIPATION FROM THE POOL OF ELIGIBLE APPLICANTS."
- "IN THE WAKE OF THIS 'ONE-TIME-ONLY' PROGRAM, THE NATION APPEARS TO BE LEFT WITH AT LEAST AS MANY UNDOCUMENTED PEOPLE AS WHEN IT FIRST CONSIDERED THESE PROPOSALS."

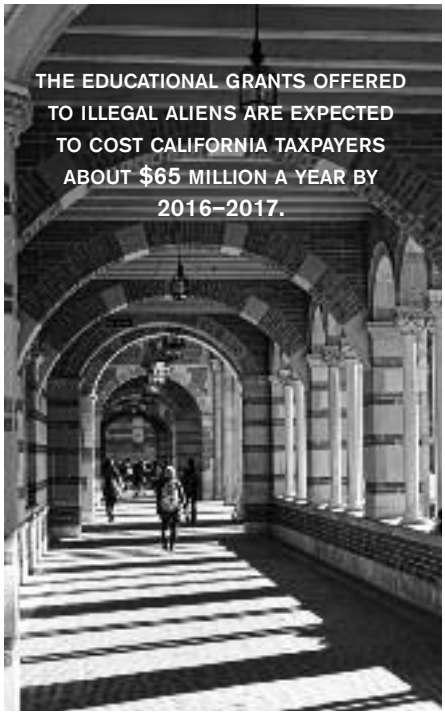
Recommendations for a future amnesty

- THE U.S. SHOULD COMPLETE, AND EXPAND, AMNESTY FOR ILLEGAL ALIENS.
- SHOULD FOCUS ON BORDER ENFORCEMENT, RATHER THAN WORKSITE ENFORCEMENT.
- "CONGRESS SHOULD REPEAL EMPLOYER SANCTIONS."
- "CONGRESS SHOULD REJECT PROPOSALS TO DEVELOP ANY TYPE OF IDENTITY CARD."

A Vision of the Future: Illegal Alien Rush to Apply for California Tuition Grants Portends Costs of DREAM Act Amnesty

For more than a decade, California has been taking advantage of a loophole in federal immigration law to offer in-state tuition benefits to illegal aliens. Last year, the California Legislature took an additional step, offering tuition grants to further subsidize illegal aliens beginning with the 2013-2014 school year. Some 20,000 illegal aliens have already applied for these grants.

The response to the offer of additional educational grants — expected to cost California taxpayers about $65 million a year by 2016-2017 — portends the enormous potential costs of enacting the DREAM Act or a wider amnesty. Under an amnesty, all states would be required to provide in-state tuition benefits — in most cases, about two-thirds of the cost of a college education. The vast majority of amnestied aliens would also qualify for means-tested tuition grants because of low family incomes.



The rush to take advantage of tuition grants by illegal aliens in California is yet another example of the many unexpected costs that amnesty would impose on states, taxpayers, and on other students seeking assistance to pay for college.

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Did you know...

ICE RELEASES DETAINEES *continued*

Morton told Congress on March 14,that eight "level one" criminal offenders were among those released and only four have been returned to detention.

The release of illegal aliens from detention appears to have finally drawn some attention from congressional leaders, who have largely ignored the administration's subversion of immigration laws. House Speaker John Boehner (R-Ohio) called the release "outrageous," adding, "…I'm looking for more facts, but I can't believe that they can't find the kind of savings they need out of that department short of letting criminals go free."

Ironically, while ICE was taking a cleaver to the illegal alien detention program, other programs that were never even authorized by Congress appear to have been spared entirely.

For example, an ongoing labor-intensive review of thousands of pending deportation files aimed at identifying cases to be dismissed under a broad exercise of "prosecutorial discretion" appears to have been unaffected by sequestration cuts. ICE personnel and funding have been diverted from other program activities to carry out these reviews.

On the eve of a major legislative effort to enact a massive illegal alien amnesty, the planned release of thousands of illegal aliens from custody is yet another example of the Obama administration's willingness to ignore congressional mandates and its *un*willingness to enforce immigration laws.

The minimal immigration enforcement being carried out by the Obama administration has been done only to enhance the prospect of passing an amnesty bill. This latest action reinforces FAIR's warning that there is little reason to believe that even the current low level of enforcement would be maintained if the administration were to achieve its legislative goals.

ICE's action was just the latest in a long series of actions by the Obama administration that circumvent or ignore immigration enforcement provisions enacted by Congress. A detailed chronology of those actions is available in our report, ***President Obama's Record of Dismantling Immigration Enforcement*** *on our website FAIRus.org.*

■

Sequestration and Immigration

While ICE chose to cut immigration detention by 26 percent as a result of sequestration, other immigration agencies' programs affected – and not affected – by budget cuts speak volumes about where DHS's priorities lie.

AFFECTED BY SEQUESTRATION

Beginning in mid-April, 24,000 U.S. Customs and Border Patrol officers will face a two-week unpaid furlough. The personnel targeted for furlough are those who patrol the borders – our front line against illegal immigration and potential terrorists infiltrating our country. Lower priority functions of CBP will apparently be spared.

UNAFFECTED BY SEQUESTRATION

Last August, U.S. Citizenship and Immigration Services began implementing President Obama's Deferred Action for Childhood Arrivals program. As of mid-February, USCIS approved nearly 200,000 DACA applications. Despite the fact that the program was never authorized or funded by Congress, there is no evidence that it has suffered any cutbacks as a result of the sequester. Additionally, Congress requires USCIS to collect fees for the services it provides, but in the case of DACA, DHS refused to set a new fee for processing the applications for this limited amnesty program.

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