



**FAIR** FEDERATION FOR AMERICAN IMMIGRATION REFORM

# Immigration

## REPORT

OCTOBER 2016

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## DOJ DEPUTIZES MEXICAN GOVERNMENT TO “COMBAT EMPLOYMENT DISCRIMINATION”

**O**n the eve of Labor Day, a holiday honoring American workers, the U.S. Department of Justice (DOJ), announced that it is partnering with the government of Mexico in order to “combat employment discrimination.” Just to be clear, the joint effort is not intended to protect American workers from employment discrimination in their own country. Rather, DOJ has deputized Mexican consulates around the United States to make sure that employers are not

discriminating against Mexican citizens, including illegal aliens. The partnership is similar to ones DOJ has established over the past year with the governments of Ecuador and El Salvador.

In keeping with the Obama administration’s proclivity for liberally interpreting (or, overtly rewriting) laws to serve their political objectives, DOJ falsely claims that “the Immigration and Nationality (INA) Act... prohibits employment discrimination based on

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## JUDICIARY CHAIRMEN DEMAND ANSWERS FROM DHS ABOUT A FIVE-TIME DEPORTED RAPIST

**A**ggravated sexual assault, aggravated assault with a deadly weapon, kidnapping a woman and attempting to set her on fire using gasoline, and kidnapping and raping a 68-year-old woman are only a few of the heinous crimes charged against Nicodemo Coria-Gonzales, an illegal alien who has been deported five times, and yet managed to return to the United States each time.

House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Senate



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citizenship, immigration status and national origin.”

In fact, U.S. law explicitly requires employers to discriminate against illegal aliens. Under the Immigration Reform and Control Act of 1986, employers are expressly prohibited from knowingly hiring illegal aliens. The unambiguous intent of Congress was to ensure that illegal aliens are denied jobs in the U.S. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 permitted employers to give preference to U.S. citizen job applicants over “equally qualified” legal immigrants.

Under this current agreement, “the Mexican government will collaborate to educate workers about their employment rights and provide them with the resources needed to protect those rights.” Mexican consular officials will receive training from DOJ’s Office of Special Counsel for Immigration-Related Unfair Employment Practices on the anti-discrimination provision of the INA. These consular offices will then “educate” their citizens living legally and illegally in the U.S. about their



**DOJ has deputized Mexican Consulates around the U.S. to make sure that employers are not discriminating against Mexican citizens, including illegal aliens.**

rights, and U.S. employers about their responsibilities.

The Department of Justice announcement amounts to a not so thinly veiled threat to American employers that they had better heed the Obama administration’s policies, rather than the law. The unmistakable message being sent to employers is that if they hire illegal aliens, they can rest assured that this administration will take no action against them. However, if they commit so much as a technical infraction in an effort to avoid hiring illegal aliens, DOJ will come down on them like a ton of bricks—and that the Mexican government has been deputized to keep tabs on American employers.

Without the slightest bit of irony, Vanita Gupta, head of DOJ’s Civil Rights Division (which, apparently does not see the civil rights of American workers as part of its mission), lauded Mexico for taking “a leading role in...ensuring that workers in Mexico and throughout

the world know about their rights in the workplace and where to access help and support.” Of course, if the government of Mexico cared half as much about Mexicans living in Mexico as they seem to care about Mexicans who move to the U.S., legally or illegally, millions of their citizens would not be living here.

Since 2008, FAIR has detailed the Obama administration’s systematic dismantlement of immigration enforcement and unprecedented assertion of executive authority. In this administration’s final months, it appears there will be no let-up in its efforts to undermine the integrity of our immigration laws, even at the expense of American workers.

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FIVE-TIME DEPORTED RAPIST *continued*

Judiciary Committee Chairman Chuck Grassley (R-Iowa.) wrote a joint letter to Department of Homeland Security (DHS) Secretary Jeh Johnson in September demanding answers about this serial rapist. In their letter, they asked for details on all of Coria-Gonzales' encounters with DHS agencies, his criminal and civil arrest records, and information on any gang related activity, amongst other things.

"We want to know how such a dangerous individual could be allowed to continually re-enter the country illegally and continue his criminal conduct without intervention by [U.S. Immigration and Customs Enforcement (ICE)]," the chairmen demanded. Most importantly, the public has a right to know whether ICE sought

a detainer for Coria-Gonzales or attempted to put him in removal proceedings. Goodlatte and Grassley also want to ascertain whether sanctuary policies resulted in Coria-Gonzales being released by local law enforcement departments, and what action DHS is prepared to take against those jurisdictions.

Another disturbing fact in this case is that Coria-Gonzales could have been in prison, instead of on the streets of Austin, Texas, the scene of his most recent alleged offense. In 2015, the U.S. Attorney's Office in San Antonio declined to prosecute him for illegal re-entry, despite ICE's Enforcement and Removal Operations asking their office to do so. Consequently, ICE was forced to deport him, and not long after

he was back in the United States, committing more crimes.

Sadly and ironically this case mirrors that of Juan Francisco Lopez-Sanchez, the five-time deported illegal alien who killed Kate Steinle in San Francisco last year. DHS continues to assert that our borders are more secure than ever and that it is focusing its resources (at the expense of virtually all other immigration enforcement) on making sure that violent criminal aliens are deported. And yet, violent serial offenders like Coria-Gonzales and Lopez-Sanchez, avoid prosecution for illegal re-entry to the United States, and repeatedly manage to slip back into the country while the overall number of deportations of aliens from the interior of the country is in sharp decline.

## NEW FAIR REPORT: MASS IMMIGRATION COSTS BILLIONS AND UNDERMINES QUALITY OF U.S. EDUCATION

The explosive growth of programs serving limited English-speaking students in public schools—fueled by historic levels of immigration—is costing taxpayers nearly \$60 billion a year and diluting the quality of education for all students. That is the finding of a new study, "*The Elephant in the Classroom: Mass Immigration's Impact on Public Education*," released by FAIR in September. The report was timed to coincide with the start of the new school year.

According to the report, almost one in ten students—some 4.9 million—enrolled in public schools are designated as Limited English Proficiency (LEP). The impact is even greater for kids at the younger end of the K-12 spectrum. Among kindergartners, 17.4 percent are LEP students. Roughly 3.6 million, or nearly 74 percent of these students, are illegal aliens or the children of illegal aliens. FAIR estimates that local taxpayers pay nearly 99 percent of LEP costs.

The findings of *The Elephant in the Classroom* confirm the fact that immigration amounts to a massive unfunded federal mandate on state and local governments. In the case of education, local governments are not only

### Key Findings:

- It costs to \$43.9B or \$12,128 per child to educate illegal aliens.
- 13 states spent over \$1 billion on LEP programs.
- 10 states educate 100K LEP students, and 22 states have over 50K.
- In urban areas, 14% of students are LEP.

## CALIFORNIA LEGISLATURE APPROVES SPECIAL “MIRANDA WARNING” FOR CRIMINAL ALIENS

Anyone who has ever watched a television police drama knows it by heart: “You have the right to remain silent. Anything you say can and will be used against you...” But for California lawmakers (whose primary mission, lately, appears to be protecting and rewarding illegal aliens), the Miranda warning read to every person arrested by police isn’t enough when the suspect being charged is an illegal alien.

The California Legislature has approved what is essentially a special Miranda requirement for criminal aliens. AB 2792, the Transparent Review of Unjust Transfers and Holds Act (otherwise referred to by its Orwellian acronym, the TRUTH Act), requires that deportable criminal aliens consent, in writing, before speaking to an Immigration and Customs Enforcement officer.

In other words, under the TRUTH Act, deportable criminals in California will have veto power over whether they can be interviewed by ICE before being released. (The current issue of the FAIR newsletter was completed before Governor Jerry Brown’s deadline for signing or vetoing the measure. However, as often happens, vetoed pro-alien legislation will be revised slightly and eventually become California law.)

Here in the words of the authors, Assemblyman Rob Bonta and State Senator Mark Leno, is what would be required under AB 2792:

The TRUTH Act “would require a local law enforcement agency, prior to an interview between the United States Immigration and Customs



Enforcement (ICE) and an individual in custody regarding civil immigration violations, to provide the individual a written consent form, as specified, that would explain, among other things, the purpose of the interview, that it is voluntary, and that the individual may decline to be interviewed. The bill would require the consent form to be available in specified languages. The bill

Under the TRUTH Act, deportable criminals in California will have veto power over whether they can be interviewed by ICE before being released.

would require a local law enforcement agency to provide copies of specified documentation received from ICE to the individual and to notify the individual regarding the intent of the agency to comply with ICE requests...”

If criminal aliens themselves do not exercise their veto power to avoid being interviewed by ICE, the bill includes a provision granting illegal alien advocacy groups the opportunity to block interactions between ICE and criminal aliens who have been arrested and charged by California law enforcement agencies:

Additionally, the bill “would require the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last year, to hold at least one public community forum during the following year, as specified, to provide information to the public about ICE’s access to individuals and to receive and consider public comment. By requiring these local agencies to comply with these requirements, this bill would impose a state-mandated local program.”

# Across the Country

## ARIZONA

Since 2004, Arizona voters and legislators have repeatedly approved initiatives and legislation aimed at discouraging illegal aliens from settling in the state. The result has been a significant decline in Arizona's illegal alien population. And that's a problem...for the Phoenix City Council. In late August, the council, by a 5-4 vote, approved a measure to create a photo-identification card program for the city's illegal alien residents. Phoenix officials will accept a wide variety of unsecure documentation including foreign IDs and documents, utility bills, employee ID badges or pay stubs, and insurance bills. All City departments will be required to accept the ID card as valid identification and valid proof of Phoenix residency. The Phoenix City Council's action seems to have spurred a response from state lawmakers, determined not to allow the city to undo the progress that has been made in curbing illegal immigration. State Senator John Kavanagh announced that he plans to reintroduce legislation prohibiting any jurisdiction in Arizona to issue ID cards to illegal aliens.

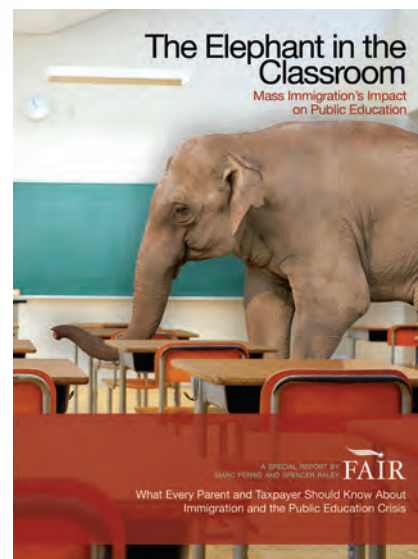
## MASSACHUSETTS

Community opposition put a temporary halt to a proposed ordinance in the town of Brockton that would have barred police from detaining illegal aliens unless Immigration and Customs Enforcement produced a criminal warrant. Members of the community and illegal alien advocates packed a meeting of Brockton City Council Ordinance Committee where the so-called "Trust Act" was being discussed by council members. Several council members warned that approving the ordinance would not only make Brockton a sanctuary city, but would likely overwhelm the city's already struggling public schools. In the end, the strong presence of community members opposed to making Brockton a sanctuary city forced the council to postpone consideration of the ordinance.

### MASS IMMIGRATION AND THE PUBLIC SCHOOL CRISIS *continued*

on the hook for the enormous costs of providing basic and remedial education to non-English-speaking students, but other children who depend on those schools pay an inestimable price in terms of diminished quality of education.

Visit [FAIRus.org](http://FAIRus.org) to read the new report: *The Elephant in the Classroom: Mass Immigration's Impact on Public Education.*



## FAIR MOUNTS NATIONAL TV AD CAMPAIGN FEATURING SHERIFFS

In September, FAIR launched a national television ad campaign featuring four sheriffs from different parts of the country. Sheriffs, who are elected by the people they protect, have become increasingly alarmed by the dangers federal inaction has posed to their communities. This includes the Obama administration's refusal to enforce our immigration laws, especially against criminal aliens, as well as Congress's refusal to hold the president accountable.

The sheriffs, from Alabama, North Carolina, Virginia, and New York charge that the administration's well-documented dismantlement of immigration enforcement results in increased crime on the streets of their communities, and demand that the federal government uphold its responsibilities to protect citizens.

In recent years, FAIR has worked closely with the National Sheriffs Association as these law enforcement officials have become more vocal in expressing their concerns about un-enforced immigration laws. In addition, FAIR has created a new Law Enforcement Relations Manager position to work with police and sheriffs' departments around the country. ■

Visit [FAIRus.org](http://FAIRus.org) to Watch the Ad.

## MORE AMERICAN WORKERS LOSE AS EMPLOYERS SUBSTITUTE THEM WITH H-1B REPLACEMENTS



Two large U.S. employers, one private sector and one public sector, announced plans to lay-off American information technology workers and replace them with lower cost H-1B guest workers. Caterpillar Corporation, the heavy equipment manufacturing giant, as well as the University of California, the largest public higher education system in the nation, join a long list of employers that have recently decided to pursue a combination of white-collar layoffs and in-sourcing of foreign workers through the H-1B visa program.

The Caterpillar layoffs will affect approximately 300 American IT workers at the company's headquarters in Mossville, Illinois. Earlier this year, Caterpillar asked the federal government for 71 H-1B visas needed to hire foreign IT workers. At least 30 of those requested H-1B visas are to replace engineers and other skilled professionals in Mossville, which is suffering the most layoffs. Since 2012, Caterpillar has requested 768 visas for H-1B workers.

The University of California (UC) layoffs will affect 17 percent of its San Francisco campus's total

IT staff. While the layoffs will not happen until late February, employees have already been told that they should expect to train their foreign replacements from India-based IT firm HCL. It is not yet known if the replacements will H-1B visa holders. HCL was sued earlier this year by laid-off Disney IT employees, who alleged the law was broken when they

Other notable companies that have abused the H-1B process include: Disney, Deloitte, Facebook, Intel, Qualcomm, Microsoft, Toys R Us, Cengage, and New York Life.

were replaced by H-1B visa holders. The laid-off workers are being represented by FAIR's public interest law affiliate, the Immigration Reform Law Institute.

While troubling, UC's actions are not entirely surprising. After years of subverting the interests of the student body — providing in-state tuition, educational grants,

## EVEN THE OBAMA ADMINISTRATION WANTS MANDATORY DETENTION FOR SOME ILLEGAL ALIENS

It is rare when the Obama administration comes down on the side of any kind of immigration enforcement. But as the Supreme Court begins its new session this month, the Department of Justice (DOJ) is weighing-in favoring a of mandatory detention for some illegal aliens in deportation proceedings.

DOJ recently submitted a brief to the Supreme Court in *Jennings v. Rodriguez*, urging the Court to reverse a 9th Circuit Court of Appeals ruling which determined that aliens must have a bond hearing after every six months of detention and are entitled to release unless the government demonstrates, by clear and convincing evidence, that the alien is a flight risk or danger to the community. Various circuit courts have issued different rulings on the matter of how long deportable aliens can be held. The 2nd and 9th Circuits impose a hard cap of six months for detention while the 1st, 3rd, and 6th Circuits say that an alien may be detained for a “reasonable time.”

Ironically for an administration that has spent the past eight years engaged in radical revisions in immigration law through executive action, DOJ is arguing that the 9th Circuit’s decision to grant bond hearing is a “radical judicial revision” of a 1996 law which provides for expedited

removal proceedings for inadmissible aliens. DOJ argued the 9th Circuit’s ruling would defeat the very purpose of detaining such aliens: to ensure that the border actually keeps people out and to ensure physical custody over the alien to effectuate that exclusion.

While DOJ’s position on this case is welcome, it is hard not to notice that the administration has been engaged in exactly the sort of behavior that they criticize in this brief. DOJ argues the law is clear that aliens seeking admission who are not “clearly and beyond a doubt entitled to be admitted” are prohibited from physically entering the United States and must be detained during removal proceedings. It was not Congress’s intent to create a presumptive entitlement for such aliens to be released into the United States after six months, or to provide an incentive for aliens to extend their proceedings to hit that cap.

Moreover, despite the administration’s own catch-and-release policies for many illegal aliens, DOJ’s brief took note of the high percentage of aliens who disappear once they are set free pending a court appearance. The administration noted that in 2015, 41 percent of deportation orders were issued in absentia to illegal aliens who had bolted.

Percentage of released illegal aliens who run before their deportation hearings

41%

### MORE AMERICAN WORKERS DISPLACED BY H-1Bs *continued*

and other benefits and subsidies to illegal aliens—UC is now undermining the interests of the system’s American workforce. Moreover, the chancellor of the UC system is Janet Napolitano, who took a wrecking ball to immigration enforcement during her tenure as Secretary of Homeland Security.

These abuses of the H-1B program, which allow employers to

lay-off U.S. workers and replace them with foreign workers and to hire foreign workers when equally qualified U.S. worker are available, are entirely legal. The law was written to appear to provide protections for American workers by requiring companies to pay H-1B workers the “prevailing wage” for the job and not adversely affect the working conditions of American workers “similarly

employed.” However, these protections are misleading. Employers are easily able to skirt the so-called protections for American workers by rewriting the job descriptions for the H-1B workers they hire, even when these guest workers are doing essentially the same jobs as the U.S. workers who are fired.

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## Support FAIR in the 2016 Combined Federal Campaign!

The fight against illegal immigration and out-of-control immigration policies is a joint effort and one we would not be able to do without your generous support. Through the Combined Federal Campaign (CFC), Federal employees from all over the country can easily make a tax deductible donation by payroll deduction, credit card, check or cash.

The Immigration problem we face in the U.S. has never been bigger and as we approach a defining moment in immigration history, your support of FAIR is needed now more than ever. The CFC is the largest workplace giving campaign in the world and an opportunity for you to join with other like-minded Americans to have a major impact on immigration reform.

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