



Attorney General Nominee Lynch Defends Obama on Immigration

During her confirmation hearing before the Senate Judiciary Committee on January 28, President Obama's nominee for the Cabinet post of attorney general, Loretta Lynch, declared that Obama's executive actions on immigration are legally "reasonable."

"I did find it to be responsible that we prioritize removal, particularly those who are involved in violent crime, terrorism, recent crossers," Lynch added.



Lynch is the current U.S. attorney for the Eastern District of New York.

Lynch told Judiciary Committee Chairman Chuck Grassley (R-Iowa) that she had read the Office of Legal Counsel's November 19, 2014 report to the Department of Homeland Security that provided legal justification for the presidential and DHS executive orders deferring deportation of illegal aliens. "I don't see any reason to doubt the reasonableness of those views," she asserted.

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In a November 20 nationwide address, Obama announced a series of executive actions on immigration. Among these actions is a program that will allow undocumented parents of U.S. citizens and legal permanent residents to apply to temporarily stay in the country and work legally. Adding to an expansion of the Deferred Action for Childhood Arrivals (DACA) policy, which grants amnesty to illegal aliens who came to the United States as children, the policies could grant amnesty from deportation to up to five million people.

The report that Lynch was asked to comment on, "The Department of Homeland Security's Authority to Prioritize Removal of Certain Aliens Unlawfully Present in the United States and to Defer Removal of Others," was signed by Karl Thompson, principal deputy assistant attorney general at the Justice Department's Office of Legal Counsel. At the time of the report Thompson reported to Deputy Attorney General James Cole, who reported directly to Attorney General Eric Holder, whom Lynch seeks to replace.

Thompson's report was a response to two questions asked by Secretary of Homeland Security Jeh Johnson and White House Counsel W. Neil Eggleston: 1) Would it be legally permissible for DHS to implement a policy prioritizing the removal of certain categories of aliens over others, and; 2) Would it be permissible for DHS to extend deferred action (amnesty) to certain aliens who are the parents of children who are present in the United States?

Following a lengthy evaluation of DHS's proposals, Thompson summed up his reply as follows:

We conclude that DHS's proposed prioritization policy and its proposed deferred action program for parents of U.S. citizens and lawful permanent residents would be legally permissible, but that the proposed deferred action program for parents of DACA recipients would not be permissible.

Lynch stated: "I did find it to be responsible that we prioritize removal, particularly those who are



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involved in violent crime, terrorism, recent crossers.” However, left unsaid was the realization that DHS’s prioritization of deporting those involved in violent crime, terrorism, recent crossers effectively grants amnesty to millions of other illegal aliens not so categorized.

Lynch’s defense of the Obama administration’s policies did not sit well with Senator David Vitter (R-La.), who told the nominee, “I have a huge concern regarding what I think is the president’s illegal, unconstitutional executive amnesty and I have a huge concern that you think it is within the law.”

Another senator who aggressively questioned Lynch was Jeff Sessions (R-Ala.), chairman of the Senate Immigration Subcommittee and an outspoken opponent of the Obama administration’s executive actions on immigration. Sessions referred to Attorney General Holder’s 2013 statement asserting that creating a “pathway to citizenship” (amnesty) for illegal immigrants is “essential” and that immigration was “a matter of civil and human rights” and asked Lynch if she concurred with Holder.

Lynch sidestepped the question somewhat, claiming she hadn’t studied the issue enough to come to a legal conclusion, but added that she thinks “that people who come to this country in a variety of ways can rehabilitate themselves and apply, but that would have to be something that would be decided on a case-by-case basis.”

Sessions asked Lynch: “In the workplace of America today, when we have a high number of unemployed, we’ve had declining wages for many years, we have the lowest percentage of Americans working — who has more right to a job in this country: a lawful immigrant who’s here, a green card holder, or a citizen, or a person who entered the country unlawfully?”

Lynch replied:

Well Senator, I believe that the right and the obligation to work is one that is shared by everyone in this country, regardless of how they came here, and certainly if someone is here, regardless of status, I would prefer that they be participating in the workplace than not participating in the workplace.

Sessions later posted a statement on his Senate webpage explaining the reasons why he would oppose Lynch’s confirmation. His first objection was that Lynch found the Obama administration’s executive actions granting amnesty to many illegal immigrants to be “legal and constitutional.”

Sessions also said his concerns are furthered by Lynch’s statement that “the right and the obligation to work is one that’s shared by everyone in this country regardless of how they came here” and that regardless if aliens came into our country legally or illegally she “would prefer that they would be participating in the workplace than not participating in the workplace.”

In his statement, Sessions cited a statement critical of Holder’s position made by Peter Kirsanow, an attorney and a member of the U.S. Commission on Civil Rights, in an April 26, 2013 article for National Review Online.

In his article, Kirsanow wrote that “the chief law-enforcement officer of the United States of America asserts that receiving amnesty for breaking the nation’s laws is a civil right.” He continued: “To equate amnesty for breaking the nation’s immigration laws with civil rights betrays an incoherent and ahistorical understanding of the civil-rights movement.”

Sessions noted:

Essential to civil rights is the equal and uniform application of the laws. When the President capriciously suspends those laws and provides benefits to people here unlawfully, he injures the



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rights of lawful workers — denying them the protections Congress passed to secure their jobs and wages.

Republican senators expressed concern that Lynch might become another Holder. John Cornyn (R-Texas), one of Holder’s biggest critics, even asked Lynch: “You’re not Eric Holder, are you?”

To which Lynch replied, with a smile. “No, I’m not, sir.”

Ironically, Republicans’ strident dissatisfaction with Holder may actually have helped Lynch’s confirmation prospects. Since Holder will not resign until a replacement is found, if Lynch is confirmed, Holder’s retirement will be hastened.

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