



Border Patrol Union Says It Was Ordered to Release Aliens “Still Wet” From Crossing Rio Grande

In testimony provided to the House Judiciary Committee in March, National Border Patrol Council President Brandon Judd stated that Border Patrol agents have been ordered to release illegal immigrants apprehended at the Rio Grande — even those who were still “dripping-wet” from having just crossed the river — unless agents actually saw the aliens climbing out of the river. Judd wrote in his statement:



We have apprehended illegal aliens just north of the border who are still soaking wet from crossing the river. If they claim, as increasingly they are doing, that they have been here since January 1, 2014, we will process and then release them.

They are still wet from the river and miles from any civilization and on their word alone we release them unless we physically saw them cross the river. This policy de facto creates an open border with Mexico for any illegal alien who wants to claim that they were here before 2014.

The *Washington Times*, which broke this story, explained that the January 1, 2014, date is not specified in any law, but, rather, is part of President Obama’s enforcement priorities laid out in November of that year, designed to save most illegal immigrants from any fear of deportation.

The Obama plan was roundly criticized almost immediately after it was unveiled. In an opinion filed on December 16, 2014, in the U.S. District Court for the Western District of Pennsylvania, federal Judge Arthur Schwab said Obama’s immigration actions were invalid because they were effectively “legislation” from the executive branch, and concluded that they are “unconstitutional.”

In rendering his opinion in the case, *United States of America, Plaintiff v. Elionardo Juarez-Escobar, Defendant*, Judge Schwab cited and quoted from President Obama’s November 20, 2014, nationwide address announcing his executive actions related to granting “deferred deportation” to millions of aliens living in the United States illegally.

Schwab prefaced his opinion:

On November 20, 2014, President Obama announced an Executive Action on immigration, which will affect approximately four million undocumented immigrants who are unlawfully present in the United States of America. This Executive Action raises concerns about the separation of powers between the legislative and executive branches of government. This core constitutional issue necessitates judicial review to ensure that executive power is governed by and answerable to the law such that “the sword that executeth the law is in it, and not above it.”

The administration’s grant of amnesty through executive memoranda was subsequently challenged in a lawsuit filed by 26 states against the federal government in the case *United States v. Texas*. Ruling in favor of the states, on February 16, 2015, U.S. District Judge Andrew S. Hanen of the U.S. District Court for the Southern District of Texas issued an order of temporary injunction that blocked the



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federal government from implementing the Obama administration's executive actions. The case was appealed several times with lower courts upholding the injunction each time. On January 19, 2016, the Supreme Court agreed to review the case, which is currently pending.

The *Times* report noted that in memos requested by Obama, Homeland Security Secretary Jeh Johnson stipulated that immigration officials were to place a lower priority on deporting long-time illegal immigrants than to more recent illegal border-crossers.

The report said that Judd and other advocates of better border enforcement have stated that illegal immigrants have learned to use this to their advantage and when they are arrested they automatically claim they arrived before 2014. Agents said they been told by higher-ups that they have to take illegal aliens' word for when they arrived in America. Even, apparently, if their clothes are still dripping wet!

When the *Times* contacted U.S. Customs and Border Protection (CBP), the Homeland Security agency that oversees the Border Patrol, CBP denied that the agents had been given an order to release illegal aliens, stating:

The U.S. Border Patrol has not issued any stand-down order to agents. The Border Patrol's enforcement posture and operation is the same as it was in 2014 and 2015, agents are issuing Notices to Appear consistent with law, regulation, and enforcement priorities.

A "Notice to Appear" is basically a summons issued to an illegal alien who is released on his own recognizance and ordered to appear before an immigration court at a future date. As we noted in [an article back in 2014](#), during the height of the crisis resulting from an unprecedented wave of unaccompanied minors crossing our borders, Juan Osuna, director of the Executive Office of Immigration Review at the Department of Justice, in testimony before the Senate Homeland Security Committee, said that about 46 percent of all children who are apprehended by authorities fail to show up for hearings before immigration judges.

Furthermore, Osuna noted, even minors who obey the law face lengthy waits inside the United States because immigration courts are overloaded with a record 375,000 cases. "We are facing the largest caseload that the agency has ever seen," Osuna testified before the committee.

If these minors successfully avoided appearing before the immigration courts, it is safe to assume that adult aliens are equally adept at evading the law.

An article posted on the website of the House Judiciary Committee stated that following the hearing on the ongoing surge on our nation's southwest border, the committee received [information](#) from Judd showing that "a high-ranking Obama Administration official" had "confirmed to Border Patrol agents the Administration's policy of releasing recent border crossers with no intention of ever removing them."

According to his statement, Judd and two other Border Patrol agents met with Department of Homeland Security (DHS) Deputy Secretary Alejandro Mayorkas to discuss their concerns about the Obama administration's policy of releasing illegal immigrants into the United States. During the meeting, Mayorkas confirmed to the agents that the administration has no intention of removing illegal immigrants coming to the border as part of the ongoing surge. Specifically, Mayorkas stated:

Why would we [issue a Notice to Appear to] those we have no intention of deporting? We should not place someone in deportation proceedings, when the courts already have a 3- to 6-year backlog.

Following the receipt of Judd's information, House Judiciary Committee Chairman Bob Goodlatte (R-Va.)



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issued the following statement:

Not only has President Obama sought to undermine our immigration laws at every opportunity possible, now his political appointees have implemented a “catch and release” policy that contradicts the Administration’s already weak enforcement priorities. Rather than take the steps necessary to end the border surge, the Obama Administration is encouraging more to come by forcing Border Patrol agents to release unlawful immigrants into the United States with no intention of ever removing them.

The ongoing lack of enforcement and dismantling of our immigration laws undermines both our nation’s immigration system and the American people’s faith in their government.

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