



Customs and Border Protection Documents Reveal Non-deportation Policy

Internal training documents used by U.S. Customs and Border Protection (CBP) and shared by a CBP agent reveal that agents are now receiving guidelines instructing them that the overwhelming majority of illegal immigrants in the United States will not now be either detained or deported.



The CBP agent provided exclusive copies of the documents to Breitbart Texas and also agreed to an interview with the news website on the condition of anonymity. The documents show that CBP agents “are now receiving guidelines instructing them that the vast majority of illegal immigrants in the U.S. are off limits to federal agents and are substantially immune to detention and deportation,” the agent told Breitbart.

The documents sort illegal immigrants into three priority groups:

- First, illegal aliens who “pose a threat to national security, border security, or public safety.”
- Second, those who are “misdemeanants and new immigration violators.”
- Third, all other illegal aliens, who are termed as “other immigration violators.”

The documents, in typically disingenuous bureaucratese fashion, maintain that agents should not construe the training as discouraging arrests of illegal immigrants.

In his November 20 address outlining his plan to use executive actions to grant protection from deportation to millions of illegal immigrants, President Obama also stated, “I know some of the critics of this action call it amnesty. Well, it’s not.” Yet, moments before, when he explained that — for those who meet his criteria — “you’ll be able to apply to stay in this country temporarily, without fear of deportation. You can come out of the shadows and get right with the law,” amnesty was exactly what he offered.

Just as Obama denied that his amnesty plan was in fact amnesty, the CBP documents — though they deny that they discourage agents from making arrests — when paired with Homeland Security Secretary Jeh Johnson’s November 20, 2014 memo on prosecutorial discretion, tie the hands of agents and severely restrict the circumstances under which they should arrest illegal immigrants. To warrant arrests by Border Patrol agents, the immigrants must be seen crossing the border by agents, they must be wanted on criminal charges or be convicted felons, they must have an extensive or violent criminal history, or must otherwise pose a threat to national security or public safety.

Secretary Johnson sent an executive action memorandum on November 20 to the heads of U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection.

The memorandum expanded Deferred Action for Childhood Arrivals (DACA) by removing its age cap and extending work authorization to three years. Johnson’s order also expanded “deferred action” (another name for amnesty) by directing USCIS [U.S. Citizenship and Immigration Services] to establish



Written by [Warren Mass](#) on January 13, 2015

a process, similar to DACA, for exercising prosecutorial discretion through the use of deferred action, on a case-by-case basis, to those individuals who:

- have, on the date of this memorandum, a son or daughter who is a U.S. citizen or lawful permanent resident;
- have continuously resided in the United States since before January 1, 2010;
- are physically present in the United States on the date of this memorandum, and at the time of making a request for consideration of deferred action with USCIS....

While the above criteria for being eligible for “deferred action” is quite specific, Johnson’s memorandum extends immunity from arrest to a much wider universe. The memo reads:

DHS will implement a new department-wide enforcement and removal policy that places top priority on national security threats, convicted felons, gang members, and illegal entrants apprehended at the border; the second-tier priority on those convicted of significant or multiple misdemeanors and those who are not apprehended at the border, but who entered or reentered this country unlawfully after January 1, 2014; and the third priority on those who are non-criminals but who have failed to abide by a final order of removal issued on or after January 1, 2014.

While no one can fault the DHS for establishing priorities, giving higher priority to arresting and deporting illegal immigrants who have a violent or criminal past than to those who have no such background, those whose only offense is entering the United States illegally should still be subject to deportation. The Johnson memo effectively lets non-criminal illegal immigrants off the hook, however:

Under this revised policy, those who entered illegally prior to January 1, 2014, who never disobeyed a prior order of removal, and were never convicted of a serious offense, *will not be priorities for removal*. This policy also provides clear guidance on the exercise of prosecutorial discretion. [Emphasis added.]

Note that the memo does not say the non-criminal illegals will have a lower priority for removal, but that they will not be priorities for removal, period.

Furthermore, notes the memo, not only will those who have committed no crimes other than crossing the border illegally (which, apparently, is no longer regarded as a crime by DHS) have their priorities for removal reduced to nothing, but they will also be eligible for the deferred action program outlined by Obama in his November 20 address. The memorandum notes, in part:

DHS will extend eligibility for deferred action to individuals who (i) are not removal priorities under our new policy, (ii) have been in this country at least 5 years, (iii) have children who on the date of this announcement are U.S. citizens or lawful permanent residents, and (iv) present no other factors that would make a grant of deferred action inappropriate. These individuals will be assessed for eligibility for deferred action on a case-by-case basis, and then be permitted to apply for work authorization, provided they pay a fee.

The agent who spoke with Breitbart noted the vast changes in immigration policy that the new executive actions have ushered in:

Before these changes, all illegal aliens arrested by Border Patrol were required to enter the deportation system where they would be scheduled for a deportation hearing at a future date. Under this new system, the illegal aliens are not even required to show up for a hearing ever. Not only are we releasing these people with no hearings scheduled, no notice to appear, but the DHS is



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forcing Border Patrol to prepare the initial paperwork for the illegal aliens' work permits." The Border Patrol has apparently now gone from being law enforcement agents to social workers.

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