



Written by [Warren Mass](#) on February 9, 2015

Jeh Johnson Urges Congress to Relent on DHS Funding Dispute

During a February 8 interview with anchorwoman Dana Bash on CNN's *State of the Union*, Secretary of Homeland Security Jeh Johnson (shown on left) warned that approximately 30,000 DHS employees would be immediately furloughed if Congress doesn't extend funding for the department beyond its current appropriation expiring on February 27.



Bash said to Johnson:

Tell us where things stand right now. It is a standoff over the idea that Republicans are trying to push funding [DHS with] this bill along with making sure that the president's executive order on immigration doesn't happen.

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To which, Johnson replied:

I'm on the Hill every day stressing the importance of a fully funded Department of Homeland Security, separate and apart from riders to try to defund our efforts to reform the immigration system....

If people in Congress want to have that debate about immigration reform, let's have that debate, but don't tie that to funding public safety at Homeland Security for the American people. We need a fully funded department right now.

Continuing, Johnson predicted dire consequences if DHS funding were to be interrupted:

It means furloughing at least 30,000 of our department and cutting back very significantly on our operations, our operations to pursue homeland security. So, this is not a situation to make light of. In these challenging times, we need a fully funded Department of Homeland Security right now.

Also appearing via teleconference on *State of the Union* was Senator Ted Cruz (R-Texas), one of the Senate's strongest opponents of President Obama's presidential memorandum and Secretary Johnson's executive action memorandum last November to provide for "deferred action" — or amnesty — to delay the deportations of millions of illegal aliens.

Bash asked Cruz to comment on the stalemate in Congress over Homeland Security funding and told the senator: "Republicans are looking at you and wondering what is your end game here because this is a strategy crafted by you, the idea of holding up funding for the Department of Homeland Security in order to try to stop the president and his executive order on immigration."

To which, Cruz replied:

If you'll recall I fought tooth and nail against cromnibus ["continuing resolution" (CR) and "omnibus" — a bill that funded all of the federal government except DHS, which was funded by a continuing resolution only until February 27] in December because I said ... this gives up our



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leverage and it puts us into effectively a boxed canyon. So I would say it's now up to leadership to lay out their strategy. I told them this was not a winning strategy and they went down this road anyway fighting tooth and nail....

What we saw last week was stunning irresponsibility from the Senate Democrats. The Senate Democrats three times filibustered funding for the Department of Homeland Security. We have a bill on the floor to fund DHS....

And three times the Democrats stood together filibustered and said, we will not allow the Senate to take up this bill.... At a time of growing national security threats across the world, that's irresponsible.

Engaging in a debate with Cruz, Bash accused the senator of attempting to hold up the entire federal government last December, with the omnibus being a compromise to avoid that.

Bash did concede that Democrats are holding up the DHS funding bill, which, while funding the Department of Homeland Security also stops the president's executive action on immigration. She also maintained that Republicans could never find seven Democrats (a number that, with 54 Republicans, would provide a filibuster-proof majority) to join them in passing a bill to stop the Obama executive actions.

When Bash asked Cruz if he has been working behind the scenes "to try to get those Senate Democrats to buck their president, to vote with you all and pass a bill that stops his executive action," Cruz replied:

You know, unfortunately right now, Dana, the Democrats are working as a unit to filibuster funding for the Department of Homeland Security.

Cruz also said that he has been willing to take on his own party when the GOP "is not standing for the principles we're supposed to stand for," and said: "It is time to see some Senate Democrats willing to take on their own president but right now they're putting partisan politics ahead of principle and that's why they're filibustering the funding for Homeland Security."

At the root of this ongoing debate, of course, was President Obama's decision to use executive actions to implement policies that Congress — especially the House of Representatives — had failed to pass. Obama announced his intention to follow that course in a nationwide TV address last November 20 in which he stated that those who fit his criteria could "apply to stay in this country temporarily, without fear of deportation."

Though what he described was clearly amnesty, in the same speech he stubbornly claimed otherwise:

I know some of the critics of this action call it amnesty. Well, it's not. Amnesty is the immigration system we have today — millions of people who live here without paying their taxes or playing by the rules while politicians use the issue to scare people and whip up votes at election time.

When Obama took to the Sunday talk-show circuit on November 23 to defend his planned actions on ABC's *This Week*, news anchor George Stephanopoulos asked the president to comment on House Speaker John Boehner's charge that he was acting like an emperor.

Obama replied that his solution was for Congress to "pass a bill.... The truth is that the Senate did a good job in crafting a bipartisan ["Gang of Eight"] bill that would have greatly improved our immigration system, and my preference is for a legislative solution to this problem."

The main reason the Republican-controlled House did not pass the "Gang of Eight" bill (drafted by four



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Democrats and four Republicans and passed by a Democrat-controlled Senate) was that it offered amnesty to many illegal aliens. Fearing that the new Republicans-controlled Senate would never pass the type of legislation he wanted, Obama decided to use executive actions to circumvent Congress and the balance of powers demanded by the Constitution mandating that Congress legislates and the president's job is to implement the laws Congress has passed.

Republican criticism of Obama has been based as much on the president's violation of the separation of powers as it was on the amnesty itself.

When Chris Wallace, host of *Fox News Sunday*, asked Texas Attorney General (now Governor) Gregg Abbott on what grounds he intended to sue President Obama, Abbott replied that there were several grounds, including:

One is what the president has done violates the Take Care Clause under Article 2, Section 3 of the Constitution, requiring that the president take care to faithfully execute the laws.

Now, understand this is no little trinket in the Constitution. At the constitutional convention itself, they considered whether or not the president should have the authority to dispense with enforcing certain laws, and they decided, no, they didn't want to give the president that authority. They wanted to ensure the president would be limited in his authority and ensure that the president would take care to execute the laws passed by Congress.

In this case, the president is violating that Take Care Clause.

Republicans have used several methods to rein in Obama's unconstitutional executive actions, including using the House's power of the purse to defund the actions, which were implanted through Secretary Jeh Johnson's executive action memorandum. Twenty-six states have also joined in a lawsuit against the federal government seeking a stay of President Obama's executive actions. However, for the foreseeable future, the dispute remains a classic Mexican standoff. As we are seeing now, House-passed legislation to eliminate funding for the executive actions faces the prospect of a filibuster in the Senate and a certain veto by the president.

It is doubtful that a final resolution to this standoff will be reached before the 2016 congressional and presidential elections, if then.

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