



Written by [R. Cort Kirkwood](#) on August 19, 2011

## Napolitano: Dream Act Is Now De Facto Law

Napolitano and her top immigration aide, John Morton, director of [Immigration and Customs Enforcement \(ICE\)](#), [have said](#) as much in the past. But Napolitano's letter to Congress sets the Obama administration's position in stone. Alleged DREAM Actors won't get the boot.

Now, it appears as if anyone who enters the country illegally can stay provided they aren't a "criminal," whatever Napolitano means by that, which isn't at all clear.



### Consequences

Napolitano told Congress that her department will focus on deporting criminal aliens, and her decision, the Associated Press reported, throws nearly half a million deportation cases into doubt.

Acting under extreme agitation from left-wing open border groups, "Napolitano announced the plan in a letter to a group of senators who support revamping the immigration system," AP reported.

Under the change, approximately 300,000 deportation cases pending in immigration court will be reviewed case by case.

"From a law enforcement and public safety perspective, DHS enforcement resources must continue to be focused on our highest priorities," Napolitano wrote in the letter. "Doing otherwise hinders our public safety mission — clogging immigration court dockets and diverting DHS enforcement resources away from individuals who pose a threat to public safety."

The immigrants groups are concerned that "good" illegals will be deported with "bad" illegals who rob, rape, and murder. Many illegals guilty of what the open-borders lobby calls "lesser offenses" landed in deportation proceedings after their fingerprints were run through the federal government's Secure Communities database. [They threatened](#) to sink Obama's 2012 reelection.

Reported AP, "The decision comes amid continued protests from immigrant communities and others that the administration has been too focused on deporting people whose only offense is being in the country without the proper documents or who have been arrested for traffic violations or other misdemeanors."

There have also been widespread complaints about Immigration and Customs Enforcement's Secure Communities program, which uses fingerprints collected in state and local jails to identify illegal immigrants in a federal immigration database.

So last week, ICE chieftain [John Morton terminated](#) his agency's [Secure Communities](#) agreements with 40 states to provide immigration enforcement assistance, ostensibly because police departments routinely run fingerprints through federal databases and official state cooperation is unnecessary.

Not everyone is as happy with the plan as Napolitano and her subalterns. Arizona Governor Jan Brewer, [who is battling](#) with the Obama administration over the state's tough illegal-immigration law, [said](#)



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[stopping](#) 300,000 deportations is yet another amnesty plan.

“The Obama administration cannot get its amnesty schemes through Congress, so now it has resorted to implementing its plans via executive fiat,” she said. “There’s simply no other description for today’s announcement that the federal government will not pursue the deportation of individuals who are in the country illegally but meet certain criteria.”

“This plan amounts to backdoor amnesty for hundreds of thousands — if not millions — of illegal aliens. Especially disturbing is that it comes in the wake of the Obama administration sanctioning the sale of weapons to Mexican drug cartels — even as border states such as Arizona come under threat from those same illicit organizations. With this announcement, the President is encouraging more illegal immigration at the exact moment we need federal focus on border security.”

Rep. [Lamar Smith](#) (R-Texas) agrees, the AP reported. The move, he said, is a “plan to grant backdoor amnesty to illegal immigrants.”

They have created a working group that appears to have the specific purpose of overruling, on a ‘case-by-case’ basis, an immigration court’s final order of removal, or preventing that court from even issuing such an order. The Obama administration should enforce immigration laws, not look for ways to ignore them. The Obama administration should not pick and choose which laws to enforce.

But conservatives observe that perhaps Napolitano’s latest decision demonstrates that she and her federal friends had planned this all along, given what has transpired recently.

## **DREAM Act**

The criteria deemed worthy of case-by-case consideration on deportation, [the Washington Times reported](#), coincide perfectly with those listed in the DREAM Act, which again, went down in flames in the U.S. Senate last year. As the *Times* reported, those criteria include “attending school, having family in the military or having primary responsible for other family members’ care.”

Leftist Sen. Dick Durbin (D-Ill.) [who thinks](#) an illegal alien will be President some day, recently reintroduced the amnesty plan [before an audience](#) that included illegal aliens. Federal police officers in the room [did not arrest](#) them for deportation.

The DREAM Act’s real name is [Development, Relief and Education for Alien Minors](#). It would grant blanket amnesty to illegal-alien children if “the alien has been continuously physically present” here for five years before the act becomes law, if the alien was 15 or younger when he stole into the country and if the alien “has been a person of good moral character since the alien initially entered the United States.”

The act also makes allowances for illegals who serve in the military and contains other exculpatory provisions.

Although the act mentions good moral character, it permits some illegal-alien criminals to stay in the country because their offenses, as the backers say, are “lesser.”

Then again, as [The New American reported](#) in July, those offenses might not be lesser at all. Sen. [Jeff Sessions](#) (R-Ala.) [explained in](#) a column that “certain inadmissible aliens and all deportable aliens including those from high-risk regions, will be eligible for amnesty.”

Certain categories of criminal aliens who are inadmissible to the United States will be



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eligible for DREAM Act amnesty, including alien gang members. The DREAM Act allows the following illegal aliens to be eligible for amnesty: alien absconders (aliens who failed to attend their removal proceedings), aliens who have engaged in document fraud, aliens who have falsely claimed U.S. citizenship, and aliens who have been unlawfully present in the United States, even after being previously removed.

[Sessions wrote](#) that the fraud exemption “is particularly troubling because it creates a potential loophole for unknown terrorists who have defrauded immigration authorities — as was the case with the 9/11 hijackers.”

And Durbin would exempt other criminals for deportation as well, [Sessions wrote](#):

Certain categories of criminal aliens can qualify for status under the DREAM Act. The bill includes a 1 felony/3-misdemeanor rule, similar to the 1986 amnesty rule. As a result, criminal aliens who have less than 3 misdemeanor convictions will remain eligible for legal, permanent status through the DREAM Act. Some misdemeanors can be extremely serious, such as driving under the influence, certain drug offenses, gang activity, some charges of sexual abuse of a minor, assault and battery, and even prostitution.

### **Now It's Law**

Durbin will have a tough time getting this bill past the Congress with Sessions standing in the way. But now, the opposition of Sessions and other immigration patriots might not matter because Obama, via Napolitano and Morton, is acting unilaterally.

The subversion of the law began in March when [Napolitano announced](#) that her department was not deporting those who, for all intents and purposes, met provisions in the DREAM Act. Illegals who “truly meet meet all those criteria ... they're not the priority.”

Morton was on board. “If you take a look at the record, people that fit within the confines of the Dream Act, there are in fact very, very few deportations of those kinds of individuals,” [he said](#).

In June, [Morton issued](#) a memorandum giving ICE agents “prosecutorial discretion” in pursuing deportation. He provided a lengthy list of criteria that included just about any reason a “good” illegal can conjure to stay. Those reasons include whether the illegal landed here as a child, whether he graduate from high school and has higher educational aspirations and whether he or a relative served in the military. As well, if he helped with a criminal investigation, is physically or mentally ill, or she is pregnant or caring for a sick relative, the illegal can stay.

After that, [Morton ended](#) Secure Communities, and now Napolitano has flatly said federal immigration authorities will review 300,000 deportation cases.

The Immigration and Naturalization Service established the policy of focusing on the deportation of illegal-alien criminals years ago, saying it was not interested in deporting illegals whose only crime is illegally entering the country.

The Associated Press did not report whether Napolitano said American citizenship has any meaning.

*Photo of Janet Napolitano: AP Images*



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