

BORDER ALERT

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Obama slips DREAM Act Amnesty Past Congress

A new enforcement memo handed down by the director of U.S. Immigration and Customs Enforcement last week has some accusing the White House of running around Congress to implement the DREAM Act – and consequent amnesty for some illegal immigrants – by executive fiat. The new memo, penned by ICE Director John Morton, directs ICE agents, attorneys and directors to exercise “prosecutorial discretion” – meaning less likelihood of deportation – for illegal aliens who have been students in the U.S., who have been in the country since childhood or who have served in the American military.

Critics have pointed out the new leniency standards parallel the provisions of the Development, Relief and Education for Alien Minors Act, or DREAM Act, which could not pass the Senate, despite several votes over the past decade, including three failed attempts at passage last year.

“This is outright lawlessness on the part of the administration,” argued syndicated columnist Charles Krauthammer on a discussion panel with Fox News’ anchor Chris Wallace. “Whatever the politics of this, we do have a Constitution. And under it, the Legislature, the Congress enacts the laws and the executive executes them. It doesn’t make them up.

“The DREAM Act was rejected by Congress,” Krauthammer continued. “It is now being enacted by the executive, despite the express will of the



Congress. That is lawless. It may not be an explicit executive order; it’s an implicit one.”

Other guests on Wallace’s program admitted that President Obama has been under pressure from Hispanic lobbyists to do what Krauthammer is accusing: an end run around Congress.

“Immigration-rights activists have been pressing the president to do exactly this, because they couldn’t get the DREAM Act enacted,” commented Nina Easton of Fortune Magazine. “They have been saying, ‘Let’s do it administratively.’ He has done the same thing on labor issues, union issues, by the way.”

Mara Liasson of National Public Radio added, “That’s exactly what the president has promised to do. Latino activists were asking him to issue an executive order to make the DREAM Act a law. That would truly be an end run around Congress. And he said he doesn’t have the power to do that.

“What he does have is prosecutorial discretion,” Liasson continued. “That’s

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Maid in Manhattan

Law enforcement officials believe the 32-year-old Guinean immigrant who accused former IMF head Dominic Straus Kahn has repeatedly lied to them and may have links to drug dealing and money laundering.

Assistant District Attorney Joan Illuzzi-Orbon told the court: ‘It’s clear that the strength of this case has been affected by substantial credibility issues with the witness.’ The maid’s lawyer had portrayed her as a hard-working single mother and devout Muslim.

But according to law enforcement officials who spoke to the New York Times, that image appears to be very far from the truth.

Two official sources said the unnamed woman spoke on the telephone to an imprisoned alleged drug dealer within a day of her encounter with Strauss-Kahn.

In the conversation, which was recorded, she reportedly discussed the possible benefits of pursuing the charges against Strauss-Kahn.

Investigators also say they learnt that the man on the other end of the phone, who is accused of possessing 400lb of marijuana, is among several people who put cash deposits amounting to more than £62,000 into the maid’s bank account over the past two years.



Dominic Straus Kahn – accused by maid



Nafissatou Diallo accused Dominic Straus Kahn

In addition, the woman has been paying hundreds of dollars each month in phone charges to five companies even though she told police she had only one phone.

She allegedly told officials that she knew only that the deposits were made by a man she described as her fiancé and his friends.

Prosecutors also say they discovered inconsistencies in her account of her past life. She is said to have lied about details on her application for asylum in the U.S., including saying she had been gang-raped by soldiers in Guinea.

Investigators said they also found a discrepancy between her account of how she had been subjected to genital mutilation and the version she had provided in her asylum application.

In a letter to the court Miss Illuzzi-Orbon laid out in detail the problems with the alleged victim.

In her application for asylum to the U.S. for herself and her daughter in 2004 she said that the home she shared with her husband in Guinea was burned by soldiers for the country’s regime.

Her husband was then supposedly tortured in jail where he died of his injuries.

According to prosecutors she later admitted this was a lie.

Prosecutors also said that she cried

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U.S. Border Control

U.S. Border Control’s mission is to help the Congress develop policies to stop illegal immigration and drug smuggling, reestablish strong, defensible borders to combat terrorism and prevent the importation of diseases, plants or animals that could adversely affect the health and welfare of our citizens and the environment.

U.S. Border Control is not an agency of the federal government and is unrelated to the Immigration Service or the Border Patrol.

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Obama Slips Dream Act Amnesty Past Congress —

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existed long before he came in office. And what ICE did today was it said, 'Here are all the factors that you can take into consideration.'"

Specifically, the memo argues, "Because the agency is confronted with more violations than its resources can address, the agency must regularly exercise prosecutorial discretion."

Therefore, it states, priority in prosecution should be given to "felons," "gang members" and "repeat offenders."

But other determinants are listed "positive factors [that] should prompt particular care and consideration," namely if the illegal immigrant is a veteran of the U.S. armed forces, present in the U.S. since childhood, pregnant, a victim of violent crime or suffering from serious health conditions.

In addition, the memo states, "When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents and attorneys should consider all relevant factors, including, but not limited to:

The person's length of presence in the United States;

The circumstances of the person's arrival in the United States and the manner of his or her entry, particularly if the alien came to the United States as a young child;

The person's pursuit of education in the United States, with particular consideration given to those who have graduated from a U.S. high school or have successfully pursued or are pursuing a college or advanced degrees at a legitimate institution of higher education in the United States."

The DREAM Act would similarly grant children in the country illegally the opportunity to become U.S. citizens if they attend college or enlist in the military.

Though the Nancy Pelosi-led U.S. House of Representatives passed the DREAM Act during the "lame duck" session after last year's election, the U.S. Senate has repeatedly failed to clear the 60-vote threshold necessary to bring it up for vote over Republican filibusters.

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Maid in Manhattan —From Page 1

when she recounted to them the story from her asylum application of how she had been gang-raped in Guinea, but later admitted that this was also a lie.

She also allegedly owned up to falsely claiming a friend's child as her own to get a higher tax refund, and misrepresenting her income to stay in her present home. Her lawyer, Kenneth Thompson, admitted outside court that her asylum application was 'not completely accurate' but accused New York's district attorney of deserting his client because he was scared of losing such a high profile case.

He also said suggestions his client was involved in drug dealing were a 'lie' and claimed the maid's daughter had told him that prosecutors had 'mistreated' and 'screamed at' her mother while interviewing her.

Although prosecutors have revealed their doubts about the maid, they stressed they have not necessarily changed their mind about the charges against Strauss-Kahn.

Can you believe this?! Now he wants amnesty for Libyans?



The White House
Office of the Press Secretary
For Immediate Release

June 09, 2011

Presidential Memorandum--Unexpected Urgent Refugee and Migration Needs Related to Libya and Cote d'Ivoire

June 8, 2011

Presidential Determination

No. 2011-11

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Unexpected Urgent Refugee and Migration Needs
Related to Libya and Côte d'Ivoire

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the "Act"), as amended (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act, in an amount not to exceed \$15 million from the United States Emergency Refugee and Migration Assistance Fund, for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State, related to the humanitarian crises resulting from the violence in Libya and Côte d'Ivoire.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA

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Support Our Work!



We really need your financial support right now. We are battling on multiple fronts, in the courts, on Capitol Hill and in state capitals across the country. Your financial support is critical to these efforts.

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Snatching Defeat from the Jaws of Victory



In our May 26th blog, U.S. Border Control celebrated the Supreme Court victory that allowed states like Arizona to pressure businesses into adopting E-Verify or lose their business license.

It was a long battle that was fought up through the court system. It was an expensive battle for the citizens of Arizona. And it was a difficult battle when you consider that Arizona was taking on the power, influence and money of all those business interest and political organizations who support open borders, mass illegal migration and the hiring of illegal aliens over American workers.

They faced the combined strength of the U.S. Chamber of Commerce and a host of leftist and pro-immigration organizations and individuals who champion all things hateful and destructive to our country.

The victory was not won on the merits of the case, i.e., E-Verify can help businesses ensure that they are not hiring illegal aliens. It won because the case brought against Arizona by the plaintiffs argued that there was a federal law that preempted the Arizona law. But the Supreme Court disagreed.

As a result of this decision, every state in the nation can now enact identical legislation that will force criminal employers to use E-Verify or lose their business licenses. Yes, I said criminal employers because honest employers are already using the voluntary E-Verify system.

Of great significance in the decision was that cooperative immigration enforcement, with the states and the federal government working together to restore the rule of law in the workplace, was permissible under current federal law.

It was all starting to look good! All the criminal employers were going to have to get rid of their illegal alien employees and start competing head to head with their honest competitors who employ American workers.

The Supreme Court decision gave a green light to the rest of the states, allowing them, too, to revoke the business licenses of employers who hire unauthorized aliens. Alabama enacted a law taking Arizona's approach on June 9, just two weeks after the Supreme Court decision. Other states, like Missouri, Mississippi, South Carolina, Georgia and Oklahoma, had already done so. More would be following in 2012.

Adding frosting to the cake, the decision was a significant defeat for the Obama administration, which argued against the Arizona law in the high court, and for the Chamber of Commerce, which also opposed Arizona and has resisted immigration enforcement in the workplace.

But then something strange happened. Republican House Judiciary Chairman Lamar Smith introduced legislation (HR 2164) to require nationwide use of the E-Verify program. What's wrong with that? Won't such a law ensure that all states comply with E-Verify? Not necessarily. While the Smith bill sounds good, in fact, it cripples immigration enforcement.

Having been in this business for thirty years, something smells rotten to me. Look at the coincidence of having a bill ready to go days after years of watching the states struggle with this issue.

Why didn't Smith introduce this bill last year or even a few weeks before the Supreme Court decided for the

American people and against Big Criminal Business? And how did they manage to get a companion bill drafted in the U.S. Senate on such short notice?

Could it have anything to do with the fact that the Chamber of Commerce helped Rep. Smith draft the bill. And isn't the Chamber of Commerce the same group that has, forever, been working shoulder to shoulder with the open borders/amnesty crowd? And wasn't it the Chamber that brought suite against Arizona.

What's in the bill? Nothing very good. The bill would establish a very weak E-Verify requirement while virtually eliminating



Rep. Lamar Smith – introduced H.R. 2164

a state's power to enforce immigration law by giving the federal government preemption of the states. Smith's bill would change federal law so that the states can no longer take any actions against employers who knowingly hire unauthorized aliens, but leaves them with the huge financial burden of illegal immigration.

The federal government has been unwilling to enforce immigration laws in the workplace, and this bill would be no exception. There is zero likelihood that the Obama administration will go after employers who fail to use E-Verify or who knowingly help their employees circumvent the system.

In contrast, states like Arizona have been effective in enforcing their illegal-immigration laws. In Arizona, dozens of work-site raids and investigations have occurred. That's

why the number of illegal aliens in Arizona dropped 16 percent from 2008 to 2010 — more than double the national 7 percent drop.

There are other problems with Smith's bill, showing why the Chamber was so willing to strike this deal. Notably, it grandfathers in almost all illegal aliens who are already employed here and stay in the same job. They won't be checked through E-Verify. Thus, the bill will help keep the current population of illegal aliens working, so that they are still here if a future amnesty (which the Chamber supports) occurs.

Even worse, the bill would effectively allow agricultural workers to skip E-Verify. All an employer has to do is assert that the alien worked for him at some point in the past. This loophole alone would likely allow millions of illegal aliens to continue working here.

In sum, the bill isn't even a compromise — it's a total sellout. Frankly, I am surprised and disappointed that Rep. Smith would be party to such a bill, let alone put his name on it.

I even note with sadness that some prominent immigration groups have endorsed it. What could they be thinking? We already won this battle. This bill does little more than take away our victory and hand it over to the enemy.

Edward I. Nelson
Chairman, U.S. Border Control

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Birthright Citizenship for Children of Foreign Diplomats?

The intended scope of the 14th Amendment's Citizenship Clause has been hotly debated in the context of children born to illegal immigrants. While it is clear that the intent of those who authored the 14th Amendment was never to provide automatic citizenship for children born to illegal and temporary immigrants, some argue that the amendment protects such grants of citizenship.

Amid this debate, however, there is one area of solid agreement among advocates on all sides of the debate: In the least, children born to foreign diplomats are not "subject to the jurisdiction" of the United States and are therefore not to be granted U.S. citizenship.

A lack of direction from Congress has resulted in children born to foreign diplomats on U.S. soil receiving U.S. birth certificates and Social Security numbers (SSNs) — effectively becoming U.S. citizens — despite the limiting language within the Citizenship Clause of the 14th Amendment.

Among the findings in a recent study:

- Despite Congress's clear intent to not create a completely universal and automatic birthright citizenship policy, the current application of the Citizenship Clause is so lax that the United States has a de facto universal birthright citizenship policy that denies U.S. citizenship by birth to no one.
- There is no federal requirement that hospitals ask new parents if they are foreign diplomatic staff. State agencies do not instruct hospitals to differentiate between children born to diplomatic staff and those born to U.S. citizens or temporary or illegal aliens. Hospitals issue the same birth certificates to all newborns.
- The Social Security Administration (SSA) does not investigate whether SSN requests are for children of foreign diplomats. Although the agency does recognize that U.S.-born children of foreign diplomats are not eligible to receive SSNs, there is no mechanism in place for preventing such issuance.

- The State Department is currently rewriting the agency's guidelines on birthright citizenship, signaling a possibly significant departure from current 14th Amendment jurisprudence. The agency claims that children born to foreign diplomats are "entitled to birth certificates."
- Children of diplomats who receive U.S. birth certificates and SSNs have greater rights and protections than the average U.S. citizen because they can enjoy all of the benefits of U.S. citizenship, but also invoke diplomatic immunity if they break a law. A lack of direction from Congress has created what one might consider a "super citizen" who is above the law.

- In order to end the practice of granting automatic U.S. citizenship to children of foreign diplomats, Congress could author regulations requiring declaration of parental diplomatic status on birth certificate request forms.

A discussion about the application of birthright citizenship is necessary if the 14th Amendment's Citizenship Clause is to retain any legal effect. All entities involved in the birthright citizenship process — (1) the National Center for Health Statistics; (2) hospitals and state health agencies; (3) the Social Security Administration; (4) the Department of State; and (5) U.S. Citizenship and Immigration Services — are failing to prevent grants of U.S. citizenship to children born to foreign diplomats, effectively erasing the limiting language found in the 14th Amendment's Citizenship Clause.

1. National Center for Health Statistics Has Not Addressed Births to Diplomats.

The National Center for Health Statistics' (NCHS) Division of Vital Statistics is a federal agency under

the Centers for Disease Control and Prevention and is responsible for standardizing birth certificate issuance. States generally adopt the standard created by the NCHS and sometimes add additional questions. The goal is for the state and federal agency to "work together to build a uniform system that produces records to satisfy the legal requirements of individuals and their families and also to meet statistical and research needs at the local, state, and national levels." An interview with a head NCHS official revealed that the subject of issuing U.S. birth certificates to U.S.-born children of foreign diplomats is not one the agency has discussed

2. State Health Agencies Do Not Direct Hospitals to Inquire about Diplomatic Status.

Within hours of a child's birth it is standard for new parents to fill out forms to request both a birth certificate and SSN for the newborn. Responsibility

for registration of births is left to the states and territories as is the creation of the forms used for such registration; most state forms are similar to the standard form created by the NCHS for reasons discussed above. Each state/territory has an agency that oversees birth certificate standardization, usually called the state Office of Vital Statistics.

3. Social Security Administration Does Not Inquire About Diplomatic Status.

The ultimate federal administrative arbiter of who is deserving of a grant of U.S. citizenship is the Social Security Administration. Every year, the SSA issues approximately five million unique SSNs. Although the agency has a working relationship with the Department of Homeland Security and the State Department, the shared focus is largely foreign

worker programs and assisting U.S. diplomats serving overseas. The SSA is not tasked with the responsibility of preventing the issuance of SSNs to U.S.-born children of foreign diplomats, and consequently the agency does not have a system to prevent such issuance.

4. State Department Changing Guidelines, Complicating Issue. A response from the State Department to an inquiry on the issue of children born to foreign diplomats revealed more evidence of inconsistency among federal agencies. The State Department is currently developing new rules that may further complicate the matter.

5. USCIS Is Not Tasked with Preventing Issuance.

U.S. Citizenship and Immigration Services (USCIS) does not seem to have addressed the issue of citizenship grants to children of foreign diplomats. The agency has produced seemingly conflicting information on births to diplomats, a likely result of Congress' failure to provide direction on the subject.

Some recommendations: Congress must clarify the scope of the 14th Amendment's Citizenship Clause and pass legislation aimed at ensuring federal agencies follow constitutional standards when granting U.S. citizenship and issuing documents that constitute U.S. citizenship. Congress should direct the National Center for Health Statistics to address the topic of children born to foreign diplomats during the agency's next conference on birth certificate standardization. Requiring foreign diplomats to note their profession on birth certificate forms under penalty of law should be considered. This would necessarily require state vital statistics offices to forward information on parental occupations to the Social Security Administration so that a determination on citizenship can be made by federal authorities.



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