

Timeline of Administrative Non-Enforcement of Federal Immigration Law

Many Americans may not be aware that a law enforcement officer who apprehends someone for speeding and discovers the person is illegally in the country does nothing. They just release them on the spot. It is even being applied to people in prison and jails.

How did we get here?

In early 2009 there was an Immigration and Customs Enforcement raid, initiated and planned while President Bush was in office.

In a statement about the operation, ICE said they were investigating criminal activity. They discovered hiring records revealing a significant number of people who were using bogus Social Security numbers and counterfeit documents. They found 26 illegal immigrants working at this company. It was a completely legitimate and justified law enforcement action, but President Obama had just taken office and he had clearly promised this kind of thing wouldn't happen. Shortly thereafter, certain pro-amnesty groups criticized him. As a result, Secretary Napolitano vowed she would "get to the bottom of it." An article in the Washington Times quoted a Homeland Security official as saying, "The Secretary is not happy about it." And instead of enforcing the law, the Secretary investigated the law enforcement officers for simply doing their duty--apparently in response to some secret demand made or promises made to advocacy groups during the campaign.

Esther Olavarria, Deputy Assistant Secretary of Homeland Security, said on a call with employers and pro-amnesty groups that 'we're not doing raids or audits under this administration.' This was the symbolic end of worksite enforcement in this country.

Then, in 2010, the administration began the systematic dismantling of immigration enforcement:

On **May 19, 2010**, in an interview with the *Chicago Tribune*, then-Director of ICE John Morton announced that ICE may not even process or accept illegal aliens transferred to the agency's custody by Arizona officials.

On **May 27, 2010**, an internal ICE email revealed that “low-risk” immigration detainees will be able to have visitors stay for an unlimited amount of time during a 12-hour window, be given access to unmonitored phone lines, email, free internet calling, movie nights, bingo, arts and crafts, dance and cooking classes, tutoring, and computer training.

On **June 25, 2010**, the National ICE Council, the union that represents more than 7,000 agents and officers, cast a unanimous vote of “No Confidence” in Director Morton. According to the union, the vote reflected “the growing dissatisfaction among ICE employees and Union Leaders that Director Morton . . . has abandoned the Agency’s core mission of enforcing United States immigration laws and enforcing public safety, and has instead directed their attention to campaigning for programs and policies relating to amnesty.”

In **August 2010**, ICE began circulating a draft policy that would significantly limit the circumstances under which ICE could detain illegal aliens – in effect, ICE agents were no longer authorized to pick up an illegal alien for illegally entering the country or for possessing false identification documents. Now, illegal aliens could only be detained if another law enforcement agency made an arrest for a criminal violation. This was the beginning of what would come to be known as “administrative amnesty.”

In a **December 2010** *Washington Post* article based on internal ICE emails and communications, it was revealed that ICE had padded its deportation statistics. According to the article, ICE included 19,422 removals in fiscal year 2010 that were really from the previous fiscal year. The article also described how ICE extended a Mexican repatriation program beyond its normal operation dates, adding 6,500 to the final removal numbers.

In a **March 2, 2011** memo, ICE Director Morton outlined new “enforcement priorities” and encouraged agents to not enforce the law against most illegal aliens and to only take action against those who meet these “priorities.”

On **June 17, 2011**, ICE Director Morton issued a second memorandum further directing ICE agents to refrain from enforcing the law against certain segments of the illegal alien population – criteria similar to

that under the DREAM Act – despite having no legal or congressional authority to do so and despite the fact that Congress had explicitly rejected the DREAM Act three times.

On **June 17, 2011**, ICE Director Morton issued a third memo instructing ICE personnel to consider refraining from enforcing the law against individuals engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a nonfrivolous dispute with an employer, landlord, or contractor.

On **June 23, 2011**, the ICE agents and officers union expressed outrage over Director Morton's actions, noting that since the administration was "unable to pass its immigration agenda through legislation, [it] is now implementing it through agency policy." It also accused top ICE political appointees of working "hand-in-hand" with the open-borders lobby, while excluding its own officers from the policy development process. In effect, ICE officers alleged that the political appointees at ICE were advancing the agenda of those here illegally and maneuvering against their own law enforcement officers trying to do their duty.

On **June 27, 2011**, internal memoranda revealed that ICE officials attempted to publicly distance themselves from the administrative amnesty policies and deny that they ever existed, after the *Houston Chronicle* exposed DHS' directive to review and dismiss valid deportation cases then in process.

On **August 1, 2011**, the Justice Department filed a lawsuit in federal court to stop Alabama's immigration enforcement law.

On **August 18, 2011**, Secretary Napolitano announced that DHS was reviewing all pending and incoming deportation cases to stop proceedings against those illegal aliens who are not DHS "priorities."

On **September 28, 2011**, at a roundtable with amnesty advocates, President Obama admitted that his deportation statistics were misleading: "The statistics are actually a little deceptive because what we've been doing is . . . apprehending folks at the borders and sending them back. That is counted as a deportation, even though they may have only been held for a day or 48 hours."

On **October 12, 2011**, in testimony before the House Judiciary Committee, Director Morton admits that **Cecilia Munoz** – former National Council of La Raza Senior Vice President and now Assistant to the President and Director of the White House Domestic Policy Council – assisted in preparation of the administrative amnesty memoranda.

On **October 18, 2011**, ICE refused to take any action after the Santa Clara County, California, Board of Supervisors voted to stop using county funds to honor ICE detainers, except in limited circumstances.

On **October 19, 2011**, ICE refused to act after District of Columbia Mayor Vincent Gray issued an order to prevent D.C. police from enforcing U.S. immigration law. Among other things, the order prohibits all public safety agencies from inquiring about an individual's immigration status or from contacting ICE if there is no nexus to a criminal investigation.

On **October 31, 2011**, the Justice Department filed suit against South Carolina's immigration enforcement law.

On **November 7, 2011**, USCIS issued a memo stating that USCIS will no longer issue "notices to appear" in immigration court to illegal aliens who do not meet the administration's priorities.

On **November 22, 2011**, the Justice Department filed suit against Utah's immigration enforcement law.

On **November 22, 2011**, ICE refused to act after Mayor Michael Bloomberg signed a measure ordering all New York City jails to ignore certain ICE detainers issued to deport illegal aliens from those jails.

On **December 15, 2011**, DHS rescinded Maricopa County, Arizona's 287(g) agreement – a cooperative agreement whereby local law enforcement receive training in identifying and apprehending illegal aliens. Director Morton told the Maricopa County Attorney that ICE will no longer respond to calls from the Maricopa County Sheriff's Office involving traffic stops, civil infractions or "other minor offenses." DHS' legal reasoning is unclear, given that federal law requires the federal government to respond to inquiries by law enforcement agencies to verify immigration status.

On **December 29, 2011**, ICE announced the creation of a 24-hour hotline for illegal alien detainees to be staffed by the Law Enforcement Support Center – the same organization that ICE claimed was too understaffed to keep up with immigration status check requests from state and local law enforcement. ICE then revised its detainer form to include a new provision that says ICE should “consider this request for a detainer operative only upon the subject’s conviction.” This change in policy explicitly ignores that illegal presence is a violation of federal law.

On **January 3, 2012**, a report by the Inspector General revealed that USCIS officials pressure employees to approve applications that should have been denied and that employees believe they do not have enough time to complete interviews of applicants, “leav[ing] ample opportunity for critical information to be overlooked.”

On **January 10, 2012**, the President promoted Cecelia Munoz to be the new director of his Domestic Policy Council. Munoz previously served as a senior vice president of La Raza.

On **January 17, 2012**, DHS stopped the roll out of Secure Communities in Alabama, according to a DHS email, because the administration disagrees with Alabama’s new immigration enforcement law.

On **January 19, 2012**, ICE attorneys in Denver and Baltimore recommended that the agency voluntarily close 1,667 removal cases, resulting in the release of illegal aliens already in proceedings without consequence for violating U.S. immigration laws.

On **January 19, 2012**, the President issued an executive order waiving certain screening safeguards, allowing those applying for nonimmigrant visas to obtain them more easily in China and Brazil. On the same day, the State Department announced it will waive the long-standing statutory requirement of in-person interviews with a consular officer.

On **February 7, 2012** ICE announced the creation of the ICE Public Advocate, who is to serve as a point of contact for aliens in removal proceedings, community and advocacy groups, and others who have concerns, questions, recommendations, or other issues they would like to raise about the administration’s executive enforcement and amnesty efforts.

On **February 13, 2012**, the President revealed in his budget a proposed cut in funding for ICE and the 287(g) program, effectively gutting it.

On **April 17, 2012**, the administration announced it would reduce the National Guard troops stationed at the border from 1,200 to 300.

On **April 25, 2012**, ICE officials announced it has offered to voluntarily close over 16,500 illegal alien deportation cases pending background checks in connection with the administration's larger review of 300,000 cases. The administration also announced that the number of illegal aliens whose cases it has already dismissed is up to 2,700 from just over 1,500 the previous month.

On **April 25, 2012**, Secretary Napolitano testified that DHS would not implement the statutorily mandated biometric exit system to track visa overstays for at least four more years and then only if DHS determined it was cost-effective.

On **April 27, 2012**, ICE announced that it will no longer ask local jails to detain illegal aliens stopped for "minor traffic offenses," weakening the effective Secure Communities program. Instead, ICE would only consider detaining an alien if the alien is ultimately convicted of an offense. Also, despite claims of limited resources, ICE announced it planned to take action against jurisdictions with arrest rates the agency deems **too high**.

On **June 5, 2012**, ICE released its latest statistics in its case-by-case review of pending deportation cases. Of the 288,000 reviewed, ICE says it plans to voluntarily dismiss 20,648; over 4,300 of these cases had already been processed and the remaining will be closed pending background checks.

On **June 11, 2012**, then Assistant Attorney General for the Civil Rights Division Tom Perez announced that the Justice Department would sue Florida for its effort to remove ineligible voters, including illegal aliens, from its voter registry.

On **June 15, 2012**, the administration unilaterally implemented the DREAM Act, circumventing Congress under the guise of "prosecutorial

discretion.” The Deferred Action for Childhood Arrivals or “DACA” program, would give millions a reprieve from deportation and work authorizations to illegal aliens under the age of 30 who claimed they arrived in the country before the age of 16. ICE officers would later report that this amnesty was being applied to adult illegal aliens who have been arrested for criminal offenses.

On **June 25, 2012**, immediately following the Supreme Court’s decision upholding the heart of Arizona’s immigration law requiring law enforcement to take reasonable steps to verify the immigration status of those lawfully stopped or detained where there is reasonable suspicion to believe they are in the country illegally, DHS rescinded all of its 287(g) agreements in Arizona.

On **July 6, 2012**, Customs and Border Protection announced that it would close nine border patrol stations throughout the country – Lubbock, Amarillo, Dallas, San Antonio, Abilene, and San Angelo, Texas; Billings, Montana; Twin Falls, Idaho; and Riverside, California. A CBP spokesman claimed it was being done to more effectively use its personnel.

On **October 4, 2012**, ICE refused to act after LAPD Chief Charlie Beck announced a plan to circumvent federal law and ignore ICE detainers for illegal aliens apprehended for certain crimes, releasing them back onto the streets instead of transferring them to federal custody.

On **December 21, 2012** – the Friday before Christmas – ICE Director Morton issued a memo stating that ICE agents can no longer detain illegal aliens if the only violation of the law is being in the country illegally. ICE agents can now detain only those who have committed a crime independent of their illegal status.

On **January 3, 2013**, USCIS issued its final rule allowing illegal aliens to circumvent federal law and remain in the country if they show that being separated from their U.S. citizen spouse or parent would cause “extreme hardship.” During a stakeholder call, USCIS Director Alejandro Mayorkas emphasizes that USCIS will consider granting the same waiver to illegal alien relatives of green card holders and clarifies that even illegal aliens who had been in deportation proceedings but had their case administrative closed are eligible for these waivers.

On **February 14, 2013**, USCIS released DACA statistics showing that the administration had, to that point, granted deferred action to 199,460 illegal aliens.

On **February 26, 2013**, the GAO released a report that DHS had no official metrics to determine whether the border is secure and had no plans to adopt any such metrics until late 2013. Since 2004, DHS had used “operational control” as a metric. However, through the lens of this metric, it was clear that the border was far from secure – at the end of fiscal year 2010, DHS reported it had operational control over only 13 percent of the 8,607 mile northern, southwestern and coastal border, and only 44 percent operational control of the southwestern border.

In late **February 2013**, after news leaked through several sources, ICE confirmed that they had been releasing illegal aliens in federal custody due to the sequester. According to the *Associated Press*, more 2,000 had been released before the sequester even took effect and the administration planned to release 3,000 more. On March 14, 2013, ICE Director Morton admitted that the administration released 2,228 illegal aliens, contradicting earlier statements by DHS officials who claimed the number to be in the hundreds. More than 600 of the released illegal aliens had a criminal record.

On **March 21, 2013**, the *New York Times* reported that administration officials admitted that they delayed producing a border security metric for fear that the results would present an obstacle to an amnesty bill.

On **April 10, 2013**, DHS officials testified before Congress that illegal border crossings had increased.

On **April 23, 2013**, the U.S. District Court for the Northern District of Texas, in the ICE agents lawsuit against Secretary Napolitano, Director Morton and Director Mayorkas, affirmed that Congress has the plenary power to set immigration law and that the administration’s prosecutorial discretion and DACA directives violate federal law.