

Fall 2011 U.S. Immigration Alert!

A Newsletter from National Immigrant Solidarity Network

Fall, 2011 Issue, Volume 37

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Activist Says: Obama skewers the immigrant justice movement!

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VOICES: Obama skewers the immigrant justice movement

Kung Li

August 28, 2011

The Obama administration announced last week it will be reviewing pending immigration deportation cases in order to prioritize people with criminal records for deportation over "low-priority" immigrants. Individuals eligible for the DREAM Act, veterans, and victims of crime who are currently in deportation proceedings will, if the reviews are done as promised, have their cases stayed.

The announcement was made in response to sustained, well-organized pressure by immigrants, Latinos and allies critical of the President's deportation policies in general and the controversial Secure Communities (S-Comm) program in particular. Three hundred people walked out of an S-Comm Task Force hearing in Los Angeles on Monday, Aug. 15. Two days later, in Chicago, Task Force members were again confronted by an audience angry at the President's use of S-Comm to ramp up deportations. As in Los Angeles, an undocumented youth leader asked the Task Force members to resign, and led a walk out from the hearing. Blocking an exit ramp from the I-94 freeway, six undocumented youths were arrested.

Apparently startled by the forcefulness of the protests, the Obama administration scrambled a conference call on Aug. 18 to announce the case-by-case reviews. Though modest, it is a concrete step to stopping the deportation of DREAM Act-eligible students and victims of crimes. Women like 20-year-old Isaura Garcia, who testified during the Los Angeles hearing about calling police for help and ending up in deportation proceedings, will have their cases stayed. A sweetener: some individuals whose cases are closed will be able to apply for work authorization.

Determined, direct action by courageous and creative organizers -- undocumented youth in particular -- has forced the Obama administration to make a real move.

And so the chess game begins.

How is Obama going to play this? This White House blog post by Cecilia Muñoz, uploaded in the hours between the L.A. and Chicago hearings, gives a clue. Muñoz boasts of "a dramatic increase in the number of criminals deported from the United States," and credits S-Comm for enhancing Immigration and Customs Enforcement's (ICE) ability to deport people who have committed crimes. The administration's strategy hinted at in this blog post is this: split immigrants into non-criminals and criminals, and insist that those being deported are criminals, not immigrants. Or mothers, or long time residents, or uncles, or co-workers, or neighbors, or friends. Labeling people "criminals" erases every other part of their being.

It is a cynical and aggressive strategy that bolsters ICE and de-legitimizes anyone who continues to oppose the President's deportation policies. Those policies will, Muñoz said during the Aug. 11 conference call, continue at the same frenzied pace as these past two years, with no change in the overall number of deportations.

If this is indeed Obama's overall strategy, it becomes clear that by responding as he did to criticisms over S-Comm, the

President is setting up a skewer move. In chess, the skewer is an offensive move that is made possible when two pieces are lined up with a more valuable piece -- let's say the queen -- in front of a less valuable one, like the knight or rook. When the piece in front is threatened, the player must move it aside, sacrificing the other piece.

The only defense to a skewer move is to not put yourself in the position of being skewered in the first place. That can only be done by rejecting wholesale the premise that some people are less valuable than others because they have a criminal record.

Cristian is young, undocumented, and unfailingly polite. He has a criminal record. He was sleeping in a friend's car when he was woken up by a police officer and charged with underage drinking. He falls within the priority category of "criminal."

Jean Montrevil and his wife Jani are the parents of four beautiful children. Jean came to the U.S. in 1986 as a teenager, with a green card, from Haiti. Jean has a criminal record. When Jean was 20, he was busted on a cocaine charge. The judge sentenced him to 27 years -- an extraordinarily long sentence -- of which he served 10. Since his release, Jean has built up a van service in Brooklyn, became a member of Families for Freedom, and co-founded the New Sanctuary Coalition of NYC. Even though Jean is a legal resident, he is still considered a "criminal alien" and falls under the high priorities for deportation.

Aleida is a single mother of the three U.S. citizen children, the youngest being 6 months old. She has a criminal record. Aleida was arrested in New Orleans for domestic violence after defending herself from a woman visiting her cousin's home. Under the guidelines, Aleida is a "criminal" rather than a victim, and a priority for deportation.

How long is this list of people who are not protected by the promised stays? John Sandweg of the Department of Homeland Security said that over 94% of S-Comm deportations last year met their "priority" criteria. No complex math necessary here -- the reality is that the overwhelming majority of people who are facing deportation will still be deported. Only now, they will be deported to the sound of the Obama administration crowing about how they are "deporting criminals."

The resistance to S-Comm and the criminalization of immigrants has built both momentum and moral power over these past two years. Holding DHS to its word and insisting on a stay of proceedings for every eligible person will -- and should -- be the gratifying, immediate next move by the advocates and organizers that forced the administration to act.

But to then get drawn into an argument over what constitutes a "serious" crime and what does not, or whether certain types of crimes should be excluded or included, would be playing directly into Obama administration's strategy.

Every statistically-based analysis of the criminal justice system shows it is deeply racially biased at each stage, and more oriented towards policing and convicting people who are poor than those who are dangerous. Contact with such a criminal justice system is no way to decide who should or should not be deported.

Just as illegitimate is the Obama administration's insistence on enforcing immigration laws that it has acknowledged need to be changed. Change the laws first, to give immigrants who have been here more than five years and want to remain a reasonable way to do so legally. Halt deportations in the meantime. Enforcing laws that need to be changed before changing those laws makes no sense. Using a rapacious, racially-biased criminal justice system to carry out -- and justify -- that enforcement turns mere senselessness into cruelty.

Obama Puts Bandage on Broken Immigration System

Heartland Alliance's National Immigrant Justice Center

Prosecutorial Discretion Initiative Puts People in Limbo,
Fails to Provide Meaningful Solutions to Broken Immigration System

Chicago (August 24, 2011) – The Obama administration's latest prosecutorial discretion initiative will provide some relief to a fraction of the thousands of men and women facing deportation from the United States, but it fails to offer long-term solutions for a severely flawed immigration system.

Announced last week, the initiative creates a government working group that will review 300,000 pending immigration court cases. On a case-by-case basis, the group will prevent the immediate deportation of certain individuals deemed "low priority" under Department of Homeland Security (DHS) guidelines released in June. While this plan may spare some from deportation, many more will be left in legal limbo, with no guaranteed right to work and no permanent status.

"The Obama administration has finally acknowledged that it has the authority to provide some relief to families who are

suffering as a result of Congress's failure to pass comprehensive immigration reform. But it can do much more," said Mary Meg McCarthy, executive director, Heartland Alliance's National Immigrant Justice Center (NIJC). "Time is running out for the Obama administration to work on meaningful immigration reform and end harsh and unfair enforcement practices that tear apart families."

Even for those who receive a reprieve from deportation under the new initiative, DHS retains the right to modify its enforcement priorities and reinstate deportation proceedings at any time.

"Leaving immigrants and their family members at the mercy of a bureaucracy already deaf to their plight betrays American ideals of fairness and justice," McCarthy said.

Obama's new deportation policy is PR spin, experts say

Gregory Pratt - City Pages
Aug. 22 2011

The Obama administration announced last week that it will review "low-priority" deportation cases and allow certain illegal immigrants to remain in the country with work permits.

Reporters across the country jumped on the news, with many news outlets breathlessly reporting that the Obama administration will stop all deportations of immigrants without criminal records.

But Minnesota immigration experts point out that the feds' announcement echoes old memos about "enforcement priorities" and probably won't be all that different in practice.

At the heart of the government's announced policy change last week is prosecutorial discretion, the fact that prosecutors have a choice whether to press charges or not in any given case.

In June, Immigration and Customs Enforcement Director John Morton released a memo declaring immigrants without criminal records to be "low priority" for deportation. That memo also cited nearly a decades' worth of official documents to the same effect.

Obama has long insisted that ICE's "priority" for deportations is criminal aliens, which isn't true by the numbers. Almost 400,000 immigrants were deported last year, and less than half of them had criminal records.

U.S. Secretary of Homeland Security Janet Napolitano and the White House now claim that the government will actually show leniency to non-criminal aliens while focusing on criminal immigrants, which has set off a firestorm of criticism from groups calling it "backdoor amnesty" while immigration reform advocates have shown support for the change.

Local immigration experts, however, suggest that supporters and critics alike are getting worked up over nothing.

"ICE has had prosecutorial discretion and has had the capacity to prioritize the deportation of criminal immigrants, and I think the evidence shows they don't do that," Advocates for Human Rights Director Michele Garnett McKenzie says. "I don't think there's any reason to expect enforcement practices to change."

John Gutterman, an immigration advocate with Workers Interfaith Network, is skeptical of the government's new "priority" since the government hasn't announced how it will supervise its deportation prosecutions to ensure that only criminals are deported.

"One of the problems with the memo on prosecutorial discretion is oversight. There's a lot of prosecutors around the country that are charged with making that a reality," he says.

McKenzie says ICE's past suggests current deportation practices will continue unabated.

"There's nothing in the history of immigration enforcement that gives me confidence this is a departure or a new day for immigration in our country," McKenzie added. "It's going to be business as usual."

She suggests politics played a key role in the government's announcement. The Department of Homeland Security has faced a massive backlash from several states this summer over its "Secure Communities" program, which was originally portrayed as an agreement between the federal government and several states to share information on immigrants who are booked

into jail.

When several states -- Illinois, New York and Massachusetts -- began pulling out, the feds claimed that the program had never been mandatory.

"This strikes me as damage control around Secure Communities," McKenzie said.

City Pages reached out to the local ICE office and was re-directed to the Department of Homeland Security, which did not return a request for comment.

Board of Immigration Appeals Guts Legal Protections for Immigrants Under Arrest

The Legal Action Center

Aug. 15, 2011

Washington, D.C.—The American Immigration Council strongly condemns last week's ruling from the Board of Immigration Appeals holding that immigrants arrested without a warrant are not entitled to certain Miranda-like warnings prior to questioning by immigration officers. In a precedent decision, the Board held that noncitizens need not be informed of their right to counsel or warned that their statements can be used against them until after they have been placed in formal deportation proceedings.

For decades, immigrants placed under arrest have been entitled to these critical advisals. Like "Miranda" warnings for criminal suspects, such notifications help to ensure that statements made during questioning are not the product of coercion. As a result of last week's ruling, noncitizens under arrest will now be even more vulnerable to pressure from interrogating officers, and immigration judges will face greater difficulty determining whether statements made during questioning were truly voluntary.

"This decision epitomizes the substandard system of justice that's been created and imposed on immigrants in the United States," said Melissa Crow, Director of the American Immigration Council's Legal Action Center. "The Board's ruling renders the advisals practically meaningless and makes immigrants less likely to remain silent when questioned and less likely to assert their right to counsel."

The Board of Immigration Appeals is the highest administrative tribunal on immigration and nationality matters in the United States. Decisions of the Board may be subject to review by federal courts or by the Attorney General. The ruling came in *Matter of E-R-M-F- & A-S-M-*, 25 I&N Dec. 580 (BIA 2011).

Immigration and Mass Incarceration in the Obama Era: The New Operation Wetback

James Kilgore - Center for African Studies, The University of Illinois

August 4, 2011

Last week Representative Luis Gutierrez (D-IL) joined a demonstration in Washington D.C. to protest the refusal of President Obama to use his executive powers to halt the deportations of the undocumented. Gutierrez' arrest came only two days after Obama had addressed a conference of the National Council of La Raza. Conveniently forgetting the history of the civil right struggles that made his Presidency a possibility, Obama reminded those attending that he was bound to "uphold the laws on the books."

With over 392,000 deportations in 2010, more than in any of the Bush years, many activists fear we are in the midst of a repeat of notorious episodes of the past such as the "Repatriation" campaign of the 1930s and the infamous Operation Wetback of 1954, both of which resulted in the deportation of hundreds of thousands of Latinos.

But several things are different this time around. A crucial distinction is that we are in the era of mass incarceration. Not only are the undocumented being deported, many are going to prison for years before being delivered across the border. While the writings of Michelle Alexander and others have highlighted the widespread targeting of young African-American males by the criminal justice system, few have noted that in the last decade the complexion of new faces behind bars has been dramatically changing. Since the turn of the century, the number of blacks in prisons has declined slightly, while the ranks of Latinos incarcerated has increased by

nearly 50%, reaching just over 300,000 in 2009.

A second distinguishing feature of the current state of affairs is the presence of the private prison corporations. For the likes of the industry's leading powers, Corrections Corporation of America (CCA) and the GEO Group, detaining immigrants has been the life blood for reviving their financial fortunes.

Just over a decade ago their bottom lines were flagging. Freshly built prisons sat with empty beds while share values plummeted. For financial year 1999 CCA reported losses of \$53.4 million and laid off 40% of its workforce. Then came the windfall – 9/11.

In 2001 Steven Logan, then CEO of Cornell Industries, a private prison firm which has since merged with GEO, spelled out exactly what this meant for his sector :

"I think it's clear that with the events of Sept. 11, there's a heightened focus on detention, both on the borders and within the U.S. [and] more people are gonna get caught... So that's a positive for our business. The federal business is the best business for us. It's the most consistent business for us, and the events of Sept. 11 are increasing that level of business."

Logan was right. The Patriot Act and other legislation led to a new wave of immigration detentions. By linking immigrants to terrorism, aggressive roundups supplied Latinos and other undocumented people to fill those empty private prison cells. Tougher immigration laws mandated felony convictions and prison time for cases which previously merited only deportation. Suddenly, the business of detaining immigrants was booming. PBS Commentator Maria Hinojosa went so far as to call this the new "Gold Rush" for private prisons.

The figures support Hinojosa's assertion. While private prisons own or operate only 8% of general prison beds, they control 49% of the immigration detention market. CCA alone operates 14 facilities via contracts with ICE, providing 14, 556 beds. They have laid the groundwork for more business through the creation of a vast lobbying and advocacy network. From 1999-2009 the corporation spent more than \$18 million on lobbying, mostly focusing on harsher sentencing, prison privatization and immigration.

One significant result of their lobbying efforts was the passage of SB 1070 in Arizona, a law which nearly provides police with a license to profile Latinos for stops and searches. The roots of SB 1070 lie in the halls of the American Legislative Exchange Council (ALEC), a far right grouping that specializes in supplying template legislation to elected state officials. CCA and other private prison firms are key participants in ALEC and played a major role in the development of the template that ended up as SB 1070.

For its part, GEO Group has also been carving out its immigration market niche. Earlier this year they broke ground on a new 600 bed detention center in Karnes County, Texas. At about the same time the company bought a controlling interest in BI Corporation, the largest provider of electronic monitoring systems in the U.S. The primary motivation for this takeover was the five year, \$372 million contract BI signed with ICE in 2009 to step up the Bush initiated Intense Supervision Appearance Program. (ISAP 11). Under this arrangement the Feds hired BI to provide ankle bracelets and a host of other surveillance for some 27,000 people awaiting deportation or asylum hearings.

Sadly, the Obama presidency has consistently provided encouragement for the likes of CCA and GEO to grow the market for detainees. While failing to pass immigration reform or the Dream Act, the current administration has kept the core of the previous administration's immigration policy measures intact. These include the Operation Endgame, a 2003 measure that promised to purge the nation of all "illegals" by 2012 and the more vibrant Secure Communities (S-Comm). Under S-Comm the Federal government authorizes local authorities to share fingerprints with ICE of all those they arrest. Though supposedly intended to capture only people with serious criminal backgrounds, in reality S-Comm has led to the detention and deportation of thousands of people with no previous convictions.

At the National Council of La Raza's Conference Obama tried to console the audience by saying that he knows "very well the pain and heartbreak deportation has caused." His words failed to resonate. Instead Rep. Gutierrez and others took to the streets, demonstrating that "I feel your pain" statements and appeals to the audacity of hope carry little credibility these days. It is time for a serious change of direction on immigration issues or pretty soon, just as Michelle Alexander has referred to the mass incarceration of African-Americans as the New Jim Crow, we may hear people start to call the ongoing repression of Latinos a "New Operation Wetback."

**James Kilgore is a Research Scholar at the Center for African Studies at the University of Illinois. He is the author of three novels, We Are All Zimbabweans Now, Freedom Never Rests and Prudence Couldn't Swim, all written during his six and a half years of incarceration. He can be reached at waazn1@gmail.com

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About National Immigrant Solidarity Network

NISN is a coalition of community, immigrant, labor, human rights and student activist groups, founded in 2002 in response to the urgent needs for the national coalition to fight immigrant bashing, support immigrant rights, no to the sweatshops exploitation and end to the racism on the community. Please visit our website: <http://www.ImmigrantSolidarity.org>

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