

Court Report

JW Statement On Trump Decision To End Obama Era Illegal Alien Amnesty Program

President Trump's decision helps restore the rule of law and constitutional governance.

Judicial Watch President Tom Fitton made the following statement on September 5 regarding the Trump administration's formal announcement to end the Deferred Action for Childhood Arrivals (DACA) program.

"Judicial Watch applauds the Trump administration's decision to rescind the Obama administration amnesty program for 800,000 illegal aliens. Judicial Watch already exposed how the Obama administration bypassed security background checks for DACA recipients, which placed the nation's security and public safety at risk. President Trump's decision helps restore the rule of law and constitutional governance. The Trump administration's enforcement action on immigration shows the



AP IMAGES

President Donald Trump

best immigration reform is to finally enforce the law."

Attorney General Jeff Sessions, who made the announcement, called DACA a "unilateral executive amnesty." Sessions also called DACA an "open-ended circumvention of immigration laws" and an "unconstitutional exercise of authority" by the Obama administration.

Judicial Watch fought against Obama's lawless amnesty actions from the beginning. In June 2013, Judicial Watch released documents obtained through a Freedom of Information Act (FOIA) request showing that the Department of Homeland Security's U.S. Citizenship & Immigration Services (USCIS) abandoned required

background checks, adopting instead costly "lean and lite" procedures in an effort to keep up with the flood of amnesty applications spurred by President Obama's DACA directive.

Recent documents obtained by Judicial Watch through the Freedom of Information Act (FOIA) show that U.S. Citizenship & Immigration Services (USCIS) went on a spending binge and abandoned ordinary background check procedures in order to keep up with the flood of amnesty applications spurred by President Obama's extra-legislative DREAM Act. The documents also show that the Deferred Action for Childhood Arrivals program, announced by Department of Homeland Security

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Secretary Janet Napolitano as applying only to minors who came to this country illegally “through no fault of their own,” actually created a new avenue of chain migration, whereby immediate relatives of DACA requesters could be approved for amnesty, literally “inundating” border towns with “petitions for admission.”

Based on a tip from a whistleblower at the Federal Bureau of Investigation (FBI), Judicial Watch filed a records request on October 26, 2012 for “all communications, memoranda, emails, policy guidance, directives, initiatives, and any other correspondence respecting the scope and extent of background checks to be performed (or not) on aliens applying to the Obama administration’s DACA program” from “November 1, 2011 through the present.”

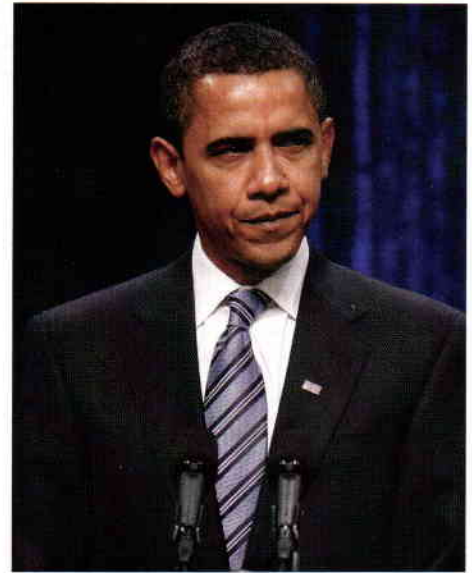
The Immigration & Nationality Act (INA) directs USCIS to maintain “direct and continuous” contact with the FBI and the Central Intelligence Agency (CIA) — among other law enforcement agencies — “for the purpose of obtaining and exchanging information” necessary to determine whether an alien is ineligible to enter or remain in the United States due to criminal conduct, among other disqualifying factors. INA also mandates the “coordinated, uniform, and efficient” implementation of such background checks among all classes of immigration applicants. The statute concurrently directs the Attorney General and FBI actively to assist in determining an applicant’s eligibility

for admission or continued stay by proactively alerting the State Department and USCIS whether an alien applying for permission to enter or remain in the United States is indexed in the National Crime Information Center’s Interstate Identification Index, Wanted Persons File, or any other files maintained by the National Crime Information Center, which allows users to interface with all 50 states via the National Law Enforcement Telecommunications System.

Instead of the foregoing, what Judicial Watch found was an *ad hoc* background check protocol that changed from week to week in price and application. For instance:

- In a July 25, 2012 email to New York Field Office Director Timothy Houghton and Senior Immigration Officers Brenda Cinotti and Penny Metaxas, Northeast Region Associate Counsel James D. Paoli said: “Fee is 465, no waivers!” Yet, a manual published on August 30, 2012 by the Service Center Operations Directorate devoted five pages to explaining the process for salvaging applications submitted with worthless checks and another page on how to establish sufficient economic necessity so that the fee might be waived altogether. The waiver page concludes by saying:

“There is a general presumption that DACA requestors . . . are not generally anticipated to have independent means. Absent evi-



Barack Obama

dence of sufficient independent financial resources, the Form I-765WS is sufficient to establish economic need, without any further economic analysis.”

- In a June 18, 2012 email, Kansas City District Director David M. Douglas warned his Field Officers that, “Apparently, some of the districts closer to the U.S. / Mexico border have been inundated.” This was followed by a September 5, 2012 email in which St. Paul Field Office Director Sharon Coolley alerted all St. Paul Area Immigration Service Officers: “Due to the volume of DACA work at the Service Center, it has been determined that the field will be sent I-130’s to adjudicate. We should get immediate relatives only.” But the limitation was far from clear to Gary Garman, Associate Regional Director for Operations of the Central Region who asked all district and field office directors in an email the same day to let him know “if that is not the case.”
- As early as June 26, 2012, Coast Guard Trainee James Hawkins emailed USCIS Management &

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Program Analyst Sheila Rawls and Vermont Area Administrator Alan Nye for guidance “processing the projected 890K individuals that may take advantage of the guidance referenced in the Prosecutorial Discretion memo.” Two days later, Michael D. Harman emailed all Regional Service Managers that the agency was calculating the cost of extra security guards and janitorial services involved in extending the hours of certain immigration offices from 5:45 a.m. to 10:15 p.m. He noted, also, that: “I also understand these extended shifts at some of these locations have an increased risk to employee safety due to the late evening hours.” In the end, the agency bought 40 new biometric workstations and offered continuing overtime funds to all employees, according to a July 31, 2012 email from IT Manager Geneva “Jess” Gatlin and a July 27, 2012 email from KC District Director David Douglas, respectively.

- Lastly, Donald Monica, Associate Director for the Field Operations Directorate, in an email September 14, 2012 alerted colleagues that the National Benefits Center (which receives all DACA applications in the first instance and formerly conducted all background checks of aliens’ fingerprints) was undertaking a “hiring initiative.”

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In the meantime, field offices could expect the Benefits Center to conduct just “lean & light” background checks, with only random samples of these modified cases being sent to the field for verification, according to a September 17, 2012 email from Associate Regional Director for Operations Gary Garman. About the inadequacy of the applications submitted under the “lean & light” system, St. Paul Field Office Director Sharon Coolsey emailed staffers on October 25, 2012, the following observation:

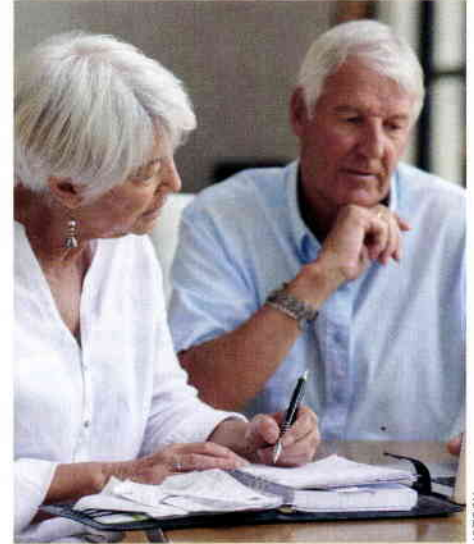
“As you are already aware they will not be as complete and interview ready as we are used to seeing. This is a temporary situation — I just can’t tell you when things will revert back to the way they used to be.”

Then, without warning or further explanation, the entire agency was directed to halt all background checks in an email chain starting on November 9, 2012, which was relayed from staffer to staffer through November 14, 2012. The *Washington Times* reports that it was on November 9, 2012, that Speaker of the U.S. House of Representatives John Boehner (R-OH) expressed to Obama (re-elected as president three days earlier) a willingness to engage in a compromise respecting “immigration reform.”

There are no later-dated documents in the production to indicate how or when USCIS resumed background checks of DACA applicants, if at all. However, documents Judicial Watch obtained via FOIA from U.S. Immigration & Customs Enforcement (ICE) in April 2013 reveal that a former intern of U.S. Senator Bob Menendez (D-NJ) had filed a fraudulent DACA application with the Vermont Service Center on September 3, 2012. USCIS did not issue a denial, however, until more than three months later, on December 4, 2012. 

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