



All Eyes Are on Obama's Pending Executive Order Granting Amnesty

As noted in our article on November 13, a source close to the White House said that President Obama is likely to unveil a plan for executive action on immigration as early as November 21. That news surprised no one. Obama told those gathered at the Congressional Hispanic Caucus Institute's 37th Annual Awards Gala in Washington on October 2: "I would act to fix as much of our immigration system as I can on my own, and I meant what I said. So this is not a question of if, but when."



When CNN's senior White House correspondent, Jim Acosta, asked Press Secretary Josh Earnest during a press briefing in Burma on November 12 if the president will wait until Congress is finished with the current session so he can see whether or not they act on immigration before going home in early December, Earnest replied: "No, it does not mean that the President will wait."

With impending presidential executive action to grant amnesty to more than 4.5 million illegal immigrant adults with U.S.-born children (aka "anchor babies") a certainty, almost everyone is waiting for the other presidential shoe to drop, political news reporters and pundits more so than most.

A report in the *New York Times* on November 18 took a surprising twist for a newspaper generally regarded as having a liberal editorial stance. The writer, Michael D. Shear, a White House correspondent for the *Times*, quoted statements from the president as recently as last year that executive action on immigration would be tantamount to "violating our laws" and would be "very difficult to defend legally."

The *Times* cited an interview with the Latino-focused Telemundo network in September 2013, when the interviewer, Jose Diaz-Balart, asked Obama if he would "consider unilaterally freezing deportations for the parents of deferred action kids" ("Dreamers") — those who came to the United States illegally as young children.

Obama replied:

My job in the executive branch is supposed to be to carry out the laws that are passed. Congress has said, "here's the law when it comes to those that are undocumented" and they've allocated a whole bunch of money for enforcement. What I have been able to do is make a legal argument — that I think is absolutely right — which is, that given the resources we have we can't do everything that Congress has asked us to do. What we can do is then carve out the Dream Act folks, saying young people who have basically grown up here are Americans that we should welcome. We're not gonna' have them operate under a cloud, under a shadow.

But if we start broadening that, then, essentially, I would be ignoring the law. In a way that I think would be very difficult to defend legally. So that's not an option. I do get a little worried that



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advocates of immigration reform start losing heart and immediately think that somehow there's an out here: If the Congress doesn't act, we'll just have the president sign something and that will take care of it, we won't have to worry about it.

What I've said is that there's a path to get this done and that's through Congress and right now everybody should be focused on making sure that that ["Gang of Eight"] bill that's already passed out of the Senate hits the floor of the House of Representatives.... The only thing that's preventing it is that Speaker Boehner has decided he doesn't want to call it right now. [Emphasis added.]

While Obama was correct in saying that all legislative action should be passed by Congress, the president has obviously departed considerably from his stance expressed in last year's interview. He now takes the approach that if Congress doesn't not approve the sort of legislations he wants, he will implement his agenda by means of executive actions. That was obvious from his statement at the Congressional Hispanic Caucus Institute's gala, when he said:

I've said before that if Congress failed to live up to its responsibilities to solve this problem, I would act to fix as much of our immigration system as I can on my own, and I meant what I said.

This is exactly what he said he would *not* do when he summed up the wishes of "immigration reform" advocates in last year's interview: "If the Congress doesn't act, we'll just have the president sign something and that will take care of it."

The *Times* reported that the Republican National Committee sent an e-mail to reporters on November 17 questioning the constitutionality of Obama's announced change in strategy, asking: "When did we add a 'politically convenient clause' to the Constitution in the last four years?"

The president may receive more trouble than he bargained for if he goes ahead, according to one senator. A report in the *Washington Times* on November 18 referred to a statement that Senator Rand Paul (R-Ky.) made on Fox News' Monday evening *Hannity* program asserting that if President Obama moves unilaterally to grant legal status to potentially millions of illegal immigrants by executive actions, the constitutionality of his actions could ultimately be brought before the U.S. Supreme Court.

Paul said that a new Republican-controlled Congress could limit potential executive orders through the appropriations process, as some Republicans have called for. "We can pass legislation, but legislation would have to be signed by him," Paul said.

"I think with regard to immigration reform, he's doing something that Congress has not instructed him to do and in fact has instructed him otherwise, so I think the Supreme Court would strike it down — that takes a while, but that may be the only recourse short of a new president," said Paul.

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