



## DHS Extends Privacy Protection to Illegal Aliens

The Department of Homeland Security is gagging local law enforcement agencies around the country to protect the privacy of illegal aliens. This sort of heavy-handed micromanagement should come as no surprise to those familiar with the decades-long, multi-administrational, bi-partisan project of absolutely eliminating the principle of federalism in general and the Tenth Amendment to the Constitution in particular.



This latest federal strike at this most fundamental principle of American government comes as part of a revision of an agreement between the Department of Homeland Security's Immigration and Customs Enforcement (ICE) division and state and local law enforcement agencies. According to the updated guidelines, state and local authorities must obtain express permission from DHS before making any statement regarding their cooperation with the federal agency. This order covers those comments made to citizens or to the media.

For its part, DHS says such provisions are necessary to safeguard the privacy of illegal aliens. What is more likely, however, is that the restriction was handed down to ensure that state officials keep mum about the unconstitutional control the feds are exerting over state agencies. It isn't so unthinkable given the now constant attacks on the constitutionally protected sovereignty of state governments and the unimpeded and determined assailing of the ostensibly impregnable wall our Founding Fathers wisely erected between the state and national governments.

The clause in question, revised Section 287(g) is part of the overall procedural regulations known as Memorandums of Agreement (MOA). These memoranda were enacted in 2003 and are written as instructions regarding the training of local and state peace officers in the execution and enforcement of federal immigration law. Such documents, placing state and local authorities under the control of federal masters, are constitutionally questionable and significantly impinge on a state's and municipality's right to govern itself and enforce only those laws promulgated by their respective body of representatives.

As for this ruse of "protection of privacy," even ICE's own press secretary, Kelly Nantel, admits that the Privacy Act of 1974 does not protect illegal aliens. Nantel told CNSNews.com that "although illegal aliens are not protected under the Privacy Act, it is the policy of the Department of Homeland Security to extend the privacy protection to individuals who are in the country illegally." According to Nantel,



Written by [Joe Wolverton, II, J.D.](#) on October 31, 2009

---

this dubious and predictably diaphanous policy was handed down by former President Bush's DHS Secretary, Michael Chertoff.

Apparently, Mr. Chertoff's successor, DHS Secretary Janet Napolitano, is equally dismissive of the Tenth Amendment, since in July she declared that the currently operative 287(g) guidelines soon would be more cemented and reformed into a stronger, more well-defined "standard operating procedure."

In order to enforce its vision of a "reformed" United States where the states are mere minions of an all-powerful central government, the Obama administration has decided to set priorities for the states and has ordered that local law enforcement officers should spend their resources tracking and arresting only those accused of having committed crimes, not those guilty only of being in this country without documents. If only Washington would take such a hands off approach vis-à-vis the rights of states to set the priorities and establish the training programs for their own officers and agencies. When asked by an online news website if the Obama administration favored the arresting of illegal aliens for the simple act of being in the United States illegally, Kelly Nantel refused to give a direct answer, saying only that such removals would be decided on a case-by-case basis according to existing DHS priorities.

What is clear, however, is that the feds fancy themselves the ultimate authority on all matters, no matter how local. In a frightening display of how serious is their intent to strip the states of any vestige of their sovereignty, several months ago ICE ordered the Maricopa County, Arizona, sheriff's office to cease its successful program of sweeping for and arresting illegal aliens. The sheriff of Maricopa County, Joe Arpaio, was stunned and angered that the feds would issue such a directive — and stunned and angered at the subsequent investigation into anonymous complaints that such a program violated the civil rights of the suspected illegal aliens. Never mind that Sheriff Arpaio's department's efforts have removed over 30,000 illegal aliens since the sweeps began in 2007. Successful or not, apparently Joe doesn't realize that when it comes to the law in America, there's a new sheriff in town and his office is oval.

The rules are being disseminated from Washington and the message to the states is clear: Contravene them at your own risk. The most constitutionally abhorrent language in the aforementioned MOAs is the following directive regarding the state agencies' "release of information to the media and other third parties":

The [state or local agency] hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA, including any SOPs (Standard Operating Procedures) developed for the implementation of this MOA. Information obtained or developed as a result of this MOA is under the control of ICE and shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations, and executive orders. Insofar as any documents created by the [state or local agency] contain information developed or obtained as a result of this MOA, such documents shall not be considered public records.

If any citizen of a state or a media outlet wants access to any of these documents or seeks to elicit a comment from the appropriate state agency or office, then the interested party must file a Freedom of Information (FOI) request. Then, if DHS decides that the request doesn't interfere with their "priorities," the information will be released. In simpler terms, the omniscient and omnipotent federal government will decide whether or not the people (formerly the ultimate sovereign) are allowed to know just how often and just how irreparably the Tenth Amendment, the fundamental principle of federalism, and most importantly their own sacred rights of self-government are being violated, trampled, and stolen.



## Subscribe to the New American

Get exclusive digital access to the most informative, non-partisan truthful news source for patriotic Americans!

Discover a refreshing blend of time-honored values, principles and insightful perspectives within the pages of "The New American" magazine. Delve into a world where tradition is the foundation, and exploration knows no bounds.

From politics and finance to foreign affairs, environment, culture, and technology, we bring you an unparalleled array of topics that matter most.



[Subscribe](#)

### What's Included?

- 24 Issues Per Year
- Optional Print Edition
- Digital Edition Access
- Exclusive Subscriber Content
- Audio provided for all articles
- Unlimited access to past issues
- Coming Soon! Ad FREE
- 60-Day money back guarantee!
- Cancel anytime.