

# President Obama: Deporter-In-Chief

JULY 30, 2012 • COMMENTARY

By Alex Nowrasteh

---

This article appeared in *Forbes* on July 30, 2012.

There is a persistent **myth** that President Obama is systematically tearing down immigration enforcement. The Federation for American Immigration Reform's (FAIR) new **report**, "President Obama's Record of Dismantling Immigration Enforcement," is just the latest in a long list of publications propagating that myth.

According to FAIR, a group intent on decreasing all immigration because it's bad for the **environment**, President Obama has systematically undermined the immigration laws of the U.S. In reality, President Obama has actually increased immigration enforcement and restricted legal immigration.

President Obama's pick of personnel is telling. The head of Obama's Department of Homeland **Security** (DHS) is **Janet Napolitano**, the former Democratic governor of Arizona. DHS is responsible for enforcing the

immigration laws through subordinate agencies. As governor, Napolitano **signed** the **Legal Arizona Workers Act** (LAWA) to directly punish employers, indirectly **the rest of the state's economy**, for hiring unauthorized immigrants. LAWA made E-Verify mandatory for all employers in Arizona and created something she called the **"business death penalty"** for firms that repeatedly hire unauthorized immigrants.

Obama's DHS has so far deported more people than during the first **six and a half years** of George W. Bush's administration. Just shy of **1.5 million** unauthorized immigrants have been forcefully deported from the United States under Napolitano's leadership. These

annual deportation figures are higher than at any other time in U.S. history, pushing the backlog for deportation cases to a **record 314,147 this June**. The government is apprehending unauthorized immigration so quickly that it cannot effectively process them all.

## The myth of the pro-immigrant Obama is perplexing.

FAIR's report highlights Napolitano **ending** the **287(g)** agreement with Arizona in June 2012. 287(g) is a program that trains local police in immigration enforcement. Ironically, Napolitano as governor of Arizona **oversaw the extension of 287(g)** into the Arizona Department of Corrections and the Arizona Department of Public Safety.

After Napolitano became head of DHS, her underlings signed a 287(g) agreement with Sheriff Joe Arpaio's Maricopa County Sheriff's Office in late 2009. That agreement trained more than **160 of Arpaio's officers** in immigration enforcement techniques aiding them in immigration sweeps or largely Hispanic neighborhoods.

In recent years **287(g) has not played a big role in immigration enforcement**. A damning Government Accountability Office **report** in 2009 found that 287(g) lacks controls that "make it difficult for Immigration and Customs Enforcement to ensure that the program is operating as intended." Since then the program has been on life support and superseded by the successful **Secure Communities** (SCOMM).

SCOMM has turned out to be the most effective immigration enforcement strategy of the last 60 years, and is largely responsible for the large increase in deportations since 2008. It links fingerprint from arrestees with

government immigration and criminal databases. If DHS suspects an arrestee is an unauthorized immigrant, it issues a detainer to hold the arrestee until the federal government can investigate.

For Obama and Napolitano, canceling 287(g) was a great way to politically soothe their supporters and infuriate their opponents — without affecting immigration enforcement. FAIR's complaints about ending the worthless 287(g) program, that only ever applied to 68 law enforcement jurisdictions nationwide, is perplexing in the face of Obama's expansion of SCOMM.

SCOMM was started in March 2008 by the Bush administration and was initially piloted in 14 police jurisdictions by October of that year. SCOMM is currently operational in over **3,000 jurisdictions** in the United States, a 21,429*percent* increase in jurisdictional reach since Obama took office. You won't see many Obama apologists or opponents bragging about spreading SCOMM from sea to shining sea, but that is precisely what he has done.

FAIR's report fills much space complaining about Obama's use of prosecutorial discretion to stem some deportations. In August, 2011 the DHS promised to undertake a "case by case" review of some 300,000 unauthorized immigrants slated for deportation. The so-called "**Morton Memo**" laid out the process of discretion and who would be eligible. Since then, a mere **5684** deportations have been delayed — only 1.9 percent of the total. The dearth of action is due to the complexity of the deferral process, the misallocation of immigration official toward impeding the flows of peaceful people, and bureaucratic inertia.

Obama repeated himself in June, 2012 when he laid out a policy to defer the deportation of some unauthorized immigrants who would also qualify for the DREAM Act, if it ever passes. His order could theoretically delay the deportations of 800,000 to 2.1 million unauthorized immigrants.

"Everyone eligible for a deferral under Obama's June announcement was already eligible under the Morton Memo," said immigration attorney **Matthew Kolken** of **Buffalo, New York**. "But since the Morton memo only favorably exercised prosecutorial discretion for 1.9 percent of all reviewed deportation cases, it's hard to be optimistic about Obama's most recent attempt to stem deportations for DREAMers." The bureaucratic inertia of DHS could delay the processing of deferrals for years.

In addition to stepped up enforcement, Obama has made legal immigration more difficult. He has overseen an increase in H-1B visa fees for firms, remote worksite audits, silent raids, more regulations and fees heaped on temporary agricultural work visas, increased fines and arrests for business owners violating immigration employment regulations, and is now proposing regulations to make the application for highly skilled work visas even more expensive.

The myth of the pro-immigrant Obama is perplexing and FAIR's report is a map to fantasy land where up is down, left is right, and Obama is not Deporter-In-Chief.

#### ABOUT THE AUTHOR

---



Alex Nowrasteh

Vice President for Economic and Social Policy Studies,  
Cato Institute

