



FOR IMMEDIATE RELEASE: December 2, 2014 CONTACT: [Kathryn Rexrode](#) or [Jessica Collins](#), (202) 225-3951

**Collateral Damage: President's New Enforcement "Priorities" Allow Criminals to Evade the Law**  
*Part 2 of a series looking at the consequences of President Obama's unilateral immigration actions*

**Washington, D.C.** – President Obama recently announced unilateral changes to our immigration system, allowing millions of unlawful immigrants to evade immigration enforcement and issuing new, so-called "[priorities](#)" for the apprehension, detention, and removal of unlawful and criminal aliens. Under the Obama Administration's new enforcement priorities, Obama Administration officials further carve out already existing exceptions [created by them in 2011](#) to excuse groups of unlawful and criminal aliens from facing the law.

**The Facts About the Obama Administration's "Priorities":**

- ✓ ***Loopholes ensure that no one is actually a guaranteed priority:*** President Obama claims that terrorists, national security threats, gang members, and felons are his number one priority for removal. However, the Obama Administration has left wiggle room so that it can choose not to enforce its own priorities. Under the guidelines, criminal aliens of the highest priority can be released into our communities if the Obama Administration believes they qualify for asylum or there are "compelling and exceptional factors" for their release. "Compelling and exceptional factors" are not defined in the guidelines.
- ✓ ***Fugitives no longer a priority for removal:*** There are currently 900,000 aliens with final removal orders. Although the Obama Administration previously deemed fugitive aliens a priority for removal, now they are no longer a priority if they were issued a removal order before January 1, 2014. This means that the Obama Administration is disregarding the removal orders they have already issued and wasting millions of taxpayer dollars.
- ✓ ***Sentences issued by judges are ignored:*** As a result of the Obama Administration's new enforcement guidelines, many convicted criminal aliens – regardless of the severity of their crime – will be able to avoid deportation. Specifically, the Obama Administration's new priorities state that aliens can be removed based only upon the time *served* in custody. This is completely contrary to the term "conviction" as defined under current law. Under the law, the applicable period of incarceration or confinement is the timeframe ordered by the court, regardless of any suspension/execution of the sentence in whole or in part.
- ✓ ***Gang members can stay:*** Although the Obama Administration claims gang members are a top priority for removal, the guidelines are unworkable in practice since there is no ground for removal under current law for "gang activity or offenses" and because criminal actors are convicted for their criminal offenses—not for being a member of a criminal street gang as the Obama Administration proposes. Gang members also are often convicted under state, not federal law. State convictions for gang-related activity are ignored under the Administration's priorities.

Additionally, the guidelines are riddled with loopholes: they state that gang members under the age of 16 are not a priority for removal and contain a duress exception for criminal conduct, which will likely lead to gang members claiming they were supposedly “forced” to participate in illegal activity. Furthermore, no one will be removed unless their participation in the gang “furthers” the illegal activity of the gang.

- ✓ ***Identity theft and document fraud not a priority:*** Under the guidelines, any felony conviction directly connected to the alien’s immigration status and in violation of a state or local law – such as identity theft, visa fraud, document fraud, passport fraud, and smuggling – will not be considered as a criminal conviction worthy of prioritization for removal.
- ✓ ***Obama Administration turns a blind eye to misdemeanors:*** The Obama Administration’s new guidelines contain a myriad of loopholes to let aliens convicted of misdemeanors off the hook. For example, aliens have to be convicted three times for three separate incidents in order to be deemed a priority for removal. If all three misdemeanors arrive out of the same criminal event, the Obama Administration counts that as only one offense for the purposes of removal. Furthermore, while aliens convicted of a “significant misdemeanor” – such as domestic violence, sexual abuse or exploitation, burglary, unlawful possession of a firearm, drug distribution or trafficking, or driving under the influence – are deemed as a priority for removal, they can stay here if they simply show “factors” warranting release.

House Judiciary Committee Chairman Bob Goodlatte (R-Va.) made the following statement on the Obama Administration’s new immigration enforcement priorities:

**“President Obama claims that he has scarce resources to enforce our immigration laws, but this is just an excuse in order to advance his anti-enforcement agenda. In fact, the loopholes contained in the Obama Administration’s new guidelines ensure that no one is actually a priority for removal. By letting entire categories of unlawful and criminal aliens off the hook, President Obama encourages more illegal immigration and needlessly places Americans at risk. These new policies are out-of control and irresponsible, pure and simple.”**

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