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Collateral Damage: President's Executive Decree Ignores the Will of Americans & Violates the Constitution

Part 1 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. These actions are not without cost: they ignore the will of the American people and violate the Constitution.

President's Actions Ignore the Will of the American People:

- ✓ ***Americans oppose the President's unilateral actions:*** Americans went to the polls on Nov. 4 and voted to change the way Washington operates. [Poll](#) after [poll](#) after [poll](#) show that a plurality of Americans do not want President Obama to act alone on immigration. And a recent Rasmussen [poll](#) shows that a majority of Americans do not approve of the President's unilateral actions.
- ✓ ***Americans want our immigration laws enforced:*** A recent Rasmussen [poll](#) shows that 56% of Americans don't think the federal government is doing enough to enforce our immigration laws. And another [poll](#) shows that 60% of Americans believe gaining control of our nation's borders is more important than legalizing unlawful immigrants living in the United States.

President Obama's Actions Violate the Constitution:

- ✓ ***President Obama has taken actions that he once said amounted to violating the Constitution:*** President Obama has stated [over 20 times](#) that he does not have the constitutional authority to change our immigration laws unilaterally.
- ✓ ***The Constitution does not give legislative power to the President:*** The Constitution clearly states that it is Congress' duty to write our laws and it's the President's responsibility to enforce them. Article II, Section 3, of the Constitution requires the president to "take Care that the Laws be faithfully executed." This clause compels the president to enforce all constitutionally valid acts of Congress, regardless of his administration's view of their wisdom. That is a duty, not an option. President Obama's action amounts to ignoring the law, as an estimated four million to five million unlawful immigrants—close to half of the illegal population—stand to benefit from the decree. That does not constitute faithful execution of the law.
- ✓ ***President Obama has stretched prosecutorial discretion beyond recognition:*** While law enforcement agencies do have the inherent power to exercise prosecutorial discretion – the authority as to whether to enforce, or not enforce, the law against particular individuals – this power must be judiciously used and

is not “an invitation to violate or ignore the law,” as Dorris Meissner, Commissioner of the Immigration and Naturalization Service during the Clinton administration, told her agency in a 2000 memo. By granting executive amnesty to five million unlawful immigrants, President Obama has crossed the line from any justifiable use of his authority to a clear violation of his constitutional responsibility to faithfully execute the laws.

- ✓ ***The size and scope of President Obama’s anticipated actions are unprecedented:*** President Obama dismisses criticism of taking executive action on immigration by saying it’s nothing new. It’s true that previous presidents of both parties provided immigration relief to groups of aliens, sometimes abusing their power of prosecutorial discretion and stretching their inherent authority to the breaking point. But two wrongs don’t make a right. It is important to note, however, that the number of people benefiting from these uses of authority was much smaller and usually the actions were based on an emergency in a foreign country, thereby relying upon the broad constitutional power given to the Executive Branch to conduct foreign affairs. Circumstances matter, and without any crisis in a foreign country to justify his actions, President Obama has exceeded his constitutional powers.

House Judiciary Committee Chairman Bob Goodlatte (R-Va.) made the following statement on President Obama’s unilateral actions:

“It’s both perplexing and alarming that President Obama has decided to move forward with executive actions that he once said he didn’t have the constitutional power to take. The President’s decision to recklessly forge ahead with a plan to unilaterally change our immigration laws ignores the will of the American people and flouts the Constitution.

“The debate in Congress over the past two years has shown that there is a willingness and need to reform our nation’s immigration laws. While opinions differ within Congress on exactly how to amend our laws, one thing is certain: the President has no authority to make these important decisions on his own.”

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