

# Obama White House spurns appeal to shield “DREAMers” and green-card holders

**Zaida Green****28 December 2016**

Christmas Day passed with President Obama ignoring appeals by more than 100 advocacy organizations that co-signed a letter urging him to shield up to 200,000 lawful permanent residents from deportation by the incoming Trump administration.

Administration spokesmen have indicated that there is no change in the position adopted last month, when the White House refused an earlier appeal from three members of the House of Representatives, all Democrats, that Obama issue a pardon for 750,000 young people who have received temporary deferrals of deportation under Deferred Action for Childhood Arrivals (DACA), an Obama executive order.

The last official pronouncement from the White House came at a December 2 press briefing by deputy Obama spokesman Eric Schultz, who was pressed by reporters on the prospect that youth who registered under DACA could find the information they submitted being used by the Trump administration to deport them.

Schultz said, “Again, you’ll have to speak to the next administration about how they want to do this. I know that some of their representatives in interviews have been answering—offering questions. I don’t think they’ve made any decisions yet based on public reports.”

In reference to the pardons, he continued, “This is a process that starts at the Department of Justice. We have a well-established process for this, so I don’t have any new ones to announce for you at this time.”

The letter from the immigrants’ rights groups urges Obama to use his pardon power to exempt from deportation proceedings the 200,000 green-card holders, or permanent residents, who have old or minor criminal convictions, such as drug possession and subway fare evasion. Last month, President-elect Trump publicly declared his intent to deport all immigrants with criminal records—which would include legal as well as undocumented immigrants—in an interview on CBS News’s “60 Minutes.”

Obama cannot issue pardons of the minor criminal convictions themselves, because these are offenses against state rather than federal law. But he could remove the

prospect of the state convictions becoming the pretext for legal jeopardy under federal immigration policies, although he has shown no interest in doing so.

The Obama administration has rejected previous appeals from advocacy groups and congressional Democrats to use the pardon power to grant protection from deportation to undocumented immigrants who arrived in the United States as children.

Since 2012, more than 750,000 young people have voluntarily paid fees and submitted fingerprints, addresses, background checks, and other personally identifiable information to the federal government in order to receive a reprieve from deportation for two years on a renewable basis, under DACA, a program established by executive order. These youth are also known as DREAMers from the DREAM act, which would have given them legal status but failed to pass Congress.

The families of DACA recipients and their advocates fear that the information submitted by the youths will be used by the incoming Trump administration to fast-track their deportation. Trump has vowed to rescind “every single Obama executive order” on his first day in office, which would include DACA.

“The Department of Homeland Security now has fingerprints, home addresses, and other information to identify these DREAMers,” wrote three Democratic representatives in a letter sent to the Obama Administration on November 17. “DREAMers face uncertainty, fear and stress, leading to psychological issues including depression, anxiety and an increased risk of suicide. Indeed, we have received reports of DREAMers who have taken their own lives as they are now facing the threat posed by the incoming President.”

Nancy Kelly, co-managing director of the Harvard Immigrant and Refugee Clinical Program (HIRC), told the *Washington Post* that the HIRC is recommending that DACA recipients who have already registered should renew their reprieves before Trump takes office, but that “for those who have never applied, we’re advising that the risk is

probably too high for them to do so now.” The oldest DACA recipients are now in their late twenties, and few have any memory of the countries they fear they will be deported to.

The White House released a statement in response to the California Democrats’ letter just hours after it was published, avoiding the issue of a blanket pardon and hiding behind a legalistic formulation that applies to individual pardon requests: “As a general matter, we do not comment on the likelihood of whether a specific pardon may be granted, should one be requested.” The statement continued, in a further disavowal, “only Congress can create legal status for undocumented individuals.”

Cecilia Muñoz, director of the White House’s Domestic Policy Council, in an interview with the Center for Migration Studies, alleged that the pardon authority of the president was meant for criminal violations, not civil violations like those concerning immigration law. The California Democrats’ letter cited a 1920 Supreme Court ruling affirming that the President had authority to pardon all offenses, not only criminal offenses.

There is ample precedent for a blanket pardon for a large group of people in legal jeopardy. President Jimmy Carter issued such a pardon on his first day in office, January 21, 1977, for all those involved in offenses against draft registration laws during the Vietnam War.

It is a measure of how far to the right the Democratic Party has moved over the past four decades that the current Democratic president is so brazenly indifferent to the fate of nearly 1 million people.

A second open letter was sent to the Obama Administration on December 7 and endorsed by 64 House Democrats. It reiterated the fact that the Constitution does not limit presidential pardons to criminal offenses, and warned that a pardon would be “critical” and that the promotion of social stability was “a shared goal, especially at a time when fear and uncertainty in our communities is at an all-time high.”

A separate open letter written by Chicago Mayor Rahm Emanuel and co-signed by the mayors of 14 other cities was sent to Donald Trump, urging the president-elect to continue DACA and arguing that ending the program would “disrupt the American economy, as well as our national security and public safety.”

Democratic Senator Richard Durbin and Republican Senator Lindsey Graham have announced plans to introduce the BRIDGE Act, a bill that would protect DACA recipients from deportation for three years. The senators will introduce the bill early next year, after lawmakers return from the holidays.

The concern of the mayors, congressmen and senators, including some Republicans as well as Democrats, is that a

program of mass deportations on the scale threatened by Trump could produce mass resistance and direct clashes between local residents and federal immigration agents, backed by local and state police forces.

DACA was established as part of a policy memorandum written by the previous secretary of homeland security, Janet Napolitano. Consequently, it can be terminated by anyone who assumes the secretary’s office, without even the need for an executive order from the president. Trump’s pick for secretary of homeland security is retired Marine Corps general John Kelly, the former head of the US Southern Command, which oversees US military operations in Central and South America. As commander of the US Southern Command, Kelly defended the use of torture at the Guantánamo Bay prison camp, and collaborated with Mexico and other Central American countries to clamp down on migration of asylum seekers.

Trump’s pick for attorney general, Jeff B. Sessions, is a self-confessed “nativist” and a former federal prosecutor, and has consistently backed the dismemberment of democratic rights, calling for the repeal of any restrictions on mass surveillance on a global scale and opposing the release of any prisoners at Guantánamo Bay. As attorney general, Sessions would have complete control over immigration courts, with the ability to set the standards for the hiring of immigration judges, revise the training and guidelines judges receive on how to interpret the law, and cut law enforcement funds to localities that go against the grain of his hard-line stance on immigration.

An estimated 11 million undocumented immigrants live in the US. At least 9 million people live in “mixed-status” families, which have members that are undocumented or whose visas have expired. According to the Department of Homeland Security, there are 1.9 million immigrants, both documented and undocumented, who have committed crimes that render them deportable under current law. The Migration Policy Institute, a think tank in Washington, concluded that 820,000 of those convicted are undocumented.



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