

REPORT SUMMARY **The Obama Administration's** **Disregard of the Constitution and Rule of Law**

The Attorney General is responsible for the enforcement of the laws of the United States and defending the Constitution. Of all agencies in the federal government, the Justice Department should not be motivated by a partisan agenda. Unfortunately, under the Obama administration, the Justice Department has become more partisan than ever.

The House Judiciary Committee has jurisdiction over the Justice Department and oversees the actions of the Agency. The following report gives several high profile examples of how the Justice Department has ignored the Constitution to impose the Administration's partisan agenda on the American people.

Stalling Investigation of Operation Fast & Furious

On May 3, 2011, Attorney General Holder gave inaccurate and incomplete testimony to Congress about when he was first notified of Operation Fast & Furious. Run by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Operation Fast & Furious allowed firearms to be purchased in the U.S. and taken into Mexico in an effort to identify high-ranking members of drug cartels. Tragically, Border Patrol Agent Brian Terry was later killed by a suspected drug trafficker using one of the guns from Operation Fast & Furious. In his May testimony before the House Judiciary Committee, the Attorney General stated that he had first learned about the program only a few weeks earlier. But documents released by the Justice Department revealed that information regarding the program was provided in memos to the Attorney General's office as early as July 2010. On November 8, 2011, Attorney General Holder conceded that his May 3rd testimony was inaccurate. The Justice Department continues to disregard requests from Congress to interview staffers and obtain additional documents regarding who authorized the Operation that led to the death of a U.S. Border Patrol Agent. Once again, the Administration ignores its constitutional obligation to cooperate with investigations by Congress.

Failing to Enforce Immigration Laws

The Obama administration has not only refused to enforce our nation's immigration laws, but also has sought to prevent states and local authorities from enforcing the laws as well. On July 6, 2010, the Justice Department filed suit against Arizona's immigration law (S.B. 1070) that empowers Arizona law enforcement officers to enforce federal immigration law by inquiring into the immigration status of people who they have lawfully stopped, detained, or arrested. The Arizona law is consistent with federal law and is only necessary because the Obama administration has failed to enforce immigration laws and secure the border.

Yet at the same time that the Department of Justice tries to block Arizona's efforts to enforce federal law, it refuses to bring a case against states like New York, Massachusetts, and Illinois that openly violate federal immigration enforcement laws. These states have refused to participate in Secure Communities, a federal program that ensures that illegal and criminal immigrants are identified. Additionally, the Obama administration fails to pursue cities and counties that have sanctuary policies in violation of federal immigration laws. This shows that the Justice Department is making decisions based on a partisan agenda rather than the law of the land.

Challenging Voter ID Laws

On March 12, 2012, the Justice Department announced that it would challenge a Texas law enacted by the state legislature to require voters to show a valid, state-issued form of identification before being allowed to vote. The citizens of Texas overwhelmingly supported this common sense legislation to help prevent voter fraud. The Texas proposal was based on a similar law enacted by the Indiana legislature, which was upheld by the Supreme Court in 2008. The Justice Department also has moved to block a similar law in South Carolina. In challenging the laws, the Justice Department ignored clear Supreme

Court precedent that affirms a state's right to enact laws to protect the integrity of its elections. This attempt to override common sense voter ID laws underscores the Administration's disregard for states' rights under the Constitution.

Blocking Congressional Inquiries

For nine months, the Justice Department has refused to cooperate with legitimate and repeated oversight requests from the House Judiciary Committee regarding what role Supreme Court Justice Elena Kagan may have played in the development of the President's health care bill. Prior to her nomination to the Supreme Court, Justice Kagan served as the Justice Department Solicitor General. In this capacity, it was her job to provide legal advice to the Administration in preparing to defend the constitutionality of Obamacare. If Justice Kagan was involved in preparing the legal case for Obamacare, as internal Department of Justice emails suggest, then her ability to rule on the case impartially is in question and she should recuse herself. The constitutionality of the health care law is being reviewed by the Supreme Court. The credibility of the decision by the Supreme Court depends on the impartiality of the justices. The Administration's lack of cooperation only heightens concerns that the Administration has something to hide. Unfortunately, the Administration's stonewalling of Congress may result in an unconstitutional law being upheld.

Refusing to Defend the Defense of Marriage Act

In 2011, the Justice Department announced that it would not defend the constitutionality of the Defense of Marriage Act (DOMA), which was enacted in 1996. DOMA affirms the definition of marriage as the union between one man and one woman. It was passed with strong bipartisan support in Congress and was signed into law by then President Bill Clinton. The Justice Department has an obligation to defend the laws of our nation. Unfortunately, the Justice Department let the personal partisan views of the President and the Attorney General override the government's duty to defend the laws of the land.

Ignoring the Constitution's Limited Recess Appointment Power

On January 4, 2012, the White House appointed the Director of the Consumer Financial Protection Bureau (CFPB) and three other individuals to the National Labor Relations Board (NLRB) without congressional consideration of the nominees. The President may make appointments while the Senate is in recess, however these appointments were made while the Senate was not in recess, making these recess appointments possibly unconstitutional. The Senate has the constitutional authority to provide advice and consent on certain presidential appointments as well as the authority to determine the rules of its proceedings. The President cannot unilaterally decide to make recess appointments while the Senate is not in recess. The Senate's advice and consent authority is an essential part of our Founders' system of checks and balances. The Administration's intentional disregard for the Constitution raises serious constitutional concerns and brings into question the validity of the appointments.