

# Immigration REPORT

## **SPECIAL REPORT:** FAIR’s Border Investigation Reveals What’s *Really* Happening There

In mid-August, two members of FAIR’s Media Department visited McAllen, Texas – ground zero in the ongoing surge of illegal immigration. The McAllen border sector is where nearly 40 percent of border apprehensions are now occurring.

FAIR was afforded unprecedented access to the Border Patrol agents who are on the front lines of the border crisis, as well as access to the detention facilities that have been subject to much criticism by members of Congress, immigration activists, and the media. FAIR also had the opportunity to speak with, and listen to, Border Patrol agents and senior management about what is needed to end the crisis.

### WHAT WE SAW

There is an important reason why (when you are called to testify in court or before Congress) you swear to “tell the truth, the whole truth, and nothing but the truth.” A half-truth = a whole lie. What Americans see and read in much of the mainstream media amounts to disinformation – the careful selection of facts designed to further a political end, while omitting facts that don’t support that end.

Here are some exaggerations that have been widely

reported in the media, and how they deliberately distort what is really happening:

### **FALSE: Detainees in “cages.”**

The “cages” are in fact holding areas for different groups of detainees. The Central Processing facility in McAllen is a Costco-sized warehouse. When people are apprehended, they are placed in holding areas that are separated by chain link fences. Like every other law enforcement agency, the Border Patrol segregates people they apprehend by age and sex, and other significant factors. For safety reasons, unaccompanied minors (UACs) are held separately from adults. Similarly, older children who arrive as part of family

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# Attorney General Barr Moves to Limit Grounds for Seeking Asylum

In July, U.S. Attorney General William Barr issued a ruling that limits the ability of migrants to seek political asylum in the United States based on claims of “family-based” persecution. The attorney general’s move reverses an unreasonable and untenable expansion implemented under the Obama administration.

Political asylum, as the name suggests, was established to protect people who are persecuted by their governments based on a variety of factors. The Obama decision to allow people who claim to be fleeing a violent family member in order to seek asylum — based on “membership in a social group” — opened the floodgates to the current surge.

While domestic violence is a very serious issue, including it as grounds for seeking asylum is untenable. It is virtually impossible to adequately investigate the veracity of the claimed violence that took place outside our borders. It also places the United States in the equally untenable position

of being responsible for the failures of governments all around the world to fulfill their most basic obligations of providing protection and justice to their own citizens.

In terms of establishing that someone in another country facing

The United States cannot possibly address these situations through our political asylum system. The United States, through political and economic sanctions and rewards, can apply pressure to their recalcitrant governments to uphold

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abuse from a family member can qualify for asylum based on membership in a social group, Barr concluded that “a family group will not meet that standard, because it will not have the kind of identifying characteristics that render the family socially distinct within the society in question.”

Many nations around the world are failing to protect the most basic interests of their citizens.

those responsibilities. However, opening the door to further abuse of our political asylum system, which already has nearly a million backlogged cases, neither serves the interests of the nation, nor the interests of people who are seeking protection on legitimate grounds.



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# New “Public Charge” Rule to Curtail Immigrants’ Use of Welfare

A basic principle of U.S. immigration law – dating as far back as the colonial period – is that immigrants, barring extenuating and unforeseen circumstances, should be self-reliant. That principle was codified into our laws in 1882, and reaffirmed as recently as 1996.

On August 14, the Trump administration published a new public charge rule aimed at ensuring that the commitments made by immigrants and their sponsors are honored, and that assurances that American taxpayers will not be burdened with unnecessary costs are kept. These new rules will take effect on October 15 (unless implementation is delayed by the courts).

Though our laws bar the admission of people who are likely to wind up as public charges, regulations promulgated by previous administrations – most notably, the Clinton administration – unrealistically excluded many forms of public assistance from consideration of whether an immigrant is considered a public charge.

The rule change published in August offers a much more realistic definition. It defines the term “public charge” as an individual receiving one or more designated public benefits for more than 12 months, in the aggregate, within any 36-month period. In this case, the receipt of two benefits in one month counts as two months. The rule also defines the term “public benefit” to include any cash ben-

efits for income maintenance, Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), Supplemental Nutritional Assistance Program (SNAP, or “food stamps”), most forms of Medicaid, and certain housing programs.

Certain non-immigrant aliens would also be ineligible to change their status or extend their stay if they have received designated public benefits above the designated threshold. Many foreign nationals arrive on temporary visas in the hopes of adjusting to per-

manent residence. The rule does not apply to certain categories, including active-duty members of the military and refugees or asylees. The new rule is a step in the right direction and represents a common-sense approach to immigration reform.

The rule change is a response to increasing welfare dependency by legal immigrants who are admitted based on having family members in the U.S., rather than on objective factors such as education and jobs skills. More than half of

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## 3 REASONS TO SUPPORT THE Public Charge Rule:



It enforces long-standing law.



It protects American taxpayers.



It promotes self-sufficiency, a core American value.



# SPECIAL REPORT

From page 1



McAllen, Texas, located in Hidalgo County, sits adjacent to the U.S.–Mexico border. Image: Anson\_iStock, FAIR Staff.

units cannot be kept together with younger children. U.S. Customs and Border Protection (CBP) is responsible for their well-being and they need to be able to see everything that is taking place so they can respond immediately when the situation demands, thus the use of chain link fences to separate different cohorts of detainees. To do anything else would be criminally irresponsible on the part of CBP. They are also kept there for a very short period: An average of 25 hours for UACs, and 44 hours for family units.

## **FALSE: Children sleep on the bare floor.**

All detainees are given thin mats (the kind that you might find on a cot) to sleep on. These vinyl-covered mats are easy to clean and are less likely to spread any germs or viruses to the next user. They cover themselves with foil blankets – again to prevent the spread of illnesses. Many of the children we observed were lying on these mats, likely because they were exhausted from their ordeal, or out of sheer boredom. There are play areas for those children who want to use them, and everyone has access to toilets that are outside the areas where people are kept. Many of the younger children are crying, as reported. Anyone who has ever had a small child knows that’s what they do at that age when they’re tired or bored, or otherwise unhappy.

## **FALSE: Families are separated.**

In many cases, family units include children who range in ages from babies to teens. *Some* children are

separated from their parents (for very valid reasons). For everyone’s safety, older children, particularly the boys, cannot be held together with women and younger children. They are separated, but in the same facility. In rare instances, they are being more definitively separated. If the parent is identified as a felon, the adult is appropriately separated from his/her children and everyone else in the facility. Young children in these situations receive direct one-on-one care from Border Patrol agents while they wait to be placed in the custody of the Department of Health and Human Services or a sponsor.

## **FALSE: Detainees live in squalid conditions.**

Detainees are not being kept in squalor. The central detention facility is sparse, but *clean*. It is fully stocked with clean clothes, hygiene products, toiletries, diapers, and other basic necessities. Detainees also have access to unlimited drinks and snacks, in addition to three catered meals a day. There is a medical staff on duty 24/7. As the Border Patrol agent in charge noted, this is the first time any of these people have had access to these amenities and this level of safety in months.

## **False: Everyone is filthy because of no showers.**

Detainees are given all appropriate resources for adequate personal hygiene, although *some* detainees do not have access to showers (again, for very valid reasons). Many people are apprehended with illnesses and communicable diseases. These folks, including children, are housed in separate facilities until they no longer present a public health risk. These facilities do not have showers for two reasons. First, they were not designed to detain people for long periods. Second, and even more important, the showers themselves would pose an extreme health risk. The people housed in these facilities have different diseases, and all of them have compromised immune systems. Communal showers would serve as incubators for the spread of these diseases among the detainees. Someone with TB, having a shower after someone who had the measles was in there, could easily become infected and become more sick. Instead, they are provided with the same sorts of personal hygiene kits that we provide to soldiers in the field, or that many people use

on camping trips. In other words, they have what they need for personal hygiene, just not showers that would likely spread disease.

### **FALSE: U.S. agents are cruel jailers .**

Border Patrol agents do their jobs with exemplary humanity and compassion. Contrary to the slanderous comparisons – including to Nazi Germany – the Border Patrol agents we observed and spoke with (and members of the armed services who have been



Border Patrol Agent Thomason cares for the child of illegal aliens apprehended in Presidio, Texas. Image: CBP

called in to assist in the crisis), treated the people in their custody with professionalism and compassion. And they did so while working under extraordinarily stressful circumstances. While politicians, advocacy groups, and the media view the detainees as pawns in a political battle, the people who deal with them face-to-face every day carry out their duties without losing sight of the fact that they are human beings who must be treated with respect and dignity.

## **A BORDER CRISIS SOLUTION**

Border Patrol agents, the people who are on the front lines of the crisis, have a very clear idea of what needs to happen to bring it under control. They relayed their professional opinions to the media and policymakers, including Speaker Nancy Pelosi and a delegation of congressional Democrats who received the same briefing and tour one day before we arrived. These solutions included:

### **Closing the loopholes in our asylum laws.**

The very low bar for a “credible fear” claim, the

first step in the asylum process, allows people to abuse the system. With backlogs approaching a million cases, migrants understand that they are virtually assured release into the United States pending hearings on their claims that could be years in the future (if they even show up for the hearings). Raising the bar – requiring people to provide more specific details to substantiate a credible fear – would discourage much of the abuse.

### **Revising the policies on family detention.**

A 1990s Supreme Court decision intended to protect unaccompanied minors was unilaterally expanded by an unelected federal judge in 2015. That judge’s ruling applied the 20-day detention limit to include minors who arrive in the company of parents. That ruling has led to nothing short of massive child endangerment and exploitation. Congress has the authority to overrule that judge’s decision. One startling statistic offered by Border Patrol officials in McAllen is that in 2014, 1 percent of adult males apprehended at the border had a child with him. Now, nearly half do. Moreover, a growing share of “family units” being apprehended are not family units. In other words, DNA testing shows that the adults and children are either only distantly related, or not related at all. Entire holding areas in the detention facility are devoted to both men and women who had previously crossed the border illegally on their own and had been apprehended and removed, who are returning with children, knowing that the children will ensure their release.

Part of the humanitarian toll being taken in this crisis – one the self-appointed humanitarian advocates are willing to accept as the price of achieving their political goals – is what is happening to the growing number of women and children who are being smuggled to the border by the criminal cartels. Some 30 percent of women report being raped on the journey. Many children arrive in poor health and clearly some – although no one knows how many – die along the way.

Our political leaders – the people who make our policies and who refuse to change policies that are dangerous both to the migrants and the nation – bear a large share of the responsibility for the crisis and its tragic consequences.

# ICE Signals that Deterrence is Back as Part of Immigration Enforcement Strategy



ICE executes federal search warrants at multiple Mississippi locations. Image: ICE

Worksite immigration enforcement actions carried out across Mississippi in early August resulted in the arrests of 680 illegal aliens working in meatpacking plants and possible fines and prosecutions for the companies that employed them. But these actions have the potential to accomplish much more in the effort to curb illegal immigration. Replicated elsewhere on a regular basis, they could serve as a deterrent to both illegal aliens and unscrupulous employers.

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## Public Charge

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all immigrant-headed households now rely on at least one public assistance program – about double the rate of usage by native-headed households, according to the Center for Immigration Studies. The rule change also recognizes that legal immigrants have sponsors who have committed to addressing the needs of the people they bring to the United States, and aims to ensure that the sponsors honor those commitments.

Importantly, the new rule applies to the issuance of new green cards. Immigrants who already have green cards will not be affected by the change.

Predictably, the proposed rule change was immediately challenged by a lawsuit filed by 13 states, despite the fact that it strictly adheres to the law. In 1996, Congress referred to “a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.” It acted on that compelling interest by:

- Requiring sponsors of immigrants to assume financial responsibility for that immigrant.
- Requiring petitioners to sign a legally binding affidavit of support acknowledging their financial responsibility.
- Empowering states to deny welfare benefits to most illegal aliens and lawful immigrants.
- Barring illegal aliens from welfare programs that receive federal funds.
- Rendering immigrants ineligible for means-tested federal benefits for five years after admission to the United States.

The rule change also highlights the need to scrap our family chain migration policies and replace it with a merit-based immigration system, similar to those in place in most developed nations. Legislation, most notable the RAISE Act (S. 1103), introduced by Senators Tom Cotton (R-Ark.) and David Perdue (R-Ga.) would eliminate automatic immigration entitlements for many extended family members, expedite admission of nuclear family members, and place greater emphasis on admission of immigrants with needed skills and education. The bill is strongly backed by FAIR. ■

# Deterrence

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As in every other area of law enforcement, the most effective strategy is to deter people from breaking the law in the first place. The prospect of a job in the United States remains the strongest attraction for people to violate our immigration laws (and, more recently, defraud our asylum policy). Making it clear that Immigration and Customs Enforcement (ICE) – the agency charged with enforcing immigration laws in the inte-

with tough enforcement against employers who knowingly hire illegal aliens. They not only create the magnet for illegal immigration, but engage in countless other unscrupulous practices. In addition to finding illegal aliens in the seven Mississippi meatpacking plants targeted in the August enforcement actions, ICE also found underage workers engaged in dangerous jobs. Moreover, the communities where the plants are located were also harmed. American workers lost jobs and wages, and local taxpayers were forced to foot the bills for education, public health care,



ICE executes federal search warrant.  
Image: ICE

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“ Enforcement against illegal workers, however, must be matched with tough enforcement against employers who knowingly hire illegal aliens. They not only create the magnet for illegal immigration, but engage in countless other unscrupulous practices.”

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rior of the country – is monitoring scofflaw employers and acting when they have evidence that illegal aliens are being employed, sends a clear message: There is a chance you will be caught, and if you are, we will place you in deportation proceedings. That message appears to have sunk in even after these limited actions. The Atlanta Journal-Constitution reported that in the wake of the Mississippi actions, illegal workers at Georgia food processing plants did not report for work.

Enforcement against illegal workers, however, must be matched

and other costs associated with the presence of illegal workers and their dependents.

Even as ICE has indicated that worksite enforcement is once again part of their strategy, prosecution of employers continues to lag. According to an analysis by Syracuse University, between April 2018 and March 2019 only 11 individuals were prosecuted for hiring illegal aliens and only three of those served prison time. No companies were prosecuted for immigration violations.

As of two weeks after the enforcement actions, neither the

companies that were employing the illegal aliens nor any company officials had been charged with any criminal violations. The Clarion-Ledger reported that there was “information in federal search warrant affidavits suggesting company officials knew their workers were undocumented.” According to the report, the companies knew that the workers were *using fraudulent Social Security numbers*, and in one case, the same company hired the same worker twice under two different identities. The U.S. attorney in charge of the case was noncommittal when asked whether charges would be brought against the companies.

Holding employers accountable for their actions is legally and morally necessary and essential to creating a deterrent for others who hire illegal aliens. The Mississippi enforcement actions also provide evidence for the need for mandatory E-Verify for all U.S. employers. Requiring all employers to verify Social Security and other information through a federal database would have flagged the fraudulent or stolen Social Security numbers used by the workers and made it easier to prosecute the employers if they hired them anyway.

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