

A Judicial Watch Special Report

ILLEGAL ALIEN CRIMINALS: A Serious Threat to Public Safety and National Security

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Open borders extremists want to erase America by eliminating the distinction between citizens and non-citizens.

~ Judicial Watch President Tom Fitton

Introduction

Erasing the Nation: The Left's Guerilla War Against Controlled Borders and U.S. Citizenship

The terminology used throughout this report – “illegal alien,” “illegal alien criminal” and “alien criminal” – are descriptively accurate and legally correct under both federal immigration law and U.S. Supreme Court precedents. As the [Heritage Foundation points out](#):

Under federal law, any individual in this country who is not a citizen is an alien. And, any alien who is here without permission is here illegally. End of story.

Well, almost. To complete the story, one must add:

Any alien who commits a crime is an alien criminal. And, under federal immigration law, an alien who commits any one of a number of serious crimes forfeits his privilege to remain in the country and is subject to immediate deportation.¹

By committing a crime, an alien can forfeit his privilege to remain in the country legally. Any legal immigrant (i.e., a non-citizen who legally resides in the United States) who hasn't yet become a U.S. citizen, including a green-card holder (permanent resident), can be deported if he or she does something that's on the immigration law's list of grounds of deportability.²

The good news is, the relatively small criminal subset of all aliens present in the United States is the most easily apprehended – or should be – and the remedy once a criminal alien is detained is – or should be – quick and cost effective, namely deportation.

Alien criminals, especially those already convicted and in state/local custody for committing a crime, should be priority targets of federal detention and deportation before they are released back onto the streets.

The political left and its numerous variants (open-borders and mass-immigration radicals, cultural Marxists, social-justice warriors of all sorts, to name a few) don't agree with federal immigration law. They want to throw the borders wide open, vastly increase the flow of migrants into the country and dilute the meaning of U.S. Citizenship to the point it ceases to have meaning.

Judicial Watch President Tom Fitton put it best:

Open-borders extremists want to erase essentially the idea of citizenship in the United States by having open borders, by having no distinction legally in terms of voting, government benefits or anything else between citizens and non-citizens – erasing the nation.³

But, the country and Congress are not behind their radical open-borders agenda. Having failed repeatedly to achieve their objectives through the Congress, the open-borders crowd has taken matters into their own hands to undermine federal immigration law by:

- Weaponizing local jurisdictions where they establish so-called “sanctuary policies” at the state and local levels.
- Orchestrating and encouraging mass movements of migrants to assault the border seeking asylum to overwhelm border enforcement and creates horror stories of human suffering that can be spun as the consequence of “inhumane” immigration and border control policies; when, in fact, it is the consequence of a cynical political strategy that exploits the migrants as a human wave of front-line “cannon fodder” at the border to overwhelm the system and advance the open-borders agenda, mass immigration and the erasure of U.S. Citizenship as anything meaningful.
- Controlling the immigration narrative through the media – which have a distinct left-leaning bias and, by-and-large agree and sympathize with the Leftists’ goals on immigration.

This Judicial Watch Special Report describes how the Left has abandoned the rule of law on immigration and is waging a campaign against secure borders and the rule of law on immigration.

The report focuses in on a subset of aliens, namely *illegal* aliens who *commit crimes* – “illegal alien criminals.” One thing is for sure, as Judicial Watch President Tom Fitton has said, “Crimes committed by illegal alien criminals are almost always crimes that never would have been committed if our immigration statutes had been respected and enforced as the law requires.”

Additionally, the report details the growth of an illegal-alien crime wave that is sweeping the country. And, it exposes the grave responsibility for that crime wave borne by Sanctuary Jurisdictions, which refuse to cooperate with federal immigration officials and deliberately allow alien criminals already in their custody, who are subject to immediate deportation under federal law, to be released onto the streets to wreak more havoc.

Finally, the report reviews the efforts of Judicial Watch to expose the open-borders resistance movement for what it really is – a cultural insurgency bent on thwarting U.S. immigration laws and using open borders and mass migration to annihilate U.S. citizenship and change the American culture as it sees fit, public safety and national security be damned.

Having failed repeatedly to achieve their objectives through the Congress, the open-borders crowd has taken matters into their own hands to undermine federal immigration law.

Background: From DACA Amnesty to Caravans to the Present Day

“‘Abolish-ICE’ supporters, along with Antifa and sanctuary ‘anarchists,’ believe that the government should have no legitimate power to enforce immigration law in the interior of the country. They don’t believe in borders.

~ *Michell Malkin, author of Open Borders Inc.*

When President Barack Obama took office he took unilateral executive action and unlawfully imposed his own open-borders immigration policies on the nation – policies he could not convince Congress to enact into law.⁴ Among the proposed legislation that Congress refused to pass was the Development, Relief and Education for Alien Minors Act (Dream Act), which became the basis of Obama’s subsequently abusive executive actions on immigration.

Deferred Action for Childhood Arrivals Program — DACA

President Obama repeatedly acknowledged he could not change federal immigration policy unilaterally:

...“I am not king. I can’t do these things just by myself;”⁵ “with respect to the notion that I can just suspend deportations through executive order, that’s just not the case;”⁶ “I can’t just bypass Congress and change the (immigration) law myself... That’s not how a democracy works”...⁷

Yet, on June 15, 2012, without congressional approval, Obama created the Deferred Action for Childhood Arrivals program – or DACA – which deferred deportation proceedings for two years, with extensions, for qualified individuals whose parents brought them to the United States illegally as children. That same day, citing her powers of prosecutorial discretion in a memo to the agencies, then-Department of Homeland Security (DHS) Secretary Janet Napolitano laid out the details of the program.^{8,9,10}

President Donald Trump rescinded the program in September 2017, intending to end all new DACA applications. Then-Attorney General Jeff Sessions wrote in his directive to DHS¹¹ rescinding DACA that it was an “unconstitutional exercise of authority by the Executive Branch.” In a statement shortly after that, Trump said he too believed DACA to have been created illegally. By the time Trump rescinded the program, 787,580 “Dreamers” had been granted approval¹² under DACA, and there had been 799,077 renewals granted. In short, DACA had become a general amenity for “Dreamers.”

In reaction to Trump’s executive action rescinding Obama’s preceding and overreaching executive action, fifteen states and the District of Columbia sued the U.S. Government to block Trump’s effort to end the program. This challenge to President Trump’s plan is now before the Supreme Court.

Throughout DACA’s existence, Judicial Watch was critical of the program, not only because it was unconstitutional overreach by President Obama; but also, because it was not what the Obama administration said it was, and it did not seriously vet applicants for the program.¹³ Judicial Watch was concerned that improper vetting of DACA applicants was opening the door for illegal alien criminals to remain in the country.

In February 2017, for example, after the arrest of a DACA beneficiary for gang membership, the

Department of Homeland Security admitted that at least 1,500 DACA beneficiaries had their eligibility terminated after being accepted into the program “due to a criminal conviction, gang affiliation, or a criminal conviction related to gang affiliation.” By August 2017, that number had surged to 2,139.

In fact, based on documents obtained by Judicial Watch through a Freedom of Information Act (FOIA) request, it became apparent that Obama administration officials simply rubber-stamped DACA applications for so-called “Dreamers,” without conducting background checks that generally would be standard in immigration screening.^{14, 15} The Department of Homeland Security’s U.S. Citizenship & Immigration Services (USCIS) abandoned full background checks and used a “lean and light” system of background checks.

The DACA program, from the beginning, was rife with fraud, and officials seldom thoroughly reviewed applications. According to *Breitbart News*, “experts told Breitbart Texas that during the Obama administration, background screening was lax.”¹⁶ Similar allegations of fraud in the DACA application screening process were raised by the *Washington Times* in 2013.

As Judicial Watch President Tom Fitton said at the time: “With DACA, the Obama administration seems to be throwing public safety and national security out the door in implementing its illicit and unilateral amnesty program for illegal aliens.”

The Caravans

On Sunday, March 25, 2018, a human caravan of migrants from the south, a river of humanity pouring out of Honduras and El Salvador began streaming through Guatemala and Mexico heading toward the United States.¹⁷ These human caravans are reminiscent in many ways of the Cuban Mariel Boat Lift of 1980, when Fidel Castro sent more than 100,000 people to Florida in a dangerous boat flotilla just to be rid of them – criminals and people he considered troublemakers.

Judicial Watch repeatedly has pointed out that the migrant caravans marching northbound through Central America, which continue today, are part of an elaborately planned, open-borders political movement¹⁸ that is benefiting human traffickers and drug smugglers, and it is bringing disturbing numbers of violent gang members and other criminal elements to the United States. According to government sources in the capital, Guatemala City, “MS-13 [Mara Salvatrucha] gang members have been detained and coyotes [human smugglers] are joining the march with clients who pay to get smuggled into the United States.”

A year ago, Guatemalan President Jimmy Morales said that his administration captured close to 100 persons completely involved with terrorists, with ISIS, and they not only detained them within Guatemalan territory but also deported them back to their country of origin. Several of the terrorists were Syrians caught with fake documents, according to Guatemala’s head of intelligence. President Morales also revealed that Guatemalan authorities captured more than 1,000 gang members, including members of the MS-13.

Despite these challenges, U.S. Border Patrol agents in Texas have been ordered to release illegal immigrants caught entering through Mexico without vetting because detentions facilities have no bed space, according to one news report.¹⁹

The caravans and other illegal alien flows during the Obama administration included Unaccompanied Alien Children (UAC). The nation’s most violent street gang, MS-13, was energized by the barrage of UACs. The Texas Department of Public Safety even issued a report documenting how the MS-13

emerged as a top-tier gang in the state thanks to the influx of illegal alien gang members that came with the UACs.²⁰

Guatemala has long been known as a major smuggling corridor for foreigners from African and Asian countries making their way into the United States. In one week in June, according to *AP*, the Border Patrol's Del Rio sector stopped more than 500 African migrants attempting to enter the United States.²¹ According to the *New York Times*:

"Since October 2018, more than 700 migrants from Africa have been apprehended at what has become their main point of entry, the Border Patrol's Del Rio sector... [which] has surprised and puzzled immigration authorities."²² The African "asylum seekers" were promptly bussed to locations in the interior of the country, many to Portland, Maine, another city with sanctuary polices in place and generous assistance payments for undocumented aliens.²³

The report reviews the efforts of Judicial Watch to expose the open-borders resistance movement for what it really is.

Last year, Guatemala's largest paper, *Prensa Libre*, published an in-depth piece on the inner workings of an international human smuggling network that moves migrants from Afghanistan, Pakistan, India, Nepal and Bangladesh to the United States.²⁴ Individuals are sent to Dubai in the United Arab Emirates then flown to Brazil before heading to Colombia. Once in South America, the migrants are transported to Panama before moving on to Costa Rica then to a central point in Guatemala. One Spanish news report refers to Guatemala as a human-smuggling paradise because it's so easy to get fake passports.²⁵ A few years ago, the head of Guatemala's passport division was arrested for selling fake passports to a group of Colombians, according to a government announcement.²⁶

Present Day

This criminal alien crisis is making "every town a border town," even communities around our nation's capital. Between May and late September 2019, at least 14 individuals, of whom at least 11 were known to be illegal aliens, were charged with murder, rape and/or sexual assault in C.C. suburban counties in Maryland, four in Prince George's County and 10 in Montgomery County.

Prince George's County, MD: Prince George's County is one of three jurisdictions in the State of Maryland with formal protocols in place to protect illegal aliens from prosecution by federal authorities. In June, Prince George's County published new sanctuary policies to prohibit law-enforcement officers from cooperating with ICE, after reports that several undocumented immigrants had been placed in deportation proceedings following interactions with local police.

The April rape/murder committed in Prince George's County by an illegal alien gained nationwide attention and was described by the Heritage Foundation this way:

On April 18, Ariana Funes-Diaz (who went missing from a group home for girls) was forced to strip and was then beaten with a baseball bat, slashed with a machete, and slain.

Three teenagers are in custody, accused of this heinous crime, at least two of whom are in the country illegally and are self-identified members of the notorious MS-13 gang, which has plagued citizens across the continental United States. One of them came through the refugee resettlement process. A fourth accomplice, who actually recorded the atrocity, was just recently arrested. The two [known] illegal aliens (Salvadoran nationals) accused of her killing were previously arrested on charges of attempted murder, participation in gang activity, conspiracy to commit murder, attempted robbery, and other related crimes.

In 2018, the two known illegal aliens charged with the April rape/murder, Josue Rafael Fuentes-Ponce (16) and Joel Ernesto Escobar (17), had been released from custody on bond by Prince George's County officials after being charged with attempted first-degree murder, attempted second-degree murder, participation in gang activity, conspiracy to commit murder, and attempted robbery. ICE put out a detainer on the two, requesting they be turned over to federal officials for deportation and not released back into the community. Prince George's County officials defied the detainer and released the illegal aliens onto the streets. Subsequently, ICE was unable to arrest the two aliens until they were arrested again by PG police for this most recent crime. Reportedly:

Fuentes first arrived in the U.S. at the Texas-Mexico border in December 2015 as part of a family unit. He and the other family members were paroled into the United States. Though a judge requested later that the illegal alien be deported in March 2017, he never arrived for his court hearing and was subsequently never deported.

Likewise, Escobar entered the Texas-Mexico border as an unaccompanied juvenile in August 2016. Instead of being deported, he was released to family members living in Washington, D.C. where he has lived since illegally entering the country.

Montgomery County, MD: Montgomery County's sanctuary policies have been in place for years but less than a month before this year's heinous attacks began, County Executive Marc Elrich signed the "Promoting Community Trust Executive Order" making Montgomery County's sanctuary policies the most extreme in the D.C. metropolitan area.

Elrich's executive order barred county officials from asking individuals about their immigration status and essentially prohibited local law enforcement from cooperating with ICE agents. The new policy also prohibited ICE agents from entering any "non-public county facilities," including jails. Additionally, the order prohibited county officials from arresting or detaining a person "based on an administrative warrant, an immigration detainer or any other directive by DHS on a belief that the person is not present legally in the United States or has committed a civil immigration violation."

These new, more radical policies were adopted by the County Council despite having been warned by Montgomery County's State's Attorney John McCarthy, since 2017 at least, that gang violence in Montgomery County had risen precipitously. McCarthy told the Council that MS-13 had been implicated in up to 18 murders over the past two years in Montgomery County.

Montgomery County has experienced a horrific crime spree of rapes and sexual assaults on young women and children by illegal alien men. Police have arrested at least ten illegal aliens for allegedly committing ten sexual assaults since July 25. The alleged offenses include the rape of an 11-year-old girl by two men, the molestation of a 12-year-old girl and her younger brother, the rape of a 16-year-old girl at knifepoint and the rape of a six-year old. Most of the illegal alien men arrested were from the Northern Triangle countries of El Salvador, Guatemala, and Honduras.

The DACA program, from the beginning, was rife with fraud, and officials seldom thoroughly reviewed applications.

The county's newly adopted sanctuary policy forbids law enforcement from turning over an alleged criminal alien to ICE without a "judicial warrant," which essentially precludes detention of known illegal alien criminals after their release date in local detention, even for 48 hours, and thereby allows them to slip away from ICE arrest and deportation back into the local community. Federal immigration law does not require ICE to serve an arrest warrant signed by a judge, therefore federal law doesn't even provide for a means to obtain a judicial warrant in an detain-for-deportation situation.



Judicial Watch President Tom Fitton speaks at anti-Sanctuary Cities rally on Montgomery County Court House steps

Tom Fitton: Prosecute Public Officials Who Aid, Abet Illegal Alien Criminals

(BPR—September 18, 2019) Judicial Watch President Tom Fitton spoke at a recent rally in Montgomery County, Maryland, addressing sanctuary city policies and illegal immigration. Fitton announced that the watchdog group has filed Freedom of Information Act requests to uncover details of the dangerous sanctuary policies there, and called for criminal prosecutions of public officials “who aid and abet illegal alien criminals.”

Flanked by former White House aide Sebastian Gorka, Fitton declared, “We’ve been battling sanctuary policies in Maryland and Montgomery County for too long.”

Montgomery County is enduring an alarming spate of sex crimes by illegal aliens, with nine sex crimes reported in the suburban county since July.

Among the crimes was a 37-year-old Honduran national arrested in August, charged with raping a 15-year-old girl at a home they shared. Two illegal immigrants from El Salvador were arrested in July for second-

degree rape after allegedly raping an 11-year-old girl repeatedly over several months.

“There’s in-state tuition for illegal aliens,” Fitton told attendees. “Taxpayer subsidies to help illegal aliens find illegal work, and most dangerous of all, these outrageous sanctuary policies that allow criminal aliens to prey on the innocent, both citizens and non-citizens alike.”

Fitton Turns Up Heat on Montgomery County Executive Marc Elrich

“Sanctuary policies make every town a border town,” he said, adding that building a wall will do little good if “every major city in the country has sanctuary policies that are providing welcome to criminal illegal aliens.”

Fitton then called on the Trump Justice Department to go after the public officials behind these policies.

“I call on the Justice Department to initiate criminal prosecutions of those public officials who aid and abet illegal alien criminals!” Fitton said.

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The Sanctuary Media mostly downplayed the illegal-alien crime wave of sexual assault, rape and murder that hit the two Maryland counties. *BizPac Review* (BPR), however, did report on Judicial Watch President Tom Fitton’s appearance at a September 18 Montgomery County court-house rally, where he decried Montgomery County’s sanctuary policies. See nearby reprint of the article.

The day before the court-house rally, a reporter for the local ABC affiliate, Kevin Lewis, tweeted that the most recently apprehended of the nine accused rapists – illegal alien Josue Gomez-Gonzalez – was granted a \$100,000 bond, and while the sheriff’s office has been instructed by the county to alert ICE should Gonzalez manage to post bond, they were told not to delay his release in any way.

This case followed the arrest of the eighth rapist, a Honduran illegal alien, for raping a six-year-old girl in Silver Spring, a Montgomery County community.

While Montgomery County parents were fretting that their children were under attack by illegal-alien sexual predators, County Executive Marc Elrich and the Montgomery County Council were busy defending their sanctuary policies and lashing out at President Trump. They released an undated statement attacking President Trump, which followed the usual script of open-border zealots of smearing anyone who opposes their agenda and associating them with “neo-Nazi sympathizers:”

There has been a lot of inaccurate information spread by the White House, President Trump, Acting USCIS Director Ken Cuccinelli, local and national conservative news outlets and neo-Nazi sympathizers regarding our criminal justice system and its process. These individuals and organizations should be ashamed for spreading false information seeking to establish a baseless, illogical and xenophobic connection between a person’s failure to obtain legal status and their propensity to commit a sex crime.

As this Judicial Watch Special Report is being prepared to go to print, Montgomery County softened but did not repeal its dangerous sanctuary policies.

According to one news report:

A controversial sanctuary policy barring Immigration and Customs Enforcement (ICE) agents from accessing Montgomery County jails in Maryland has been partially rolled back following the arrests of several illegal aliens all charged with rape or sexual abuse in a new bid that will force cooperation between county law enforcement and federal immigration authorities.

Montgomery County Executive Marc Elrich reversed portions of ‘the Promoting Community Trust Executive Order,’ which he just signed in July, and will now allow ICE agents access to certain areas of the county jail in order to apprehend illegal aliens, according to reports by ABC7 News.

A county spokesperson confirmed to the local news outlet on Nov. 1 that correctional officers have been ordered to give ICE agents clearance to “identified areas” of the jail to “ensure that transfers are conducted in a safe environment.”

Statistics and Studies on the Criminal Alien Crisis

State Statistics at a Glance

A recent report from the Texas Department of Public Safety (DPS) revealed that over 305,000 criminal aliens were booked into local Texas jails between June 1, 2011 and October 31, 2019, of which over 207,000 (67.9%) were classified as illegal aliens by DHS.²⁷