

## JUSTICE NEWS

### **Attorney General Jeff Sessions Delivers Remarks to the Executive Office for Immigration Review**

Falls Church, VA - Thursday, October 12, 2017

#### ***Remarks as prepared for delivery***

Thank you for that introduction, James. James has been doing a fabulous job here. He understands these issues and knows exactly why we are here today. And thank you to you all. You are at the center of the work we need to do to fix our immigration system along with our partners at Homeland Security. So thank you all for being here today.

A nation that cannot control its own borders is not a nation at all.

The immigration laws that Congress has enacted are some of the most generous in the world. Indeed, we will soon reach the highest level of non-native born Americans in our history. But again and again, we have failed to properly enforce those laws. The American people have rightly gotten frustrated as our system itself has deteriorated.

But with the election of President Trump, we have seen a significant improvement. This is very exciting because we can do so much more. It is essential that we do. And you play a key role.

And that is why I am here today. We have a crisis at our borders and we intend to fix it. A great nation cannot allow this disgrace any longer.

Though illegal border entries are down as much as 50 percent, large numbers continue to break in avoiding required screenings and entering ahead of those dutifully following the rules and waiting their turn.

It is not only inequitable, illegal, and costly, it is extremely dangerous not to know who is entering our country.

Today, it is estimated that over 11 million people in the United States are here illegally. That's more than the population of Georgia—our eighth most populous state.

How did this happen? How did we get here?

Over the last 30 years, there have been many reasons for this failure. I'd like to talk about just one—the fraud and abuse in our asylum system.

Over the years, Congress has rationally passed legislation designed to create an efficient and fair procedure to properly admit persons and expedite the removal of aliens who enter the United States illegally. Obviously, the U.S. cannot provide a jury trial every time an immigrant is caught illegally entering the country nor was it ever intended.

But also over the years, smart attorneys have exploited loopholes in the law, court rulings, and lack of resources to substantially undermine the intent of Congress.

They have been able to do so because this expedited removal contains an exception. For aliens who have an actual, legitimate fear of returning to their homeland, he or she can seek asylum.

This is an important exception. We have a generous asylum policy that is meant to protect those who, through no fault of their own, cannot co-exist in their home country no matter where they go because of persecution based on

fundamental things like their religion or nationality. Unfortunately, this system is currently subject to rampant abuse and fraud. And as this system becomes overloaded with fake claims, it cannot deal effectively with just claims. The surge in trials, hearings, appeals, bond proceedings has been overwhelming.

This is how it works. The Department of Homeland Security is tasked in the first instance with evaluating whether an apprehended alien's claim of fear is credible. If DHS finds that it may be, the applicant is placed in removal proceedings and allowed to present an asylum claim to an immigration judge.

If, however, DHS finds that the alien does not have a credible fear, the alien can still get an immigration judge to review that determination. In effect, those who would otherwise be subject to expedited removal get two chances to establish that their fear is credible.

But in 2009, the previous Administration began to allow most aliens who passed an initial credible fear review to be released from custody into the United States pending a full hearing. These changes—and case law that has expanded the concept of asylum well beyond Congressional intent—created even more incentives for illegal aliens to come here and claim a fear of return.

The consequences are just what you'd expect. Claims of fear to return have skyrocketed, and the percentage of claims that are genuinely meritorious are down.

The system is being abused to the detriment of the rule of law, sound public policy, public safety, and of just claims. This, of course, undermines the system and frustrates officers who work to make dangerous arrests in remote areas. Saying a few simple words is now transforming a straightforward arrest and immediate return into a probable release and a hearing—if the alien shows for the hearing.

Here are the shocking statistics: in 2009, DHS conducted more than 5,000 credible fear reviews. By 2016, that number had increased to 94,000. The number of these aliens placed in removal proceedings went from fewer than 4,000 in 2009 to more than 73,000 by 2016—nearly a 19-fold increase—overwhelming the system and leaving those with just claims buried.

The increase has been especially pronounced and abused at the border. From 2009 to 2016, the credible fear claims at the border went from approximately 3,000 cases to more than 69,000.

All told the Executive Office for Immigration Review has over 600,000 cases pending—tripled from 2009.

And the adjudication process is broken as well. DHS found a credible fear in 88 percent of claims adjudicated. That means an alien entering the United States illegally has an 88 percent chance to avoid expedited removal simply by claiming a fear of return.

But even more telling, half of those that pass that screening—the very people who say they came here seeking asylum—never even file an asylum application once they are in the United States. This suggests they knew their asylum claims lacked merit and that their claim of fear was simply a ruse to enter the country illegally.

Not surprisingly, many of those who are released into the United States after their credible fear determination from DHS simply disappear and never show up at their immigration hearings. Last year, there were 700 percent more removal orders issued in absentia for cases that began with a credible fear claim than in 2009. In fact, removal orders issued in absentia in all immigration cases have doubled since 2012—with nearly 40,000 in the 2017 fiscal year.

The system is being gamed. The credible fear process was intended to be a lifeline for persons facing serious persecution. But it has become an easy ticket to illegal entry into the United States.

We also have dirty immigration lawyers who are encouraging their otherwise unlawfully present clients to make false claims of asylum providing them with the magic words needed to trigger the credible fear process.

In a December 2015 GAO report, it was noted that: "As of March 2014, a joint fraud investigation led by the U.S. Attorney's Office for the Southern District of New York, resulted in charges against 30 defendants, including 8 attorneys, for their alleged participation in immigration fraud schemes." Nearly 4,000 individuals who were connected to these attorneys and preparers have been granted asylum.

Our asylum laws are meant to protect those who because of characteristics like their race, religion, nationality, or political opinions cannot find protection in their home countries. They were never intended to provide asylum to all those who fear generalized violence, crime, personal vendettas, or a lack of job prospects. Yet, vague, insubstantial, and subjective claims have swamped our system.

Under current practice, there is no cost or risk for those who make a baseless asylum claim. There is no fee associated with an asylum application, and the applicant routinely is provided work authorization once an application has been pending at least six months, regardless of the merit of the application.

Current case law requires a court hearing on every asylum application, even if it is obviously without merit. Denying an asylum application is difficult to prove—and so it seldom happens. There is no way to reasonably investigate the claims of an asylum claimant in their own country. And flawed confidentiality provisions inhibit investigations into possible fraud schemes.

That's why there's a common, fatalistic refrain you'll hear from immigration judges and immigration enforcement that "the case isn't over until the alien wins." There are almost no costs, but potentially many rewards, for filing a meritless asylum application.

This is a compassionate country—and lawfully admits more immigrants than any country in the world. But we must recognize that our generous system is being terribly abused. As one immigration judge recently told me about the credible fear process, "any adjudicatory system with a grant rate of nearly 90 percent is inherently flawed."

The President Trump understands this is a crisis. And so do the American people.

The President promised voters he would return this country to a lawful system of immigration during his campaign and he is going to deliver. His priorities are mainstream and common sense. And—whether it's an end to sanctuary city policies or an e-verification system to ensure lawful employment—they are supported by the vast majority of Americans.

Congress must pass the legislative priorities President Trump announced this week, which included significant asylum reform, swift border returns, and enhanced interior enforcement.

We can impose and enforce penalties for baseless or fraudulent asylum applications and expand the use of expedited removal. We can elevate the threshold standard of proof in credible fear interviews. We can expand the ability to return asylum seekers to safe third countries. We can close loopholes and clarify our asylum laws to ensure that they help those they were intended to help.

We can turnaround this crisis under President Trump's leadership.

What we cannot do—what we must not do—is continue to let our generosity be abused, we cannot capitulate to lawlessness and allow the very foundation of law upon which our country depends to be further undermined.

Thank you.

**Speaker:**

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**Topic(s):**

Immigration

**Component(s):**

10/16/2017

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*Updated October 13, 2017*