

The Trump administration's family separation lies, laid bare

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District Court Judge Dana Sabraw questioned this weekend whether the Trump administration is committed to the reunification of children separated from their parents at the border after it told him that it would seek to delay the process. While the lawsuit that prompted the exchange and others like it have so far failed to bring an end to this government-created crisis, they have exposed the government's feeble defenses that officials used for weeks to back up the practice.

The central claim was that family separation “is the law,” as White House Press Secretary Sarah Huckabee Sanders put it. Yet in court, the administration admitted that “these are discretionary immigration actions” — discretionary, not mandatory. Nothing in the law *required* children to be separated from their families. That was just the administration's choice.

Homeland Security Secretary Kirstjen Nielsen provided another defense. The agency was “not separating families legitimately seeking asylum at ports of entry,” only those crossing *illegally*. But Sabraw found the opposite, stating that the policy “has resulted in the casual, if not deliberate, separation of families that lawfully present at the port of entry, not just those who cross into the country illegally.”

Nielsen eventually admitted that this occurs, but claimed that it only happens “if the child is in danger” or “there is no custodial relationship between ‘family’ members.” Yet Sabraw found that this was untrue as well. The woman in the case “was separated from her child without a determination she was unfit or presented a danger to her child” at a legal port of entry.

In a similar vein, Nielsen tweeted that “there is no reason to break the law and illegally cross between ports of entry.” But a separate lawsuit—backed by 900 pages of testimony—documents that the government has a “practice of turning away asylum seekers, including families with small children, who present themselves at Southwestern ports of entry—a practice that encourages unlawful entry and thus artificially increases such violations.”

Nielsen even admits this is happening too — going so far as to label it “metering” (i.e. capping the number of people admitted each day). This means that the government is simply ignoring the

law requires the government process asylum claims. The practice forced desperate families to live for days or weeks homeless under bridges in Mexico. “No reason” is just untrue.

Nielsen also compared the family separation at the border to separating an American mother convicted of breaking into a house from her child. Yet even burglary convicts are reunited with their children after serving their time. By contrast, the woman in the lawsuit served time for crossing the border illegally, but the administration still has not reunited her with her child.

In any case, the comparison misses the mark. Illegal entry is a misdemeanor offense and not at all like felony burglary, which is a violation of a person’s property and threat to their family. A better comparison would be operating an unregistered vehicle, which is a misdemeanor in many states, because the act of driving the car is not in and of itself a crime. The crime is engaging in the act without proper documentation, which is also the case with illegal entry.

American children simply are not being separated from their parents for such minor offenses. The Virginia statute, for example, specifically tells police to issue a summons to appear in court rather than bring the person into custody. To the extent that Americans are separated for these reasons, it would also be a further outrage, not a defense of the government’s policy.

Even the original defense of the policy — provided by White House Chief of Staff John Kelly — that separating families would be a “tough deterrent” is now known to be untrue. When DHS first experimented with the policy in a single border sector last year, the number of families crossing illegally increased. During the months of May and June while the policy was in effect nationwide, the arrivals remained constant.

Despite the shredding of these defenses, the government continues to slow-walk reuniting parents with their children. At this point, it is apparent that officials simply don’t want to admit what it is now clear: there was never any good reason to separate them in the first place.

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