

WARNING: It is nearly impossible to be political neutral when discussing immigration law/policy. This is so, since immigration policy and politics are intertwined and inseparable. Nonetheless, a serious and respectful discussion must be had by our elected leaders in a spirit of compromise and bipartisanship.

QUESTIONS:

1. Why don't those who are undocumented in the U.S. leave and return the right way?

A: Since 1996 the law is draconian and punitive and if an individual has been in the U.S. for a period of 1 year and leaves on his own accord to legalize status, she will not be able to return for a period of 10 years. This is called the 10 year bar of inadmissibility. If this individual were to return or attempt to return without inspection, this individual has a permanent bar to ever return to the U.S. Because of this, the status quo remains.

2. Is there connection between immigration and crime?

A: Statistics have shown there is no causal connection between immigration and crime in the United States. This applies to legal immigrants who are vetted by the government and for the undocumented population. The urban legend that must be debunked is that the undocumented are more likely to commit crimes. In fact, the undocumented wishes to remain undetected to avoid either criminal or removal proceedings.

3. What should be done with the undocumented immigrants entering the U.S.?

A: U.S. immigration law is clear that if someone enters the U.S. without being inspected and admitted by U.S. Customs, that individual is subject to removal. This is known as expedited removal which has been in place since 1996. However, once that individual is in U.S. soil and requests asylum then that person is processed, fingerprinted, photographed, and issued a Notice To Appear before an immigration judge to present asylum claim as a defense against removal. This is black letter law. To claim asylum, the individual must demonstrate that she has been persecuted or has a well-founded fear of persecution if the individual were to return to home country based on her race,

religion, membership in a particular social group, or political opinion. The persecutor must be either the government or a group the government cannot control. These are the five statutory requirements to qualify for asylum or withholding of removal. In search for the American dream is not one of the specified criterion.

4. Should the country of origin of an undocumented be held responsible?

A: Highly unlikely that the country of origin would be civilly liable for the actions of its citizens.

5. Should U.S. employers who employ undocumented immigrants be penalized?

A: Yes, the law is crystal clear since 1986 when the Immigration Reform and Control Act signed by President Reagan gave approximately 3.1 million people who were undocumented in the U.S. legalized status via a general legalization program and Special Agriculture Workers Program. The carrot was the legalization program and the stick was for the first time in U.S. history, employers sanctions. That is, knowingly and willingly hiring an individual who is not authorized to work in the U.S. is unlawful and carries civil and potential criminal sanctions.

6. Should the undocumented be deported?

A: The controlling law is the Immigrations and Nationality Act which specifies that an individual who overstays the authorized period of stay granted at the Port of Entry by U.S. Custom or enters the U.S. in an irregular manner is removable. The law also provides possible defenses that can be presented in deportation or removal proceedings before an Immigration Judge.

7. Aren't there terrorists/criminals among the immigrants who arrive?

A: This is a legitimate concern many individuals have after the 9/11 attacks. Since 9/11, the U.S. - Mexico border of nearly two thousand miles has been fortified with technology and manpower. Nonetheless it is not impenetrable and impossible to hermetically seal. For some political activists, this is a rallying cry that our border is not only porous but also wide open. The large majority of individuals encountered at the border are those fleeing gang violence, political persecution, abject poverty, corruption, war and many other calamities. The answer to this question most likely depends on your political optic. It is important to note that recidivism is a recurring issue as some individuals and convicted criminals return or attempt to return in an irregular manner after removal.

8. How can we fight smuggling and trafficking of human beings?

A: This phenomenon is not just restricted to the Western hemisphere but it is a global issue. The only way to curtail this endemic global problem is cooperation with neighboring countries and policing agencies to fight the cartels and organized crime to destroy their networks. This is not just a U.S. problem but an international one.

9. Will immigrants steal our jobs?

A: This concern has always plagued Americans since the inception of our Republic nearly 250 years ago. There is severe labor shortage in this country and our economy needs workers at all levels, in particular farming, construction and hospitality sectors, landscapers and health professionals. In fact, many of the undocumented in this country do work that no American wants to do. The jobs may be skilled or non-skilled but nonetheless essential and vital for our economy and society. What would we do without them?

10. Will immigrant and refugees impact our pensions?

A: This is another urban legend that must be debunked. The fact of the matter is that the Welfare Reform Act of 1996 makes it impossible for undocumented individuals to receive welfare or means-tested public assistance from the government, Social Security Benefits, or Medicare. It appears this myth is perpetuated by those with a political agenda. As for refugees and asylees, once admitted as refugees or granted asylum, under our laws, they are a protected class of individuals who are entitled to certain public benefits.

11. When is immigration helpful to a country and when is harmful?

A: As a former Cuban refugee, and proud American, and an immigration attorney, I truly believe immigration is a plus and not a liability. Case in point our population growth is in decline. Many individuals are retiring or leaving the workforce, and simply put, our economy and our society need workers. The common sense solution to this crisis is before our eyes, simply put we need more workers, we need more people, we need bipartisan immigration solutions to resolve this crisis.

12. Do you think our country needs more or less immigrants?

A: Statistics show that we need more workers. Our population is on decline. The engine of our economy are the workers not only at high level jobs but also,

individuals who work as skilled or unskilled labor doing the needful and the essential jobs to keep our economy going.

13. Do undocumented immigrants pay taxes?

A: Undocumented immigrants pay Billions\$ in taxes even though they don't benefit from the programs they pay into, including Social Security and Medicare. The tax contributions made by the undocumented are keeping Social Security solvent. According to a survey by the American Immigration Council, in 2019, undocumented immigrant-led households pay an estimated \$19 billion in federal taxes and \$12 billion in combined state and local taxes. Both documented and undocumented immigrants pay more into benefit programs than they take out.

14. Are undocumented immigrants driving down wages?

A: Conventional wisdom says undocumented immigrants take American jobs and lower American wages. That conventional wisdom is wrong. Many economic studies have shown that undocumented immigrants actually raise wages for Americans and do jobs that no one wants.

15. Do undocumented immigrants commit disproportionate amount of crimes, apart from the act of being here undocumented?

A: Improper entry or entry without inspection is a misdemeanor under federal law punishable by 6 months of imprisonment and a fine of \$250 to \$5000 dollars. Once the individual is present in the U.S. their unlawful presence is a civil offense rather than a criminal offense.

This is an extremely difficult question since there aren't nationwide crime statistics broken-down by immigration status but the available research estimates the relationship between the undocumented and crime generally shows an association with lower crime rates. Some research concludes that undocumented immigrants are less likely to be incarcerated than native-born Americans. The arrest rate for undocumented immigrants was 40% below that of native-born Americans.

16. Are undocumented immigrants eligible public benefits?

A: Undocumented immigrants are ineligible to receive public benefits including Medicare, supplemental security income, Affordable Care Act subsidies and others. However, may be eligible for limited benefits deemed necessary to protect life including treatment in hospital emergency rooms and emergency Medicare.

17. Why haven't democrats and republicans when they control the three branches of the federal government enact immigration legislation?

A: It is easier to kick the can down the road than to negotiate and to reach a bipartisan sensible immigration reform via the legislative process. It is clear even though politicians from both parties talk much about immigration, the political will to do something is lacking.

18. Is the present process for undocumented reliable?

A: To be clear, once processed by U.S. Customs or Border Patrol at the border, at some date in the future, the individual will have to appear before an immigration judge to litigate his or her claim for asylum. If the individual doesn't show up for court hearing, the judge will issue an in-absentia order of removal which is a death knell to any possible immigration benefit. Statistically, the Executive Office For Immigration Review reports that the majority of individuals summoned to a hearing appear.

19. Citizenship Status of children born in the U.S. of undocumented parent/parents?

A: Despite the continuing challenges to birthright by the far right, its protection under the 14th amendment remain strong. The 14th amendment provides citizenship through birth within the border of the U.S. and its territories. During the past administration, Donald Trump considered issuing an executive order to alter the 14th amendment removing birthright citizenship for certain children born in the U.S. Over 60% of Americans support birthright citizenship and it appears unlikely that any change will be made any time soon. Additionally, birthright citizenship ensures children born in the U.S. whose parent/parents are undocumented **would not** join the roughly 10 million people worldwide who are without any form of citizenship.

20. Is DACA/Deferred Action for Childhood Arrivals still alive?

A: At present this program benefiting roughly 700 thousand young people who came to the U.S. undocumented or overstayed, who have graduated from our schools and who are productive members of our society an opportunity to be issued a work authorization without having to worry about being deported as a matter of prosecutorial discretion.

Last month federal Judge Andrew Hanen in Houston, Texas, ruled that DACA initiated under the Obama administration was illegal. However Judge Hanen allowed USCIS to continue the program for current DACA beneficiaries but not

to sign up new ones. This litigation is likely to once again be appealed to the Fifth Circuit Court of Appeals and ultimately to the U.S. Supreme Court. Deferred action was always meant to be a temporary solution to a problem that requires congressional action to fix via legislation addressing the plight of DACA beneficiaries.

21. Do undocumented children have access to public education?

A: Yes. In accordance with the landmark U.S. Supreme Court case of 1982 in Plyer v. Doe, all immigrant children, regardless of status, have access to public education and are eligible to attend public school from grade K to 12.

22. Is the U.S. border controlled?

A: Every sovereign nation has a right to control its borders and to determine who comes into its territory. Again, based on your political affiliation the southern border is either wide open or controlled. Much of the anti-immigrant rhetoric centers on the border being wide open. In fact, many politicians broadcast that the border is wide open which is used by smugglers and criminal gangs to encourage people to come to the U.S. in an irregular manner. Unfortunately, the human crisis at the border has been politicized and many politicians have used it to score political points and to derail any discussion on immigration reform.

23. Any chance of immigration reform?

A: A divided Congress it is unlikely that any constructive conversations will be had on immigration reform until after the 2024 election. The majority of Americans believe that it is time for immigration reform in regards to DACA beneficiaries and those individuals who have been in the U.S. for decades without legal status. Last time congress passed major immigration legislation was in 1990, 33 years ago. Politicians and advocates for reform repeat ad nauseum that our immigration system is broken but again no one in the congress has the political will to discuss, debate, negotiate and finalize a solution to our broken immigration system. Both for legal immigration and for the undocumented.

24. Will the present declared war on Israel-HAMAS have any impact in the present crossing of immigrants?

A: The majority of immigrants at the Southern border turn themselves to U.S. Customs/Border Patrol and request political asylum. The majority of them are Venezuelan nationals. The remaining are Central Americans, Chinese, Indians,

Africans, Pakistani, Russians, and Iranians. To date, there is no direct linkage between international terrorism and those seeking political asylum or making irregular entries into the U.S. However, we must remain vigilant since the border is penetrable and those who seek to do harm to the U.S. may attempt to do so via the southern border. We can never forget lessons learned from 9/11.