**“OPEN BORDERS” TALKING POINTS**

* Since Congressional Resolutions are nonbinding, they commonly are used as a political stunt by the party in control of a particular branch of Congress. The idea is to force members of the opposition party to “vote no” so that can be used against them in political campaigns. (Sadly, many voters have no idea what a “Resolution” is, so they are misled into thinking it’s opposition to an actual bill or law.)
* Under the Trump Administration, ICE has engaged in disturbing and well-documented abuses. Here’s just an example of abuses in detention documented by the DHS’s own Inspector General: <file:///Users/paulwickhamschmidt/Documents/Federal%20Investigation%20Finds%20ICE%20Fails%20to%20Address%20Sexual%20Assault,%20Abuse%20in%20Immigrant%20Detention%20Center.webarchive>
* Indeed, the “civil deportation side” of ICE under Trump has gotten so misdirected, out of control, and disrespected, that a number of ICE Senior Special Agents who do law enforcement work such as combatting smuggling, terrorism, and fraud recently petitioned to be separated from ICE: <https://www.washingtonpost.com/world/national-security/seeking-split-from-ice-agents-say-trumps-immigration-crackdown-hurts-investigations-morale/2018/06/28/7bb6995e-7ada-11e8-8df3-007495a78738_story.html?utm_term=.340e5a8213f2>
* So, given the bad reputation of ICE immigration enforcement, it’s hardly surprising that Democrats (and perhaps some thoughtful GOP legislators) don’t want to be “hoodwinked” into a political scheme of carte blanche endorsing an agency and its employees who have credibly been accused of many abuses.
* Democrats don’t deny that civil immigration enforcement (apprehensions and removals) is necessary. But, it is certainly debatable whether ICE as currently structured, staffed, “branded,” and led is the right way to go about it. Even then, the “Abolish ICE” movement has not gained majority support among Democrat politicians. To view it as the “policy” of the Democratic Party or the majority of Democrats is simply wrong and misleading.
* It’s possible to debate whether President Obama deserved his “Deporter-in- Chief” title. It’s also possible to debate the immigration enforcement strategies his Administration adopted. But, it’s beyond reasonable debate that Obama 1) gave immigration enforcement a very high priority; and 2) was in some enforcement areas, from a purely statistical basis, more effective than his predecessors and than Trump. Here’s a good analysis of the Obama immigration enforcement program: <file:///Users/paulwickhamschmidt/Documents/The%20Obama%20Record%20on%20Deportations:%20Deporter%20in%20Chief%20or%20Not%3F%20%7C%20migrationpolicy.org.webarchive>
* Contrary to the false scenarios and manipulated statistics presented by the Trump Administration, the Department of Justice, and immigration restrictionists, the Government’s own statistics show that when released from detention and represented by counsel, asylum seekers show up for their hearings nearly all the time: <http://www.sandiegouniontribune.com/news/immigration/sd-me-family-asylum-20180817-story.html>
* In those cases where they don’t appear, it is often because of defective notices from overwhelmed Government immigration agencies or because nobody has clearly explained their rights and responsibilities to them in language they can understand. Indeed, many “in absentia” removal orders are subsequently vacated and reopened by the Immigration Courts.
* Even in this highly anti-asylum administration, applicants who actually manage to get a hearing on the merits of their asylum claims win about one in three times, certainly a high enough chance of success to encourage most to show up.
* Detention is both incredibly expensive and dehumanizing. DHS detention is tied up in numerous court cases. Since asylum applicants as a group are seldom either security or flight risks, looking for ways to process them outside detention makes more sense than building more expensive and substandard private jails.
* “Sanctuary Cities” is largely a misnomer, because all jurisdictions provide some degree of cooperation to DHS consistent with law. Two things drive this phenomenon. First, courts have held that detainers issued by DHS for *civil removal purposes* are not legally enforceable because a judicial official does not issue them based on probable cause to believe that a crime has been committed. Second, ICE’s enforcement efforts aimed at non-criminal community members have sown fear and mistrust that has undermined local law enforcement. Victims are afraid to report serious crimes and individuals are unwilling to cooperate with local police or be witnesses in criminal prosecutions because of fear of deportation. Consequently, many localities have limited cooperation with DHS to that legally required: cooperating in the apprehension and removal of serious criminals, answering specific requests for information, or honoring criminal warrants issued by Article III Federal Judges.
* The Administration has attempted to punish states and localities that have limited their cooperation. Federal Courts have consistently held the Administration’s efforts illegal and enjoined them. <https://thehill.com/regulation/court-battles/410149-california-judge-rules-against-sessionss-effort-to-hit-sanctuary>
* Actually, it’s the Trump Administration not “Sanctuary Jurisdictions” that are scofflaws, engaging in illegal actions.
* Whether or not all residents of San Francisco should be able to vote for school board is a local matter that is not indicative of any national position of the Democratic Party. All children in the United States, regardless of their status or the status of their parents, are entitled to public education under the Supreme Court’s ruling in *Plyler v. Doe*; and many undocumented individuals pay taxes, and nearly all would if there were a better system to allow them to do so. Therefore, on it’s face letting all residents have a say in how the local schools are run is hardly an unreasonable approach, regardless of whether or not it’s the best approach.
* Moreover, what’s happening in San Francisco is by no means indicative of what Democrats elsewhere in the country think. Neither the Democratic Party nor the majority of Democrats has specifically endorsed letting undocumented individuals vote for school board.
* Approximately 11 million individuals reside in the US without documents. The vast majority are law-abiding, productively employed members of our community, many with relatives who are citizens or Green Card holders. While those who have committed serious crimes or mean our country harm should of course be identified and removed (which has been a priority of every Administration over the past 50 years), the vast majority of the rest are not going to be forcibly removed no matter how nasty and cruel immigration enforcement policies become.
* Therefore, developing some type of “earned legalization” that would either give them a path to citizenship, or at least make it possible for them legally to live, work, pay taxes and raise their families in the US makes more sense than forcing them to live in an underground status.
* Unlike massive, ultimately ineffective enforcement programs, legalization programs are “self-funded” through application fees so they don’t add to the deficit like expanded enforcement programs.
* In the long run, we need wiser leaders who will implement a larger and more realistic legal immigration system that gives more credence both to the forces abroad that force individuals to come here and the U.S. market forces that make employers in the U. S want and need to employ immigrants.
* We are a nation of immigrants. We are not going to stop human migration; however, we could harness its power to maximize use of our legal immigration system, minimize the number of future migrants who come by way of the “extra legal” system, and make immigration enforcement more reasonable, achievable, and publicly acceptable.