Immigration MYTHS and FAQs

1. Who are the children and families who are crossing the border?
   They are children and families fleeing violence, murder, and other persecution, and seeking safety in the U.S. They are fearful of returning back to their home country.

2. Where do they come from?
   They are primarily from El Salvador, Guatemala, and Honduras.

3. Why are they coming to America?
   They are escaping violence and seeking humanitarian assistance and safety in the U.S. because they fear for their lives.

4. Are they crossing the border illegally or legally?
   Some are presenting themselves to the immigration authorities to determine their claim of persecution for asylum in the U.S. Some try to cross without permission.

5. If they are crossing the border illegally, what type of crime is being committed?
   Federal law makes it a crime to “improperly enter the U.S.” (Title 8, Section 1325 of the U.S. Code.) The law is not new but the heavy handed implementation of it is. On April 6, 2018, Attorney General Jeff Sessions, announced a “zero tolerance” policy on illegal entry to the U.S., which in part means that the federal government is prosecuting everyone who tries to enter improperly no matter why they tried to do so.

6. What does it mean to apply for asylum? Is that against the law? What happens when people apply?
   People fleeing their home country due to persecution or fear of it from their own government can apply for asylum in the U.S. One applies for asylum for safety and protection from harm. The right of people to request asylum is codified both in international humanitarian law but most importantly in U.S. federal law. The U.S. federal law that contains the basic requirements is 8 U.S. Code § 1158.

   This is stipulated in the Universal Declaration of Human Rights (UDHR). It guarantees the right to seek and be granted asylum in other countries, in accordance with the legislation of the state and international conventions. A person seeking asylum should be given the chance to have a credible fear interview to determine an asylum claim.

7. Why are families who are applying for asylum being treated like criminals?
   The goal is to discourage people from coming to the U.S. border to ask for asylum in the first place. The administration made a “zero tolerance” policy with the purpose that people will stop applying in the first place for fear of being put in detention in the U.S.
8. Does the right to due process apply to people who enter the U.S. illegally?
   Yes, the Constitution's due process clauses are in both the Fifth and Fourteenth Amendments and have been understood for at least a century to apply to all persons irrespective of nationality.

9. What is due process? How does it apply?
   It is a legal requirement that the state must respect all legal rights that are owed to a person. It applies as soon as person steps onto U.S. soil, whatever his or her citizenship may be, whatever his or her passport may say.

10. Why is the government separating children from their parents? Isn't that against the law?
    The main goal of this practice it to discourage people from coming to the U.S., especially with their children because they will see how the U.S. government is treating families and parents and will choose not to risk separation. This is against well-established norms of international humanitarian law.

11. Why does the government now want to detain children with their parents? Isn't that against the law?
    Due to pressure and criticism that it is not right to separate children from their parents, President Trump signed an Executive Order to detain parents along with their children so that they can be together. If this detention lasts more than 20 days it is against the law per what we know as the “Flores settlement.” This issue is still being argued in federal court.

12. What is the Flores Settlement?
    The "Flores Settlement" placed limits on how long the government could detain child migrants. It requires the federal government to do two things: to place children with a close relative or family friend “without unnecessary delay,” rather than keeping them in custody; and to keep immigrant children who are in custody in the “least restrictive conditions” possible.

13. What is the difference between a refugee, an asylum seeker, and a migrant?
    Refugees are people fleeing armed conflicts or persecution. Refugees are protected by international law, specifically the 1951 Refugee Convention and also by U.S. Federal law.

    An asylum seeker is someone who claims to be a refugee but whose claim hasn’t been evaluated. This person would have applied for asylum on the grounds that returning to his or her country would lead to persecution on account of race, religion, nationality or political beliefs. Every refugee is initially an asylum seeker.

    Migrants are people who leave their country because of economic hardship, natural disasters, or organized crime that puts them and their family’s lives at risk, but they also leave for reasons like family reunification. Unlike refugees who cannot safely return home, migrants can return home if they wish. This distinction is important for governments, since countries handle migrants under their own immigration laws and processes.
14. What is happening to the children and to their parents?
   There is still no uniform practice. Following the latest Executive Order, most families are no longer being separated but some are still being detained together. At other points of entry into the U.S., parents and children are being released and given a court date. The children who have been separated so far have still not been reunited with their parents.

15. I heard that thousands of unaccompanied children are missing? Is that true? How does that relate to what is happening now?
   There are reports that the Department of Health and Human Services is unable to reach some undocumented families to place some of the unaccompanied children because the families fear contact with a government agency will lead to their arrest.

16. How do refugee children get accepted into Catholic Charities of Santa Clara County’s Refugee Foster Care (RFC) program?
   A child needs to receive legal status (URM, Asylum, SIJS, and Trafficking). Most of the youth in Catholic Charities of Santa Clara County’s Refugee Foster Care program are referred through USCCB, but we can also accept community referrals if they have the correct status. We review the referral and make a determination if we have the resources to serve the youth based on their individual needs. If we feel like we can serve the youth, then we match them with an available family. If no family placement is available at the time, we are not able to accept the referral.

17. Is the Refugee Foster Care program accepting children who have been separated by the government from their parents?
   We only accept youth who have received URM status. Some of the children separated from their parents at the border may end up in long-term foster care, but not for a while…. And hopefully not at all. They should be reunified with their parents. Our Refugee Foster Care is a program reserved for youth where reunification is not an option. We are advocating that the youth that were just separated in the last few weeks be returned to their families.

18. How can I learn what it takes to foster a refugee child or be a host home?
   Please contact Catholic Charities’ Refugee Foster Care program at 866-842-1467 or rfc@catholiccharitiessc.org. One of our outreach team will contact anyone interested and provide information on the program and the process.

19. How can I learn more information about the immigration legal rights of the parents and children and possible other immigration legal remedies they may have?
   Catholic Charities’ Immigration Legal Services (ILS) can help provide immigration legal information and possible immigration legal benefits available to immigrant families. Please contact Catholic Charities’ ILS at 408-944-0691 or email ecimmigration@catholiccharitiessc.org. Our immigration attorneys and Department of Justice Accredited Representatives will be able to provide legal information and advice.

20. I heard that illegal immigrants come to America to get free public benefits. Can they get benefits?
Most undocumented immigrants do not qualify for any public benefits. More so, undocumented immigrants tend to keep a low profile and may not even seek benefits they possibly could legitimately receive. Every year millions of undocumented immigrants pay taxes and they even file their tax returns with an ITIN number issued by the IRS.

21. I heard that illegal immigrants come to America to take jobs away from Americans. Is that true?
   No, immigrants do not take American jobs. Francine D. Blau, an economics professor at Cornell University who led the group that produced the 550-page report, said that he found little to no negative effects on overall wages and employment of native-born workers in the longer term.

22. If you break the law shouldn't you be punished? What is the penalty for immigrants crossing the border illegally?
   A foreign national who enters the U.S. illegally can be both convicted of a crime and held responsible for a civil violation under the U.S. immigration laws. Illegal entry also carries consequences for anyone who might later attempt to apply for a green card or other immigration benefit.

23. If you break the law, don't you have the right to an attorney? Do immigrants have that right?
   Immigrants in immigration court do NOT have a right to government-appointed counsel. The lack of legal representation has a profound negative impact on immigrants’ outcomes in removal proceedings. Those who can afford an attorney or have access to one are better equipped to win their cases, whereas those who do not have an attorney most of the times are removed from the U.S.

24. If immigrants are being detained, do they have the right to bail?
   Every detainee is entitled to a **bond hearing** to determine whether the detainee can be released or how much the bond should be. However, there are some who people may not be eligible for bond, and must remain in the detention facility until an immigration judge decides whether they should be removed or deported.

25. I’ve heard about the "catch and release" policy that allows undocumented immigrants to stay in the U.S., but then they disappear? Are they purposely not showing up to court?

26. I heard immigrants commit more crimes than citizens. Is that true?
   No. The National Academy of Sciences (a nonprofit research organization charged with providing independent advice to the nation and funded largely by the federal government), indicated that immigrants are in fact much less likely to commit crime than natives, and the presence of large numbers of immigrants seems to lower crime rates." The study added that "This disparity also holds for young men most likely to be undocumented immigrants: Mexican, Salvadoran, and Guatemalan men."