

Immigration Reform Hard for a “Nation of Immigrants” *by Michael Barbella*

America has long been deemed a “nation of immigrants,” a phrase popularized in a 1958 book written by then-U.S. Senator John F. Kennedy, and first coined in an 1874 Virginia newspaper editorial praising legislation that encouraged European immigration.

Indeed, immigrants and their offspring have played an integral role in the nation-building process, as they’ve provided much of the labor that transformed the United States into an economic superpower, and injected diversity into American culture. Within the last 150 years immigration levels have surged twice—first, with the mass arrival of southern/eastern Europeans (1880-1924), and then again with the post-1965 flow of Latin American and Asian migrants.

According to the Ellis Island Foundation, between 1880 and 1930 more than 27 million immigrants were



added to the U.S. population. The year with the highest admission of immigrants remains 1907 when 1.3 million people entered the country legally.

Legislating Immigration

Today, the number of legal immigrants living in America has significantly increased, soaring to 44 million, or roughly 13.5 percent of the nation’s total population, according to Pew Research Center data. These are people who have gone through the

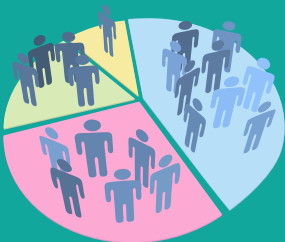
CONTINUED ON PAGE SIX

Citizen or Not—Everyone Counts in U.S. Census *by Maria Wood*

The first U.S. Census was conducted in 1790 and a new one has been completed every 10 years since. There’s more at stake than just a headcount, though.

Census numbers determine, among other things, how many seats a state receives in Congress and the drawing of state and congressional voting districts. Also at stake is \$880 billion in federal funds that states and municipalities depend on to pay for schools, public housing, infrastructure (roads and bridges) and healthcare programs such as Medicaid.

In addition,



cities use the data compiled to determine whether, for example, a hospital is needed in a certain area based on population numbers. Corporations use Census data to decide what location would be a good fit in terms of setting up factories or offices, bringing the potential for jobs. A corporation like Walmart or a big name grocery store, for instance, would use the Census data to determine whether a particular area would provide enough customers to warrant a location, bringing not only jobs but also better access to food and consumer products.

That is why it is important to have an accurate

census count and why the U.S. Constitution stipulates that all residents must be counted regardless of their citizenship status so that the government may obtain an “actual enumeration” of how many people reside in each state.

How does the Census work?

According to the U.S. Census Bureau, the census is the largest operation conducted in the United States. To give an idea of the scope of the project, the 2010 Census counted 308.7 million

CONTINUED ON PAGE FIVE

Dreaming of a Life in the U.S. *by Phyllis Raybin Emert*

They are called Dreamers, after proposed legislation from 2001 known as the Dream Act (Development, Relief and Education for Alien Minors). Dreamers are persons who were brought here by their parents illegally as children and raised in the U.S.

The Dream Act, which would have established a pathway to U.S. citizenship if certain qualifications were met, failed to pass in Congress despite several attempts. These 800,000 Dreamers are also known as DACA recipients and many of them were not aware of their immigration status until they applied to college or for a driver's license.

DACA explained

In 2012, President Barack Obama issued an executive order creating the Deferred Action for Childhood Arrivals Program (DACA). To qualify for

protection under DACA, applicants must have been younger than 31 on June 15, 2012 when the order was signed, and have arrived in the U.S. before turning 16 years of age. Applicants must also have lived in the U.S. continuously since 2007. Dreamers range in age from 15 to 35, with the average age of a Dreamer upon arrival to the U.S. being six years old.

“Thus far, no court has found the DACA program to be unconstitutional.”

If they met the qualifications, DACA recipients were given Social Security numbers and a two-year renewable work permit which helped them obtain legal jobs, pay for their education, buy a car and even own their own businesses. Most importantly, the program protected recipients from deportation.

On September 5, 2017, President Donald Trump issued an executive order calling for the end of the DACA program. This meant Dreamers could face deportation to countries that some had never

known and others barely remember. The Trump administration announced an end date of March 5, 2018 for the DACA program, giving Congress six months to come up with a suitable solution or alternative, which it failed to do.

Taking jobs away

The Trump administration's contention is that the previous administration overstepped its executive powers by circumventing Congress and violating the Administrative Procedure Act. In addition, President Trump, along with former Attorney General Jeff Sessions, noted that the DACA recipients have broken the law and taken away jobs from native-born Americans.

Susannah Volpe, a professor at Seton Hall Law School's Center for Social Justice and an expert in immigration law and immigrants' rights, points to data from the Bureau of Labor Statistics and the Organization for Economic Cooperation and Development, which states, "on average foreign-born-workers have lower paying and less skilled jobs than those held by native-born workers...While the

CONTINUED ON PAGE THREE

**This publication was made possible
through funding from the
IOLTA Fund of the Bar of New Jersey.**

Jodi L. Miller
Editor

Editorial Advisory Board

Robyn B. Gigl, Esq.
Chair

Mary M. Ace, LCSW

Naeem Akhtar, Esq.

Kim C. Belin, Esq.

Tamara Britt, Esq.

Risa M. Chalfin, Esq.

Eli L. Eytan, Esq.

Susan A. Feeney, Esq.

John F. Gillick, Esq.

Hon. Lisa James-Beavers, ALJ

Ronald G. Lieberman, Esq.

Wendy Allyson Reek, Esq.

Cheyne R. Scott, Esq.

Margaret Leggett Tarver,

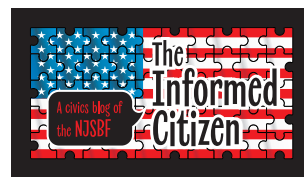
Brandon L. Wolff, Esq.

Thomas A. Zeringo

©2019 New Jersey State Bar Foundation

TAKE ADVANTAGE OF THE NJSBF'S BLOGS

The New Jersey State Bar Foundation's civics blog, ***The Informed Citizen*** explains civics-related topics in plain language. Posts can be read on any device or easily printed as a handout. Stay tuned, as new posts will be added to the blog every month.



And, don't miss the update blogs for [Respect](#) (Respect Rundown) and [The Legal Eagle](#) (The Legal Eagle Lowdown). These blogs feature updates on recent stories published in the newsletters.

You can find all of the blogs on our website (njsbf.org). Access them from the Homepage's navigation bar under Blogs.

Questions or comments should be directed to Jodi Miller at jmiller@njsbf.org.

Dreaming of a Life in the U.S. CONTINUED FROM PAGE TWO

foreign-born participate in the labor force at high rates (74 percent employment), the native-born work-force participation is also high (68.5 percent employment)."

"The difference in labor force participation between foreign and native-born workers does not support a claim that foreign-born workers are employed in jobs that would otherwise go to native-born workers," Professor Volpe says. "It is not the presence in the labor market of workers born in other countries that leads to economic stagnation, but rather the economic and social policies currently in place that prevent low and middle income families from thriving."

The lawsuits

Multiple lawsuits across the country challenged the Trump administration's elimination of DACA. In January 2018, federal Judge William Alsup in San Francisco ruled that DACA recipients should be allowed to renew their status so as not to harm them. In April 2018, federal Judge John D. Bates ruled in a case involving the District of Columbia, that the DACA program must remain in place and accept renewal applications. Judge Bates noted that the Justice Department did not adequately explain why the program was unlawful. When the Trump administration requested the U.S. Supreme Court to step in, the justices declined, preferring the case to run its course through the appeals process.

Not all of the lawsuits were pro-DACA. Texas, along with eight other states, sought an injunction to stop the DACA program. U.S. District Judge Andrew Hanen, of the Southern District of Texas, ruled that

these states did not provide enough evidence for their claim, and that while they continue arguing the case, people who have DACA must be allowed to renew it.



"Here, the egg has been scrambled. To try to put it back in the shell with only a preliminary injunction record, and perhaps at great risk to many, does not make sense nor serve the best interests of this country," Judge Hanen wrote in his opinion. "The reality of the situation is that it [DACA] conferred lawful presence and numerous other benefits and many DACA recipients and others nationwide have relied upon it for the last six years."

On November 8, 2018, a unanimous decision by the U.S. Court of Appeals for the 9th Circuit ruled that President Trump cannot end DACA. Like other DACA rulings, the three-judge panel did not question the power of the administration to end the program, but took issue with how it went about it.

"To be clear: we do not hold that DACA could not be *rescinded* as an exercise of Executive Branch discretion," Judge Kim McLane Wardlaw wrote. "We hold only that here, where the Executive did not make a discretionary choice to end

DACA—but rather acted based on an erroneous view of what the law required—the rescission was *arbitrary* and *capricious* under settled law."

Judge Wardlaw began her written opinion with the story of Dulce Garcia, who today enjoys a "thriving law practice in San Diego." Garcia was brought to the U.S. illegally by her parents at the age of four. "Recognizing the cruelty and wastefulness of deporting productive young people to countries with which they have no ties, the Secretary of Homeland Security announced a policy in 2012 that would provide some relief to individuals like Garcia, while allowing our communities to benefit from their contributions," Judge Wardlaw wrote.

It was expected that the U.S. Supreme Court would take up the DACA issue. However, in January 2019 the Court elected to take no action on the DACA case, leaving in place the lower court decision for now. The Court could accept the case at a later date, possibly during its next term in October 2019, with a decision rendered sometime in 2020.

According to Professor Volpe, "Thus far, no court has found the DACA program to be unconstitutional. The one thing in common across all of the lawsuits is that it would cause too much harm to prevent people who have DACA from renewing this benefit."

Statistics from the Center for American Progress reveal that one in four Dreamers have started families of their own and are parents of U.S. citizens, emphasizing the fact that the U.S. has been grappling with this issue for quite some time. •

SOCIAL NETWORK

Informed Citizens are Better Citizens

Help the New Jersey State Bar Foundation Reach More People

Please follow the Bar Foundation on Social Media and invite your friends to like and follow us as well

@NJStateBarFdn can be found on the following platforms:

Seeking Sanctuary in the United States *by Sarah Betancourt*

The issues surrounding illegal immigration are complex. There is probably none more controversial and less understood than the meaning and implications of sanctuary cities. Proponents of the concept of sanctuary cities see them as a place of refuge for undocumented immigrants. Opponents see them as cities that harbor fugitives. As usual, the truth lies somewhere in between.

According to the Federation for American Immigration Reform, there are more than 500 **jurisdictions** in the United States—whether a municipality, city or state—that have adopted sanctuary policies. The parameters of these policies can be different in every jurisdiction. For example, in Chicago law enforcement won't share the immigration status of its residents, while in Washington, D.C. police are barred from even asking for immigration status.

Essentially, jurisdictions with a sanctuary city policy limit local police cooperation with the U.S. Immigration and Customs Enforcement (ICE). This is done in an effort to reduce fear of deportation among the undocumented immigrant community so they will continue to cooperate with police in reporting crimes and enrolling their children in school.

Some believe that all law enforcement—whether state or local—should assist the federal government in enforcing U.S. immigration law. Others argue that immigration enforcement comes under federal jurisdiction and that the 10th Amendment to the U.S. Constitution, which deals with state's rights, prohibits the federal government from forcing state and local governments to use their resources to enforce federal policies.

The courts weigh in

Shortly after taking office in January 2017, President Donald Trump issued an executive order concerning illegal immigration, which included a section that limited federal funding to any jurisdiction that refused to cooperate with enforcement authorities like ICE. The order claimed that undocumented immigrants and the sanctuary cities that protect them are a threat to the United States.

In March 2018, the Trump administration sued California, which has been a sanctuary state since January 2018, over its sanctuary laws, including the California Values Act. The Act limits state and local agencies from sharing information on suspects in their custody with federal officers unless they've been convicted of a serious crime. As a result, the Trump administration claimed federal immigration officials could not carry out their duties in the state. In July, a federal judge dismissed the lawsuit. One month later, the 9th U.S. Circuit Court of Appeals in a 2-1 decision said blocking federal funding could only be done with approval from Congress.

Former U.S. Attorney General Jeff Sessions said in 2017 that the Justice

Department would withhold nearly \$400 million in grants to cities that refused to help ICE agents detain immigrants in local jails. Attorneys General from New Jersey, Connecticut, New York, Virginia, Washington and Massachusetts filed a lawsuit against the federal government in July 2018 over the Trump administration's threat to withhold money for criminal justice grant programs.

In November 2018, a federal judge in

New York ruled that the Trump administration couldn't withhold public safety grants from municipalities based on their status as a so-called sanctuary city. Judge Edgardo Ramos, of the U.S. District Court for the Southern District of New York, agreed with the 9th Circuit Court that only Congress has the authority to decide how federal funds are dispersed and said limits on executive authority were "a check on tyranny and the concentration of power." Federal judges in Illinois, California and Pennsylvania have ruled that it is unconstitutional for the Trump administration to coerce states into helping ICE by threatening to withhold federal dollars.



Protecting Newark's undocumented

There are more than a dozen municipalities in the Garden State that have sanctuary policies in place. In Newark, for instance, Mayor Ras Baraka signed an executive order in 2017 that pledged the city would not spend resources helping ICE unless required by a court order. The order barred police and other municipal employees from looking into residents' citizenship status or country of origin, and sharing that information with anyone in federal immigration enforcement.

Frank Baraff, director of communications in the mayor's office, says that part of putting the policy into practice was reaching out to local universities, public schools and police to make sure they understood it. He says the city also has a municipal ID program that helps undocumented immigrants and parents get an ID to use with banks and for social services, and that Mayor Baraka added extra protections so ICE can't seize any of the ID records.

Baraka's office is aware that many school children are undocumented.

"It's important for students to know that the state of New Jersey wants to protect them and their parents," Baraff says.

Changes in New Jersey

In November 2018 the sanctuary policy for New Jersey was made clear when

CONTINUED ON PAGE FIVE

Seeking Sanctuary CONTINUED FROM PAGE FOUR

New Jersey Attorney General Gurbir Grewal issued a statewide directive limiting what information can be shared with authorities. Called the Immigrant Trust Directive, the effort seeks to ensure that immigrants feel safe reporting crimes to New Jersey's law enforcement, instead of worrying they will be detained, reported to ICE and deported.

Per the directive, law enforcement cannot stop, question, arrest or search any individuals based solely on suspected or actual immigration status. This means that if you're pulled over for speeding, and are an undocumented immigrant, the police cannot legally ask you your immigration status. In fact, law enforcement cannot ask the immigration status of anyone unless it is related to an ongoing investigation and is relevant to that investigation. In addition, the directive prohibits local and state officials from providing access to databases with immigrants' personal information to ICE.

In the statement announcing the directive, the AG emphasized that "nothing in the directive should be read to imply that New Jersey provides 'sanctuary' to those who commit crimes in this state" and "nothing restricts police from complying with federal law or valid court orders, including judicially-issued arrest warrants for individuals, regardless of immigration status." The takeaway is that undocumented immigrants are often less likely than citizens to report criminal activity, like domestic violence disputes or robberies.

"We know from experience that individuals are far less likely to report a crime to the local police if they fear that the responding officer will turn them over to federal immigration authorities," said Grewal in a press statement. "That fear makes it more difficult for officers to solve crimes and bring suspects to justice. These new rules are designed to draw a clear distinction between local police and federal civil immigration authorities, ensuring that victims and witnesses feel safe reporting crimes to New Jersey's law enforcement officers." •

Citizen or Not—Everyone Counts in U.S. Census CONTINUED FROM PAGE ONE

people in the United States, a nearly 10 percent increase from the 2000 Census. The first census in 1790 cost approximately \$45,000; the 2010 Census cost \$13.1 billion.

Up until 1960, the U.S. Census was conducted door-to-door, but then changed to an initial mail-in process. Here's how it works: the Census questionnaire is mailed to more than 120 million homes across the country. For the 2010 Census, 74 percent of households returned those forms. For the households that didn't mail in their forms, 585,000 Census workers were dispatched, going door-to-door to gather the information. Questions asked on the census vary from year-to-year. For instance, the first Census in 1790 was pretty basic and asked only a few questions, including the number of free white males and females, the number of other free persons and the number of slaves in each household. Over the years, the census began asking more in-depth questions, gathering economic and educational data, as well as social statistics like race and ancestry.

Beginning with the 1890 Census, a question regarding citizenship was asked. The 1950 Census asked where each person in the household was

born and then a follow up question: "If foreign born—Is he naturalized?" That was the last year that a citizenship question was asked of all households in America, although a longer form, sent to a smaller sampling of the population, still required that information.

The citizenship question

A decision by the Census Bureau to include the question: "Is this person a citizen of the United States?" on the 2020 Census prompted a lawsuit from 18 states, the District of Columbia and several immigrant advocacy organizations. Opponents say the question will scare off members of minority

groups from filling out the census form, leading to an undercount of the total U.S. population.

For its part, the Commerce Department, which oversees the U.S. Census, maintains that obtaining data from the citizenship question would protect the voting rights of minorities as outlined in the Voting Rights Act of 1965. Advocates of the citizenship question also say the country must have an accurate counting of people eligible to vote as U.S. citizens so the government can properly draw congressional districts.

The 14th Amendment to the U.S. Constitution provides that the "whole number of persons in each state" determines the number of representatives each state receives in the House of Representatives.

The U.S. Supreme Court has determined that the number should be based on the "representative equality principle." In other words, representation in Congress applies to everyone residing in a state, not just citizens who can vote.

Critics of adding a citizenship question claim it will depress the population count in states with large minority populations, such as New York and California, and point out that the 2010 census



CONTINUED ON PAGE EIGHT

Immigration Reform CONTINUED FROM PAGE ONE

necessary channels to become naturalized U.S. citizens (see sidebar). Other immigrants have been classified as illegal or undocumented when they either cross the border illegally or overstay their visas. For instance, the Department of Homeland Security estimated that in 2016 nearly 630,000 immigrants entered the country legally, but did not leave when their visas ran out, making them undocumented.

One of the first U.S. laws implemented to restrict immigration from a specific ethnic group was the Chinese Exclusion Act. Signed into law by President Chester A. Arthur in 1882, the Act prohibited “skilled and unskilled laborers and Chinese employed in mining” from entering the country for 10 years. Another law, the Scott Act of 1888, expanded on the Chinese Exclusion Act by prohibiting

re-entry to the United States if a Chinese immigrant left the country.

The constitutionality of these two acts was challenged in the U.S. Supreme Court, first with the 1889 case of *Chae Chan Ping v. United States*, which specifically challenged the Scott Act. Chae Chan Ping left the U.S. in 1887 to visit family in China.

Before he left he obtained the necessary papers, in accordance with the Chinese Exclusion Act, that would allow him to return. In the meantime, the Scott Act passed. When his ship docked in the port of

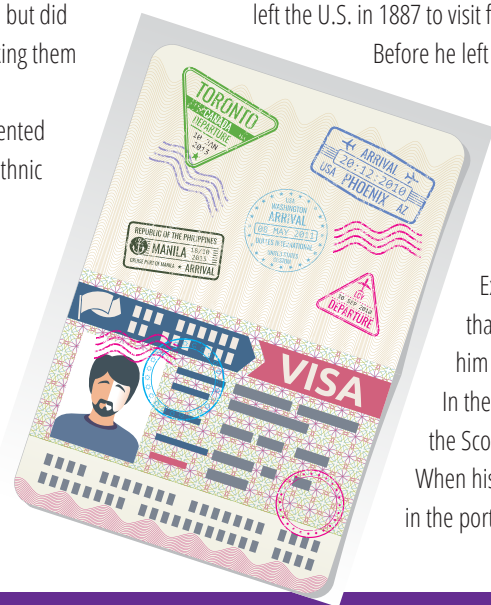
San Francisco, he was denied re-entry to the country. The Court decided against Chae Chan Ping, ruling “the power of exclusion of foreigners [is] an incident of **sovereignty** belonging to the government of the United States as a part of those sovereign powers delegated by the constitution.”

The Chinese Exclusion Act was extended for another 10 years with the 1892 Geary Act and then in 1902 it was made permanent.

In 1897, the U.S. Supreme Court considered another case, *United States v. Wong Kim Ark*, which dealt with the Chinese Exclusion Act and the Scott Act. Born in 1873 in San Francisco to parents of Chinese descent, Wong was raised in California. He was denied re-entry to the United States after a temporary visit to China on the grounds that he was not a U.S. citizen.

The U.S. Supreme Court decided in favor of Wong Kim Ark, ruling that he was a U.S. citizen

CONTINUED ON PAGE SEVEN



Becoming a United States Citizen

Of the 194 countries around the world, most determine citizenship by *jus sanguinis*, which is Latin for “right of blood.” That means that children inherit their citizenship through the birthplace of their parents, not the location of their birth.

In the United States there are three ways to acquire citizenship. You can have what is referred to as *jus soli*, which is Latin for “right of the soil.” It means that you were born here and possess birthright citizenship, which is outlined in the 14th Amendment to the U.S. Constitution. Someone can also be born outside of the United States and still be a U.S. citizen if at least one of his or her parents is a U.S. citizen.

The final path to U.S. citizenship is to become what is referred to as a naturalized citizen via an application process.

What's the application process?

According to the U.S. Citizenship and Immigration Services (USCIS), a naturalization applicant must meet certain criteria required by U.S. immigration law. For instance, an applicant must be 18 or older, be a permanent resident for a certain amount of years (generally five years, but three if the applicant is married to a U.S. citizen), be of good moral character, and have physically lived in the U.S. for at least 30 consecutive months before the application date.

In addition, applicants must be able to read, write and speak English, although this requirement can be waived depending on the age of the applicant and how long he or she has lived in the U.S. Applicants must also have a basic understanding of how the U.S. government works and will be asked civics-related questions during the interview process.

The first step is to apply for naturalized citizenship with form N-400, which must be submitted to USCIS, along with filing fees including a fee for fingerprinting. Once a case is processed, USCIS schedules an interview with the prospective applicant and issues a written notice of its decision—granted, continued or denied. If citizenship is granted, the applicant will be notified of a date and time for his or her naturalization ceremony. A naturalization applicant is not a U.S. citizen until he or she takes the Oath of Allegiance to the United States at a naturalization ceremony. At that time, the applicant also turns in his or her Permanent Resident Card, also known as a “green card,” and receives a Certificate of Naturalization.

Naturalized citizens enjoy all the rights and responsibilities of natural born citizens, including the right to vote and the right to run for elected office (except for president or vice president of the United States), not to mention the right to “life, liberty and the pursuit of happiness.”

—Jodi L. Miller



Immigration Reform CONTINUED FROM PAGE SIX

under the 14th Amendment to the U.S. Constitution, which established birthright citizenship. The Court's ruling established that the 14th Amendment applied to everyone born in the United States—even to the children of foreigners—and that this constitutional right could not be limited by an act of Congress.

Although Wong Kim Ark won his case, the Chinese Exclusion Act would not be overturned until the Magnuson Act was passed in 1943. The Magnuson Act allowed Chinese nationals already living in the U.S. to become naturalized citizens, something that had been denied to them previously. The Act also permitted a national quota of 105 Chinese immigrants admitted per year.

No refuge from violence

The issue of immigration is complicated and is regulated by the federal government. Legislators have been grappling with the complexities of immigration for decades if not longer.

A related issue regarding immigration is that of asylum. The U.S. traditionally grants protection to migrants fleeing from persecution in their home countries. In recent years asylum has been expanded to include those fleeing domestic violence, as well as gang violence.

In June 2018, former Attorney General Jeff Sessions overturned those expanded asylum protections, contending the (asylum) **statute** is not a remedy for all misfortune.



"The mere fact that a country may have problems effectively policing certain crimes—such as domestic violence or gang violence—or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim," Sessions stated. "I understand that many victims of domestic violence may seek to flee from their home countries to extricate themselves from a dire situation or to give themselves the opportunity for a better life. But the asylum statute is not a general hardship statute." The ACLU sued over the administration's decision, arguing the ruling effectively guts the nation's asylum protections.

In November 2018, the Trump administration began refusing sanctuary to immigrants illegally crossing the U.S.-Mexico border instead of using a designated port of entry. A federal judge blocked the administration from enforcing the order, saying the President cannot "rewrite immigration laws to

impose a condition Congress has expressly forbidden."

The Justice Department challenged the court's ruling, threatening to take the case to the U.S. Supreme Court if the order was not lifted, but Alan Hyde, a professor at Rutgers Law School—Newark, doubts the case will make it to the high court.

"People have a right under U.S. and international law to seek asylum if they face persecution in their country of residence," Professor Hyde says. "They may or may not be entitled to asylum—they have to prove they face group persecution, not just poverty—but they have a right to ask, and about half are probably entitled to it. The administration argues they can refuse to consider asylum applications under the President's power to suspend entry, applied in *Trump v. Hawaii*, but as that case pointed out, suspending entry is completely different from authorizing migration." (For an explanation of *Trump v. Hawaii* see the fall 2018 edition of *Respect*.)

Rose Cuisson Villazor, founder of the Rutgers Center for Immigration Law, Policy and Justice, says, "Under the Immigration and Nationality Act, individuals have the right to apply for asylum and may do so regardless of whether they enter at a port of entry." •

Respect
UPDATED
RUNDOWN

When There's More to the Story....

Immigration is a hot-button issue and there is sure to be updates to the stories contained in this Special Immigration Edition of *Respect*.

So, while you're waiting for the next issue, check out **The Rundown**, *Respect's* update blog.

You can access the blog by clicking "Blogs" from the navigation bar on the NJSBF's homepage (njsbf.org).

Citizen or Not—Everyone Counts in U.S. Census CONTINUED FROM PAGE FIVE

undercounted minorities by 1.5 million people and over-counted the white population, according to a Census Bureau study.

In a memo to Commerce Secretary Wilbur Ross, the Census Bureau's Chief Scientist John Abowd wrote that adding the citizenship question "is very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources."

Although census responses are private, immigrant fears of deportation if they fill out the form are not unfounded. Data from the 1940 Census was used to round up Japanese Americans during World War II after the bombing of Pearl Harbor when they were sent to internment camps for the duration of the war.

Why was the citizenship question added?

Rose Cuison Villazor, a professor at Rutgers Law School—Newark, explains that advocates of adding the question have concerns about voter dilution, which is when a particular racial group's vote is weakened.

"The argument they've made is that the government needs to have an accurate number [of voters] from the census because otherwise there is a voter dilution problem," Professor Cuison Villazor says. "Meaning, the voting population should be accurately reflected in the actual distribution of congressional seats and districts."

But basing the census solely on U.S. citizens would violate the U.S. Constitution, Professor Cuison Villazor says, and notes the government has the ability to unearth citizenship status information from other sources beyond the census. For instance, the Census Bureau's American Community Survey (ACS) includes a citizenship status question.

The ACS collects data from 2.6 percent of the population. But, Secretary Ross told Congress the ACS is "insufficient in scope, detail and certainty to meet its purpose under" the Voting Rights Act.

Headed to U.S. Supreme Court

In a lawsuit filed in the Southern District of New York, the **plaintiffs** asserted the citizenship question "will lead to nonresponse and lower participation by many immigrants who are legal citizens and legal residents and live in mixed immigration status households." Mixed households are families that have children born in this country but whose parents **emigrated** from another country and may have varied immigration statuses from being a legal permanent resident (but not a voter) to being undocumented.

In January 2019, Judge Jesse M. Furman issued a decision blocking the citizenship question from being asked on the 2020 Census. The judge's ruling declared that Secretary Ross violated not only the Administrative Procedure Act but also provisions in the Census Act, including limiting the number of questions that can be asked on the census and failing to report to Congress on

what census questions would be asked at least three years in advance.

In his ruling, Judge Furman wrote: "Secretary Ross's decision to add a citizenship question to the 2020 Census—even if it did not violate the Constitution itself—was unlawful for a multitude of independent reasons and must be set aside."

Judge Furman's decision is expected to be **appealed**. In the meantime, there are five other lawsuits concerning the citizenship question pending across the country; two of them—one in Maryland and another in California—began in January 2019. All of these cases will likely end up at the U.S. Supreme Court, which is under pressure to resolve the issue because questions for the 2020 Census must be finalized by June 2019 so that the national headcount can begin in January 2020. •



Glossary

appeal—a complaint to a higher court regarding the decision of a lower court. **arbitrary**—random or subjective.
capricious—impulsive or fickle. **emigrate**—to leave one's home country in order to settle permanently in another.
jurisdiction—a system of law courts. **plaintiff**—person or persons bringing a civil lawsuit against another person or entity. **rescind**—take back or cancel, repeal; to void an act or an order. **statute**—legislation that has been signed into law.
sovereignty—supremacy of authority over a defined area or population.