

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical Deferred Action for Critically Ill Children

CQ Transcriptions

September 11, 2019 Wednesday

Copyright 2019 CQ-Roll Call, Inc. All Rights Reserved

All materials herein are protected by United States copyright law and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of CQ Transcriptions. You may not alter or remove any trademark, copyright or other notice from copies of the content.

Body

House Oversight And Reform Subcommittee On Civil Rights And Civil Liberties Holds Hearing On Medical **Deferred Action** For Critically Ill Children

September 11, 2019 12:00 P.M.

SPEAKERS:

REP. JAMIE RASKIN (D-MD.), CHAIRMAN

REP. CAROLYN B. MALONEY (D-N.Y.)

REP. WILLIAM LACY CLAY (D-MO.)

REP. DEBBIE WASSERMAN SCHULTZ (D-FLA.)

REP. ROBIN KELLY (D-ILL.)

REP. JIMMY GOMEZ (D-CALIF.)

REP. ALEXANDRIA OCASIO-CORTEZ (D-N.Y.)

REP. AYANNA S. PRESSLEY (D-MASS.)

DEL. ELEANOR HOLMES NORTON (D-D.C.)

REP. RASHIDA TLAIB (D-MICH.)

REP. MARK DESAULNIER (D-CALIF.)

REP. KATIE HILL (D-CALIF.)

REP. GLENN GROTHMAN (R-WIS.)

REP. ELIJAH E. CUMMINGS (D-MD.), EX-OFFICIO

REP. CHIP ROY (R-TEXAS), RANKING MEMBER

REP. JUSTIN AMASH (R-MICH.)

REP. THOMAS MASSIE (R-KY.)

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

REP. MARK MEADOWS (R-N.C.)

REP. JODY B. HICE (R-GA.)

REP. MICHAEL CLOUD (R-TEXAS)

REP. CAROL MILLER (R-W.VA.)

REP. JIM JORDAN (R-OHIO), EX-OFFICIO

[*]RASKIN: The subcommittee will come to order. Without objection, the chair is authorized to declare a recess of the committee at any time. Today's subcommittee hearing is about the administration's decision to end consideration of requests to defer deportation, including for critically ill children. We have a number of members who are waiving on today, and we are delighted to have them. And without objection, I will waive on Katie Hill from California, Mark DeSaulnier from California, Rashida Tlaib from Michigan and Glenn Grothman from Wisconsin, all members of the broader oversight committee.

I now will recognize myself or five minutes to give an opening statement. I want to welcome all of our witnesses and their families who have come from all over the country today, and I want to thank them for testifying, particularly Ms. Bueso, who is from Mr. DeSaulnier's district in California, and Mr. Sanchez who is from Ms. Pressley's district in Massachusetts.

It's hard to imagine what the past month has been like for you and for your families, and I appreciate your coming forward bravely to share your stories with us. I also want to extend my gratitude to Ms. Pressley and Mr. DeSaulnier for their characteristically excellent efforts to address this current turn of events. And I also want to thank our other witnesses, Dr. Danaher, Mr. Marino and Mr. Renaud for coming today.

We are here to discuss the Trump administration's decision to deport critically ill children and their families from our country. This policy is completely at odds with American values. People come to our country to receive life-saving treatment from our pioneering doctors and hospitals and researchers, and we do not expect our government to implement life-denying policies.

Last month, without notifying Congress or the public, the U.S. Citizenship and Immigration Services, USCIS, began denying all nonmilitary deferred action requests. Most of these requests are made by sick immigrants and their families who are seeking to stay in the United States to receive critical medical care that is simply not available to them in their home countries.

The administration decided to cast out some of the most vulnerable and defenseless people on earth, and there are families across America whose children would essentially be sentenced to death, eventually, by this stunningly harsh and cruel policy. Ms. Bueso, who is here today, was invited to the U.S. to participate in a medical study on her disease that extended her life expectancy by 10 years. To live, she relies on a weekly infusion that's unavailable in her home country, and she'll tell you about it.

Mr. Sanchez, Jonathan, whom I've met, suffers from cystic fibrosis, a disease that my family knows well, and I am also the proud representative of the Cystic Fibrosis Foundation in Montgomery County, which has led a campaign that has absolutely transformed the treatment of cystic fibrosis and made America the leader in pioneering medical research and change in that disease. Jonathan's parents lost his older sister to the disease due to dramatically inferior and substandard medical care in Honduras, and he will tell you about that. And now they face the prospect of being sent back there.

Joachim Norville, a seven-year-old boy from Guyana, was in the United States when he suffered a seizure and was diagnosed with epilepsy. He was visiting his grandparents who are U.S. citizens. Thanks to deferred action, his grandparents did not have to send him back to Guyana where continuing treatment for his collapsed lung, colon infection and the removal of his large intestine was essentially impossible. His mother fears that returning to Guiana now would be, quote, signing my son's death warrant.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

Serena (INAUDIBLE), 14-year-old with a congenital heart condition, has already gone beyond the life expectancy given to her by doctors in Spain. I think actually Serena's 16. I'm not sure if I've got the right information there, but she'll correct us.

An eight-year-old girl in Miami suffering from nerve cancer relies on her dad to take her to monthly treatments in New York. Her father needs deferred action to stay in the United States with his daughter.

A man from Venezuela has been able to care for his wife who suffers from a brain blood flow malformation, and his daughter has metastatic stage IV neuroblastoma. The administration told him to leave this--leave the country this month or to face deportation.

This new policy threatens sick immigrants who may be forced to leave America and end their life-saving treatment. It threatens U.S. citizens and lawful residents who rely on immigrant family members for financial and emotional support while they're here. It threatens crucial medical research and progress by undermining clinical trials that rely on the participation of immigrants with rare diseases, and we'll hear about that.

The officials responsible for this policy must be held accountable for their recklessness and their failure to take even the most basic steps to determine the incalculable harm that would have resulted from this policy. The administration's decision to expel these immigrants was exacerbated by the limited time they were given to leave.

According to medical experts, 33 days is not nearly enough time to even attempt to arrange for proper continuity of medical care overseas. For days, UCIS and ICE squabbled about who was responsible for the decision and how to implement it and whether there was indeed a new process for stay requests. As they bickered, families were left in panic with all-consuming dread and terror.

USCIS claimed that ICE would consider stay requests, but ICE denied those reports. The only recourse ICE offers would require vulnerable families to risk deportation before they can request a stay of removal. This is the unnecessary collateral damage facing every family caught between this bureaucratic tug-of-war between USCIS and ICE. It appears that no one in either agency contemplated or cared about the full implications of this change for the families involved.

This administration's recent so-called reversal of the policy does not resolve the life-and-death consequences faced by many more families. After these heart-wrenching realities became public, the administration backtracked and announced that it would reopen all deferral requests that were pending on August 7, but there are still critical questions left unanswered. Will anyone who applied after August 7 be eligible for relief? Does the administration actually plan to grant relief to those who have reopened applications? What will happen to families that are currently receiving deferred action but will need to reapply once their two-year stay expires?

Without answers to these key questions, the administration's reversal appears primarily aimed at avoiding a tidal wave of criticism from the public. It gives the appearance of change without necessarily altering the essence of the policy. The administration must immediately and completely reverse this policy and continue granting deferred action requests in cases of the people who are here today and those like them. There are people who applied after August 7 who are still facing the 33-day deadline to leave America, a deadline that will arrive within days or weeks for some people. That's unacceptable.

There is no justification for the incompetence of this decision, and there is no excuse for the recklessness displayed by our government in this whole affair. I look forward to having a serious and rigorous analysis of these events and a discussion of how we can all move forward together to repair the damage.

It's now my honor to recognize our distinguished ranking member, Mr. Roy from Texas, for his opening statement.

ROY: Well, I thank the distinguished chairman. It's nice to see you back, and to be back here. I appreciate the witnesses for taking the time out of your schedules and your lives for being here. And I appreciate your testimony today.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

I think that as we gather here today it is important to remember and reflect that today is September 11, that we as a nation reflect on the tragedy of the terrorist attacks 18 years ago today. A number of us on a bipartisan basis gathered on the Capitol steps today in a moment of silence, and our hearts and prayers and thoughts are all with, obviously, those affected by it and the family members. But importantly, also that we remember those who in the law enforcement community, first responders, people that ran toward buildings, and--and really just want to thank all of our law enforcement community, including you, Mr. Renaud, and your life of public service and law enforcement and supporting the United States.

I would also, you know, note that I want to thank the chairman for moving the hearing to today. There was some discussion of it occurring during August, last week. It would have been very difficult for people to make it, so I'm glad that it's this week so we can have a better attendance.

I think as we discuss this topic, and it's an important topic, that perspective is important. This past summer we've seen, obviously, an unprecedented surge in migrants crossing into our country. We saw a growing humanitarian crisis at our border. At the end of August apprehensions for the fiscal year are around 818,000, and we've already outpaced the total for 2018, which was 521,000.

We've seen agencies such as border patrol and ICE struggling to fulfill their mission. You know, the committee has held three hearings in the month of July alone on immigration border security. And during August, I personally made a visit to DHS facilities in McAllen, Texas. I was pleased to be joined by my friend, the gentleman from Ohio, Mr. Jordan, as well as my friend from Texas, Mr. Cloud, to look and see what's occurring down on our southern border.

And they're important conversations to have as a member of Congress, as an American, as a Christian. We should be compassionate and do the right thing. We should help those in need. The question, though, is that we are a nation of laws. We're a nation of sovereignty, and we are willing--and you know, what question I think is important to ask is are we willing to send a clear message of what those laws are and then figure out how to navigate within a system of rule of laws so that we can understand how it impacts our nation, who pays for health care and what the expectations are.

My understanding, for example, is the average number of cases that we're talking about today is about 1000 a year, give or take. That's an important number. These are real people, and for each one of those--one of those thousand, this is extremely important, and we need to figure out the right processes and make them work.

Let's keep in mind we're talking about 1000 cases, and right now, as we previously discussed, we've had almost 900,000 people who have crossed and been apprehended into our country since last October 1. That's an enormous number, of whom almost 600,000 have been caught and released into our nation. These are matter of fact.

We've had a significant onslaught where CBP and ICE are trying to figure out what to do. We've got an overwhelmed system. USCIS is overwhelmed. The entire system is bulging at the seams because we, this body, refuse to do our job. Simply put. We're not doing our job to send clear signals and to make sure that the resources are there to adequately deal with the situation at hand.

And you know, let's think about, you know, the people who deserve our compassion. I think those people, all the people that we're talking about here deserve our compassion, including those, of those 900,000 I just talked about, who are abused on a journey because they're going through a tough journey with illicit illegal organizations in Mexico, who are often in stash houses, who are often being held for ransom, women, girls abused on the journey, and we ignore that while we talk about how great open borders are. For some reason the false name of compassion, how good that is on our southern border.

Let's talk about the 600,000 that were caught and released in a sort of perpetual cycle in the United States. Let's talk about human trafficking in this country that is getting worse because we're allowing illegal organizations to extend into our communities. And let's talk about the compassion owed to our law enforcement personnel, CBP,

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

ICE and other agents who've been overwhelmed and are being trashed on a daily basis by members of the United States Congress, trashed with deceitful and outright lies, disparaging these law-enforcement officers doing their job.

And today, though, as we discuss medical deferred action, I think we should ask some serious questions. Does the--does the process we have work, yes or no? Is anybody left outside looking in who doesn't know what the rules of the road are? Let's establish what the rules of the road are, and let's follow them, and let's send clear signals as to what those are. And then let's operate in the right humane and compassionate way to handle those questions.

What agency is best situated to handle status questions for those seeking health care? Is it USCIS? Is it ICE? Is it anybody else? Let's answer those questions honestly and not hide behind rhetoric. Let's set a clear message, what are the rules, and then follow them.

You know, I'm encouraged today that the agencies are here to correct any information or misinformation about the current status of pending deferred action requests. My understanding is that USCIS has had 791 deferred action requests pending between August 7 and September 5. Denial letters went to 424 of those requests. All of those 424 claims have been reopened and will be evaluated and have received letters indicating that truth.

Certainly love to know the question as to what happened in terms of the letters going out, how that occurred, and then now the reversal of that. I think we should look into that. USCIS did not issue any issue to appear, NTAs, for those 424 requests. That's what I understand. Since August 7, USCIS has rejected 40 deferred action requests. Since September 5 there have been no additional requests.

So we can look in, make sure that's true. That's what I understand. Historically USCIS has been the only agency to grant deferred action to someone not in removal proceedings. Deferred action can be revoked at any time. And would

[*]ROY: when asked how the individuals who may receive deferred action came to the country initially USCIS noted it does not track that data since there is no formal application for the process and it is a mixed bag. I would like to know, I would like to track that, I would like to understand it and I would like to know about it. And so now I think we will learn from some of those things from the hearing today.

So in wrapping up I wanted to reiterate what I said in our July hearing. If we want real reform, real change then we need to be discussing the root of the problem. The problem in my opinion is that we refuse as a Congress to stand behind the rule of law and make clear that our immigration and border laws are enforced. I think we need clear rules of the road and I think we need to follow them. I think that is better for our nation, I think that is better for our sovereignty. I think that is better for the migrants who seek to come here.

I think it is better for those who are sick looking for care. I think it is better for a just and humane way of dealing with things and I think that we should stop sending mixed signals. I think we should stop sending signals it is okay to come here a legally, to stay over visas, to empower illicit criminal organizations and card tells and to basically have a system where we have indentured servitude in our country because we are allowing this broken system to continue.

We just had 50,000 apprehensions at the Southwest border in August. You see lots of news accounts saying how that is dropping down and how we should celebrate that. Well, it's still enormously high. It is still an enormously high number. They are still overwhelmed at the border even as those decline in the heat of the summer. At the peak of the crisis there were 132,000 apprehensions at the border and as this pro--proceeding continues today we need to remember the underlying factors driving the crisis.

We need to secure the border and do our job and let all of the pointing of fingers that the agencies and spewing of rhetoric here doesn't solve the problem but rather real reform start here in Congress. I want to thank the agencies for appearing today. I would like to thank all of the witnesses for appearing today and look forward to hearing from each one of you through the rest of the hearing. Thank you, Mr. Chairman.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: All right, Mr. Roy. Thank you very much and I want to associate myself with your comments about 9/11 and I am glad indeed that we were able to have the ceremony of all of the members of the House today observing this important remembrance.

I now want to welcome our first panel of witnesses. It is my pleasure to have you here and I think you all for the great pains you have come to join us.

The witnesses are Maria Isabel Bueso, Jonathan Sanchez, Shoba Wadhia who is a clinical professor of law and the director of the Center for Immigrants' Rights Clinic at Penn State law school; Dr. Fiona Danaher who is a pediatrician from Mass General Hospital Chelsea pediatrics and Mass General health child protection; Anthony Marino, the director of immigration legal services at the Irish International Immigrant Center and Mr. Thomas (INAUDIBLE) the former director of the U.S. Immigration Customs Enforcement.

If the--okay. For all of the witnesses who are able please rise and raise your right hands and I will begin by swearing the whole panel and if you are not please just raise your hand. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth so help you God? Let the record show that the witnesses all answered in the affirmative. Thank you very much.

Please be seated. Please speak directly into the microphones. You have five minutes and without objection your written statements will be made part of the record so we will get a comprehensive look at what you have to say even if you don't get it all in within the five minutes. With that, Ms. Bueso you are now recognized to give an oral presentation of your testimony.

BUESO: I would like to thank the members of the House committee on oversight reform for the opportunity to appear before you and hear my story.

My name is Maria Isabel Bueso Wadia. I am 24 years old. I came to the U.S. from Guatemala when I was only 72 participate in a clinical trial to save my life and the life of those like me. I came here a legal and have been a legal resident in this country for over 16 years but on August 13 the U.S. (INAUDIBLE) sent a letter giving me and my family just 33 days to leave the country but we were grateful to learn that our case will be reopened our future is still in question. It has been an overwhelming time for my family and me because the medical treatment I need is not available in Guatemala.

I was born with MPSA(SP) which affects less than 2000 people in the world. MPSA is a rare life-threatening disorder. My life expectancy was very short and the doctors said I might not live into my teens. After the time of my diagnosis there were no approved therapies to treat MPSA. (INAUDIBLE) I met Dr. (INAUDIBLE) at (INAUDIBLE) here at a hospital in Oakland. Who was conducting clinical trials on and (INAUDIBLE) therapy? He desperately needed more patients willing to participate in this research. I was selected for the trial and my family was invited to come to the USA on (INAUDIBLE) visa so I could participate in this study. As a young child it was not fun spending so much time in a hospital but I understood it was an honor and a privilege.

As I mature it was a reward to know that what I was doing was going to help a lot of people. I have continued participating in clinical trials until the state to help the next generation (INAUDIBLE) with my disease. In the first study I participated in was (INAUDIBLE) successful and led to the FDA approval of the first and only treatment. Thanks to this study (INAUDIBLE) in the U.S. now have a safe and effective treatment that will help them live longer and have a higher quality of life. Doctors told me that if I stop the treatment my condition will decline quickly and I could die within months so after the FDA approval my family relocated to California so I could continue receiving this life-saving treatment.

In addition to (INAUDIBLE) I also suffer from paraplegia and I use a power wheelchair for mobility. I have a tracheotomy and I have a (INAUDIBLE) shunt in my brain making my health care even more complicated. Still the decision to relocate was hard. My parents left a middle-class life, their (INAUDIBLE) careers, family and friends. My father is a computer (INAUDIBLE) engineer and (INAUDIBLE) sponsor for an H1(SP) visa so that he could provide

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

for us. In 2009 we put in for a change in status that (INAUDIBLE) for humanitarian reasons. We renew this status every two years but this year due to changing policy our request was denied. I want to live.

I am a human being with hopes and dreams in my life. Despite my physical challenges I have worked hard to achieve my goals. I graduated summa cum laude from (INAUDIBLE) and was director of the (INAUDIBLE) for the Concorde(SP) campus. I established a scholarship (INAUDIBLE) with physical and mental disability at (INAUDIBLE) and I now work as an advocate for people with rare diseases. This summer I was an intern at California assembly member (INAUDIBLE) district in Oakland with the incredible support of my family I have stayed positive and maintained hope through many struggles.

I am grateful for the opportunities this country has given me to receive medical treatment and to live much longer than expected and I am grateful for the humane immigration policies that have made my life here possible and (INAUDIBLE) I want to make a difference for others. I am asking Congress and the administration to come together and to write the wrong of this changing policy. This is not a partisan issue. It is a humanitarian issue and our life depends on it. Thank you so much.

RASKIN: Thank you very much Ms. Bueso. Mr. Sanchez?

SANCHEZ: My name is Jonathan Eduardo Sanchez (INAUDIBLE) and I am a 16 years boy that has cystic fibrosis, a disease that affects primarily the lungs. Also it affects the digestive system and my pancreas. I want to tell you about my life back in my native country, that is Honduras and how much life has changed since I came to the USA on 2016.

I was born in (INAUDIBLE) Honduras in 2003. I lived there for my first 12 years of my life. When I was three months old my parents found that I had CF. It was a pretty scary day for them. It wasn't frightening because three years before I was born they had a daughter named Samantha. She was born with a problem in her intestines. Unfortunately the doctors in Honduras didn't know how to treat her or how to help her. Six months and two days after she was born my sister passed away. This was a pretty heartbreaking moment for my parents.

Two--one month after they noticed that she had cystic fibrosis and right now they are worried that if I go back to my country it will happen the same thing to me. In the year 2016 we came to the USA legally with our tourist visas to search for a better cystic fibrosis treatment for me. When I go for the first time to Boston children's Hospital in Massachusetts they made me a pulmonary function test and the results told me that I had only 40--42 percent of my pulmonary function test. The doctor's of Boston Children's Hospital told my parents that I came to the USA literally dying. After the first visit they sent me home with some of the CF medication that I should took and that I wasn't able to get in my country.

The first time I start to get on the treatment I got pretty tired because I wasn't used to. The doctors after they made me another pulmonary function test. This time it gave the answer of 60 percent, 69 percent of my pulmonary function test. Right now my baseline 90, 97. I am--sorry. Right now I am using a medication called (INAUDIBLE) that helps like the cystic fibrosis mutation lives for a bit of time but this medication is only on two countries, England and the United States of America. CF requires a daily home treatment that takes around half an hour or two hours if it is longer. This treatment it is basically a (INAUDIBLE) this and nebulizers. I also take tons of medicines for my pancreas, my stomach, my lungs and the other organs that are affected by cystic fibrosis.

However since we got the letter denying medical deferred action application

[*]SANCHEZ: and we need to leave the country in 33 days or we'll be deported. My parents and I felt the stressed, sad, scared, and mad. And it's incredibly unfair to kick out kids who are in hospitals or at home getting treatments to save their lives. The day our lawyers told us that the medical deferred action program was canceled, I started crying and telling my mom I don't want to die. I don't want to die. If I go back to Honduras, I will die.

After this, I feel so tired both emotionally and mentally. I could not even sleep properly. I feel disappointed with the USA government that they canceled this program. Sorry for that. On my point of view thinking that deporting sick

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

kids like me, it will be a legal homicide because in our countries doesn't exist any type of treatment. Thank you for your time.

RASKIN: Thank you, Mr. Sanchez. Doctor Wadhia.

WADHIA: Ranking member Jordan, Chairman Raskin, ranking member Roy, and distinguished members of the committee, thank you for inviting me to appear before you today. I am a law professor at Penn State law in University Park and testifying in my individual capacity. My scholarship teaching and practice focus on immigration law, a field I have worked in for 20 years. I have published two books with NYU press. My first book, *Beyond Deportation*, binds nearly a decade of research on the history of prosecutorial discretion and deferred action in immigration cases. My second book, *Banned*, examines immigration enforcement and discretion during the first 18 months of the Trump administration.

Deferred action enjoys a long history in both Democratic and Republican administrations. First called nonpriority status, deferred action operated informally for most of the 20th century. In the early 1970s as part of his effort to support his clients, John Lennon and Yoko Ono, attorney Leon Wilds reviewed over 1800 deferred action cases, many involving medical infirmity and humanitarian factors. In 1975, INS issued guidance on deferred action through operations instructions. In 1996, the operations instructions were removed into a new publication known as standard operating procedures, or SOP.

The 2012 SOP from USCIS describes how an individual, legal representative, or USCIS can request deferred action. Deferred action does not provide a formal legal status, but the legal foundation to use it is crystal clear. The immigration status statute, federal court decisions, and legal opinions by INS and DHS have recognized the legality of deferred action. Regulations published during the Reagan administration explicitly identify deferred action as one basis for work authorization. USCIS has used deferred action and medical and humanitarian cases for decades. The idea is long-standing, and in fact, customary.

In one data set I've received in 2011, nearly half of the cases I could identify involved serious medical conditions and many of the cases involve more than one factor. For example, deferred action was granted to a 47-year-old schizophrenic who overstayed his visa, was the son of a lawful permanent resident, and had siblings who were U.S. citizens. Over 100 of these cases involve people whose homes were destroyed by an earthquake in Haiti. In another data set, 578 cases obtained from USCIS in 2013, 336 were based on medical issues. One case involved a Mexican female who entered the United States without inspection and had to U.S. citizen children. One of her children had Down syndrome and the other child had serious medical conditions.

I received a third data set from USCIS in 2016, again revealing that many deferred action requests were based on serious medical conditions. The data set included a child with burns on over 65 percent of their body and parents of USC children with cerebral palsy. USCIS has a long history and the expertise of handling cases for vulnerable populations and should continue to process humanitarian deferred action cases. Preserving an affirmative deferred action process at USCIS allows a person to request what is often a lifesaving protection without having to undergo removal proceedings, and also saves the government resources.

Further, nearly every legal opinion from INS and DHS on prosecutorial discretion instructs officers to exercise prosecutorial discretion at the earliest stage of the enforcement process. Stripping USCIS of jurisdiction over deferred action forces a noncitizen to instead exhaust the enforcement process. Who is served by placing a cancer patient who might ordinarily request deferred action at USCIS into the removal process? No one. Finally, USCIS should improve transparency by publishing statistics about deferred action and providing greater notice and information to the public.

RASKIN: Thank you, Doctor Wadhia. I'm afraid your time is up. We will have further time for questions. Doctor Danaher.

DANAHER: Ranking member Jordan, Chairman Raskin, ranking member Roy, and distinguished members of the committee, thank you for the opportunity to testify before you today. I am Doctor Fiona Danaher, a pediatrician at

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

Massachusetts General Hospital for children that I and my colleagues share where much of my clinical work focuses on the care of children and immigrant families. I have come here today to express the profound concerns of over USCIS potential termination of the medical deferred action program.

Our hospital cares for children who have been benefited from the program, including a young child with a rare genetic condition that causes seizures and development challenges. In the country of origin, this child's condition is stigmatizing and deemed unworthy of care. The family was told the child would suffer from retractable seizures and died within a year. Refusing to accept that nothing could be done, the family left everything behind to seek a second opinion at Mass. General hospital specialized clinic devoted to this genetic condition. One of only a handful of such clinics in the world.

Thanks to the family's determination and the care of a dedicated clinical team, this child has lived a longer and much richer life, attending school and achieving some ability and social skills. None of this would have been possible without the medical deferred action program. Now the child status is due for renewal at a time when the program may arbitrarily end, jeopardizing much hard won progress.

When pediatricians care for medically complex children, we often do so with baited breath. These children are, by definition, vulnerable. Whether they suffer from cancer, cystic fibrosis, muscular dystrophy, cerebral palsy, or one of any number of other diseases, they require care from a multi-disciplinary team of specialists. Depending upon their underlying condition, and ever as simple as a missed dose medication, a dislodged tracheostomy breathing tube, or a poorly covered sneeze could spell catastrophe. For many of these children, their health is so tenuous as to make travel unsafe and their clinicians would hesitate to even transfer them to another hospital within the United States, never mind overseas.

Should these children be forced to return to their home countries, their care may be impeded not only by stigma and misunderstanding, as in our patient's case, but by lack of basic resources. Access to safe food and water is not a given in many parts of the world and chronically ill children routinely die from malnutrition or infection as a result. Unreliable electrical grids threaten the health of children who depend upon interventions such as pumps, ventilators, or medications that spoil without consistent refrigeration. Particularly frail children can die from heat related complications for want of access to air conditioning. Severe air pollution in developing countries poses a dire hazard for children with underlying lung disease and immunocompromised children are poorly equipped to handle exposure to endemic infectious diseases such as malaria, diarrhea, measles, and ammonia.

Healthcare systems in many low-middle income countries healthcare systems in many low. Are still in their nascence. Simply transporting an acutely ill child to a hospital can pose an insurmountable challenge in areas without ambulances or safe roads. Supply chains are inconsistent so should the child to make it to the hospital, the medications and equipment he or she needs may still prove unobtainable, as may the skilled personnel needed to administer them. It is sadly not hyperbole to say that sending medically fragile children to such an environments amounts to issuing them as death sentence.

Adding insult to injury, such children could find themselves unable to access even the most rudimentary palliative care to ease the anxiety of their passing.

Perhaps no intervention is more crucial to minimize the suffering of a severely ill child than maintaining the presence of a loving family member at the bedside struggling. Terminating the medical deferred action program would leave some medically complex U.S. citizen children struggling not only with the physical burden of their disease, but with the emotional trauma of forced separation from their immigrant parents. No child can be expected to heal under such circumstances. This is not just bad medicine, it is unconscionably inhumane.

The U.S. Department of Health and Human Services building here in Washington DC bears an engraved quote from its namesake, Bert H Humphrey. It reads the moral test of government is how it treats those who are in the dawn of life, the children, those are in the twilight of life, the aged, and those in the shadows of life, the sick, the needy, and the handicapped. My colleagues at Mass General and I respectfully urge USCIS to embrace the moral imperative of permitting our young patients the opportunity to heal and to thrive. Thank you.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: Thank you, Doctor Don. Mr. Marino.

MARINO: Chairman Raskin, ranking member Joy--Roy, ranking member Jordan, distinguished members of the committee, thank you for inviting me here today and for hearing the stories. I'm here today in my capacity as the director of legal services at the Irish international immigrant center, where we provide legal wellness and education services to immigrants from Ireland and 120 countries around the world. In our legal program, we've represented dozens of families facing the horrific circumstances that always accompany an application for deferred action.

In the majority of deferred action cases I've seen, an individual entered temporarily and then fell ill, was gravely injured, or received a terrifying diagnosis. Sometimes the illness or injury makes travel impossible. Sometimes lifesaving treatment is just not available in a home country. In the vast majority of cases we handle, it's a child whose life is at stake. We represent children with cerebral palsy, muscular dystrophy, a child blinded by the cancer in her eyes, a child was suffering multiple seizures every day. We represent children confined to wheelchairs, connected to feeding tubes and tracheostomy tubes, and in each of these cases, there is a family with no desire to break any law but who simply cannot leave without putting a life in danger.

And in these kinds of dire circumstances, the government has always provided a relief valve, a process by which a family could come forward rather than cowering in the shadows over a sick child and lay out their circumstances, explain to USCIS why travel had become impossible, even deadly, and that the government would agree to allow them to continue their child's care. I know that lives have been saved by this program, I've sadly also known children we represented to die in this program. But even in those cases, the brief reprieve by the government bought those families precious time.

This long day standing legal program is what protects people from government actions that would shock the conscience and betray our fundamental values as a nation. I was shocked then three weeks ago when I received the first denial notice. And over the course of the next two weeks, about one dozen more. They all contained language. USCIS field officers no longer consider these applications at all. Leave in 33 days or we may initiate your removal. The decision to terminate the program was done in secret. There was no prior notice, no opportunity to advocate for the program and no opportunity to prepare my clients for those denial letters.

We immediately reached out to all the families who were applying or were in the program already, and I've had some of the most difficult conversations of my life over the past few weeks. Clients have asked me what the government expects them to do, to disconnect a child from lifesaving support, to put them on a flight that they may not survive. They've asked me what I would do.

And we file many applications for parents whose U.S. citizen children suffer these life-threatening diseases, and in these cases the termination of the program threatens yet more family separation. There are parents right now having conversations about whether to orphan a child in order to extend his or her life.

When the terrible reality of what they had done became public, USCIS's initial response to the media was to deny that they had eliminated the program. They claimed they had simply transferred it to ICE, and of course our clients wanted to know what that meant and how much danger their families were in. Media outlets were contacting our center trying to get us to explain it to them, and I had to tell them that the only information I had I was getting from them.

But the transfer to ICE appears to have just been false. There is no new procedure. There is no new program. And ICE officials have since confirmed, again through the media, that they have no program in place and no plan to implement one.

After USCIS's latest press alert last week, we began receiving notices that some cases would be reconsidered. We still don't know what that might mean for those families. The press alert references Department of State regulations, and it's unclear if this means they're applying the same standard they always have, or if they've made up some new standard that we don't know.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

And the press alert and these reconsideration notices we've received still indicate that the program has been terminated moving forward. It leaves no option for families in these dire circumstances now or in the future. Because the program was terminated in secret, people didn't know. They kept filing. We filed applications as recently as August 16, and we have no idea what it means for that case.

Deferred action is a critical, literally lifesaving program that impacts a small number of families but in an absolutely immeasurable way. And ultimately USCIS hasn't backtracked so much as double down. They've delayed the consequences of their decision for a handful of families, but that's it. And unless Congress or the courts **can** either convince or compel USCIS to reinstate the program, everyone in it and everyone that would otherwise benefited from it is in a horribly worse position today.

RASKIN: Thank you very much for your testimony. Mr. Homan.

HOMAN: Chairman Raskin, Ranking Member Roy and distinguished members of the subcommittee, thank you for the opportunity to appear here before you today on this very important subject, which is the appropriate exercise of prosecutorial discretion.

My name is Tom Homan. I'm a veteran of the nation's immigration service. I retired in 2018 after having served more than 34 years enforcing immigration law. As you know, I'm passionate about this issue, and I'm glad to be back to testify in a different aspect of it today. But before I delve into the details pertaining to the subject of today's hearing, I would also like to pause to reflect on this being the 18th anniversary of cowardly 9/11 terrorist attacks on our homeland. May God have mercy on those innocent victims who lost their lives and their families, and may we continue to protect this country against those that want to destroy us and the freedom we enjoy in this country.

I also want to salute and honor the fallen soldiers that took the fight to those who attacked us and made the ultimate sacrifice. I, for one, will never forget.

Regarding today's hearing, I would like to start by clearing up what appears to be a common misunderstanding. It is not lawful to have a **deferred action** program at any federal agency. The word program conjures the idea that an entire class of aliens, if they meet certain criteria, are entitled to a benefit, in this case **deferred action**. That is simply not the case.

When you break it down to the most basic underpinnings of the law, **deferred action** is the exercise of prosecutorial discretion, and prosecutorial discretion, whether it's a stay of removal, **deferred action**, administrative closure may only be exercised, one, on a case-by-case basis and not for a class according to a set of criteria, and two, by law enforcement agencies.

Again, prosecutorial discretion is rightfully only exercisable on a case-by-case basis, and even then only by the relevant prosecuting agency, a law-enforcement agency that has the statutory authority over those laws.

And I'm here to answer those questions about that program today. It's an important hearing, and these are important questions we'll be talking about today. But I want to change the course here for one minute. I understand this hearing is very important, and that's why I accepted the offer to come here today and discuss it with members of Congress and the American people. Any policy that affects lives is important. One death that could have been prevented is too many, but I must voice the concern what I have about these types of hearings.

I have noticed that the House is quick to schedule hearings whenever there is a policy change or an operational change that some think--and usually they're wrong--that this change may negatively impact someone that knowingly violated our laws and may be in the country illegally. I don't see the same sense of urgency when existing policies put our citizens in danger, put this country's security in danger, or results in an unsecured border which results in not just a humanitarian crisis, but a national security crisis.

While we continue to have hearings which contain inaccurate titles, misleading titles that only serve to push a false narrative about the **actions** of this administration and vilify the brave men and women that serve within this

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

administration, you are choosing to ignore a bigger problem that affects many, many, many more lives, many more than this recent policy change. If you want to affect meaningful change that will save countless lives, you need to refocus and add to this hearing today.

For instance, where are the hearings to discuss a crisis on the border and the three loopholes that are causing much of the crisis? Where are the hearings on existing loopholes around asylum laws that are being abused, the TVPRA that is causing many children to be put in the hands of criminal organizations and put in great danger? Where are the hearings concerning the Florida settlement agreement that has resulted in an unprecedented flow of family units that resulted in countless child trafficking victims, 32 percent of women being sexually abused, and children dying?

Criminal cartels are making millions of dollars a year because of Congressional inaction, but I see no hearings on this. These same cartels that have murdered border patrol agents. Where are all those hearings? This humanitarian crisis that's causing a national security crisis because half the border patrol is no longer on the front line. Where is that hearing?

You want to conjure up a false narrative about sending dying children home, but you won't address sanctuary policies that provide sanctuaries to criminals and put our communities at risk. Many children, and others, have been raped and murdered by criminal illegal aliens after being released from a sanctuary jail, but I don't see a hearing on that. Thousands of

[*]HOMAN: born out of sanctuary policies but I don't see the urgency that we have on things that we (INAUDIBLE) the administration on. I don't see a hearing on that. Our nation's heroes in ICE and Border Patrol are under attack. Their families are being attacked and bullied in public, in churches and at schools. Even companies that work with us are under attack and their lives are being threatened. Where are the hearings on that? I hear nothing but dead silence on this issue. What I do see are members of Congress joining in on the hate. Truly unbelievable.

I ask that you step back and take a breath. Attack this administration a little bit less and actually address underlying problems that cause all of these problems. Do your job and fix the loopholes. Make hearings meaningful and actually take some legislative action after the hearing rather than staging more political theater.

No member of Congress should be against securing our border. There is no downside of that. There is no downside (INAUDIBLE) immigration, there is no downside on lessening illegal drugs, there is no downside in taking money out of cartels' hands that are murdering our agents.

Today's hearing is important. I want to make that clear. This is a very important hearing. We need to discuss, I am glad to be here but we need to talk about these other issues (INAUDIBLE).

RASKIN: Thank you, Mr. Homan for your testimony. We will now begin the. Of questioning from the members and I will recognize myself for five minutes for questions.

On September 2, after the subcommittee demanded US CIS and ICE appeared at this hearing the administration announced a partial reversal of the new policy. In particular US CIS stated that it would quote reopen request for deferred action that were quote pending on August 7, 2019. Ms. Bueso, you and your family were told by USCIS in a letter dated August 13, 2019, that you need to leave the country by September 14 which is this coming Saturday.

I would like to put the letter up on the screen if we could and in the mean time quickly let me just ask you a question, Ms. Bueso. You were recruited to participate in several clinical trials is that right?

BUESO: That is correct.

RASKIN: So you were here both for your own treatment but also to participate in these trials that could help every one suffering (INAUDIBLE)?

BUESO: Yes, help many, many--many to make trial to help other people.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: Okay, very good. Now if we look up on the screen USCIS says if you failed to depart the United States within 33 days of the date of this letter, USCIS may issue you a notice to appear and commence removal proceedings against you with the immigration court. Was your request submitted before August 7, 2019?

BUESO: We--we--did our package on--on May.

RASKIN: I'm sorry?

BUESO: On May.

RASKIN: In May, in the month of May, okay.

BUESO: May.

RASKIN: Have you received anything from USCIS about your case since this letter came on August 13?

BUESO: No. We just we received that letter on August 13 (INAUDIBLE) and then we got another letter from the USCIS that they were going to reopen it but it's still uncertain the situation.

RASKIN: Okay, so you got a letter saying it has been reopened--

BUESO: But is uncertain, it is not clear. (INAUDIBLE)

RASKIN: But we don't know what that means.

BUESO: Yeah, we don't know what that means and I have (INAUDIBLE) my lawyer Martin he can answer your question, too.

RASKIN: US CIS says I understand it has not explained to anyone with the practical implications are of this partial reversal in the wake of public protest about what had happened including whether in the request submitted prior to August 7 would eventually be approved.

Mr. Marino in light of this punitive reversal what concerns do you have four people who requested deferred action before August 7?

MARINO: Yeah, I--I wouldn't call it a reversal because the press alert that US CIS issued still indicates that they have terminated the program. They just said they are going to finish the cases that were pending on August 7. So we--I have clients with--with sick children now who need access to this program and aren't able to file.

RASKIN: Okay. Mr. Homan had advised against using the idea of a program saying this is just selective case by case granting of the deferral. What--what is your response to that?

MARINO: Yeah, I don't--I don't see the distinction. There are lots of programs that have individual discretionary decisions made in them. There is a standard operating procedure for it. If he doesn't like the word program that--that's fine but--

RASKIN: Do you feel confident that request like Ms. Bueso's will get a full and fair review from US CIS?

MARINO: I--I certainly hope so. I am remaining confident. I have told my clients I hope that those that they will consider will--will get the same consideration that they have always gotten in the past. This language in the press alert of about some State Department regulation we are not sure what that means so.

RASKIN: There is even more uncertainty about the future of critically ill kids whose families submitted request after August 7. What is going to happen to immigrants and families who fell on the wrong side of this August 7 deadline?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

MARINO: I have no idea. We--we filed at least one case after that and we have received nothing. So we--we didn't receive a denial. We haven't received any--anything about new procedures being in place. We just don't know.

RASKIN: And these are people who are in relatively similar circumstances in terms of critical medical situations?

MARINO: Yes. So I have about 19 families that we represent and they are all critical medical conditions.

RASKIN: How would you describe their mental condition given the legal uncertainty?

MARINO: It has been absolute chaos. People are terrified. We have had more conversations in my office with crying clients than ever in history and that is a big thing to say in the immigration legal services office. It--it has been devastating. People are terrified. It--it is their children's lives.

RASKIN: Dr. Danaher let me come to you. What--what is the attitude of doctors, nurses, medical personnel given the current context about what has happened?

DANAHER: Frankly we are rather appalled. These patients are incredibly sick and they--they need care and we would like to provide it for them.

RASKIN: Okay. And my time has expired and I'm happy to recognize Mr.--Mr. Hice for his five minutes.

HICE: Thank you, Mr. Chairman. We are a compassionate country and that goes for both sides of the aisle and the vast majority of people in this country and it is an honor and a privilege to be able to help those in need and I welcome and thank everyone on the panel for being here today.

But there--there are issues that are before us today that are broader than what is on the surface. We have organizations for example like USCIS and ICE who are now being forced to make decisions they should not be forced to make because this Congress refuses to pass and deal with serious immigration reform and implement it. This committee continues the same type of political posturing and attacks towards this administration regarding the border crisis while at the same time doing absolutely nothing to address the problem and to offer authentic solutions. If--if the Democrats generally cared about the plight of migrants of unaccompanied children of sick immigrants and so forth let's come to the table and let's try to get solutions instead of the continued political posturing. Let me just review a few things in the recent months that unproductive activity.

In June a member from this committee--from the other side of the aisle remark that the United States is running concentration camps on our southern border vilifying the men and women of ICE, our border patrol agents who are putting their lives on the line every day to defend us and protect this country. Then a group of my colleagues on the other side of the aisle issued a press release criticizing the emergency border supplemental bill that provided increased funding that would have helped. Then a dozen of my Democrat members visited Clint(SP), Texas, the CBP facility there later alleging the unsanitary conditions there and that individuals were being forced to drink out of toilets.

Look, we can address problems if we are willing to get to the root of the issues and address them. We have the authority here to do so but there are things staring astride Beth the face that we are totally ignoring like amending our broken asylum process, reviewing the Flores settlement agreement, increased funding for border security. Listen I have been at the border, I think I have been to six out of the nine sectors. I am not seeing any of the things that have come from my colleagues on the other side of the aisle. I've seen great hard-working members of our CBP and others giving all they've got to do a job well done.

And look we--we have got to address solutions rather and the solution is not open border policy. The solutions are not to decriminalize border crossings. Mr. Homan let me just ask you and thank you and all again for joining us. Why would having an open border policy pose a security risk?

HOMAN: Well, for example right now Border Patrol has about 50% of their staff off-line. So if you are someone in this world who wants to do harm to this country you are not going to buy a plane ticket because there are too many

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

background checks done. You can't get a visa because of the visa security program. You are going to enter this country the way 12 to 20 million others enter especially now when half of the order is unsecure.

HICE: In essence is decriminalizing border crossing is that kind of in itself really an open border policy?

HOMAN: Yes, it--it is another enticement like sanctuary cities that give them free college education or free medical care or--or rewarding illegal behavior by giving people citizenship. It is another enticement that these people put themselves in harm's way to come here to the country and put themselves in the hands of criminal organizations.

HICE: What--what does it do to the morale of those who are on the border, those who are agents trying to do their job when be at members of the press or members of Congress push false narratives as to what is going on down there? What--what does that do to the morale?

HOMAN: Well, it hurts their morale, not only the morale of the men and women that carry the badge and gun, it hurts the morale of their families. The spouses that say goodbye to their spouse every day to leave the--the safety and security of their home to defend this nation. It--and their families, their kids being attacked. When I was ICE director my kid was attacked. He had death threats against him. It is out of control so they men and women of ICE and Border Patrol deserve our thanks not the ridiculed by members of Congress or--or the media.

And this open borders policy doesn't solve anything, it is going to create more people--it--come to this country illegally, more women will be raped, more children will die and I have said that for two years--

RASKIN: Thank you, Mr. Hice your time has expired. I want to thank the witness and I will call on representative Eleanor Holmes Norton next for her--her five minutes for questioning. Delegate Norton, you are up next. You're up now.

NORTON: Thank you very much. This is a very important hearing because without you we really would have no notion of what is at stake here. The--the newspapers and news reports didn't give us the fine detail, the fabric that you have given us. Ms. Bueso you and your family were granted--you know it's amazing that anybody would want to take this away. I didn't even know we had this. I am so pleased that we had this kind of deferred (INAUDIBLE) we had something of this importance that we didn't even know about and I am sorry we didn't know about it and that we are taking away is mind-boggling to me. I am interested in this matter called MPS six(SP). I would like to know what the symptoms are, how rare it is. Ms. Bueso could you enlighten us on that?

BUESO: Yeah, sure. So like the short version (INAUDIBLE) is a rare kinetic disorder. I was born without an enzyme in my body. And, you know, I was born like a regular baby until by the third week I had developed problems, getting sick a lot, infection, ER. But mostly, since my body is missing an enzyme the only treatment that our parents (INAUDIBLE) is in California and with that treatment I take every single week. So, once a week for six hours. And I have been doing this for the past 16 hours. And with that treatment it had helped me to live longer because before they thought I wasn't going to live to my teen as I mentioned before. And, I'm really grateful.

But also, it caused a little problem with my heart, my lung, my bone, spine, eyes, teeth--its--it's a whole--whole list. But I'm--I'm really grateful for the treatment that--that my parents found because it helped me live longer and not have so--not become so sick. But it's really rare and not many people know about it.

NORTON: Thank you. It's important for us to understand this--this condition. I do want to indicate there is a quid pro quo here. Obviously, those on deferred action are getting treatment they wouldn't otherwise get. And look what we are getting--because of the diversity of our country we are getting what we couldn't get otherwise. And that is of course, the experience that can help many more perhaps from the United States I--I want to know the importance of having family. We couldn't possibly, could we, Ms. Bueso, ask such people to continue this trial without family--how important it is to have somebody besides you.

Suppose somebody said, OK, let that patient--patient--let that person remain what would it mean if there was nobody with you but you were by yourself?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

BUESO: You know, I'm really grateful for my family. You know, to come here for my treatment. And also, I'm really (INAUDIBLE) to continue doing so many clinical trials because now the medical I'm getting for MPS are giving it to babies which that mean that they're--they're going to, you know, have less problems you know because they are starting early and more energy and I'm truly, truly blessed to--to continue with clinical trials (INAUDIBLE) doctors can know more about MPS. Because this is a really rare condition. But I'm really blessed with my family.

NORTON: Yeah, it seems to me that without the family's presence this wouldn't even be possible for--for these citizens to remain and get help for themselves and help us with others. Mr. Marino does deferred action help citizens and legal residents if so or not would you let us know how?

MARINO: Absolutely, half of the children and the--and the families that we represent who are--have these illnesses are U.S. citizens. And the deferred action requests are parents so that the parents are able to stay here and are able to work, to care for the child, to contribute to the cost of their medical care, to pay the rent. So there are definitely with families and children, there are U.S. citizens that are heavily impacted by this.

And if they were to be forced to leave in 33 days, the result would be that they would have to choose between orphaning the child, leaving the child behind to continue to get the treatment, or taking the risk of putting them on a flight or pulling them off of the treatment.

RASKIN: Thank you. The gentlelady's time is expired. I recognize Mr. Keller for five minutes.

KELLER: Thank you, Mr. Chairman, and I want to thank the members of the panel for being here today. A truly important issue. The health care in America is the greatest in the world, and having been the--I'm a parent of a son who received life-saving treatment when he was three, and you will do anything to help your child. And again, I just want to say that to the families and the people that are being treated.

The question is for the panelists, Dr. Wadhia and Mr. Marino. You've been dealing with deferred action--I guess, Dr., I'll talk to you first. You had mentioned in your testimony about the 1970s and the '80s and much guidance and things with deferred action. I think it would be best if we as Congress would lay this out in the law so that it could not change. Have you ever contacted a member of Congress with solutions or ideas that we could put in legislation that would help define this, since there hasn't been clarity according to some of the--

WADHIA: (OFF-MIC) I haven't had a specific conversation about codifying deferred action into legislation, but what I can say is that greater transparency and identification of the factors that will be considered being available to the public is something I greatly value.

I would also say that we could have legislation. We need reform as the representative said earlier. Even with a comprehensive reform we will always need discretion. And so to the extent that the role that discretion and deferred action, in particular, play--the action in particular plays in protecting people in humanitarian cases, we will always need that. So I see all of these cases as a sort of Hail Mary cases, if you will, and it enjoys a very long history.

KELLER: It does, but in order to make sure that everybody understands the clarity of it, you know, I think that would be--you know, it would go a long way as part of the reform that we look at when we look at immigration reform. You know, Mr. Marino, you had talked about people being in your office and looking for clarity. Did you reach out to any of the federal agencies and ask them for clarity, and did they respond to you on clarity?

MARINO: So USCIS doesn't really communicate with us anymore. There is an 800 number that we can call that they have a private contracted customer service person will call you back, but on the issues like this, those lines of communications have really been slow.

KELLER: Did you--did you call and ask them for guidance?

MARINO: So the 800 number, no.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

KELLER: No, them at all. I mean, any of the agencies.

MARINO: So through the professional association, the American Immigration Lawyers Association that I'm a member of, they have liaisons contacted within USCIS, and there were contacts there, to try and figure out what was going on. And my understanding is the response we got was just that, yes, this program has been eliminated, and there wasn't any--

KELLER: Again, as people--you know, Dr., as (INAUDIBLE) and Mr. Marino, I would--I would--I would suggest that, you know--and I'll make the offer because I think Dr.--Dr. Wadhia, I think you're a constituent of mine if you live in State College, to work with you on solutions. But you know, here again, we're talking about people that have situations, but we're also talking about the bigger issue of making sure it's clear on all points of our immigration. So I guess I would say that.

Mr. Homan, if I could just pivot to you, can you talk about, you know, why it might be best to let USCIS determine whether or not to grant deferred action, you know, or, you know, should it be appropriate for US--for that, or should it be ICE? I mean, where should we have this program? Who should be determining this?

HOMAN: I don't think CIS should have this authority because I think the authority lies with the agency that has statutory authority over the decisions. ICE makes the arrests, ICE detains, and ICE removes. So if someone is going to ask for deferred action on that immigration action, it shouldn't be a non-law-enforcement agency exercising prosecutorial discretion. It should be ICE on a case-by-case basis making that determination.

KELLER: Okay, I appreciate that. And I guess I'm just going to--I've only got a couple seconds here, but you know, just saying hey, we as the United States have a lot of things that we need to make sure people understand, and by the ambiguity of our immigration laws we've created a lot of confusion. And you know, I guess I would say to the chairman and other people, you know if we didn't have clarity from these agencies and those people are confused, I would hope that we did, that we as the committee, the chair of the committee would have asked for that guidance, too, so that we could put it out to the people. And I don't know if any of you have asked the committee for guidance to see how to behave either.

RASKIN: The gentleman's time is expired, but I wanted to thank Mr. Keller, a new member of our committee, for a truly excellent line of questions there, and I would be delighted to work with you further on exploring whether there is a role for a legislative remedy and formalization of some of the criteria and standards that seem to be just kind of floating in the ether in the various departments. I will at this point call for five minutes on representative Debbie Wasserman Schultz.

WASSERMAN SCHULTZ: Thank you, Mr. Chairman. Before I ask my questions, since it has not yet been done I think it's important to really make sure that the jingoist, bigoted testimony of Mr. Homan is called out as nearly completely untrue, as being an outrage. And as a former official directing the Immigration and Customs Enforcement Agency, he should know better. So making sure that I am--

UNKNOWN: Mr. Chairman.

WASSERMAN SCHULTZ: No, no, this is my five minutes.

HOMAN: What did I say that was inaccurate?

WASSERMAN SCHULTZ: I'm not asking a question.

RASKIN: Okay, the gentlelady is recognized for five minutes. She's made her point, and I will try to resolve any other issues at the end of her questioning.

WASSERMAN SCHULTZ: Thank you. So I just think it's important that it's not accepted as accurate testimony. That having been said, Ms. Bueso and Mr. Sanchez, I want to start by thanking you for your courage and for sharing your stories today. Both of you have publicly stated that this policy change constitutes a death sentence for you.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

Please know that my Democratic colleagues and, and perhaps of some of the--our colleagues on the other side of the aisle, will do all we can to reverse what is a disgusting decision by the Trump administration.

Mr. Sanchez, in your testimony you spoke of your parents. I'm a mother. I have a cousin with cystic fibrosis. Many in this room are parents. And there are few anguishes greater than your child being sick, much less being one who was unable to access life-saving care. Your parents did exactly what any parent would do. They found a way, against impossible odds, to make sure you were safe and to keep you alive.

Our country should be proud to have doctors and treatments that can help kids like you. Every parent here should see themselves in your parents, whose love and tenacity brought you here. We should celebrate your story as a model of the goodness our country can offer. But instead, you're here, unfortunately, today to testify about why you deserve to live. For that our country should be ashamed, and I am so sorry.

Ms. Bueso, I understand you came to the U.S.--I heard your testimony--when you were seven years old to participate in a clinical trial for the drug that you now take to survive. Can you tell me a little bit about--tell us a little bit about your treatment and what you think would happen if you were not able to continue that treatment?

BUESO: So I've been taking this weekly treatment every Friday, once a week, and it's through an IV, and I go to the hospital, and it's six hours long. And it had helped me live longer because, as I mentioned, I was born without (INAUDIBLE). So if I stop taking the treatment, which I've been doing for 16 years, but if I stop getting the treatment that my body needs because it is missing, then I'm going to die.

WASSERMAN SCHULTZ: Your doctor wrote a letter to U.S. Citizenship and Immigration Services in April of this year supporting your application for deferred action. I would like to ask that that letter be put up on the screen. He wrote, and I quote, it is imperative that Maria Isabel continues to receive this treatment for her life-threatening disease. He continued, quote, if she were to return to Guatemala she would no longer have access to the medication, and she would die. This must be really difficult for you to think about. Having survived a life-threatening illness myself, I know that fear. What scares you the most about the idea of returning to Guatemala?

BUESO: Well, first of all the treatment because I need the treatment, and then also my medical care that I need that has been, you know, with being in California for so long. So it's really terrifying to think about it, you know, but I've been praying a lot. So I'm hoping that the resolution (PH) can come to this because it is very overwhelming and devastating, and just thinking about you're going to die when you have still so many dreams and hope for your life. It's really devastating.

WASSERMAN SCHULTZ: I really can't imagine, but I can imagine as a parent the fear that I would have for my own children if, God forbid, that was the case. Mr. Sanchez, can you tell me about the--I'm somewhat familiar with the procedures that cystic fibrosis kids have to go through. Can you tell us a little bit about the treatments that you currently receive for your CF and would you be able to get those same treatments in Honduras?

SANCHEZ: No, I won't be able to get them in Honduras because there is no machines, no supplementaries (PH) for the treatments. There isn't anything in Honduras for CF. They don't even know--the doctors doesn't know what CF is.

WASSERMAN SCHULTZ: As my time is expiring, if Dr. Danaher could elaborate on the risks that medically fragile children face if they are forced to turn--if they're forced to return to their home countries, and then I'll yield back.

DANAHER: I mean, it's different for every child, but their care is so complex that it's hard to imagine that any of the children in this program could receive the full treatment that they need should they leave the country. That's why they were granted the status in the first place.

RASKIN: Thank you very much. The gentlelady's time is expired, and I recognize Mr. Jordan for questioning for five minutes.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

JORDAN: Thank you, Mr. Chairman. Mr. Marino, the letters that were sent to the 424 families, none of them have been officially told that they would not be allowed to stay in the United States. Is that accurate? They're just--those individuals and those families are being--they're in the reevaluation, reopening of the case, but there's been no definitive decision made on those families. Is that accurate?

MARINO: Since the September--you mean the new letter, since September 2?

JORDAN: Right.

MARINO: That's correct. They're just reconsidered. So they're back open, and we're waiting for a decision. That's right.

JORDAN: And we assume

[*]JORDAN: hope and assume that those--those individuals are going to be that are here now they are in some kind of our witnesses what some of our witnesses already they are in some kind of a clinical trial, some kind of treatment program that they are going to be allowed to stay?

MARINO: I sure hope so.

JORDAN: Yeah, so do I. I mean we all do and I think that's the--the--I think that is the most logical and likely outcome and probably what will happen. So how long have you been in--- Mac in your business working with these families? I think you said you had 19 families you are working with right now that have a pending application.

MARINO: Yeah, so I have been--

JORDAN: 19 families outside this 424 and any families you may have that are in that category, is that right?

MARINO: So the 19 families I have there are some families that about half of the families that have a pending application and then another and then the other half are split between people who are preparing to file initially--

JORDAN: Okay.

MARINO: --and people who are in the deferred action program now.

JORDAN: So you've got some within the 424, some without, right?

MARINO: Right.

JORDAN: That's--and okay. So and you have been doing this for a number of years?

MARINO: Yes.

JORDAN: How many years?

MARINO: I have been at the IIC for five years. I have been an immigration lawyer nine years. I don't know the first time I filed one but--

JORDAN: Have you ever had anyone denied?

MARINO: I have not but I know that they have been. I think that the reason I have not is we and legal services kind of have a well-earned reputation of cherry picking cases.

JORDAN: But people--

MARINO: We file them in very serious--

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

JORDAN: But some people get denied?

MARINO: Yes, absolutely.

JORDAN: Not just in the trump administration, some people got denied in the Obama administration, probably some people got denied in the Bush administration, right?

MARINO: Yeah, I've never had a categorical denial where they are all denied because we are no longer considering these cases anymore. I have seen--

JORDAN: We haven't had that either. We just got a reopening re-examination and we all anticipate based on the information we've got from the US CIS that they are going to be able to stay. All I'm asking is in the past people are similar situation--similarly situated have been denied?

MARINO: On a case-by-case basis, not categorically.

JORDAN: Right, I understand. I understand. Okay. Again I just want to make that clear this is like we are hearing from the side this is unbelievable but there have been people similarly situated who have been denied in the past.

MARINO: I wouldn't say similarly situated. I don't think that any of the clients that I have now in the situation that they are in with--with the need for critical life-saving medical treatment would have been denied in the past.

JORDAN: Okay. And I don't think they are going to be denied now. I think they got a notice that there is going to be a reopening of the case and I don't think they are going to be denied. I certainly hope they are not denied I think all of us are in that category and based on the communication we have seen that seems to be where this is headed.

MARINO: But that is just for those cases that were pending on August 7. The program has still been eliminated going forward it seems and they apparently--

JORDAN: They are going to be--they are going to be looked at on a case-by-case basis.

MARINO: Just the ones that were pending on August 7.

JORDAN: Right. I got that.

MARINO: But the program has still been eliminated that--that is our concern.

JORDAN: Okay, got it. Mr. Homan is there a crisis on the border?

HOMAN: Of course.

JORDAN: And has there been a crisis there for a long time?

HOMAN: Yes.

JORDAN: I just want to get--because your--your testimony is that the broader issue and I--this is critically important but we also have a broader issue that we have unbelievable numbers we have seen on the border with apprehensions and everything else, right?

HOMAN: Absolutely. And if I can respond to the earlier remark from Wasserman Schultz I have forgotten more about this issue than you will ever know. So to say my testimony is inaccurate is wrong. Everything I said here is accurate. Bottom line. If you want to go toe to toe I am here. I am here on my own time to speak to the American people about what is what and what is fact.

WASSERMAN SCHULTZ: I am sure happy to go toe to toe with you Mr. Homan. Happy to do that any day.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

HOMAN: Well, I--I am here. But you've got to let me respond to your question rather than dropping a bomb and running away.

WASSERMAN SCHULTZ: It was my time (INAUDIBLE).

HOMAN: There is a crisis on the border and--and it is not going to go away if we keep enticing more and more--if we want to abolish ICE, we want to give away college education and drivers licenses and free medical care and rewarding illegal behavior you are never going to solve the immigration crisis on the border. It's not going to happen.

JORDAN: It probably doesn't help them when certain members of Congress criticize the agents down there trying to do their job, probably doesn't help when you have pictures put on websites that talk about cages when in fact the picture was from the Obama administration. Probably doesn't help when you say the crisis is fake, contrived, and manufactured and hold off spending the \$4.6 billion we needed to actually deal with the crisis that got much worse. Probably doesn't help with all those--all of those factors either, does it?

HOMAN: no, sir.

JORDAN: It probably doesn't help that you've got cities declaring themselves sanctuaries. That probably doesn't help the situation either.

HOMAN: And it doesn't help to have a missed message that all of the sudden deferred action is going away, but all of the sudden prosecutorial discretion is going away for this policy change. I myself have approved many request for (INAUDIBLE) removal for medical issues. ICE doesn't put their heart on a shelf when they wear the badge and gun and all of the sudden they don't care about humanity. It is ridiculous. It is a ridiculous false narrative and I'm going to be here until the day I died defending the men and women of the Border Patrol and ICE who put it on the line every day for this country.

RASKIN: Thank you. The gentleman's time has expired.--

JORDAN: Thank you for your service.

RASKIN: -- Representative Ocasio-Cortez for her five minutes of questioning.

OCASIO-CORTEZ: Thank you Mr. Chair and I would like to thank my colleague Ayanna Pressley and Mr. (INAUDIBLE) for--for your work also in organizing this hearing in a critically important issue at this time.

Ms. Bueso and Mr. Sanchez I want to thank you both for coming to testify. I want--I would like to thank all of our witnesses for coming to testify before this committee. It is an enormous--it is enormously taxing physically, emotionally, mentally to come here and to testify before this committee and to prepare for your testimony, no less to testify for the length at which you all are doing. So I would like to thank you. I would like to recognize that you are doing it not just out of self-preservation but to make sure that thousands of children and other people in the United States are protected.

I would also like to apologize to you both for the behavior of some of the members of this committee where they are speaking in profoundly dehumanizing terms to you and you don't deserve that. I would like to apologize to you on behalf of the United States of America for the dehumanizing policies that they are pursuing to better--frankly targeting you and targeting many people in the United States and we are fighting for a better country that we can be proud of when it comes to how we treat all people and understanding the circumstances that they are coming from. And I would also like to recognize the intrinsic value that you have and offer to everybody that you encounter in our country.

Speaking of which Ms. Bueso do you remember in--a long time ago and you may not but in 2003 participating in a clinical trial for MPS6 in Oakland, California?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

BUESO: I was really young, I was seven but I do remember coming here with my mom and being participate in a clinical trial.

OCASIO-CORTEZ: You were seven years old?

BUESO: Yes, seven or eight, yes in 2003.

OCASIO-CORTEZ: Do you remember and again I know you were very young but do you remember a girl named Maria(SP) (INAUDIBLE)?

BUESO: Is she from New York?

OCASIO-CORTEZ: She is from New York.

BUESO: Yeah.

OCASIO-CORTEZ: She is a constituent of mine and she wants to write and submit to the Congressional record a letter of support for you to stay in the United States. So Mr. Chairman I would like to seek unanimous consent to offer this letter to the Congressional record.

RASKIN: Without objection the letter will be entered.

OCASIO-CORTEZ: And clearly you had a profound impact on her and I think it's a testimony to your character and just who you are as a person. That being said Ms.-- Professor Wadhia direct and deferred action rather ensures that children can stay in the United States to receive treatment for life-threatening medical conditions without fear of being deported, correct?

WADHIA: (INAUDIBLE)

OCASIO-CORTEZ: And the deferred action is subject to very strict internal controls. You have reviewed hundreds of these actions of these cases and the reasons for granting deferred action are generally limited to very serious life and death issues, isn't that correct?

WADHIA: Correct.

OCASIO-CORTEZ: So folks and people like Mr. Sanchez and Ms. Bueso are not collateral damage to this administration's policy, they are the target, correct?

WADHIA: Correct.

OCASIO-CORTEZ: Is targeting--is targeting and changing policy to specifically target people with life-threatening diseases for deportation essentially killing them through deportation? Would you characterize that as cruel?

WADHIA: I would.

OCASIO-CORTEZ: This is a cruel policy change and this fits a pattern that we have been seeing over and over again or this committee of a culture and policies specifically almost animated by cruelty. We hear over and over again and we've heard it today from folks across this committee that they are under resourced, that we have to continue dumping billions of dollars into enforcement, into putting children in cages, into--into a system that is quite literally killing people but meanwhile we are adding to the restore strains by forcing people to go through the ordeal, forcing this country through the ordeal of needlessly deporting people like Ms. Bueso and Mr. Sanchez. Of course you are under resourced because--under resourced for your goals because your goals is to deport people that have no reason human--on humanitarian grounds or otherwise to be deported. Would you agree with that, Ms.--Dr. Wadhia, is that an assessment--is that how it strikes you?

RASKIN: They witness may answer the question.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

WADHIA: It--it does and it goes to my testimony about how we spend resources. This change in policy also throws a wrench into the rule of law because of the fact that discretion is such a necessary component and part of the rule of law. We have to make choices about who we are going to target for removal and who we are going to place (INAUDIBLE).

OCASIO-CORTEZ: And when we want to talk about morale--

RASKIN: Okay. The gentlelady's time has expired now. I want to recognize Mr. Meadows for five minutes for his questions.

MEADOWS: Thank you Mr. Chairman. Mr. Marino I wasn't going to ask questions but I'm trying to get my--my hands around this and--and you made a statement in that--what program is going away? You--you said a program is going away and this deferred action in terms of case-by-case situation from what I understand it's not going away, it's just the proposal is to move it to ICE. So--so why--what--what program is going away?

MARINO: I--I haven't seen any proposal to move anything to ICE and--

MEADOWS: So what program is going away?

MARINO: Deferred action before USCIS.

MEADOWS: But where are you getting your doc-- I mean I guess what I'm saying is I am not aware of

[*]MEADOWS: any program that has been recommended that goes away. I mean, these cases have been opened back up, but my understanding was is we were just going to move it over so the adjudication is actually handled by ice. Is that not correct?

MARINO: No. My understanding is that was what--part of the problem here is that there have been no--there was no public notice of any of this. So what we know--

MEADOWS: --Yeah, but your statement to Mr. Jordan a few minutes ago was that the program was going away.

MARINO: Yeah, so I--

MEADOWS: --So--so what program is that?

MARINO: Medical deferred action at USCIS.

MEADOWS: So--and you're basing that deferred action is going away based on what?

MARINO: So the denial notice we received--

MEADOWS: --That's one notice for one individual.

MARINO: No, no well, everyone that I've seen has been identical. They are all--

MEADOWS: --No, no, I get that for the 400 and some odd, but we are reopening that up. So I guess--

MARINO: --Right, but it's--

MEADOWS: --Here's what I don't want to do is create panic assuming that we are going to do away with deferred action when I haven't seen anything from either of the groups that would suggest that.

MARINO: It says USCIS field offices no longer considered deferred action requests.

MEADOWS: Right. To move it to a different--different processing.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

MARINO: No, that part is not here.

MEADOWS: No, I understand it's not in that letter, but--but didn't you get a follow-up letter on that--on that which has their opening up for the adjudication?

MARINO: So--

MEADOWS: --Yes.

MARINO: So then they issued a--a press alert that they were going to reopen these cases--

MEADOWS: --Right, and so--

MARINO: --September 2--

MEADOWS: --Right and so anybody that you have in the key right now--

MARINO: --Which they said USCIS stopped its consideration of deferred action for nonmilitary requesters. So they said that the cases that were pending as of August 7, they were just going to clear out those cases. But the program--

MEADOWS: --Okay--

MARINO: --Deferred action has still new been admitted ended.

MEADOWS: All right. So Mr. Chairman, let me--what I would like to--oh, excuse me, Madam Chairman. I didn't see you pop in the chair there. Madam Chairman, I would like to--let's work together. I think what we've got is a situation where, listen, you don't have a compassionate bone in your body if you're not looking at this and saying we got to address this. We're going to address this. Here's what I also don't want to do Mr. Marino, is assumed that we got this panic out there that we're going to do away with everything. I would--I would like to work in a bipartisan way to figure out how we look at the humanitarian needs that we have, and yet do it in a way that is systemically reasonable and yet efficient. Does that sound fair?

OCASIO-CORTEZ: I think it sounds--I think it sounds fair. I think it be good for us to come together and at least provide some certainty in the lives of these folks.

MEADOWS: And I'll yield the balance of my time to Mr. Roy.

ROY: Thank you, Mr. Meadows. Just adding on that, the same question just to extend, is it--and let me ask you this, Mr. Homan. You said earlier that you think, Mr. Homan, that ICE is the proper place to deal with these questions. Am I mistaken in my understanding that what we got here is simply, for better or worse for this hearing to decide and for the purposes of what Mr. Meadows and Miss Ocasio Cortez were just talking about how this process should work. In other words, in this case, USCIS is saying we are not processing of after August 2, right? We're not--were not going to handle these. We're not going to make these deferred action decisions after August 7. Essentially then, that goes to ICE and then ICE is going to have to make, I mean, ICE will deal with decisions they're going to deal with respect to expedited removal decisions or anything else. And then ICE can choose to figure out how to handle these questions if ICE puts and policies in place that would allow that to occur. I mean, is that--Mr. Homan, your recommendation or thought?

HOMAN: ICE already--they make prosecutorial discretion decisions every day on do we arrest, do we not arrest? Do we detain, do not detain? Do we put in proceedings, do we not put in proceedings. Do we remove or not remove? You know, like I said earlier, I have personally approved deferred action requests days of removal for medical issues. So it isn't like the whole process is going to go away, it's a--it's a bureaucratic process to move from one agency to the other agency and it's currently in an agency that I don't think should have the authority over

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

making decisions that the other agency has statutory authority over. That's the basis of all prosecutorial discretion matters.

ROY: And I'll--let me just add one thing. We'll ask this question of the next panel, right, about what their intent is, and then I would--when I get my time back, I want to address with Mr. Marino, you know, your head shaking in both directions. So let me do that when I get back.

OCASIO-CORTEZ: Thank you. The chair now recognizes the gentle lady from Massachusetts, Ms. Pressley.

PRESSLEY: Thank you, Madam chair. I--I do want to say that our colleagues across the aisle have stated outright and implied that there are dramatics happening on this side of the aisle. No drama, just hard facts. And that is that repeatedly, people have been asked to weaponize their lived experiences and their pain, which has been brought about by neglect or by intentional attacks by this administration time and time again. People have come before this committee to talk about the trauma of gun violence, the trauma of what's happening at our borders, the trauma of negotiating lifesaving medication like insulin, and now the trauma and the fear of children, people that are coming before this committee demanding the community and the dignity in them appealing for their very lives. That's where we find ourselves.

So just when I think the occupant of this White House and his xenophobic administration cannot reach any new lows, they go even lower deciding to give seriously ill children and their families 33 days to leave the country or risk being deported. No dramatics, the hard facts. And because of the outrage by millions of Americans, because this does fly in the face of the values that we espouse as a nation in the public outcry and the partnership of my colleagues, and the leadership of this committee, we are having this hearing today to shine a spotlight on this appalling policy that lives are hanging in the balance and to hold this administration accountable. No dramatics, no posturing, just the hard facts.

And to add insult to injury, they tried to do this under the radar, no public announcement, no opportunity or effort to hear from those most impacted. Appalling, shameful. These family stories have spurred righteous rage, public outcry, and rightfully so. And I want to thank Mr. Sanchez and Miss Bueso for joining us for your bravery. You are true patriots by every definition in my estimation. I can only imagine how hard this is, battling a chronic, life-threatening illness layered by the threat of deportation. I want to also thank your caregivers and your caretakers and your families for being here with you and what they do every day.

Mr. Marino, can you please just succinctly clarify, because there is been a muddying of the waters here, truly a revisionist history, we would not have Miss Bueso and Mr. Sanchez here doing what they are doing in the face of great physical and emotional burden if this a fake panic. So can you please clarify the revisionist history by my colleagues on the other side of the aisle and tell us why do you think it is necessary for USCIS to continue to grant deferred action and just speak to what has transpired here?

MARINO: Sure. I'll give you a little bit of the--the history as I understand it and what we've learned. I also think that Doctor Wadhia is probably better prepared to answer some of this of why it belongs at USCIS where this program always has been. There is no new program at ICE and none of my clients are eligible to--to apply for anything from ICE. They can't walk into a nice office and apply for deferred action the way that they always have from USCIS. I believe that what Mr. Homan is talking about he saying he's granted stays of removal in the past. That's only available to people who have been ordered removed and are on orders of supervision. So they've been ordered removed and ice is actually carrying through with deporting them. It's basically on your way to the airport, you can ask us for permission to stay for a year, and then maybe then we'll consider it. So I don't know if the suggestion--I don't understand it, but it seems like maybe the suggestion is that you drag kids from their hospital beds into courtrooms, make them go through a removal procedure proceeding, have a judge ordered them deported, then turn them over to ICE, and then maybe they're going to exercise discretion. I don't really understand.

PRESSLEY: I'm going to reclaim my time. I'm running low on time here.

MARINO: Sure. Go ahead.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

PRESSLEY: Doctor Wadhia, is there something you want to add on the record?

WADHIA: When it comes to a--when it comes to affirmative deferred action requests, this is a policy that has been in the jurisdiction of the USCIS since its inception. These are individuals who are not yet in the removal system.

PRESSLEY: And it has been terminated?

WADHIA: And it has been terminated.

PRESSLEY: Okay.

OCASIO-CORTEZ: Thank you. The chair now recognizes the gentlewoman from West Virginia, Ms. Miller.

MILLER: Thank you, Madam Chairman and ranking member Roy and to all of you all for being here today. Miss Bueso and Mr. Sanchez, I want to thank you for sharing with us your life stories and the experiences that you had.. It has helped shed light on the plight that many are facing and the need for clarity in our

[*]MILLER: system and I--I want to reiterate what the gentleman from North Carolina and from Texas are expressing as well--we need to clarify and we need to understand how we can move forward in a positive way.

Mr. Homan, I would like to direct my questions to you today. I know that in these past couple of months we have had multiple hearings in this committee on the topic of immigration. Has all of this rhetoric helped move the ball forward don solving our nation's larger immigration issues?

HOMAN: I missed the last part of that question, ma'am.

MILLER: I said has all of this rhetoric help move our nation into solving the immigration issues?

HOMAN: No.

MILLER: How would you characterize the Trump Administration's response to the southern border crisis?

HOMAN: I think he's doing the right thing. I think he's the right guy at the right time doing the right thing. Numbers are down 56 percent from the high only because of his actions. Not actions of anybody in this building.

MILLER: When we had Acting Secretary McAleenan here in July he discussed how over 5,000 migrants presenting themselves as family units in the fiscal year 2019, turned out to be fraudulent. How does our current immigration law incentivize illegal entry into our country?

HOMAN: Because there's loopholes that exist that cause families and children to come to this country. And that's one thing that of course, I'm constantly attacked at being--I'm the devil. But if anyone in this room has ever worn a green uniform, seen what I've seen in my career I've seen many dead children and many women that were raped--32 percent the number from (INAUDIBLE) all borders and that is the issue is--it's not about securing a border which no one on this panel should argue a secured border is a better United States. But it's not just about securing the border. It's about saving lives.

And--and--and I feel what is going on here today and--and there are many cases that deserve deferred action significant medical issues. So, don't say that this administration don't care about this because I, personally, have approved deferred action for medical care. But what I'm saying is there's--there's a flip side to this coin. Many, many more lives are lost every year. Border patrol saved 4,000 lives last year. People that would have died if they wouldn't have been rescued. People are drowning in the river. Children are dying. Women are being raped.

MILLER: Repeat that number, please.

HOMAN: 4,000 rescues. And what I'm saying is we have hearing after hearing after hearing but no--I haven't been involved in one haring talking about fixing the problem that's causing the surge. But--you want to talk about family

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

separation, you want to talk about terrible detention conditions, you want to talk about you know, this--this deferred action. And I get it--it's all important. But when are we going to talk about fixing the problem, saving lives and securing our nation.

Like everybody here, I don't care if you're republican or democrat your number one responsibility is to secure this nation. And there's no downside in protecting America and securing our border. And, if you don't like it legislate. Don't ask--don't ask people to ignore the law or twist the law or bend the law or--or find loopholes there, loopholes there--legislate, do your job and fix it. It can be fixed.

But it's going to take--it's going to take a backbone to get it done.

MILLER: So, once again, given all the political rhetoric in Congress in the last couple of months there hasn't been a lot of action on fixing this from my colleagues on the other side. Can you elaborate on the importance of a congressional action on immigration?

HOMAN: It's going to save lives. It's going to take the money out of cartel's hands that only-not only will smuggle people and trafficking children that are coming to this country with relatives that claim are relatives--aren't relatives. We have numerous investigations. Children are being trafficked. And--and I hear a lot of, you know, sympathy today and I share that sympathy. But let's not forget about the other population--children are trafficked and used by criminal cartels--32 percent of women are being raped. Border patrol agents have died defending our nation.

So, I don't understand why congress can't step up and take this seriously and--and fix the issue. This--this is fixable. But it's--but it's people are too busy resisting this president wanting--wanting to see the President of the United States fail on the most important issue facing this nation right now cause it's more important about politics and power than doing your job. It should be about love of country, love of securing this nation, protecting Americans. And, saving lives of people that are vulnerable trying to come to this country because of the enticements and because we failed to address the loopholes that are causing it.

MILLER: Thank you, Mr. Homan. I yield back my time.

OCASIO CORTEZ: Thank you. Chair now recognizes Chairman Cummings for five minutes of questioning.

CUMMINGS: Thank you very much. Mr. Marino, I just heard Mr. Homan say do your job. And, this could be fixed. Today's hearing is about deferred action. And, if we had a house and then we had a senate that would pass legislation and we had a president that would sign--that would sign it this problem which is the subject of this hearing today could be fixed, am I right?

MARINO: Absolutely. I think that the program that's been in place for deferred action at USCIS would be best formalized by legislation. But back to Dr. Wadhia's point that doesn't mean that there doesn't always have to be some--

CUMMINGS: Discretion.

MARINO: --Discretion involved.

CUMMINGS: And, I want to thank our witnesses again for being here today. And I especially like to thank Ms. Bueso and Mr. Sanchez. You are here to remind us that this administration's decision to stop requesting for deferred action has had real consequences on real people. Ms. Bueso let me start with you. What has been the hardest part about living with your disease?

BUESO: The hardest people about my disease is that he question?

CUMMINGS: Yes.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

BUESO: OK. I think--I think it's the problem that goes with it my body that any (INAUDIBLE) surgeries recently I had a spine surgery due to my condition. Again, when I was younger just get a needle every week cause I was young so I didn't like it. But as I got older I got used to it at this point. But--but I don't like to see my disease as a horrible thing cause yeah, I have a disease but I've been opening doors for others continue doing the clinical trials to help other people.

But, I think the hardest of my disease has been you know, in the hospital all the time, doctor's appointments all the time, which is not normal for other of my friends but it's my life. But yeah--

CUMMINGS: The--I really do think that we are at a moral--moral situation. People are striving to live. Trying to breathe the air of our country. Trying to be better. Trying to be healthy. Would you agree that this is a moral issue?

Yes, ma'am?

BUESO: What was the question?

CUMMINGS: Would you agree this is a--we are at a moral--the moral issue? In other words when you're dead you're dead.

BUESO: Yeah.

CUMMINGS: You agree?

BUESO: Yeah, because there has been really overwhelmed situation just knowing that you have to leave 30 days and in my mind I was just thinking when I saw the letter the only thing I could think of is oh my goodness my medicine that has helped keep me alive for so long because as I mentioned before many doctors thought I was not going to live to my teens years. And I'm 24 years old now and graduated from college. Suma cum laude.

(APPLAUSE)

BUESO: So, I'm really--really blessed on that. So, yeah it's really a death sentence for me.

CUMMINGS: You participated in student leadership?

BUESO: I'm sorry?

CUMMINGS: You participated in student leadership?

BUESO: In what?

CUMMINGS: Student government.

BUESO: Oh yeah. Oh yeah, I was a student--I was a director of (INAUDIBLE) at my campus--

CUMMINGS: (INAUDIBLE)

BUESO: --Student government. Yes. I represent the whole (INAUDIBLE) campus on my own.

CUMMINGS: Well, thank you for being here.

BUESO: Thank you.

CUMMINGS: I yield back.

(APPLAUSE)

OCASIO CORTEZ: Thank you. The Chair now recognizes Mr. Grothman for five minutes of questioning.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

GROTHMAN: Sure. First of all, Mr. Homan, I'd like to say I respect I've been at the border three times--I respect law enforcement. I deal with a lot of law enforcement--Sheriffs Department, Police Department, Corrections Officers, there's nobody I have a higher opinion of than Border Patrol and ICE. The compassion these folks have had under the most trying circumstances is something that should ever be commended. And I--I feel bad that some other members of this institution like to slam you folks to make cheap political points. Because if they ever met you and were honest with you they would have a high opinion of the whole crew down there.

Now, I guess we haven't decided yet that ICE is going to be the one making these determinations but you've dealt with a lot of ICE officials and you've been involved for a long time. As a practical matter could you ever under any circumstances see if they had that discretion--anybody from ICE taking someone like the--the two people on the other end of the panel out of this country?

HOMAN: Absolutely. After what I heard--I heard today there's--there's cases here that deserve the attention of prosecutorial discretion. And ICE does that every day. We--we I personally have approved them when I was ICE direction.

GROTHMAN: This would never happen--what I'm trying to get at--do you believe these folks are here to create an unnecessary fear that's never going to happen anyway? In other words, they are scaring people who shouldn't be scared because your former organization would never kick somebody like this out of the country anyway?

HOMAN: I understand their testimony and I applaud them for being here and--and telling their story. They have a good story to tell and regard--regardless of if it's CIS or an ICE officer I think they'd make the right decision.

GROTHMAN: Right. You could not see them kicked out of this country could you?

HOMAN: No.

GROTHMAN: OK. Give you a couple of other questions--we right now have an overall crisis at the border and I think everybody who is down there knows a variety of --

[*]GROTHMAN: our underlying problem is we have way, way, way too many people in this country who are not here legally. Could you give us a general summary of a couple suggestions you have for Congress that we could do that would reduce the number of people in this country illegally so we wouldn't have to make so many judgment decisions?

HOMAN: There's three things that we've been talking about for the last two years. One's a Flores settlement agreement. Back in FY '14 to '15 when the family crisis first started we detained families for 40, 50 days (INAUDIBLE) saw a judge. And it wasn't (INAUDIBLE) Flores reinterpreted the decision that we could only hold them for 20 days, which isn't long enough to see a judge. So we want--we would like to be able to detain them long enough to see a judge. We did it under the Obama administration. I don't know why we can't do it now.

GROTHMAN: We hold--we hold President Trump to a significantly higher standard of care than Barack Obama. That's a--

HOMAN: But it worked. It worked. Once we did that--

GROTHMAN: (INAUDIBLE)

HOMAN: Once they saw the judge, a majority lost their cases and were removed. The second thing we do is look at the Trafficking Victims Protection Act, which is causing children to be smuggled by criminal organizations into this country, and treat children from Central America the same we treat children from Mexico. If you can ascertain and prove that they're not a true victim of trafficking, then they shouldn't get a whole different process than children of Mexico get. They can be removed easier and reunited with families.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

The third thing is the asylum, the asylum levels. Most people will pass their first interview at the border at about 88% to 90% rate. But once they get in front of an immigration court, the current--the last number I saw, 88% of all Central Americans who claimed fear at the border do not get relief from immigration court. So the delta is too high. So we need to close that delta and make it more meaningful where people aren't released into the United States to not only not appear in court, but to not listen to the orders of the judge.

Like I said, 90% lose their case. There's over 100,000 remove orders for family units, but less than 2% have left.

GROTHMAN: Thank you. Now something's been said about--in all these hearings about separating families. We would be appalled if a minor child from the United States went off to Honduras and the Honduras government wouldn't send them back to their parents. Right now if somebody who is an unaccompanied minor comes to this country, do we send them back to their parents, or do we keep them here?

HOMAN: The unaccompanied alien children are given over to ORR. They're in their custody. Most of them are--less than 2% have been removed. Most are here, and that's an issue that no one wants to talk about, right? We talked about the 2500 separations. But at the same time there are 14,000 children in custody at ORR that were smuggled to this country by criminal cartels. That's inhumane.

GROTHMAN: And nobody cares.

HOMAN: I think the government takes better care of them than a criminal cartel would.

GROTHMAN: Absolutely. Thank you.

OCASIO-CORTEZ: Mr. DeSaulnier, you are recognized for five minutes of questioning.

DESAULNIER: Thank you, Madam Chair. And I want to thank the witnesses. I have a prejudice towards one in particular, and I want to thank my colleague, Ms. Pressley in particular, as we represent the two of you and working with her on this issue. Being from San Francisco and Boston we're proud of our medical leading institutions of which you have both benefited from, and it's been terrific, as always, working with my colleague from Boston. And we hope to go further.

On the bigger conversation, Mr. Homan, I just want to remind facts that--folks that most of us on this side want to have a secure border, but we want to have a humane border, and we want the police agencies to follow the Constitution and legislation. I'm not saying you're not. But I have been proud to have police support every time I've run for office since 1991. I take a lot of ride-alongs. I've seen good cultures. I'm not an expert, but I've spent a lot of time, and I've seen bad cultures.

I'm not saying--judging that one way or the other. I believe we should be working on this together, and I would remind my colleagues that in 2013 Senate Bill 744 was a bipartisan effort led by Senator Rubio and Senator McCain, Senator Durbin and Senator Schumer on the Democratic side, passed out almost unanimously, overwhelmingly bipartisan, and it's my understanding that because of members and certain fraction of the Republican caucus, the speaker never brought it for a hearing or a vote.

More recently, Representative Hurd, a Republican, and Representative Aguilar in the last Congress worked together on H.R. 4796, and likewise that never received a hearing. So if you wonder why there haven't been hearings, I think there is certainly shared responsibility. I would argue there is much more on the other side. And I'm open to working with people. It's a problem that a functioning Congress would come up with a bipartisan solution. And members have tried that. Unfortunately, there are people who don't, in my view, want to have a solution because it works for them politically.

Isabel, I just want to walk through your experience. And I want to say for the record what I heard from some of my colleagues on the other side, from Mr. Jordan and from Mr. Meadows, a commitment to us that they would work with us to make sure that you are in this country for a long time, both of you and the people who are here. So let's just walk through what happened with us.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

You did everything you were asked of. You were asked by federal agency to come and be part of this trial to save lives, Americans and others. You came here legally. You want under excruciating treatment for all these years. You still go every week. You paid for it with private pay insurance. Your family came here. You've been here legally the entire time. You have been approved four times, as I understand, one during the Obama administration for deferred action and one during this administration.

What did it feel like on August 13 to get this form letter that is, to my anger--I've carried it in my pocket ever since you gave it to me, we got it. And it isn't even signed by the regional director who I'd like to talk to and find out why he didn't have the courage to sign it. He had to have somebody else sign it for them.

And before you start,¹ my district director who has worked on these cases for years was traumatized because the people who we work with in the regional office in San Francisco, the first conversation with UCIS was--USCIS was it's policy; we can't talk to you about it anymore. When we went to ICE they said we don't know anything about it. I think they were embarrassed and they've got mortgages to pay, but we couldn't--to my colleagues to just--I'm encouraged by them wanting to fix this, but on the other hand somebody has to be held goddamn accountable for what happened and continues to happen. And we still don't know what will happen.

So Isabel, just tell me, with the remainder of my time, as much as you want to talk about it, what it felt like and what it continues to feel like for you and your family to live in circumstances like this where you still have to seek treatment.

BUESO: So just really quick, the way I thought about this horrible letter was actually after my treatment. I was coming down with my mom, normal day like every Friday, and then our lawyer called saying that our letter for the (INAUDIBLE) was denied and you have 33 days to leave (PH). I cried. I was shaking. I was pale. I was just so scared, like, because this is like the first time that we received this kind of letter because, as I mentioned, we've been here for 16 years legally. And this is the first time that we got denied. So my heart just stopped. Everything--I was shaking. I was scared. I just ran to my doctor's office and just told him about it. And then we--we went--we were just scared. And right now I'm still overwhelmed with different emotions, so yeah.

DESAULNIER: Thank you. I'm really proud of you.

BUESO: Thanks.

DESAULNIER: I yield back.

OCASIO-CORTEZ: Thank you. The chair now recognizes Ms. Tlaib for five minutes of questioning.

TLAIB: Thank you, Madam Chair. Thank you all so much for your incredible courage to come before this committee. I can't underestimate the fact that there are so many people that cannot be in this room and that you're here on their behalf. And so I thank you from the bottom of my heart. Even as a mother of two, as somebody that knows people in my district depend on these humanitarian programs. So I want to thank you again, all of you so much.

Also, Professor Wadhia and I have been trying to fight for (INAUDIBLE) immigration reform on the outside. As a young law student, when she was working on trying to educate this chamber over and over again about the broken immigration system and why we needed to fix it. So I'm really, really proud to see you here before the committee. And you still have not backed down in trying to tell the truth about what needs to happen with our immigration system, so I thank you for that.

Some have claimed here in this committee and folks that I've read that there is no need for CIS to provide deferred action because ICE is capable of serving this function, and you see on the--the person testifying for the other side here saying that, and I simply think it's a lie. It's a lie. You know, one of the things--I've only been here eight months, but gas lighting seems to be kind of a thing here. And ICE certainly has the power to defer deportation, but ICE generally does this by issuing so-called administrative stay, and there are critical differences between the relief of USCIS grants under deferred action and ICE's administrative stays.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

So professor, I would like to ask you, please, briefly describe the differences between CIS grants through deferred action and ICE grants under administrative stays.

WADHIA: (OFF-MIC) Great to reconnect with you, as well, Representative. So with USCIS, these grants--these requests are made affirmatively by people who are not yet in removal proceedings, and often with compelling humanitarian reasons to be here like two of our witnesses.

This is a practical form of relief, too, because it saves the government resources by not having to force someone to go into removal proceedings in order to request for protection. It also protects the individual from accruing unlawful presence during their time in deferred action.

Contrast that to a world where ICE is exercising discretion, and I would agree with Mr. Homan; ICE does exercise prosecutorial discretion in a variety of ways. But there is a sharp contrast here. That discretion is often exercised after the person is in the removal system and often after the removal order has been issued. So the government has spent enormous resources, and it may be months or years before a decision is made as to the individual's outcome.

An administrative stay, or a stay of deportation, is one type of prosecutorial discretion in immigration law, and it is often exercised after someone has a removal order. So again, we have the same practical, legal and humanitarian impediments of choosing or using administrative stays as an alternative to affirmative deferred action at USCIS.

TLAIB: And you know, even as a former immigration lawyer I remember, I mean, there's different consequences. And I don't know if Mr. Marino if you know this and you know even as a former immigration lawyer I remember I mean there's different consequences and I don't know if Mr. Marino you--you--if you know this or not as well there are different liabilities here because or what I would call additional consequences if ICE runs this program because then it may impact whether or not in the future they can reenter the United States or obtain a visa in the future. Can you talk a little bit about that?

MARINO: Sure. If--if what we are talking about our stays of removal that ICE currently does--

TLAIB: That's right.

MARINO: Who because it seems like they are not actually taking over deferred action. They are eliminating deferred action and then saying but we may grant you a stay once you have been ordered removed. People who are ordered removed then face a 10 year bar on admissibility back into the United States. So if they were in the future to become eligible for status here and I can think of one example of a client we had who was here for life-saving treatment for a child with medical deferred action. Unfortunately the child did pass away, the family returned home but then the person who the father was able to come back as a permanent resident and had they not been in deferred action that would have never been an option and his other daughter now is in college in the United States because that was available to them.

TLAIB: Thank you. Mr. Homan as a fellow American I just want you to know your contribution as acting director of ICE under this administration will always be remembered as one that was very ruthless and inhumane treatment of asylum seekers, as the author of the separation policy and now of this sick--you know, preventing people--sick children before this committee seeking life-saving medical treatment and will continue always--this is probably the third time I think you before this chamber that I am deeply troubled by your opening statement and continued assault on innocent lives. Then I ask that this administration please stop playing politics with the lives of the children before this committee but also with the lives of many Americans that are directly impacted by the continued broken immigration system in our country. Thank you so much.

OCASIO-CORTEZ: The gentlelady's time--

HOMAN: Can I respond to that--

OCASIO-CORTEZ: --has expired. No, we are moving on to--

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

UNKNOWN: Alexandria--

OCASIO-CORTEZ: Yes?

UNKNOWN: He was in vogue. I would suggest he should be able to at least be able to respond.

OCASIO-CORTEZ: Okay, we will give--

HOMAN: How do I not respond to that? Is this about transparency or not?

UNKNOWN: I will claim that time.

OCASIO-CORTEZ: Would you like your time? The chair will now--the chair now recog-- the chair now recognizes Mr. Roy for five minutes and you can feel free to use your time.

ROY: Mr. Homan I will give you some time here in a second on that. A couple of things and observations. To Ms. Bueso and Mr. Sanchez in particular thank you for being here, wish you both well and--and long lives and glad that you are able to get the care here. Ms. Bueso I am glad you are getting you know the kind of treatment you are getting. I too was in a program similar for a different illness and I'm glad to be able to get kind of trial type treatments and glad that you are able to do that.

A quick question that I want to try to or--or statement and then some clarification. It is my observation that when DHS rolled this policy change for lack of a better term until I get to the second panel to ask US CIS when they rolled it out it is my view that it was not rolled out the way it should be rolled out. Right? It should have been rolled out a different way and we will see what that looks like in the next panel.

If one thought that ICE was the best place to deal with deferred action it would seem to me that the debate then is whether--the question here is where it should be, should it be US CIS or should it be at ICE and that we--if it were--if you were going to accept that premise then what should have been done was much clearer notice given and much and a different kind of transition. Like let's just assume for a minute ICE is the best place for it then a letter should have gone out or a phone call or you know reach out and say hey, no issue. You are going to keep getting health treatment. We are changing processes, this is the way ICE is now going to handle it and so forth and so forth. So I think I would like to just stipulate that that is my view, that that is if you are transitioning the way you previously handled something then you need to have something like that. We will ask the second panel about that.

Having said that I do--I am interested in continuing to learn where it should they exist. We will hear from US CIS in a minute but I want to understand Mr. Homan on that question and we will come to this other stuff in a minute with respect to ICE and why you think it's the best place can you speak to the question at hand here about I think the fear of somebody is here, they are in a tough situation and they are saying okay, we are getting shoved into a pipeline for expedited removal and then hoping there might be a question of discretion and can you kind of walk through how that might work in ICE?

HOMAN: Let's be clear on my testimony. What I have said is as a law enforcement officer prosecutorial discretion needs to be in the hands of those who have statutory authority over those laws so this case by case determination once you carve out a whole class of people you want prosecutorial discretion there is no longer prosecutorial discretion based on a case-by-case.

Now we have talked about states that is what ICE currently do they give stage removal. Mr. Marino what he says I'm not disagreeing with him. Is ICE prepared to make other decisions that CIS was making? That is a question for ICE in the next panel. What I am talking about is ICE needs to have the authority prosecutorial discretion and that is a legal issue and--and--and I think those decisions no other agencies to say well, ICE can't remove that person. That needs to be ICE prosecutorial discretion or you shouldn't put in proceedings. That needs to be ICE decision.

Now are they prepared to do that because they normally don't? You would have to ask the next panel that. I am not lying to my testimony. I am speaking to my 30 years of doing this and what I think prosecutorial discretion means.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

ROY: And the reason I think this matters, right, is the purpose of I hope there is a general agreement about the process and the communication and what should have occurred there that we can have a debate as I think we had a good conversation Alex--or Ms. Ocasio-Cortez and Mr. Meadows said about okay, where do we go forward on this, on that question. We will ask the next panel some of these but it is important for us not to send some signal of panic to use Mr. Meadows term that--that anything is going--going to be problematic going forward that we will address the issue and try and reconcile whatever gaps there are here.

I do think it's also important to note on this question of deferred action the question of when it is a discretion for a prosecutor, right? This is at the core of DACA and (INAUDIBLE), right? We had this litigation in (INAUDIBLE). We went to the court and the court agreed that that was something more than discretion. That was something beyond discretion and I think what we see here in a sort of separation here is that what we are talking about here is discretion. I think Ms. Wadhia I was looking at your testimony and they data points there you said one date I was able to identify included 118 deferred actions of which 107 were approved pending or unknown and a particular data set that you had indicating that each one is case-by-case and there were eight that didn't qualify. I have no idea what those eight were but that is a decision but you know case-by-case decision. To that end let me ask one question, final in my last five minutes Mr. Homan would you like to address and would you please address any of the statements made against you?

HOMAN: Yeah, I want to address the last comments made about me being appalling and--and first of all I serve my country for 34 years, I saved many lives and I ran an agency--let's be frank about what ICE does. ICE last year took a season opioids off the streets of this country that could have killed every man, woman, and child in the United States twice. They have arrested thousands of sexual predators that preyed on children. They rescued thousands of children who are victims of predators. They are arrested hundreds of women that were victims of sex trafficking. I am proud of the agency and ICE and what we don't want to talk about is nearly 90% of everybody ICE or risk for immigration violations either have a criminal history or a pending criminal charges when they are found meaning they were found in a county jail which most likely means they are more than a choir boy.

So to--to miss message what the work the men and women of ICE do is I find appalling that a member of Congress would throw that out there like that.

OCASIO-CORTEZ: The chair now--

HOMAN: In my 34 years I have never seen such hate toward law enforcement agency in my life that you want to abolish them--

OCASIO-CORTEZ: Mr. Homan the time has expired.

HOMAN: --rather than doing your job and legislating--

OCASIO-CORTEZ: Mr. Homan your time has expired.

HOMAN: If you don't like it legislate. You can't--I--(INAUDIBLE)

OCASIO-CORTEZ: Mr. Homan according to the rules of this committee--

HOMAN: -- I--I don't think Congress is in the habit of enacting laws--

OCASIO-CORTEZ: Mr. Homan your time is expired. The chair now recognizes Ms. Hill.

HILL: Thank you, madam chair. I was thinking about the 33 day notice issue and the fact that I worked in housing rights for a long time and a landlord is required to give more notice in most states for somebody to move out of an apartment let alone somebody who is facing life or death, children trying to transfer medical care out of the country within 33 days.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

So who I have heard from the most over the last week or so since this was--sense this issue has come up were medical professionals and days after the administration's policy reversal was revealed the American Academy of pediatrics and organization of 67,000 pediatricians in pediatric specialist wrote a public letter urging the administration to reverse course? AAP wrote and I quote we implore you to reverse this decision so that countless children and their families can continue to apply for deferred action. For some children this is a matter of life and death. AAP also asked quote did US CIS consult with any experts in the medical care of children and families before making this decision? Dr. Danaher I understand you are a member of AAP although you are not testifying on behalf of the organization but are you aware of any members of AAP or other physician organizations that were consulted prior to the administration's reversal on deferred action?

DANAHER: No.

HILL: And what would you have advised US CIS if you had been consulted about this decision?

DANAHER: I would have advised them that this is a lifesaving program that is absolutely necessary for these children's well-being and that to inform families via a letter that their status in this country is at risk is not only cruel but it is harmful to these children's health. They are already under tremendous stress and to add on top of that this fear not only for their own health care but for their safety is--is just mind boggling. I would also say that it is extremely difficult to transfer care anywhere within a month inside or outside of the country for (INAUDIBLE).

HILL: Yeah, trying to transfer your care across state lines or even across community lines is incredibly difficult. Do--so since announcing this hearing two weeks ago the committee has received letters from more than a dozen state chapters of the American Academy of pediatrics all expressing deep concern over this administration's decision on deferred action. The letters provide stories of critically ill children and their families who could be at risk under the administration's new policy including two infants in a neonatal intensive care unit whose parents received letters from US CIS telling them to leave the country within 33 days with a child, and infant in intensive care.

Mr. Marino you noted in your written statement that the vast majority of cases your organization represents involved children whose lives are at stake. You said quote we represent children confined to wheelchairs, connected to feeding tubes and tracheostomy tubes. What has the reaction been from the doctors who treat the medically fragile children that your organization represents?

MARINO: I think they have been as shocked as we have and as our clients have been. It is astounding to think that this would happen at all and that it would happen just with boilerplate form letter with 33 days to get out. So and--and a lot of --we partner with multiple hospitals in the Boston area and so they are familiar with this program. We work with social workers and doctors on these cases and they all know about it and they send people to us when they have an emergency situation like this person's Visa is going to expire and we can't discharge them--they send them to us. So, you know, they were very aware of this program and--and shocked to see it had ended and especially the way it had ended.

HILL: Thank you and Ms. Bueso, than you for your testimony and thank you, Mr. Sanchez as well. Ms. Bueso, you've devoted your life to advocating on behalf of other people with rare diseases--what is your reaction just from the people that you know and the 33 days and the kind of care that they're having to--to worry about and the parents are having to worry about--just anything you want to add to what you've already said?

BUESO: I think because I have been able to advocate for MPS and the rare disease community everyone is in shock. Even my friends they are like shocked they didn't see this coming. Obviously, I have friends who all have MPS and they're scared and they're fear and I try my best to calm them down. But I think everyone that know me are just in shock and just terrified for me.

HILL: Well, thank you all and I would just--I would reiterate that as--as this is coming from the medical provider community we need to be looking at this not only as a humanitarian issue but as a matter of life or death and we cannot ever simplify it to something about a--a--an immigration policy and a form letter. It is not that simple. That is human life. Thank you and I yield back.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: Gentelady yields. Thank you for your questioning and finally, we go to Mr. Gomez for five minutes.

GOMEZ: Thank you, Mr. Chair. First, one of the thing is want to kind of really emphasize is that this administration tends to make decisions in a very rash way without a lot of thought. And we've seen this time and time especially when it comes to the immigration issue, especially when it comes to border patrol, ICE everything it's just (SNAPPING) with no--no real thought about the consequences. And then, they have one rationale when it starts and then another rationale when they get called out.

You know, we had seen this when--when it came to the zero tolerance child separation policy. Jeff Sessions said, we hope that this deters families from coming to the United States because children will be taken away from them. The--the outrage happened across the country. They reversed policy. And then, all of a sudden they're saying we never had a child separation policy. Right? And this is just a pattern that they have when it comes to this. They say one thing and then they do another. I know this is not the panel--the panel but this I why they lack credibility not the--the women of the Border Patrol or ICE I'm saying the administration when it comes to making decisions on this important--on these important issues. They lack credibility. All right? Because they say one thing and do another.

Mr. Marino, you got a what was the--what did the letter say?

MARINO: So, the letter said that the initial letter said that USCIS field offices no longer consider deferred action cases. And then it says, you are not authorized to remain in the United States if you don't depart within 33 days we may initiate removal proceedings against you.

GOMEZ: Anything else? Footnotes?

MARINO: No. No footnotes.

GOMEZ: Pictures? Nothing, right?

MARINO: I think it--actually, I have a copy of it. I--and it--I think it even said, yeah, thank you for your request for deferred action.

GOMEZ: And now, all of a sudden now they got push back and they now oh you know what we're going to change it. Now it becomes we are just going to consider moving it from one you know, agency to another. This is what this Administration does. This like it is what I think is a dumpster fire. Right? How many acting directors and secretaries does this Administration have? I joke around even if you want to invoke the 25th amendment I don't think they have a cabinet large enough to invoke the 25th amendment. So, it is just a ridiculous.

And it is frustrating because it really just go after the most vulnerable--424 families that's like 424 families? And, it moves me because it's like you're going after folks that really need to be here to live. Ms. Beuso, first, I love your story about going to college. Congratulations. How did you and your family first find out about the deferred action that had ended?

BUESO: The--(INAUDIBLE) found the letter that it was (INAUDIBLE) right after my treatment my mom and I were like normal day walking out of the elevator and my lawyer called my mom saying that the received a letter for (INAUDIBLE). So my mom and dad, my older sister and myself saying that policy change and you have 33 days to leave. With no notification, nothing.

GOMEZ: How did your mother react?

BUESO: She cried. She cried with me. We were like on the floor. We were just shocked cause like I mentioned before I been here legally for 16 years and this is the first time that this happened to me and my family. So we both cried tears. I was shaking to the point that my mom thought I was going to go the ER because I just--I just lose it honestly.

GOMEZ: And, how do you--how does your family feel about the partial reversal of policy?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

BUESO: It just (INAUDIBLE) it is not clear. We just like honestly we just want something that is 100% guaranteed because as me and my family and I'm sure other family we definitely do not want to go through this again the next two years. So, we just want to make sure that there is something like guaranteed 100% because this has not been an easy ride for any of us at all. Just being scared for our own life that we depend for medical attention.

GOMEZ: Yeah. Now and--and--and you need and your family needs predictability especially since the--the condition that you have. I also just want to remind folks that this is about these individuals. For--they went after 424 individuals with medical needs. Right? Without really any concern about what they would--how they would react, the families, the stress it would put out. Just a form letter. No, that's it. My--my staff calls constituents when they write them letters to give them, you know, to say they got the letter and have a little discussion. We make more than 424 calls in a month with--with just my four staffers. You could have--they could have called, they could have had a good explanation, a caseworker, but they chose not to do that. Because I do believe this administration doesn't really give a lot of thought on how a lot of these policy changes will be implemented. With that, I yield back.

RASKIN: Mr. Gomez, thank you very much for your questioning. Chairman yields back. I want to thank the entire first panel for really extraordinary and important testimony. I'd echo what Representative Eleanor Holmes Norton said earlier, which is that America really didn't understand about the existence of the deferred action program. And, you've given us a great education. And I want to thank you. I want to thank Mr. Dessanier(PH), I want to thank Ms. Pressley for their initiative in bringing this idea forward, bringing their constituents forward and now as the witnesses are switching out we are going to call forward the second panel.

All of you should be aware that you can receive additional written questions for the hearing record. And, if you get them please give us a prompt response. And we're going to go right to the second panel. So, we welcome them and we thank all of them--Mr. Homan, Mr. Marino, Dr. Danaher, Dr. Wadhia, Mr. Sanchez and Ms. Bueso for your testimony.

UNKNOWN: While we're switching the second panel we do the (INAUDIBLE) for the record.

RASKIN: OK. And as we're switching over here we're going to enter--let's see I want to enter into the record 43 letters that the committee has received in recent days including letters from the American Academy of Pediatrics and many of its state chapters, from the American Immigration Lawyers Association, the National Association for Rare Disorders as well as a number of other immigration and patient right advocate groups. These letters discuss the grave consequences of the decision by USCIS for children who benefit from medical deferred action. I ask unanimous consent these letters be entered into the official hearing record. It is so ordered.

Great.

OK. The committee will recess just for two minutes for a--a break and if we could switch over the panelists that would be terrific.

[*](RECESS)

RASKIN: All right, if everybody could find their seats, if all the members could resume their seats, that'd be terrific. We are now delighted to welcome our final witnesses. We--we thank you for--for coming today. We thank you for your patience.

We are joined by Timothy S. Robbins, the acting Executive Associate Director for Enforcement and Removal Operations at the U.S. Immigrations and Customs Enforcement in the Department of Homeland Security, and Daniel Renaud, the Associate Director for Field Operations Directorate at the U.S. Citizenship and Immigration Services, USCIS, in the Department of Homeland Security.

If the witnesses would please rise and raise their right hands, I will begin the panel by swearing you in. Do you swear or affirm that the testimony that you're about to give is the truth, the whole truth, and nothing but the truth so help you God?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

Let the record show that both witnesses answered in the affirmative. Thank you very much. The microphones are sensitive, so please speak directly into them. Without objection, your entire written statements will be made part of the record--part of the record. And, with that, Director Robbins, you are now recognized to give an oral presentation of your testimony.

ROBBINS: Chairman Raskin, Ranking Member Roy, and distinguished members of the subcommittee, thank you for the opportunity to appear before you today and to clarify any public confusion over ICE's role in this matter.

As was stated in recent correspondence from USCIS, DHS may issue a notice to appear and commence removal proceedings under Section 240 of the Immigration and Nationality Act before an immigration judge against removable aliens. It is critical to understand that ICE may only remove an alien from the United States when that alien has been issued a final removal order. Such orders are the result of a process provided for, by law, during which an alien has the opportunity to avail himself of a variety of procedural safeguards and to seek certain forms of relief from a removal.

For example, an alien in INA Section 240 removal proceedings has the right to be represented by counsel to seek continuances, to contest removability, to apply for relief, to view, examine, and object to government evidence and witnesses, and to appeal IJ decisions to the Board of Immigration Appeals, all while having the proceedings before the immigration judge, simultaneously translated at government expense into language that the alien understands. There are currently over 920,000 aliens in INA Section 240 removal proceedings nationwide.

ICE has broad discretion and exercises that discretion as appropriate on a case by case basis throughout the immigration enforcement process in a variety of ways. For instance, discretion may be exercised in the course of deciding which aliens to arrest, which aliens to release from custody pending their removal proceedings, what the position of ICE will be on a claim, motion, or appeal made by an alien in immigration court, and which aliens will be prioritized for removal.

ICE does not exercise discretion on a categorical basis to exempt entire groups of aliens from the immigration laws enacted by Congress. Deferred action is a discretionary act of administrative convenience by which DHS may delay or decline to exercise immigration enforcement authority in a given case. It is not a legal benefit and provides no lawful immigration status in the United States.

ICE does not accept applications for deferred action. However, consistent with federal regulations, an alien who becomes subject to a final removal order, such as when his or her INA Section 240 removal proceedings conclude, may apply to ICE for administrative stay of removal using Form I-246 application for stay of deportation or removal.

A stay of removal might only be sought by aliens subject to final orders of removal. ICE will consider all relevant factors in deciding whether to issue a stay of removal, including any claimed medical basis for this request. However, such stays are considered solely on ICE's discretion on a case by case basis.

Thank you, again, for inviting me today and I look forward to answering any questions you might have on ICE's role in this matter.

RASKIN: Thank you very much for your testimony. Mr. Renaud.

RENAUD: Good afternoon Chairman Raskin, Ranking Member Roy, Chairman Cummings, Ranking Member Jordan, and distinguished members of the subcommittee. Thank you for this opportunity to discuss deferred action.

My name is Daniel Renaud and I'm the Associate Director of the Field Operations Directorate of the United States Citizenship and Immigration Services. In addition to the adjudication of applications and petition that require face to face interviews, such as adjustment status and naturalization, Field Operations is the Directorate responsible for making decisions on certain deferred action requests made to USCIS field offices for both military deferred action and non-military deferred action, which is the subject of today's hearing. My directorate does not decide

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

applications or renewals of Deferred Action for Childhood Arrivals, or DACA, or other deferred action requests required by statute, such as those related to the T or U nonimmigrant classifications.

At the outset, I want to restate what DHS relayed to the committee last evening. Because a lawsuit has been filed against USCIS regarding the issues being discussed at today's hearing, I will be limited in what information I can provide in response to questions today.

Deferred action is a discretionary act of administrative convenience by which DH--DHS may delay or decline to exercise immigration enforcement authority in a given case. Deferred action is a discretionary decision made on a case by case basis. Deferred action is not an immigration benefit or specific form of relief. It is a decision not to act. Deferred action does not provide lawful immigration status and it does not excuse any periods of unlawful presence before or after the deferred action begins.

Importantly, deferred action can be terminated at any time at the agency's discretion. To better align USCIS with its mission of administering our nation's lawful immigration system, on August 7th, 2019, USCIS determined that field offices would no longer accept requests by non-military persons for deferred action.

To be clear, this does not mean the end of all types of deferred action. This redirection of agency resources does not affect DACA, which remains in effect according to the nationwide injunction while cases go through the court system. It also does not affect other deferred action requests processed at USCIS service centers under statute or other policies, regulations, or court orders.

Keep in mind USCIS does not enforce orders of removal. As deferred action is largely a law enforcement tool used to delay removal from the United States, USCIS has not historically received many non-military, non-DACA deferred action requests. For the past few years, USCIS has received very few deferred action requests annually.

Many non-military, non-DACA deferred action requests received by USCIS are due to family support or medical reasons. This has been incorrectly reported or--or mischaracterized by the media as a medical deferred action program. To be clear, USCIS does not and has never administered a medical deferred action program.

Again, deferred action related to military service members and their families and DACA beneficiaries does was not affected by the August 7th, 2019 redirection of agency resources and consideration of those cases is ongoing. In addition, all cases that were denied on August 7th, 2019 are being reopened and reconsidered.

Again, I want to emphasize that because a lawsuit has been filed against USCIS regarding deferred action, I will be limited in what information I can provide in response to questions today. I can tell you that I've had the privilege of working for USCIS and its predecessor, the Immigration and Naturalization Service, for 31 years. I am extremely proud of the work and professionalism I see every day by the employees at USCIS in service to our nation. I will answer your questions as best I can, given the current litigation. Thank you.

RASKIN: Mr. Renaud, thank you very much for your testimony. I'm going to begin by recognizing Ms. Wassermann Schultz to do her questions. So, just one question before she starts. Were both of you able to watch the witnesses in the prior panel?

ROBBINS: Some--some of the witness testimony, but not all.

RASKIN: Okay. And, Mr. Renaud, you watched the testimony?

RENAUD: Yes, sir.

RASKIN: Okay, very good. Ms. Wassermann Schultz.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

WASSERMANN SCHULTZ: Thank you, Mr. Chairman. Gentlemen, welcome to the Oversight committee. We--we heard the argument today that ICE's ability to provide administrative stays of final deportation orders is sufficient to take the place of USCIS's deferred action process. But, that is just not true.

An individual can only request an administrative stay of removal from ICE after that person has completed deportation proceedings and received an order of removal from ICE. In addition, individuals who are ordered removed can face significant consequences, including ineligibility for a future visa or other immigration benefits.

ICE also does not grant benefits to individuals such as work authorizations or eligibility for health benefits. And, finally, ICE administrative stays are only available in one year increments.

Mr. Robbins, do you agree that an administrative stay of removal from ICE does not provide the same benefits to immigrants as the deferred action process at USCIS?

ROBBINS: I can speak as to the benefits that are provided based on the state, but I can tell you that prosecutorial discretion, we use prosecutorial discretion from the point of arrest throughout the enforcement.--

WASSERMANN SCHULTZ: --Why--why can't you speak to the benefits? Because what I've just laid out is--is what I've just--just laid out accurate as far as your understanding?

ROBBINS: --My--

WASSERMANN SCHULTZ: --In the differences in the two processes.

ROBBINS: My understanding is that--and I would have to defer to my colleague from USCIS when it comes to employment authorization, we do not adjudicate employment authorization. We do adjudicate stay requests and we--we adjudicate them on a case by case basis.

WASSERMANN SCHULTZ: And, they're only available in one year increments?

ROBBINS: It--no more than one year. They could be--

WASSERMANN SCHULTZ: --Right.--

ROBBINS: --It could be less than one year.

WASSERMANN SCHULTZ: And, ICE does not grant benefits to individuals like work authorizations?

ROBBINS: We do not.

WASSERMANN SCHULTZ: Right, or eligibility for health benefits?

ROBBINS: We do not.

WASSERMANN SCHULTZ: And, Mr. Renaud, through the deferred action process, you do grant those things, correct?

RENAUD: Thank you for your question. If someone were to receive--

[*]RENAUD: the opportunity to apply for employment authorization. That is a discretionary decision made on a case by case basis.

WASSERMAN SCHULTZ: Right. And it's--they're also potentially eligible for health benefits as well obviously, or they would be--

RENAUD: --I'm sorry. I--

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

WASSERMAN SCHULTZ: --Applying for deferred action--

RENAUD: --I'm sorry. I can't speak to whether their eligible for health benefits. We--we do not provide health benefits at USCIS.

WASSERMAN SCHULTZ: No, of course. You don't. But, they would not be available for health benefits under a deportation order process. Correct? Mr. Robbins?

ROBBINS: We do not adjudicate health benefits either.

WASSERMAN SCHULTZ: Right.

ROBBINS: So, I would not be able to answer that.

WASSERMAN SCHULTZ: So, although you won't come right out and say that the two processes are different, in detail, you have just described that they are quite different and one provides benefits and the other does not. One program is longer than one year, potentially, and the other is not.

In fact, before USCIS ended the deferred action process, individuals could apply for deferred action before being ordered removed. When granting an application for deferred action, USCIS can also provide a family with work authorization allowing them to support themselves while their child receives the treatment they need. And USCIS deferrals lasts up to two years, which allows for great certainty for these families.

Finally, a person granted deferred action by USCIS is not considered to be "unlawfully present" in the United States, which can be an important factor in future immigration proceedings. Mr. Renaud, do you agree that those are meaningful differences between ICE administrative stays and deferred action by USCIS?

RENAUD: Not--not having expertise in administrative stays, I'm not able to compare or contrast the two forms of--of (INAUDIBLE).

WASSERMAN SCHULTZ: Well, I've just compared and contrasted them. Have I said anything inaccurate about the differences between the two processes?

RENAUD: Again, I can't confirm specifically--

WASSERMAN SCHULTZ: --You're not familiar with your own agency's procedures? I mean, are--is USCIS able to provide a family with work authorization allowing them to support themselves while their child receives the treatment they need? Is that something that USCIS does allow--

RENAUD: --As I've testified, someone is a recipient of deferred action--someone who has deferred action--

WASSERMAN SCHULTZ: --But, also the parents can apply. A family can be--apply--

RENAUD: --Yes, any individual for any reason who happens to have deferred action--

WASSERMAN SCHULTZ: --And USCIS deferral does last up to two years, correct? Is that correct?

RENAUD: Deferred action is granted for periods not to exceed two years.

WASSERMAN SCHULTZ: Okay. Thank you. And finally, Mr. Renaud, do you agree that those are--besides the fact that you've just outlined that there are meaningful differences--because, speaking to the difference in the details, that's very clear--are either of you aware of any plans by ICE to provide these additional benefits to families of critically ill children or others in the event that you shift to a process that has ICE deal with this enforcement mechanism?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

ROBBINS: So, DHS is still considering a pathway forward. And we're--those are internal discussions that we're not prepared to discuss.

WASSERMAN SCHULTZ: Okay. Well, I appreciate making sure that the information that arose during this entire hearing makes it very clear that what (INAUDIBLE) indicated was not accurate and that these are very distinct and different programs, one that provides a lengthier period of certainty with benefits, the other that is simply an enforcement action. So, thank you, Mr. Chairman, I yield back.

RASKIN: And thank you, Ms. Wasserman Schultz. I'm going to recognize myself for five minutes now. Both of you gentlemen have done a good job describing the legal architecture of deferred action, at least from the perspective of the agencies. It's a discretionary matter that's conducted on a case by case basis, and you don't categorically exempt entire groups, if I'm reading you correctly.

But, what I don't get is--what is the motivation behind the new policy? What's the rationale for the new policy? And I know some of my Republican colleagues were asking me to relay the same question. Why did all of this happen? Can either of you answer that? Mr. Renaud?

RENAUD: Unfortunately, I'm--we are not going to be able to answer that because of the ongoing litigation. We are not able to respond to that today.

RASKIN: What is the new policy, as you understand it, Mr. Renaud? Because there's so much confusion around it.

RENAUD: Again, because of the litigation, specifically, encumbers what the current policy is, as you were informed--as the committee was informed last evening by letter, there are letters that we are not going to be able to discuss today, that I'm not going to be able to discuss today.

RASKIN: You can't tell me why there's a new policy. You can't tell me what motivated the new policy. And you can't tell me what the new policy is. I mean, is that a correct assessment of the situation?

RENAUD: That is my testimony, sir, yes.

(LAUGHTER)

RASKIN: Okay. Let's see. Well, let's say to--Mr. Robbins, let me come to you because I can see that there's an effort to find some shelter for the government in the idea of prosecutorial discretion. What would the prosecutorial benefit be in removing from the country, deporting from the country a young person who has cystic fibrosis or cancer or another serious disease?

ROBBINS: So, I think it's safe that we can agree that, when it comes to very sympathetic cases, that is exactly what discretion is for. ICE has--enforcing immigration law has always used discretion and will always use discretion moving forward. In--

RASKIN: --So, what changed? Like but--why--I mean, I assume you saw the anxiety and the agony and the pain that these families are going through. What changed--

ROBBINS: --Well, currently, ICE does not have a process, an application process, or an adjudication process for affirmative stays of deferred action. We use our prosecutorial discretion from arrest through removal, and then, we have the ability to adjudicate stay requests, and there's an application process for that process.

RASKIN: And they're for--but so, what is the answer to my question of what has changed?

ROBBINS: I can't speak to the rationale or what has changed in regards to the adjudication of the deferred action request at CIS. I would have to defer to my colleague.

RASKIN: Okay. Would you agree that there's been a change in the mood somehow that produced the writing of these letters?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

ROBBINS: I can't--I can't answer that question.

RASKIN: Okay. What would need to be done to get Homeland Security just to reverse this whole disastrous road that it went on when it sent out those letters?

ROBBINS: Well, one thing--I mean, we are currently having ongoing discussions with DHS about our pathway forward when it comes to deferred action. And we're just not prepared to comment on that. That--those discussions are ongoing.

RASKIN: I got you. Well, I appreciate your candor and your honesty about that. Can I just tell you, I know I speak for a lot of colleagues, certainly on my side of the aisle, and I suspect--but I don't want to say for sure--on the other side of the aisle, that this really is a moral crisis in the country. I understand that, you know, you've described that the numbers of people affected is very few. And, in terms of the overall number of people you've got to deal with, I understand that. But, it's still a thousand or more people.

And, as representatives in Congress, we hear from them and their families, and it's our job to take into account people's real life situations. So, anything that we can do to work with the administration, to reverse this and to enter into discussions about new regulation or new legislation to bring greater clarity and transparency to the process--I think you'd find a lot of support here.

But, the United States of America is a big country. It's a great country, and it's got a big heart. And when the people of America see this kind of testimony and we know that we're in the very forefront of medical and scientific progress in the world and people come to America to get their lives saved and not to get their lives messed up--and I think that's why it's caused such crisis and anxiety, not just in those families, but across the country and in Congress when we see this being done in the name of our people.

So, let me just ask you, finally, when will you be ready conclude your deliberations, with or without our assistance, and when will you be ready to answer our committee about what is the precise policy going forward? Mr. Robbins?

ROBBINS: I'd love to be able to give you an answer on when the conversation would conclude. I just--those--those conversations are ongoing, and I don't have an answer for you.

RASKIN: Okay. Can you assure that none of the people that we saw today were people in their situation will be removed from the country until you get back to us with a policy answer as to what the policy is?

ROBBINS: Well, I can assure you that, when it comes to ICE and our discretion, the people that--the population and Mr. Renaud can correct me if I'm wrong. These are affirmative actions for deferred action. They are not in proceedings. They are currently--that is not a population that we currently target. But, I do not have an exhaustive list of those people, of actually who is--has previously applied for deferred action.

RASKIN: And--and you can assure us--I understand--

ROBBINS: --I--I--

RASKIN: --You can assure us that you're not targeting--

ROBBINS: --I can assure you that--

RASKIN: --Anyone in this situation for removal at this point--

ROBBINS: --I can assure you that enforcing immigration law is a very, very difficult responsibility that ICE does very professionally and with compassion. And this is a very vulnerable population that has never been--I mean, we would use prosecutor discretion on cases very similar to these. I can't speak to these specific cases because I do not have the facts. But, I--I can't assure you that every that is applied through CIS deferred action program or process would not be removed. I just don't know all the cases.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: Okay. Well, I appreciate the fact that you're telling me you're not ready, really, to articulate what the policy is. But, I want you to know that we are going to be zealous and diligent as the oversight committee in making sure that people in this situation have their rights and their interests considered consistent with the values of the American people.

(APPLAUSE)

So, I--thank you--the--for your testimony. And I recognize now Mr. Pressley for five minutes of questioning.

PRESSLEY: Thank you, Mr. Chairman. Hello, gentlemen. I'm thankful we were able to have you before our committee today. I understand there was some frustration with the expediency and the urgency with which we were asking all of you to come. But, I can assure you that whatever inconvenience you may have experienced--

[*]PRESSLEY: (INAUDIBLE) to the trauma, and the fear, and the inconvenience your medical deferred action denial letters have imposed on immigrant children and families. I'm sure you both know last month that I, along with almost 130 of my House and Senate colleagues, sent a letter to your agencies demanding the reversal to end USCIS's processing of deferred action. Can you confirm whether your agencies will be meeting the questions that we outlined in that letter responding to our deadline by September 14? Mr. Renaud and Mr. Robbins.

RENAUD: I can't speak specifically of that--of that--

PRESSLEY: Can you confirm receipt of the letter?

RENAUD: I cannot, but I know that when--I would not receive that letter directly, but I know that we take those letters very seriously and do everything we can to--to meet the established guidelines and deadlines.

PRESSLEY: And the deadlines. Okay. All right. Mr. Robbins, are you under the same impression?

ROBBINS: Yes, ma'am.

PRESSLEY: Okay, all right. Thank you. So I have some additional questions that I'll seek some clarity on. Mr. Renaud, just a simple yes or no question, and again, you're on the record here. Was this a policy change that was a result of a request from any high ranking political appointee at the White House?

RENAUD: At the advice of counsel, I'm not able to discuss the--the reasons for any--any change in our--

PRESSLEY: Can you submit it in writing if you can't do it here on the official record?

RENAUD: I believe the issue is that we have pending litigation. I can certainly go back and consult with the legal team and determine whether we can provide that in writing.

PRESSLEY: I'll keep going. What office or internal department at USCIS did this directive come from?

RENAUD: I'm sorry, I didn't hear the question.

PRESSLEY: What office or internal department at USCIS did this policy change directive come from? Where did it come from?

RENAUD: Again, I'm not sure that I can answer that question at the advice of counsel.

PRESSLEY: You cannot answer the genesis of this policy and what office offered the directive? Is that correct?

RENAUD: Ma'am, I'm not an attorney. And I don't pretend to understand or know all the aspects of law, but I know that--

PRESSLEY: Well, I'll make a request.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RENAUD: --when attorneys ask me, or instruct me that there are some things when you are being--when you're in the middle of litigation that you should not speak on, then I'll abide by that.

PRESSLEY: All right. Respectfully--

RENAUD: I appreciate you understanding.

PRESSLEY: Respectfully reclaiming my time, and I'll just make my request again that you respond to the letter by the deadline that we've already submitted, that outlines a number of questions that gets to not only our requests, but better understanding the origins of this appalling policy. And also, if you could respond to the questions that I'm asking you now, if you can't do it here officially on the record. Okay?

RENAUD: I understand what you're asking (PH).

PRESSLEY: All right. Very good. Now that USCIS has been publicly shamed into processing the deferred action requests that you had originally denied, how many requests has your agency processed since USCIS's September 2 announcement?

RENAUD: Since--

PRESSLEY: Can you tell me how many you've processed?

RENAUD: Since September 2 we have not issued any approvals or denials of deferred action for nonmilitary--for nonmilitary deferred action.

PRESSLEY: Okay, and what is the criteria in which these requests will be processed, and how can your agency ensure that there is no retaliation against applicants?

RENAUD: Well, again, as my colleague testified, what is the path forward is, frankly, a subject of litigation also. And it is deliberative at this point.

PRESSLEY: Can you provide a timeline for which families can expect to hear from USCIS on the status of their request?

RENAUD: I cannot--I know that this is important to--it's obviously an important issue, but no, I cannot give a definitive timeline.

PRESSLEY: And so these families are just hanging in the balance? Can you provide a timeline in the letter that you will be responding to by September 14?

RENAUD: I do not know the answer to that question.

PRESSLEY: What is the geographic breakdown of where these patients are currently residing in the U.S., and are there particular areas that are more impacted? I'm trying to see if there are any trends here.

RENAUD: So one of the challenges with how historically we've been looking at deferred action requests is that we do not have a form. There is no fee for the--for the grant of deferred action. And we do not have a system in which to put these in. So data related to the basis for the requests, which--which--which do vary, or the--certainly geographic, to get to your question, the geographic distribution. We cannot be precise in that area at--you know, to that--in response to that question at all.

PRESSLEY: Okay. And just to reiterate again, to be clear the deadline to respond to the letter that was submitted signed by nearly 130 of my colleagues, a bicameral letter, the deadline is this Friday. And again, can you commit to answering our questions by then for the record?

RASKIN: The witness may answer that question, shall answer that question.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RENAUD: Well, I think I've answered it. I said that we will do our best. I don't--I have not seen the letter. I do not know, frankly, if we've received it yet. But I know that we take those letters seriously. Obviously it's a serious issue, and we will do what we can to provide you the information in a timely manner.

PRESSLEY: Well, I don't want us to set a new precedent because a moment ago you said that it's been your experience that you do respond by deadline. So let's not create a new precedent. So I look forward to your responses.

RASKIN: The gentlelady's time is expired. Thank you. Mr. DeSaulnier, you are recognized for five minutes.

DESAULNIER: Thank you, Mr. Chairman. I what you thank the witnesses, and I just--your comment about moral crisis, Mr. Chairman, I think is important for all of us to think about individually and collectively. I'm reminded of one of my favorite quotes from Dante. He says the hottest places in Hell are reserved for individuals who remain neutral at times of moral crisis.

I've tried to think about the people that we've interacted with your agency in San Francisco and how difficult it must be to carry out a policy that then turns out to cause the kind of anguish that came across Ms. Bueso, my constituent and her mom who testified from near where you are, Mr. Renaud, just next to you, that when she got the letter from your department of which you oversee, as I understand this department, her mother vomited in a hospital, and they cried because they knew that was a death sentence. How does--how do you respond to that as a human being?

RENAUD: These are not easy jobs for our officers in the field.

DESAULNIER: No, I was asking for you, personally. You have the title. You oversee this.

RENAUD: I am certainly--

DESAULNIER: Was it a mistake?

RENAUD: I am certainly empathetic to their situation.

DESAULNIER: Was it a mistake, sir? Was that letter a mistake? We heard from my colleagues on the Republican side this policy was enacted was a mistake. Do you think it was a mistake?

RENAUD: I--I am an operator. I am not a policy maker. So operationally, you know, my role is to comment on policy to the extent that we can make it operationally feasible or to indicate when it's not operationally feasible. I am not in the position professionally to pass judgment on whether I like or don't like a statute, a regulation or a policy. And it is--those are some of the hardest times in my career and in those of the people who work with me where either we are required to grant a benefit to someone who we believe is a threat or we believe has--has--has secured a benefit through fraud despite our best efforts.

DESAULNIER: Excuse me. Would you--would you--

RENAUD: And it's also hard when we have to say no to someone with a very empathetic case.

DESAULNIER: I was asking specifically on behalf of the person who lives in my district. Are you implying she's a threat to national security?

RENAUD: I am not implying that, no.

DESAULNIER: So you have said that the attorney can't answer questions because of litigation, but we've been told by the Supreme Court, over and over again, that private litigation is not--shouldn't inhibit your testimony to Congress in our investigation. Have you been told that by your attorney, that the Supreme Court actually contradicts the legal advice you're getting?

RENAUD: I was not told that by the attorney. I did read the response from the committee, though.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

DESAULNIER: You maybe should get your own attorney. Do you know who made the decision to stop accepting the processing deferred action request on August 7 that led to the letter?

RENAUD: That, as you've just indicated, that is information that I'm not able to respond to at the (INAUDIBLE).

DESAULNIER: What role did the acting director play in the decision? What role did the acting decision--

RENAUD: Again, that sir is essentially the same question that I'm not able to answer.

DESAULNIER: Mr. Robbins, was anyone at ICE involved in the decision?

ROBBINS: Not that I'm aware of.

DESAULNIER: Mr. Renaud, why didn't you make any public announcement or communicate with congress about the decision?

RENAUD: I think that the--the nature of our announcement is also under litigation. And so, at the advice of counsel, I'm not able to answer that. I--I appreciate you understanding.

DESAULNIER: Did you do any internal studies about how many critical ill children or adults might die as a result of being forced to leave the United States under this new policy?

RENAUD: I think it's important to note that--that the denial of deferred action does not force the removal of any individual. No individuals to the best of my knowledge have even been issued a notice to appear which commences removal proceedings could last months or longer. So--I--I don't believe that if you're asking if we had an analysis of how many people would be impacted by this we had an idea of the--the number of popul--the size of the population who received deferred action but the--again, the reasons why--why the--the process was--was changed I'm not at liberty to say at this time.

DESAULNIER: Before--before that letter was sent out was there any discussion anywhere about the consequences of that letter and in the case of my--my constituent that she existed and this might lead to her removal from the country which meant a death sentence according to her doctor? Was anyone aware of that?

RENAUD: Again the--the letter did not order their departure from the United States. So, I think that your question is missing a few steps in the process where there is a lot of room for--

DESAULNIER: Why would you send a letter?

RENAUD: --lots of room for prosecutorial discretion. USCIS could choose not to issue an NTA and that person would never be in proceedings unless otherwise--

DESAULNIER: Had you ever issued this letter with the content before?

RASKIN: The gentleman's time has expired. You can answer that question.

RENAUD: We have issued denial notices. We've on deferred action requests. In fact, we've historically had denied about half of the deferred action requests that we receive. There was--there was a question earlier from one of the members that indicated that we see about 1000 a year--that's about a 1000 applicants per year, historically. And, we have--we have denied the majority of those at least in the data that I see.

RASKIN: Thank you. Gentleman's time has expired. Ms. Ocasio Cortez is recognized for five minutes of questioning.

OCASIO CORTEZ: Thank you. Mr. Renaud, the Supreme Court has ruled several times that ongoing litigation is not valid grounds for resisting an answer to congressional questions. So, I was wondering why are you citing those illegitimate grounds?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RENAUD: I'm not going to--I'm not prepared or--or capable of arguing legal precedent with you. I'm--I'm here representing the Agency--

OCASIO CORTEZ: So, why did the Agency change the policy?

RENAUD: I'm sorry?

OCASIO CORTEZ: Why did the Agency change the policy with respect to deferred action?

RENAUD: Again, as I mentioned earlier, that is something under litigation that at the advice of counsel--

OCASIO CORTEZ: As I mentioned, the Supreme Court has already this has been sued, this very question has been sued on we don't have to debate it. The Supreme Court has determined it that ongoing litigation is not grounds to resist an answer to a congressional inquiry. So, I'll ask again--why did ICE change the policy?

RENAUD: Why did ICE change the policy?

OCASIO CORTEZ: Or rather why was the--why was the policy around deferred action changed under USCIS?

RENAUD: I'm--I'm going to answer again I at the advice of counsel I am not able to--to discuss that information.

OCASIO CORTEZ: Due to--what reason are you citing?

RENAUD: At--at the advice of counsel I am not answering that question I--I hope you'll understand and I don't know what else to say--

OCASIO CORTEZ: Because there's no reason being offered we cannot understand.

RENAUD: I--I can only say that you're arguing with the wrong person You know, I'm not in a position to -- to--

OCASIO CORTEZ: All right, Mr. Renaud, I'll move on. Because there has been a lot of chaos caused by this policy change. And, the administration because they did not advise congress ahead of time on how this would be enforced or what would happen there are a lot of outstanding questions. So, hopefully, these questions are relatively straight-forward.

Exactly how many cases will be reopened as a result of your Agency's partial reversal on deferred action?

RENAUD: We have reopened every case that was denied on or after August 7th. That total is--I--I don't have an exact number. It's approximately 424.

OCASIO CORTEZ: Will people who applied before August 7th be allowed to submit new evidence as necessary or will their files be frozen as of August 7th?

RENAUD: Typically, when we consider a--a request or a benefit application we will provide the opportunity for the--for the client to augment the record if there is additional evidence needed.

OCASIO CORTEZ: Will the reopened cases be evaluated using the same standards and the same process that your agency previously applied to request for deferred action?

RENAUD: That question I'm not able to answer.

OCASIO CORTEZ: You cannot answer if you'll be using the same standards that you used before?

RENAUD: I cannot answer I--I cannot answer about questions regarding what standards we will be using going forward.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

OCASIO CORTEZ: Will field officers still follow the process outlined in USCIS' standard operating procedures or will there be a new procedure?

RENAUD: I--I don't know. I--I am able to answer that I think. I just don't know the answer. That depends on what the process will be. I think it's important to note that the--the I know it came up in the last hearing this standard operating procedure that essentially describes the mechanics of how to process a case. It is not a--a guide to the use of--of discretion.

OCASIO CORTEZ: Will USCIS impose any limits or caps on the number of deferred action cases that might be granted from reopened cases?

RENAUD: I don't know the answer to that question.

OCASIO CORTEZ: Your September 2nd announcement also stated and I quote, as USCIS deferred action case load is reduced the career employees who decide such cases will be more available to address other types of legal immigration applications on a more efficient basis--basis. But media reports indicate that USCIS receives only about 1000 medical deferred action requests each year, USCIS has about 19,000, that handles hundreds of thousands of requests each year. So, are these 1,000 requests really such a large burden that they justify ending deferred action for peoples with serious life and death medical conditions entirely and risking their lives?

RENAUD: Well, as you know, speaking to the language in the letter, USCIS has--has a sizeable workload and 1,000 deferred action requests equals about 2,000 naturalization applications in terms of workload. So, to the 2,000 people who we could have naturalized, you know, I think that those cases are pretty important to them as well.

OCASIO-CORTEZ: Mr. Chair, I think it's important that we acknowledge here that we are getting open resistance that are citing illegitimate legal grounds, no legal grounds for resisting the answers to these congressional inquiries, no insight into the past rationale of these decisions, little to no insight into the future of these decisions. This is a threat to even the rule of law when it comes to U.S. immigration policy.

How can people be in compliance or--or make an effort to be in compliance with the law if they don't know what that enforcement is or will be in the future? With that, I rest. Thank you.

RASKIN: The gentlelady's time has expired. I thank you for your--your comments and it inspires me, actually, to--to close with another five minutes of questioning and I invite any of my other colleagues who want to pursue it. We--we learned a lot with the first panel about how this program has traditionally worked, what people's expectations are, and I think a lot of us felt great pride that America could play this role for sick kids from around the world.

We're seeing a little bit of a different America on display right now in this discussion of the chaotic and inscrutable roll out of this policy. And, I don't mean to put all the blame on the two of you. I know this must be an uncomfortable setting for you to be in. You've been sent forward to defend policies that it doesn't appear were your idea in the first place. But, I--I do have a few final questions I want to try to pursue with you.

Our colleague, Mr. Hice, cited some data about the numbers of applicants and so on. That was not data I'd ever seen before and I just wonder could you share whatever data he was working from with us, or did that come from another source? I don't know, Mr. Robbins?

ROBBINS: I'm not familiar with the data that was discussed.

RASKIN: Mr. Renaud, did you know?

RENAUD: I--I would have to go back and look at the--at the--at the tape of the hearing. But, certainly if there's data, we can share data. Happy to do it.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: Okay. Let's see, Mr. Renaud, just to be clear, can you tell us who made the decision that USCIS would stop accepting and processing the deferred action requests on August the 7th?

RENAUD: You know, because of the litigation and at the advice of counsel, I'm not able to.

RASKIN: Okay, but for reasons that--that Ms. Ocasio-Cortez said, litigation is irrelevant to this statement of a fact. So, that's--that's been established. But, could you tell us whether Ken Cuccinelli, the acting Director of USCIS, played a role in this decision?

RENAUD: Sir, with all due respect, we--we sent a letter to the committee yesterday outlining how this testimony would go.--

RASKIN: --Well no, we determine how this testimony will go, not you.--

RENAUD: --I appreciate--I appreciate that you appreciate that this puts me in a difficult situation, but it shouldn't be unknown to you that--that, you know, why or how I'm in this situation. So no, I am not able to answer.

RASKIN: No, no, really this is a great mystery to me. Ordinarily, when we ask government witnesses to come in, they're prepared to answer the questions of the committee. They're prepared to tell where policies came from. I'm baffled. I've never seen a situation like this before.

But, let me--just at least for the record and if you can't answer it, that's fine. Can you tell us what role Ken Cuccinelli, the acting Director of USCIS, played in this decision?

RENAUD: No sir, I'm not able to.

RASKIN: Can you tell us what role the acting Secretary of Homeland Security, Kevin McAleenan, played?

RENAUD: No, sir.

RASKIN: Can you tell us the role that anyone at the White House, including Stephen Miller, the architect of immigration policy at the White House, played in this decision?

RENAUD: No, sir.

RASKIN: Okay. And, Mr. Robbins forthrightly said he could not tell me why the policy was developed, where it arose from, or even what the policy is. And, I just want to be clear for the record if this is basically where you are too on it. I remember when I was in school learning that the five critical ingredients of history are the five Ws, who, what--who, what, why, where, and when. And, I want to make sure it's the case that you can't answer any of these.

Can you tell us why we have the new policy? Mr. Renaud, I was coming to you. Can you tell us why we have the new policy of rejecting the medical deferred action requests?

RENAUD: No. Because of the pending lawsuit and at the advice of counsel, I'm not able to.--

RASKIN: --Okay. Can you tell me who ordered the policy?

RENAUD: I cannot.

RASKIN: Can you tell me where the policy came from?

RENAUD: For the same reason, I cannot.

RASKIN: Can you tell me when the--the policy was developed or when it will be finalized?

RENAUD: No, sir.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: And, can you tell me what the policy is?

RENAUD: Because of the pending litigation, I'm not able to share that information.

RASKIN: Well, I'm afraid to say this is the perfect Trump administration public policy. We don't know where it comes from, we don't know why we have it, we don't know who came up with it, we don't know when it was adopted or even if it was adopted, and we don't know what it is.

And, again, I don't mean to make you the--the fall guy. Obviously, you've been sent forth to give this testimony today. But, it is the occasion for great frustration in the Congress of the United States, the representatives of the people.

Can you tell me how many families received denial letters because of the policy change, Mr. Renaud? Do you know?

RENAUD: That I can tell you. It's too bad the cameras left because that I can tell you. 424--approximately 424 denial notices were sent on or after August 7th.

RASKIN: And, how many of the 424 have been reopened?

RENAUD: All 424.

RASKIN: Okay. If you are still trying to figure out what the policy is, why not, then, reopen all of the requests, including the ones that came in after August the 7th?

RENAUD: So essentially, we did. So, the--there were--there were approximately 791 pending requests on August 7th. We proceeded to deny 424 and then the balance, 300 something, we did not take any action on. Those--those remain pending. The 424 that we denied, we reopened. So, all of the cases that were pending on August 7th are now open active requests for deferred action.

RASKIN: Okay. Okay, and after August 7th, are people still facing this 33 day cutoff?

RENAUD: At--at this point, no one--there never was a 33 day cutoff. May I explain what the 33 day--

RASKIN: --Please.--

RENAUD: --That was talked about a lot. We--as someone in the previous panel indicated, I think they used the word boiler plate. We use standard language in our--in some of our denial notices. We have a standard process whereby if we are issuing a status denial or a--or a denial of someone who is removable from the United States or who appears to be removable from the United States, such as being out of status, we include a statement indicating that essentially in 33 days, we will--we will review their--their case.

We will see if they've departed. If they have not departed, then we will make a determination of whether to issue a notice to appear commencing removal proceedings. That is an opportunity where--where we can--we can exercise prosecutorial discretion and decide not to issue a notice to appear, in which case removal proceedings would not begin. And, so that--that is the--that's the context of the 33 days. No one was given 33 days to leave or else.

RASKIN: Okay. Thank you for that answer. My time has expired. I'm going to recognize the gentlelady from Massachusetts, Ms. Pressley, for another five minutes if she seeks.

PRESSLEY: Sure. Thank you, Mr. Chair. You know, I wish I could feign just incredible surprise at the lack of responsiveness here. But, it is par for the course with this administration and we often have witnesses that come before us and--and I can't call it anything than what it is, it's stonewalling. It's obstructing.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

And, I just want to make something very clear. This is not about your answering just to this committee. You're answering to the American people and this emergency hearing was called because of a rallying cry, a public outcry, an outrage.

Now, our Chairman, rightfully says, that it's unfair to make you all the fall guys. But, I think it's--it's not right to make you the fall guys to defend a policy that is--that you can't, not because you don't have the answers, but because the policy is indefensible. So, there's really not much so that you could offer.

But, nevertheless, we persist. And, so let me just pick back up again on the 33 days. I want to talk about Jonathan Sanchez from my district, 16 years old who endured a great--not knowing what his--what life holds for him in the future or if he will be able to preserve and maintain his life sat here for a number of hours enduring demoralizing and a dehumanizing environment by many of my colleagues on the other side of the aisle.

And, so if he could deal with that, you can deal with this. So, Jonathan Sanchez testified earlier today, Jonathan has cystic fibrosis and he testified that doctors in Honduras, where he is from, did not even know what cystic fibrosis was. I'm not sure if you heard his testimony earlier, but his youngest sister died as a result of cystic fibrosis in Honduras because they did not understand her disease or how to treat her.

Thirty-three days is certainly not enough time to arrange for travel, housing, medical equipment, translating medical records, or the many other steps that would be needed to transport a critically ill child to another country, simply put, is a death sentence for many of these patients. Mr. Renaud, when the administration decided to end deferred action, was any thought put into what would happen to the critically ill children and their families?

RENAUD: I--I think that the--the--the thought was that we would--we would follow our notice to appear memo, which applies to all cases, which is--I described earlier. We would provide people a--a standard period of time by which--or at which time, we would review their case and determine whether it was appropriate and in the government's best interest to issue them a notice to appear.

PRESSLEY: And, again just on the timeframe, was that specific window considered sufficient, given the extenuating circumstances and the fragility of these individual's medical state?

RENAUD: I--I think again that there's--there seems to be an assumption in that question that there would be an NTA coming at the end of those 33 days. And, I'm--you know, what I'm saying is that, that would be an opportunity for us to issue prosecutorial discretion and decide not to issue a notice to appear.

PRESSLEY: All right. Mr. Renaud, when USCIS ordered Jonathan to leave the country in 33 days, did you consider the fact that treatment for that disease is unavailable in Honduras?

RENAUD: I'm not sure if I'm saying this right, ma'am, but we did not order anyone to leave the country. That's not our role. I--I--if you go back to my written testimony, I describe what our role is and what it isn't. USCIS does not order people to leave the country.

PRESSLEY: It just, it does seem we're--we're missing each other here and I'm--

RENAUD: --We are.--

PRESSLEY: know, I'm--yeah, because it's--it's inconsistent with what the families testified to and the letters that they provided--

[*]PRESSLEY: and coroperate their experiences--

RASKIN: Would the gentelady yield for one moment just to elaborate this point?

PRESSLEY: Absolutely. I yield.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RASKIN: The letter that you sent to Ms. Barrera said if you failed to depart the United States within 33 days of the date of this letter USCIS may issue you a notice to appear and commence removal proceedings against you at the immigration court. That--that is coming from USCIS. That is not coming from ICE.

RENAUD: That--that is all true.

RASKIN: So in what sense are you not threatening to remove people from the country?

RENAUD: Well, again I'm not--I'm not an attorney but you know words have meanings. We--what we indicate that is if they do not--what we indicate is that if they do not depart the country within 33 days in that paragraph, they do not depart the country within 33 days they may be issued a notice of--a notice to appear. That is accurate. At that--

RASKIN: Notice to appear and for the purpose of commencing removal proceedings.

RENAUD: It does not say they will, it does not say they must leave the country.

RASKIN: Okay.

RENAUD: But it says we are talking about the (INAUDIBLE)--

RASKIN: But with all due respect Mr. Renaud we are talking about people who have cystic fibrosis, childhood cancer and so on. You are sending this to them in a change of policy which clearly indicates they are going to be removed or have a very heavy likelihood of being removed from the country. I'm going to yield another 30 seconds to my colleague. Thank you for yielding.

PRESSLEY: Thank--thank you Mr. Chair. For the questions that you have not answered based on pending litigation do you actually know the answers to those questions? Do you know the answers and you--you are not sharing them or you don't know?

RENAUD: I--

PRESSLEY: Do you know the answers to the questions that I have asked that you have declined--

RENAUD: I--I do not--

PRESSLEY: --to answer?

RENAUD: I understand your question (INAUDIBLE).

PRESSLEY: Okay.

RENAUD: I was trying to decide if I knew--I--you do not know the answers to all of your questions, no.

PRESSLEY: To any of them?

RENAUD: I'm sorry?

PRESSLEY: To any of them? To any of the questions that I asked regarding the genesis of this policy, was it ordered by a political appointee, what office did this come from? How many cases have been processed? Do you know the answers to any of those questions?

RENAUD: I--I certainly think that--that without a pending lawsuit I would be able to provide additional information.

PRESSLEY: I yield.

RASKIN: Okay. The gentlelady yields and we come to Mr. Grothman for five minutes.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

GROTHMAN: Right. As--as I mentioned earlier today to the first panel I think you folks do a tremendous job. I have been at the border three times this year. I know you do a very difficult job. Everybody who I have run into has been the pinnacle of professionalism. Everybody has exhibited 100 percent concern about people in this country who are not citizens who even people who came here illegally, goes out of their way to provide medical care that would not even be available to American citizens and they do it without complaint, they complain a little but they do it. So I would like to thank you for all your agencies do.

Looking at this letter that they are talking about it appears to me this letter was a form letter. You think that's true?

RENAUD: That is correct.

GROTHMAN: With anybody who made out this letter know that Miss Barbara had a medical condition?

RENAUD: I think that the--when the letter was drafted we certainly understood that there was a wide range of cases under consideration that would be denied including some medical issues, yes.

GROTHMAN: Okay. But did you know specifically when you sent this letter to Miss Barrera that she had a medical condition?

RENAUD: You know I don't know the answer to that question. I would like to say yes I think that we probably pulled the case, looked at it and decided to--to deny it.

GROTHMAN: Okay. I--I think what you are trying to tell us here is that there are opportunities to appeal and when you would appeal almost certainly--I shouldn't say almost certainly, certainly the two people who were on the private--the previous panel were not going to be kicked out of this country, right? We have a process, many people have to be kicked out, some people shouldn't. Okay. As you work your way through the process people like these two folks almost certainly will not be kicked out of the country. Is that accurate?

ROBBINS: I think it is accurate to say that in my career, in my experience when you run into a situation similar to the individuals that were here earlier prosecutorial discretion would be used.

GROTHMAN: Right. I mean the point I'm trying to make care and it kinda bothers me a little bit what the other party is doing here I think they are trying to scare people into believe that they are going to be deported when they are not for political purposes. I mean I don't know whether you guys feel in your position you can agree with me or not agree with me on that but if you have two people brought before this committee today, brought all of the way to Washington DC and told that they should be scared to death that they're going to be kicked out of this country when as a practical matter they are not I just think it's a little bit appalling.

Do either of you in your two agencies believe that as this worked its way through the process either of these two individuals were going to be kicked out of this country?

ROBBINS: I can't speak to the individuals that were here because I don't know the effects of their case but my understanding - look, the reality is people with medical issues--

GROTHMAN: Severe. Two people, two young people with severe medical (INAUDIBLE).

ROBBINS: It draws that our heartstrings and I can't see them being removed in the future but I can't speak to their specific cases but cases similar to that we would use discretion absolutely. Those--as far as ICE is concerned we would use discretion at the very point on whether we are rest, placed (INAUDIBLE).

GROTHMAN: Yeah. Do either of you believe that these two folks are being kicked out--were going to be kicked out of the country?

ROBBINS: I do not believe that someone--

GROTHMAN: They both had severe medical problems.

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

ROBBINS: --similar situation would be--we would use discretion to let--use our limited resources to remove that individual.

GROTHMAN: Right.

ROBBINS: We prioritize our resources.

GROTHMAN: Mr. Renaud, same question.

RENAUD: I would agree with my colleague.

GROTHMAN: Right. So I believe what is going on here today is for political reasons to embarrass Pres. Trump we have brought to people in here who are not going to be kicked out of this country but scare them to death to believe they might be kicked out of the country and it just wasn't going to happen. There is no way it's going to happen.

And I will give you another question because a lot of the--and I ask this of the prior--prior person here. Sometimes in this hearing it is (INAUDIBLE) idea of minors without their parents are being pulled apart. In this country and both of your positions do you see minors in this country without--without their parents, with both of their parents probably in other countries? Unaccompanied minors?

ROBBINS: I don't really understand the question. We have unaccompanied minors here in the country, yes.

GROTHMAN: US does--do they eat immediately send them back to be reunited with their parents or do we try to tolerate putting the miss in this country?

ROBBINS: Unaccompanied minors have due process and that due process is--is available to everyone illegal in this country.

GROTHMAN: So if minors come here and they can run away from their parents and right now the United States doesn't do anything about it?

ROBBINS: I think it is unfair to say the United States doesn't do anything about it.

GROTHMAN: They can wind up in this country for two or three years until they get a hearing.

ROBBINS: So we--you know, for unaccompanied minors that crossed the border that we are aware of that are apprehended at the border there is due process for those unaccompanied minors.

RASKIN: The gentlemen's time has expired. Mr. DeSaulnier is recognized for five minutes.

DESAULNIER: Thank you. I just want to go back to a comment you had just a little while ago, Mr. Renaud. So am I correct in saying that someone new about miss (INAUDIBLE) medical condition when that letter was sent out on August 7? That is what you just testified. And remind you that she has asked for four times and got accepted prior to this so what you just said as somebody pulled her file.

RENAUD: That is my best estimate of what happened. Yes, I believe that's--

DESAULNIER: someone under your direction, supervision pulled the file and knew what the circumstances were.

RENAUD: So I think that they--they understood that there were cases pending in process and that US CIS had stopped issuing deferred action and so they issued the letter. I don't want to pretend or accuse that individual or make it seem like that individual made a judgment call on her condition in a heartless way did what they did. We certainly are--we are US CIS. We are empathetic to people and their circumstance but we have--you know, we are bound by the laws and the regulations and the policies that we have and you know, that is how we operate. As I said earlier sometimes that means that--that we have to say yes to someone we would rather not because we think that there is that--that there is fraud or misrepresentation or there could be harm to the country. It also mean

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

sometimes that we have to say no to people that frankly we feel bad for and we empathize with. That is the hard work done by immigration officers across the country every day.

DESAULNIER: so she has been approved four times in the past, you are going to look at the file again. Is there any chance that she would be denied because the guidelines and the discretion has changed given that she has been approved four times including during this administration?

RENAUD: Again I--I have not looked at her case. I--I understand what we heard today. I--I am not able to comment on--

QUESTION: I thought you just--forgive me. I thought you just did comment in answer to Mr. Grothman that you could not imagine that she would not be allowed to stay in the country. Are you changing that testimony?

RENAUD: I--I think my testimony was that I agree with my colleague and he - my kind of bird to his expertise.

RASKIN: And that was what he said. He said he cannot imagine a circumstance under which someone in her situation would be denied. Obviously Mr. DeSaulnier has an intense interest in making sure that--that his constituent has the right to continue to get her medical services.

ROBBINS: I--I was referring to removal. Now what I'm saying is when you are talking about staying in this country would we remove someone in that situation I cannot speak to her specific case I do not know all of the facts and--

RASKIN: Okay. So let's be clear then. Mr. Grothman was trying to say that this was some kind of a big political show because there was no chance any of these people would be removed and now what we are getting is answers saying there's a chance that Mr. DeSaulnier's constituent would be removed and she was terrified long before she came to this committee. We didn't know anything about this. There is terror among hundreds of people in extreme medical condition so let's stop playing games. I liked it better when you guys just said you couldn't testify. Don't tell Mr. Grothman that there's no chance that people are going to get kicked out of the country and then turn around and tell Mr. DeSaulnier that his constituent could get kicked out of the country. I'm sorry. Mr. DeSaulnier your time is restored, too.

DESAULNIER: do you care to respond to that as a humane institution Mr. Renaud or Mr. Robbins? And I will tell you Mr. Robbins if you try to remove her knowing my constituents you'd better bring a lot of buses because a lot of us are going to be arrested trying to protect her.

ROBBINS: What--what I was trying to make clear if you allow me was I cannot judge this case here for--for the people that we are talking about but what I said was is similar cases that have compassion and compelling humanitarian reasons we use discretion every day. We have in the past enforced the immigration law, we will in the future. We continuously use discretion on who we are rest, who we place in proceedings and ultimately remove.

What I was saying was if there was a case similar to that I cannot foresee a similar case being removed from the country, placed into proceedings and ultimately remove. Now I can't speak to her specific case because I--I think it is unfair for me to try to adjudicate that here in this hearing.

What I can say is that our officers, on a regular basis, use discretion on very sympathetic cases and humanitarian, compelling cases. And our officers do it very well. They do it professionally, with compassion.

DESAULNIER: And I appreciate that. And I'm sorry that many moral, ethical people who are in public service have to go through this. And to me, this was not contrived. I mean, these constituents came to me. We heard their testimony about vomiting in a hotel--in a hospital after she had gotten hours of treatment.

But what's changed is this letter. And if either of you or anyone out there is listening--and Mr. Chairman, given your expertise in law, I do feel sorry for these gentlemen being placed here because I know where the responsibility is, in my view. But this--this was a heartless, cruel thing to send out. And Mr. Renaud, knowing that somebody in your organization--I assume you've worked there a long time--knew what this would do and how this deviated from the

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

previous four times she applied, we've got to get to the bottom of this, and we've got to hold people accountable. And if they're not going to testify and use--use a contrived defense to give us the truth, the obvious facts, then I don't know how we pursue it.

Do we find them individually in contempt of Congress? As my colleague said, they're responding to the American public. This--somebody needs to be held accountable for doing this, and it needs to be corrected. So I'm--to say that I'm disappointed as an American to sit here is an understatement, that I don't know where our level of shame or decency will ever come to a point where all of us can say a letter like this is not in the spirit of America, whether you're a Republican or a Democrat. And somebody should be held accountable.

RASKIN: Mr. DeSaulnier, Ms. Pressley, I thank you both for your leadership in putting this on the agenda. Mr. Renaud, Mr. Robbins, I thank you both for appearing today. And--oh, and Ms. Ocasio-Cortez will get to close out with five minutes.

OCASIO-CORTEZ: Thank you, Mr. chair. I think one of the things that's difficult about this moment is that all of us like to think--all of us, first of all, want to do a good job, and I understand the difficult position that it is when people are career servants and when the politicization of this administration goes in so deep that it politicizes otherwise career positions. I understand that and respect that.

But I also understand that at some point in our lives we reach a moral crossroads. And the panel right before this one, we heard from a teenager whose little sister died because she couldn't have access to medication, and he has the same disease that she does. And a young woman who has been in this country for 16 years, depending on medical treatment, and deporting her will kill her. This policy will murder her.

And we are trying to get to the bottom of the origins of this policy change. And we have to ask you. And you all are citing counsel which has given you illegitimate reasons to resist answering these questions. The Supreme Court has ruled on it. It's not a debate. So let me see if I can summarize this testimony and see if there is any last chance that you all may want to change your answer.

You will not tell us who decided this policy. You will not tell us who at DHS thought it was a good idea. You will not tell Congress if the White House ordered this policy. You will not tell Congress whether you vetted the policy with anyone before you put it in place. You will not tell Congress why the policy was changed. You will not tell Congress what the future policy will be. You will not tell Congress that the future pol--when that future policy will be announced. And you will not tell Congress when you plan to let these families with life and death diagnoses know their fates. Is that all correct?

RENAUD: I think on the balance it is correct, yes. Causey of Cortez Mac now the claims are based on this idea that there is ongoing litigation. The Supreme Court has ruled that ongoing litigation is not a reason to resist that answer. It has never been a standard under a Democratic or Republican Congress, and we have a job that we have to do, too, and our job is ordered by the Constitution of the United States to conduct oversight on these conditions that will kill people. So I would say we should have a chance to answer these questions by this Friday in response to a letter. One question I have is who is your counsel? Who advised you to do this?

RENAUD: I take counsel from the DHS General Counsel.

In which individuals at DHS General Counsel advised you to resist answering these questions?

RENAUD: I do not know who made that ultimate decision.

But which individual told you to do it specifically certainly someone told you. You're citing counsel. Was it a letter? Was it a meeting?

RENAUD: I will take that back and get back with you if I can.

So was it a letter or a meeting?

House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties Holds Hearing on Medical
Deferred Action for Critically Ill Children

RENAUD: So you won't even tell us who told you to defy the Supreme Court.

RENAUD: I was never told to defy the Supreme Court.

To cite reasons in defiance of the Supreme Court.

RENAUD: So to answer your question, I will take those questions back, and if I can provide those answers I would be happy to do so.

All right. Thank you for agreeing to do that. And I think that we need to have these questions by this Friday. People, they're terrified. Their medications are on the line. Their entire lives are on the line. In Mr. Chairman, if I may, I think that we should consider--and I believe that after this hearing we have no recourse but to consider discussing a subpoena to get this information if we don't get it is requested.

RASKIN: Well, I want to thank the vice chair of the committee for her insight and views on this. Again, I want to thank both of you for coming in for participating as much as you felt that you could given the institutional constraints your operating under. Obviously this committee is not done with this issue at all. We will be in touch about next steps, but we do look forward to working with you to quelling the chaos that was unleashed when that letter was sent in August and thank all of you for coming.

UNKNOWN: Thank you.

RASKIN: The meeting is adjourned.

Classification

Language: ENGLISH

Subject: US DEMOCRATIC PARTY (90%); US REPUBLICAN PARTY (87%); TESTIMONY (76%); CIVIL RIGHTS (71%); DEPORTATION (50%)

Person: GLENN GROTHMAN (92%); KATIE HILL (92%); MARK DESAULNIER (92%); RASHIDA TLAIB (92%); MICHAEL CLOUD (79%); ALEXANDRIA OCASIO-CORTEZ (79%); CAROL MILLER (79%); DEBBIE WASSERMAN SCHULTZ (79%); JIMMY GOMEZ (79%); JODY HICE (79%); MARK R MEADOWS (79%); ROBIN KELLY (79%); THOMAS MASSIE (79%); CHIP ROY (72%); JAMIE RASKIN (72%); ELIJAH E CUMMINGS (57%); CAROLYN MALONEY (56%); WILLIAM LACY CLAY JR (56%); JIM JORDAN (56%); JUSTIN AMASH (55%); ELEANOR HOLMES NORTON (55%)

Geographic: NEW YORK, USA (92%); CALIFORNIA, USA (91%); KENTUCKY, USA (79%); ILLINOIS, USA (77%); DISTRICT OF COLUMBIA, USA (71%); MASSACHUSETTS, USA (71%); WISCONSIN, USA (70%); TEXAS, USA (69%)

Load-Date: September 17, 2019