

THE ADMINISTRATION'S APPARENT
REVOCATION OF MEDICAL DEFERRED
ACTION FOR CRITICALLY ILL CHILDREN

HEARING

BEFORE THE
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL
LIBERTIES

OF THE

COMMITTEE ON OVERSIGHT
AND REFORM

HOUSE OF REPRESENTATIVES

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**THE ADMINISTRATION'S APPARENT
REVOCATION OF MEDICAL DEFERRED
ACTION FOR CRITICALLY ILL CHILDREN**
Wednesday, September 11, 2019

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL LIBERTIES,
COMMITTEE ON OVERSIGHT AND REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:13 p.m., in room 2154, Rayburn House Office Building, Hon. Jamie Raskin (chairman of the subcommittee) presiding.

Present: Representatives Raskin, Maloney, Wasserman Schultz, Gomez, Ocasio-Cortez, Pressley, Norton, Cummings (ex officio), Roy, Massie, Meadows, Hice, Cloud, Miller, Keller, and Jordan (ex officio).

Also present: Representatives DeSaulnier, Hill, Tlaib, and Grothman.

Mr. 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 request 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 for five minutes to give an opening statement.

I want to welcome all of our witnesses and their families who've 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. Homan 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 lifesaving 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.

Joaquim 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 Guyana now would be, quote, "signing my son's death warrant."

Serena Bodia, a 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 is 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 the country this month or to face deportation.

This new policy threatens sick immigrants who may be forced to leave America and end their lifesaving 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, USCIS 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 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's 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 damages.

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

Mr. 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.

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 to remember those who in the law enforcement community, first responders, people that ran toward buildings, and really just want to thank all of our law enforcement community, including you, Mr. Homan, and your life of public service and law enforcement in 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, 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 have 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 held three hearings in the month of July alone on immigration and 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 law so that we can understand how it impacts our Nation who pays for healthcare and what the expectations are.

My understanding, for example, is the average number of cases that we're just talking about today is about 1,000 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 1,000 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 them, 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 a 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 in our southern border.

Let's talk about the 600,000 that were caught and released and are 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, ICE, and other agents who have been overwhelmed and are being trashed on a daily basis by Members of the U.S. 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 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 then 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 healthcare? 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.

I would 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 when determining deferred action, no specific criteria or application was used. Field officers used their discretion in the totality of the circumstances to make a decision. I want to know is that accurate.

And when asked how the individuals who may have received 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's a mixed bag. I'd like to know. I'd like to track that, I'd like to understand it, and I'd like to know about it. And so now I think we'll learn from some of those things from the hearing today.

So, in wrapping up, I want 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's okay to come here illegally, to stay over visas, to empower illicit criminal organizations and cartels, and to—and basically have a system where we have indentured servitude in our country because we're 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's dropping down and how we should celebrate that. Well, it's still enormously high. It is still an enormously high number. We 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 so as this proceeding continues today, we need to remember the underlying factors driving the crisis. We need to secure the border and do our job, and that all the pointing of fingers at the agencies and spewing of rhetoric here doesn't solve the problem but rather real reform will start here in Congress.

I want to thank the agencies for appearing today. I'd like to thank all 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.

Mr. RASKIN. All right. Mr. Roy, thank you very much. And I want to associate myself with your comments about 9/11, and I'm glad indeed that we were able to have a 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 thank you all for the great pains you've come to join us.

The witnesses are Maria Isabel Bueso [Barrera]; Jonathan Sanchez; Shoba Wadhia, who is a clinical professor of law and the director of the Center for Immigrant 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 Homan, the former director of the U.S. Immigration and Customs Enforcement.

Okay. For all the witnesses who are able, please rise and raise your right hands, and I will begin by swearing the whole panel in. 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 five minutes.

With that, Ms. Bueso, you are now recognized to give an oral presentation of your testimony.

**STATEMENT OF MARIA ISABEL BUESO BARRERA, PATIENT
WITH A RARE DISEASE**

Ms. BUESO BARRERA. I would like to thank the members of the House Committee on Oversight and Reform for the opportunity to speak before you and share my story.

My name is Maria Isabel Bueso Barrera. I'm 24 years old. I came to the U.S. from Guatemala when I was only seven to participate in a clinical trial to save my life and the lives of those like me.

I came here legally and have been a legal resident in this country for over 16 years. But on August 13, the USCIS sent a letter giving me and my family just 33 days to leave the country. While we were grateful to learn that our case would be reopened, our future is still in question.

This 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 MPS-VI, which affects less than 2,000 people in the world. MPS-VI is a rare life-threatening disorder. My life expectancy was very short, and the doctor said I might not live into my teens.

At the time of my diagnosis, there was no approved therapy to treat MPS-VI. Then in 2001, I met Dr. Hartz at UCSF Benioff Children's Hospital in Oakland, who was conducting clinical trials with an enzyme replacement 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 a B-2 visa so I could participate in the study.

As a young child, it was not fun spending so much time in a hospital, but I also understood it was an honor and a privilege. As I matured, it was rewarding to know that what I was doing was

going to help a lot of people. I have continued participating in clinical trials until this day to help the next generation with the treatment of my disease.

The first study I participated in was successful and led to the FDA approval of the first and only treatment. Thanks to this study, other children with MPS-VI 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 stopped the treatment, my condition would decline quickly and I could die within months. So, after the FDA approval, my family relocated to California so I could continue receiving this lifesaving treatment.

In addition to MPS-VI, I also suffer from paraplegia and I use a power wheelchair for mobility. I have a tracheotomy and I have a VP shunt in my brain, making my healthcare even more complicated. Still, the decision to relocate was hard. My parents left a middle-class life, their careers, family, and friends. My father is a computer systems engineer and found a sponsor for an H-1 visa so that he could provide for us.

In 2009, we petitioned for a change in status, and we were granted deferred action for humanitarian reasons. We renewed this status every two years, but this year, due to change in policy, our request was denied.

I want to live. I'm 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 Cal State East Bay and was director of the associated students for the Concord Campus. I established a scholarship to support students with physical and mental disabilities at CSUEB, and I now work as an advocate for people with rare diseases.

This summer, I was an intern at California Assemblymember Rob Bonta's District in Oakland. With the incredible support of my family, I have stayed positive and maintained hope through many struggles. I'm grateful for the opportunity this country has given me to receive medical treatment and to live much longer than expected. And I'm grateful for the humane immigration policies that have made my life here possible, and with that life I want to make a difference for others.

I am asking Congress and the administration to come together and to right the wrong of this change in policy. This is not a partisan issue; this is a humanitarian issue and our lives depend on it.

Thank you so much.

Mr. RASKIN. Thank you very much, Ms. Bueso.

Mr. Sanchez.

STATEMENT OF JONATHAN SANCHEZ, CYSTIC FIBROSIS PATIENT AND MEDICAL DEFERRED ACTION APPLICANT

Mr. SANCHEZ. My name is Jonathan Eduardo Sanchez, and I'm a 16-year-old 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's Honduras, and how my life has changed since I came to the USA

in 2016. I was born in Tegucigalpa, 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 was 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 heartbroken moment for my parents. One month after, they noticed that she had cystic fibrosis. And right now, they're worried that if I go back to my country, it will happen the same thing to me.

On 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 to 42 percent on my pulmonary function test.

The doctors 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 take 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 it.

The doctors, after they made me another pulmonary function test. This time it gave the answer of 60 to 69 percent on my pulmonary function test. Right now, my baseline is 90 through 97. Sorry. Right now, I'm using a medication called Orkambi, that helps like the cystic fibrosis mutation lifts for a bit of time. But this medication is only in 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 is basically a percussion vest 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 the medical deferred action application and telling us that we need to leave the country in 33 days or we'd be deported, my parents and I felt distressed, sad, scared, and mad. It is incredibly unfair to kick out kids who are in hospitals or at home getting treatment 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. In my point of view, thinking that deporting sick 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.

Mr. RASKIN. Thank you, Mr. Sanchez.

Dr. Wadhia.

STATEMENT OF SHOBA SIVAPRASAD WADHIA, CLINICAL PROFESSOR OF LAW, DIRECTOR, CENTER FOR IMMIGRANTS' RIGHTS CLINIC, PENN STATE LAW SCHOOL

Ms. 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 1970's, as part of his effort to support his clients John Lennon and Yoko Ono, Attorney Leon Wildes reviewed over 1,800 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 moved 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 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 in medical and humanitarian cases for decades. The idea is longstanding and, in fact, customary.

In one dataset I received in 2011, nearly half of the cases I could identify involved serious medical conditions, and many of the cases involved 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 involved people whose homes were destroyed by an earthquake in Haiti.

In another dataset of 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 two U.S. citizen children. One of her children had Down syndrome, and the other child had serious medical conditions.

I received a third dataset from USCIS in 2016, again revealing that many deferred action requests were based on serious medical conditions. The dataset 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 ac-

tion 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.

Thank you. I look forward to your questions.

Mr. RASKIN. Thank you, Dr. Wadhia. I'm afraid your time is up. We'll have further time for questions.

Dr. Danaher.

**STATEMENT OF FIONA S. DANAHER, MD, MPH, PEDIATRICIAN,
MGH CHELSEA PEDIATRICS AND MGH CHILD PROTECTION
PROGRAM**

Dr. 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 Dr. Fiona Danaher, a pediatrician at Massachusetts General Hospital for Children, where much of my clinical work focuses on the care of children in immigrant families. I have come here today to express the profound concerns that I and my colleagues share over USCIS's potential termination of the medical deferred action program.

Our hospital cares for children who have benefited from the program, including a young child with a rare genetic condition that causes seizures and developmental 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 intractable seizures and die 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's 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 mobility in social skills. None of this would have been possible without the medical deferred action program. Now the child's 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 bated breath. These children are by definition vulnerable. Whether they suffer from cancer, cystic fibrosis, muscular dystrophy, cerebral palsy, or one of number of other diseases, they require care from a multidisciplinary team of specialists.

Depending upon their underlying condition, an error as a simple as a mis-dosed 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 intervention 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 pneumonia.

Healthcare systems in many low middle-income countries 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 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 environments amounts to issuing them a death sentence. Adding insult to injury, such children could find themselves unable to access even the most rudimentary palliative care to ease the anxiety and physical pain 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. 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, Hubert H. Humphrey. It reads: The moral test of government is how it treats those who are in the dawn of life, the children; those who 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.

Mr. RASKIN. Thank you, Dr. Danaher.

Mr. Marino.

**STATEMENT OF ANTHONY MARINO, DIRECTOR, IMMIGRATION
LEGAL SERVICES, IRISH INTERNATIONAL IMMIGRANT CEN-
TER**

Mr. MARINO. Chairman Raskin, Ranking Member Roy, Ranking Member Jordan, distinguished members of the committee, thank you for inviting me here today and for hearing these 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 have 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 who is 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've represented to die in this program. But even in those cases, the brief reprieve by the government bought those families precious time. This longstanding 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 a dozen more. They all contained the same boilerplate language: USCIS field offices 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 separa-

tion. 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 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's no new procedure. There's 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.

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 doubled 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 benefit from it is in a horribly worse position today.

Mr. RASKIN. Mr. Marino, thank you very much for your testimony.

Mr. Homan.

**STATEMENT OF THOMAS HOMAN, FORMER DIRECTOR, U.S.
IMMIGRATION AND CUSTOMS ENFORCEMENT**

Mr. 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 the 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 to 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 a 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 that we'll be talking about today.

But I want to change the course here for one minute. I understand this hearing is very important. That's why I accepted the offer to come here today and discuss it with the 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 that I have about these types of hearings. I have noticed that the House is quick to schedule hearings whenever there's 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, puts this country's security in danger, or result in an unsecure 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 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 effect 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 the crisis on the border and the three loopholes that are causing much of the crisis? Where are the hearings on existing loopholes around the 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 Flores settlement agree-

ment that has resulted in 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 has caused a national security crisis because half the Border Patrol is no longer on the frontline. Where's 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 Angel Moms and Angel Dads have been born out of sanctuary policies, but I don't see the urgency that we have on things that we want to attack 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's the hearing on that? I am hearing nothing but dead silence on this issue.

What I do hear are Members of Congress joining in on the hate. It's truly unbelievable.

I ask that you step back and take a breath. Attack this administration a little bit less and actually address the underlying problems that cause all 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 fear.

No Member of Congress should be against securing our border. There's no downside of that. There's no downside on less illegal immigration. There's no downside on less illegal drugs. There's no downside on taking money out of cartels' hands that are murdering our agents.

Today's hearing is important. I want to make that straight. This is a very important hearing. We need to discuss it. I'm glad to be here, but we need to talk about these other issues down the road.

Mr. RASKIN. Thank you, Mr. Homan, for your testimony.

We will now begin the period of questioning from the members, and I will recognize myself for five minutes for questions.

On September 2, after the subcommittee demanded USCIS and ICE appear at this hearing, the administration announced a partial reversal of the new policy. In particular, USCIS Stated that it would, quote, "reopen requests 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'd like to put the letter up on the screen, if we could.

And in the meantime, quickly, let me just ask you a question, Ms. Bueso. You were recruited to participate in several clinical trials. Is that right?

Ms. BUESO BARRERA. That's correct.

Mr. RASKIN. So, you were here both for your own treatment but also to participate in these trials that could help everyone suffering?

Ms. BUESO BARRERA. Yes. Help many, many, many, many clinical trials that could help other people.

Mr. RASKIN. Okay. Very good.

Now, if we look up on the screen, USCIS says: If you fail 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?

Ms. BUESO BARRERA. We sent our package in May.

Mr. RASKIN. I'm sorry?

Ms. BUESO BARRERA. In May.

Mr. RASKIN. In May. In the month of May, okay.

Ms. BUESO BARRERA. In May.

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

Ms. BUESO BARRERA. No. We received that letter on August 13, and then we got another letter from the USCIS that they were going to reopen it, but it's still uncertain the situation.

Mr. RASKIN. Okay. So, you got a letter saying it's been reopened.

Ms. BUESO BARRERA. But it's uncertain. It's not clear.

Mr. RASKIN. But we don't know what that means?

Ms. BUESO BARRERA. Yes. We don't know what that means. And I have people here, my lawyer, Martin, he can answer your question too.

Mr. RASKIN. Okay. USCIS, as I understand it, has not explained to anyone what the practical implications are of this partial reversal in the wake of public protest about what had happened, including whether any request submitted prior to August 7 would eventually be approved.

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

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

Mr. 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's your response to that?

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

Mr. RASKIN. Do you feel confident that requests like Ms. Bueso's will get a full and fair review from USCIS?

Mr. MARINO. I certainly hope so. I'm remaining confident. I've told my clients I hope that those that they will consider will get the same consideration that they've always gotten in the past. But this language in the press alert about some State Department regulation, we're not sure what that means, so—

Mr. RASKIN. There's even more uncertainty about the future of critically ill kids whose families submitted requests after August 7.

Mr. MARINO. Right.

Mr. RASKIN. What's going to happen to immigrants and families who fell on the wrong side of this August 7 deadline?

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

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

Mr. MARINO. Yes. I have about 19 families that we represent, and they're all critical medical conditions.

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

Mr. MARINO. It's been absolute chaos. People are terrified. We've had more conversations in my office with crying clients than ever in history, and that's a big thing to say in an immigration legal services office. It's been devastating. People are terrified. It's their children's lives.

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

Dr. DANAHER. Frankly, we're rather appalled. These patients are incredibly sick, and they need care, and we'd like to provide it for them.

Mr. RASKIN. Okay. And my time has expired, and I am happy to recognize Mr. Hice for his five minutes.

Mr. 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's 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 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 toward this administration regarding the border crisis, while at the same time doing absolutely nothing to address the problem and to offer authentic solutions.

If the Democrats genuinely cared about the plight of migrants, of unaccompanied children, of sick immigrants and so forth, then 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 remarked that the United States is run-

ning 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 Democratic Members visited Clint, 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're 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 us right at the face that we're totally ignoring, like amending our broken asylum process, reviewing the Flores settlement agreement, increased funding for border security.

Listen, I've been at the border. I think I've been to six out of the nine sectors. I've not seen 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.

And, look, we've got to address solutions, and the solutions are 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?

Mr. HOMAN. Well, for example, right now, Border Patrol has about 50 percent of their staff off the line. So, if you're someone in this world that wants to do harm to this country, you're not going to buy a plane ticket because there's too many background checks done. You can't get a visa because of the visa security program. You're going to enter this country the way 12 million to 20 million others entered, especially now when half the border is unsecure.

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

Mr. HOMAN. Yes, it's another enticement, like sanctuary cities, like giving free college education or free medical care or rewarding illegal behavior by giving people citizenship. It's 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.

Mr. HICE. 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 it members of the press or Members of Congress, push false narratives as to what's going on down there? What does that do to the morale?

Mr. 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 say good-bye to their spouse every day, leave the safety and security of their home to defend this Nation. And their families, their kids are being attacked.

When I was ICE director, my kid was attacked. He had death threats against him. It's out of control. So, the men and women of

ICE and Border Patrol deserve our thanks, not the ridicule by Members of Congress or the media.

And this open border policy doesn't solve anything. It's going to create more people coming into this country illegally, more women will be raped, more children will die, and I've said that for two years—

Mr. RASKIN. Thank you, Mr. Hice. Your time is expired. I want to thank the witness.

And I call on Representative Eleanor Holmes Norton next for her five minutes for questioning.

Delegate Norton, you're up next. You're up now.

Ms. 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 newspapers, the 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'm so pleased that we had this kind of deferred—we had something of this importance that we didn't even know about, and I'm sorry we didn't know about it, and then it being taken away is mind-boggling to me.

I'm interested in this matter called MPS-VI. I'd like to know what the symptoms are, how rare it is. Ms. Bueso, could you enlighten us on that?

Ms. BUESO BARRERA. Yes, sure. So, I'll give the short version. So, MPS-VI is a rare genetic 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 had developed problems getting sick a lot, infection, ER.

But mostly, since my body didn't have the enzyme, the only treatment that my parents, you know, found is in California. And with that, you know, treatment, I take every single week, so once a week for six hours. And I've been doing this for the past 16 years.

And with that treatment, it had helped me to live longer, because before, I was told that I'm not going to live, you know, till my teens, as I mentioned before. And I'm really grateful. But also, it caused a lot of problems with my heart, my lungs, my bone, spine, eyes, teeth. It's a whole, whole list. But I'm really grateful for the treatment that my parents found because it helped me live longer and not become so severe. But it's really rare, MPS-VI. Not many people know about it.

Ms. NORTON. Thank you. It's important for us to understand this condition.

I do want to indicate there's a quid pro quo here. Obviously, those on deferred action are getting treatment they wouldn't otherwise get. And look what we're getting. Because of the diversity of our country, we're 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 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 is it to have somebody beside you? Suppose somebody said, okay, let that patient—let that person re-

main. What would it mean if there was nobody with you but you were by yourself?

Ms. BUESO BARRERA. No. I'm really grateful for my family, you know, to come here for my treatment. And also, it's really an honor to continue doing so many clinical trials, because now the medicine that I'm getting for MPS are giving it to babies, which does mean that they are gonna, you know, have less problems, you know, because they started early, and more energy. And I'm truly, truly blessed and important to continue with clinical trials so the doctors can know more about MPS-VI because it is a really rare condition. But I'm really blessed with my family.

Ms. NORTON. Yes, it seems to me that without the families present, this wouldn't even be possible 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?

Mr. MARINO. Absolutely. Half of the children in the families that we represent who have these illnesses are U.S. citizens. And the deferred action requests are filed by their 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, especially 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.

Mr. RASKIN. Thank you. The gentlelady's time has expired.

I recognize Mr. Keller for five minutes.

Mr. KELLER. Thank you, Mr. Chairman. And I want to thank the members of the panel for being here today. Truly an important issue.

The healthcare in America is the greatest in the world, and having been the—I'm parent of a son who received lifesaving 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, Doctor, I'll talk to you first. You had mentioned in your testimony about the 1970's and the 1980's 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—

Dr. DANAHER. So, 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 played—action in particular plays in protecting people in humanitarian cases, we will always need that. So, I see all of these cases as sort of Hail Mary cases, if you will, and it enjoys a very long history.

Mr. 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 will go a long way as part of the reform that we look at when we look at immigration reform.

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?

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

Mr. KELLER. Did you call and ask them for guidance?

Mr. MARINO. So, the 800 number, no.

Mr. KELLER. Them at all, I mean any of the agencies?

Mr. 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's been eliminated. There wasn't any—

Mr. KELLER. Again, as people—you know, Doctor, as readying for it, and Mr. Marino, I would suggest that, you know—and I'll make the offer, because I think, Dr. Wadhia, I think you're a constituent of mine if you live in State College, to work with you on solutions. But 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, should it be appropriate for USCIS for that or should it be ICE? I mean, where should we have this program? Who should be determining this?

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

Mr. KELLER. Okay. I appreciate that. I guess I'm just going to—I only have a couple of seconds here, but, you know, just saying, 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 there's people that 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 can 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 be either.

Mr. RASKIN. The gentleman's time has expired. But I want 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's a role for legislative remedy and formalization of some of the criterion 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.

Ms. 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 jingoistic 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.

Mr. ROY. Mr. Chairman—

Ms. WASSERMAN SCHULTZ. So, making sure that I am—no, this is my five minutes.

Mr. HOMAN. What did I say was inaccurate?

Ms. WASSERMAN SCHULTZ. I am asking the questions.

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

Ms. 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. Please know that my Democratic colleagues and perhaps some of 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 a few anguishes greater than your child being sick, much less being one who is unable to access lifesaving 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?

Ms. BUESO BARRERA. 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. It's six hours long. And it has helped me live longer, because as I mentioned, I was broken down in enzymes. 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's missing, then I'm going to die.

Ms. 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. And 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 to—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?

Ms. BUESO BARRERA. 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 best way can come true, because it's very overwhelming and devastating just thinking about you're going to die when you have still so many dreams and hopes for your life. It's really devastating.

Ms. 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?

Mr. SANCHEZ. No, I won't be able to get them in Honduras, because there's no machines, no supplementaries for the treatments. There isn't anything in Honduras for CF. They don't even know—the doctors don't know what CF is.

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

Dr. 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.

Mr. RASKIN. Thank you very much. The gentlelady's time has expired.

And I recognize Mr. Jordan for questioning for five minutes.

Mr. 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 in-

dividuals 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?

Mr. MARINO. Since the September—you mean the new letter since September 2?

Mr. JORDAN. Right.

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

Mr. JORDAN. And we assume—we hope and assume that those individuals are going to be—they're here now. They're in some kind of—as some of our witnesses are already, they're in some kind of clinical trial, some kind of treatment program that they're going to be allowed to stay.

Mr. MARINO. I sure hope so.

Mr. JORDAN. Yes, so do I. I think we all do. And I think that's what the—I think that's the most logical and likely outcome and probably what will happen.

So, how long have you been in your business working with these families? I think you said you had 19 families you're working with right now who have a pending application?

Mr. MARINO. Yes. So, I've been—

Mr. JORDAN. Nineteen families outside this 424 and any families you may have are in that category. Is that right?

Mr. MARINO. So, the 19 families I have, there are some families that—about half the families that had a pending application, another—and the other half are split between people who are preparing to file initially.

Mr. JORDAN. Okay.

Mr. MARINO. And people who are in the deferred action program now.

Mr. JORDAN. So, you got some within the 424—

Mr. MARINO. Right.

Mr. JORDAN [continuing]. And some without.

Mr. MARINO. Right.

Mr. JORDAN. Okay. And you've been doing this for a number of years?

Mr. MARINO. Yes.

Mr. JORDAN. How many years?

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

Mr. JORDAN. You ever had anyone denied?

Mr. MARINO. I have not, but I know that they have been. I think that the reason that I've not is we in legal services kind of have a well-earned reputation of cherry picking cases.

Mr. JORDAN. But people in—

Mr. MARINO. We file them in very serious—

Mr. JORDAN. But some people get denied?

Mr. MARINO. Yes, absolutely.

Mr. 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?

Mr. MARINO. Yes. I've never had a categorical denial where they're all denied because we're no longer considering these cases anymore. I have seen—

Mr. JORDAN. But we haven't had that either. We just got a reopening/reexamination, and we all anticipate, based on the information we've got from USCIS, that they're going to be able to stay. All I'm asking is, in the past, people similarly situated—similarly situated have been denied?

Mr. MARION. On a case-by-case basis, not categorically.

Mr. JORDAN. Right. I understand. I understand. Okay. I just want to make that clear. This is like, whoa, this is—you know, we're hearing from the other side, this is unbelievable. But there have been people similarly situated who have been denied in the past?

Mr. MARINO. I wouldn't say similarly situated. I don't think that any of the clients that I have now and the situation that they're in with the need for critical lifesaving medical treatment would have been denied in the past.

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

Mr. MARINO. But that's just for those cases that were pending on August 7. The program has still been eliminated going forward, it seems. And they've apparently—

Mr. JORDAN. They're going to be—they're going to be looked at on a case-by-case basis.

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

Mr. JORDAN. Right. I got that.

Mr. MARINO. But the program's still been eliminated; that's our concern.

Mr. JORDAN. Okay. Got it.

Mr. Homan, is there a crisis on the border?

Mr. HOMAN. Of course.

Mr. JORDAN. And has there been a crisis there for a long time?

Mr. HOMAN. Yes.

Mr. JORDAN. I just want to get—because your testimony is at the broader issue, and this is critically important, but we also have a broader issue there. We got unbelievable numbers we've seen on the border with apprehensions and everything else. Right?

Mr. HOMAN. Absolutely.

And if I can respond to the earlier remark from Wasserman Schultz, I've forgotten more about this issue than you'll ever know. So if you say my testimony is inaccurate, it's wrong. Everything I said here is accurate. Bottom line. If you want to go toe to toe, I'm here. I'm here on my own time to speak to the American people about what's false and what's fact.

Ms. WASSERMAN SCHULTZ. I'm sure happy to go toe to toe with you, Mr. Homan. Happy to do it any day.

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

Ms. WASSERMAN SCHULTZ. It was my time—

Mr. HOMAN. So, there is a crisis on the border, 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 driver's licenses and free medical care, and reward illegal behavior, you're never going to solve the immigration crisis on the border. It's not going to happen.

Mr. JORDAN. It probably doesn't help when certain Members of Congress criticize the agents down there trying to do their job. It 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 a crisis that got much worse. Probably doesn't help with all those factors either, does it?

Mr. HOMAN. No, sir.

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

Mr. HOMAN. And it doesn't help to have a mixed message, that all of a sudden deferred action is going away, that all of a sudden prosecutorial discretion's going away for this policy change. I myself have approved many requests for stays of removal for medical issues. ICE doesn't put their heart on the shelf when they wear the badge and gun and all of a sudden don't care about humanity. It's ridiculous. It's a ridiculous false narrative. And I'm going to be here till the day I die defending the men and women of the Border Patrol and ICE who put it on the line everyday for this country.

Mr. RASKIN. Thank you. The gentleman's time has expired.

Mr. JORDAN. Thank you for your service.

Mr. RASKIN. I recognize Representative Ocasio-Cortez for five minutes of questioning.

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

Ms. Bueso and Mr. Sanchez, I want to thank you both for coming to testify. I would like to thank all of our witnesses for coming to testify before this committee. 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'd like to thank you. And I'd like to recognize that you're 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'd 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—that are, frankly, targeting you and targeting many people in the United States. And we're 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'd 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 a long time ago, and you may not, but in 2003, participating in a clinical trial for MPS-VI in Oakland, California?

Ms. BUESO BARRERA. I was really young, I was seven, but I do remember coming here with my mom and being participating in clinical trial.

Ms. OCASIO-CORTEZ. You said you were seven years old?

Ms. BUESO BARRERA. Yes, seven or eight, yes. In 2003.

Ms. OCASIO-CORTEZ. Do you remember—and again, I know you were very young, but do you remember a girl named Maria Abreu?

Ms. BUESO BARRERA. Is she from New York?

Ms. OCASIO-CORTEZ. She's from New York.

Ms. BUESO BARRERA. Yes.

Ms. OCASIO-CORTEZ. She's 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.

Mr. RASKIN. Without objection, the letter will be entered.

Ms. OCASIO-CORTEZ. And clearly, you had a profound impact on her.

Ms. BUESO BARRERA. Yes.

Ms. OCASIO-CORTEZ. 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?

Ms. WADHIA. Correct.

Ms. OCASIO-CORTEZ. And 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?

Ms. WADHIA. Correct.

Ms. 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?

Ms. WADHIA. Correct.

Ms. OCASIO-CORTEZ. 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?

Ms. WADHIA. I would.

Ms. OCASIO-CORTEZ. This is a cruel policy change, and this fits a pattern that we have been seeing over and over again before this committee of a culture and an of 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're underresourced, that we have to continue dumping billions of dollars into enforcement, into putting children in cages, into a system that is quite literally killing people. But meanwhile, we are adding

to the resource 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 underresourced because—underresourced for your goals because your goals are to deport people that have no reason, human—on humanitarian grounds or otherwise to be deported. Would you agree with that, Dr. Wadhia? Is that an assessment? Is that how it strikes you?

Mr. RASKIN. The witness may answer the question.

Ms. WADHIA. 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're going to target for removal and who we're going to place—

Ms. OCASIO-CORTEZ. And when we want to talk about morale—

Mr. RASKIN. Okay. The gentlelady's time has expired now.

I want to recognize Mr. Meadows for five minutes for his questions.

Mr. MEADOWS. Thank you, Mr. Chairman.

Mr. Marino, I wasn't going to ask questions, but I'm trying to get my hands around this. And you made a statement that—what program is going away? You said a program is going away in 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, why—what program is going away?

Mr. MARINO. I haven't seen any proposal to move anything to ICE and—

Mr. MEADOWS. So, what program is going away?

Mr. MARINO. Deferred action before USCIS.

Mr. MEADOWS. But where are you getting your documents—I guess what I'm saying is, is I'm not aware of any program that has been recommended that goes away. I mean, these cases have been opened back up, but my understanding was we were just going to move it over so the adjudication is actually handled by ICE. Is that not correct?

Mr. 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—

Mr. MEADOWS. Yes. But your statement to Mr. Jordan a few minutes ago was that the program was going away.

Mr. MARINO. Yes.

Mr. MEADOWS. So, what program is that?

Mr. MARINO. Medical—deferred action at USCIS.

Mr. MEADOWS. And you're basing that deferred action is going away based on what?

Mr. MARINO. So, the denial notice we received—

Mr. MEADOWS. That's one notice for one individual.

Mr. MARINO. No, no. Well, every one that I've seen has been identical. They're all—

Mr. MEADOWS. No, no. I get that for the 400 and some odd, but we're reopening that up. So, I guess—here's what I don't want to do is create panic assuming that we're going to do away with de-

ferred action when I haven't seen anything from either of the groups that would suggest that.

Mr. MARINO. It says USCIS field offices no longer consider deferred action requests.

Mr. MEADOWS. Right. To move it to a different process.

Mr. MARINO. No, that part's not here.

Mr. MEADOWS. No, I understand it is not in that letter. But didn't you get a followup letter on that which says they're opening up for the adjudication?

Mr. MARINO. No.

Mr. MEADOWS. Yes.

Mr. MARINO. So, then they issued a press alert that they were going to reopen these cases.

Mr. MEADOWS. Right. So, anybody that you have in the queue right now—

Mr. 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, deferred action has still been ended.

Mr. MEADOWS. All right. So, Mr. Chairman, let me—what I would like to—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—you don't have a compassionate bone in your body if you're not looking at this and saying we've got to address this. We're going to address this.

Here's what I also don't want to do, Mr. Marino, is assume that we've got this panic out there that we're going to do away with everything. 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?

Ms. Ocasio-Cortez.

[Presiding.] I think it sounds fair. I think it'd be good for us to come together and at least provide some certainty for the lives of these folks.

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

Mr. ROY. Thank you, Mr. Meadows.

Just adding on that, the same question, just to extend, is it my—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've got here is simply, for better or worse, for this hearing to decide and for the purposes of what Mr. Meadows and Ms. Ocasio-Cortez were just talking about, how this process should work. In other words, in this case, USCIS is saying, we're not processing after August 7, right, or we're 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, although ICE will deal with the 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 policies in place that would allow that to occur.

I mean, is that—Mr. Homan, your recommendation or thought.

Mr. HOMAN. ICE, they make prosecutorial discretion decisions every day. Do we arrest, do we not arrest? Do we detain, do we not detain? Do we put in proceedings, not put in proceedings? Do we remove or not remove? And I just said earlier, I have personally approved deferred action requests stays of removal for medical issues. So, it isn't like the whole process is going to go away. 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 making decisions that the other agency has statutory authority over. That's the basis of all prosecutorial discretion matters.

Mr. ROY. And let me just add one thing. It's just—we'll ask this question of the next panel, right, about what their intent is. And then I—when I get my time back, I want to address with Mr. Marino, your head is shaking both directions, so let me do that when I get back.

Ms. OCASIO-CORTEZ. Thank you.

The chair now recognizes the gentlelady from Massachusetts, Ms. Pressley.

Ms. PRESSLEY. Thank you, Madam Chair.

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 that we see the humanity and the dignity in them, appealing for their very lives. That's where we find ourselves.

So, just when I think that 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 and 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 try to do this under the radar, no public announcement, no opportunity or effort to hear from those most impacted. Appalling, shameful. These families' stories have spurred righteous rage, public outcry, and rightfully so.

And I want to thank Mr. Sanchez and Ms. 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

would 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's been a muddying of the waters here, truly a revisionist history—we would not have Ms. Bueso and Mr. Sanchez here doing what they are doing in the face of great physical and emotional burden if this was 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?

Mr. MARINO. Sure. I'll give you a little bit of the history as I understand it and what we've learned. I also think that Dr. 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 apply for anything from ICE. They can't walk into an ICE office and apply for deferred action the way that they always have from USCIS. I believe that what Mr. Homan is talking about, he's 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 maybe then we'll consider it.

So, I don't know. Is 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 proceeding, have a judge order them deported, then turn them over to ICE, and then maybe they're going to exercise discretion. I don't really understand.

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

Mr. MARINO. Sure.

Ms. PRESSLEY. Dr. Wadhia, is there something you want to add on the record?

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

Ms. PRESSLEY. And it has been terminated.

Ms. WADHIA. And it has been terminated.

Ms. PRESSLEY. Okay.

Ms. OCASIO-CORTEZ. Thank you.

The chair now recognizes the gentlewoman from West Virginia, Mrs. Miller.

Mrs. MILLER. Thank you, Madam Chairman and Ranking Member Roy and to all of you all for being here today.

Ms. Bueso and Mr. Sanchez, I want to thank you for sharing with us your life stories and experiences that you've had. It has helped shed light on the plight that many are facing and the need for clarity in our immigration system. And I want to reiterate what the gentlemen from North Carolina and from Texas are expressing as well: we need clarity 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 on solving our Nation's larger immigration issues?

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

Mrs. MILLER. I said has all of this rhetoric helped move our Nation into solving the immigration issues?

Mr. HOMAN. No.

Mrs. MILLER. How would you characterize the Trump administration's response to the southern border crisis?

Mr. 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.

Mrs. MILLER. When we had the Acting Secretary 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?

Mr. HOMAN. Because there're loopholes that exist that cause families and children to come to this country. And that's one thing—of course, I'm constantly attacked at being—I'm the devil, but if anybody in this room has ever worn a green uniform and seen what I've seen in my career—I've seen many dead children and many women that were raped, 32 percent numbers from Doctors Without Borders, and that is the issue. It's not about securing a border, which no one on this panel should argue a secure border is a better United States. But it's not just about enforced laws securing borders; it's about saving lives.

And I feel what's going on here today—and there are many cases that deserve deferred action, significant medical issues. So, don't say that this administration doesn't care about this, because I personally have approved deferred action medical care. But what I'm saying is 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.

Mrs. MILLER. Repeat that number, please.

Mr. HOMAN. Four thousand rescues. And what I'm saying is we have hearing after hearing after hearing, but I haven't been involved with one hearing talking about fixing the problem that's causing the surge. But you want to talk about family separation, you want to talk about terrible detention conditions, you want to talk about, you know, this deferred action. And I get it, it is all important. But when are we going to talk about fixing the problem of saving lives and securing our Nation?

Like everybody here, I don't care if you're Republican or Democrat, your No. 1 responsibility is to secure this Nation. And there's no downside in protecting Americans and securing our border. And if you don't like it, legislate. Don't ask people to ignore the law or twist the law or bend the law or find loopholes here or loopholes

there. Legislate. Do your job and fix it. It can be fixed, but it's going to take a backbone to get it done.

Mrs. MILLER. So, once again, given all the political rhetoric in Congress within 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?

Mr. HOMAN. It's going to save lives. It's going to take the money out of the cartels' hands that not only will smuggle people and traffic children that are coming to this country with relatives. They claim are relatives, aren't relatives. We have numerous investigations. Children are being trafficked.

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 fix the issue. This is fixable, but it's—people are too busy resisting this President, wanting to see the President of the United States fail in the most important issue facing this Nation right now, because 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 fail to address the loopholes that are causing it.

Mrs. MILLER. Thank you, Mr. Homan.

I yield back my time.

Ms. OCASIO-CORTEZ. Thank you.

The chair now recognizes Chairman Cummings for five minutes of questioning.

Mr. 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 if we had a Senate that would pass legislation and we had a President that would sign it, this problem which is the subject of this hearing today could be fixed. Am I right?

Mr. 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—

Mr. CUMMINGS. Discretion.

Mr. MARINO [continuing]. Discretion involved, right.

Mr. CUMMINGS. And I want to thank our witnesses again for being here today. And I especially would 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?

Ms. BUESO BARRERA. The hardest part about my disease? Is that the question?

Mr. CUMMINGS. Yes.

Ms. BUESO BARRERA. I think it is the problem that goes with it in my body, that I need lots of surgeries. Recently, I had a spine surgery due to my condition. I guess when I was younger, just getting needled every week, because I was young so I didn't like it. But as I got older, I got used to it at this point. But I don't like to see my disease as a horrible thing, because, yes, I have a disease, but I've been opening doors for others, continue doing the clinical trial to help other people.

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

Mr. CUMMINGS. I really do think that we are in a 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?

Ms. BUESO BARRERA. What's the question?

Mr. CUMMINGS. Would you agree that we're at a moral—it's a moral issue? In other words, when you're dead you're dead.

Ms. BUESO BARRERA. Yes.

Mr. CUMMINGS. You agree?

Ms. BUESO BARRERA. Yes, because it's been really an overwhelmed situation just knowing that you have to leave in 33 days. In my mind, I was just thinking, you know, when I receive—when I saw the letter, the only thing that I could think of is, oh, my goodness, my medicine that has helped me keep my life for so long—because as I mentioned before, many doctors thought I was not going to live till my teen years, and I'm 24 years old now and graduated from college, summa cum laude. So, I'm really blessed on that. But yes, so it's really a death sentence for me.

Mr. CUMMINGS. And you participated in student leadership?

Ms. BUESO BARRERA. I'm sorry?

Mr. CUMMINGS. You participated in student leadership?

Ms. BUESO BARRERA. In what?

Mr. CUMMINGS. In other words, your student government?

Ms. BUESO BARRERA. Oh, yes. Oh, yes, I was a director, a director at my campus with the—

Mr. CUMMINGS. Go on now.

Ms. BUESO BARRERA [continuing]. Student government. Yes, I represented the whole Concord campus on my own.

Mr. CUMMINGS. Well, thank you for being here.

Ms. BUESO BARRERA. Thank you.

Mr. CUMMINGS. I yield back.

Ms. OCASIO-CORTEZ. Thank you.

The chair now recognizes Mr. Grothman for five minutes of questioning.

Mr. GROTHMAN. 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, Sheriff's Department, police department, corrections officers. There is nobody who 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. 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 kicking someone like the two people on the other end of the panel out of this country?

Mr. HOMAN. Absolutely. I've heard here today there's cases here that deserve the attention of prosecutorial discretion. And ICE does that every day. We—I personally have approved when I was ICE director.

Mr. GROTHMAN. This would never happen. In other words, 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?

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

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

Mr. HOMAN. No.

Mr. GROTHMAN. Okay. I'll 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 things that can be done. 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 of 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?

Mr. HOMAN. There's three things that we've been talking about for the last two years. One's the Flores settlement agreement. Back in Fiscal Year 2014 and 2015, when the family crisis first started, we detained families for 40, 50 days until they saw a judge. It wasn't until Flores reinterpreted the decision that we can only hold them 20 days, which isn't long enough to see a judge. So, 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.

Mr. GROTHMAN. We hold President Trump to a significantly higher standard of care than Barack Obama.

Mr. HOMAN. But it worked, it worked. Once they saw the judge, a majority lost their cases and were removed.

The second thing we need to 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 as you 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 from Mexico get. They can be removed easier and reunited with families.

The third thing is the asylum levels. Most people pass the first interview at the border at about 88, 90 percent rate, but once they get in front of an immigration court, the current—the last time I saw, 88 percent of all Central Americans who claim fear at the border do not get relief from immigration court. So, the delta is too high. 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 a judge. Like I said, 90 percent lose their case, there's over 100,000 removal orders from family units, but less than two percent have left.

Mr. GROTHMAN. Thank you.

Now, something's been said about, in all of 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?

Mr. HOMAN. The unaccompanied alien children are given over to ORR. They're in their custody. Most of them are—less than two percent have been removed, most are here. And that's an issue that no one wants to talk about, right. We talked about the 2,500 separations, but at the same time, there are 14,000 children in custody in ORR that were smuggled to this country by criminal cartels. That's inhumane.

Mr. GROTHMAN. And nobody cares.

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

Mr. GROTHMAN. Absolutely. Thank you.

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

Mr. DESAULNIER. Thank you, Madam Chair.

And I want to thank the witnesses. I have a prejudice toward 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. 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 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 the 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 in the Republican caucus, the Speaker never brought it for a hearing or a vote. More recently, Representative Hurd, a Repub-

lican, 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.

You did everything you were asked of. You were asked by a Federal agency to come and be part of this trial to save lives, Americans and others. You came here legally. You went 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, to my anger, I've carried in my pocket ever since you gave it to me. We get 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 him.

And before you start, my district director, who's worked on these cases for years, was traumatized, because the people who we work with in the regional office of San Francisco, the first conversation with 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—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, 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?

Ms. BUESO BARRERA. So, just really quick, the way I found out 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 program was denied and you have 33 days to leave. 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 went to my doctor's office and just told him about it, and then we were just scared. And right now, I'm still overwhelmed with different emotions. So, yes.

Mr. DESAULNIER. Thank you, I'm really proud of you. I yield back.

Ms. OCASIO-CORTEZ. Thank you.

The chair now recognizes Ms. Tlaib for five minutes of questioning.

Ms. 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, I want to thank you again, all of you, so much.

Also, Professor Wadhia and I have been trying to fight for comprehensive 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 this. 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 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 gaslighting 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 release of USCIS grants under deferred action and ICE's administrative stays.

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

Ms. WADHIA. Sure. And great to reconnect with you as well, Representative.

So, with USCIS, 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's 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 impediment of choosing or using administrative stays as an alternative to affirmative deferred action at USCIS.

Ms. 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 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?

Mr. MARINO. Sure. If what we're talking about are stays of removal that ICE currently does—

Ms. TLAIB. That's right.

Mr. MARINO [continuing]. Because it seems like they are not actually taking over deferred action. They're eliminating deferred action and then saying, but we may grant you a stay once you've been ordered removed. People who are ordered removed then face a 10-year bar on admissibility back into the United States, 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 lifesaving treatment for a child with medical deferred action. Unfortunately, the child did pass away. The family returned home, but then the father was able to come back as a permanent resident. And had they not been in medical 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.

Ms. 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 with 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 lifesaving medical treatment. I will continue always—this is probably the third time I think you're before this chamber—that I'm deeply troubled by your opening statement and continued assault on innocent lives.

And 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.

Ms. OCASIO-CORTEZ. [Presiding.] The gentlelady's time has expired.

Mr. HOMAN. Can I respond to that?

Ms. OCASIO-CORTEZ. No. We're moving on to—

Mr. ROY. Alexandria?

Ms. OCASIO-CORTEZ. Yes.

Mr. ROY. He was invoked. I would suggest he should be able to—at least be able to respond.

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

Ms. TLAIB. There wasn't a question. I said I was deeply troubled.

Mr. ROY. I'll reclaim that time.

Ms. OCASIO-CORTEZ. Would you like your time?

The chair now recognizes Mr. Roy for five minutes, and you can feel free to use your time.

Mr. ROY. Mr. Homan, I'll give you some time here in just a second on that.

A couple of things and observations. First, to Ms. Bueso, and Mr. Sanchez in particular, thank you for being here. Wish you both well and long lives, and glad that you're able to get the care here.

Ms. Bueso, I'm glad you're getting, you know, the kind of treatment you're 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're able to do that.

A quick question that I want to try to—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 USCIS—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'll 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—you know, the question here is where it should be. Should it be USCIS or should it be at ICE? And if you were going to accept that premise, then what should have been done was much clearer notice given 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're going to keep getting health treatment. We're changing processes. This is the way ICE is now going to handle it, and so forth and so forth.

So, I'd like to just stipulate that that's my view, that that's—that if you're transitioning the way you've previously handled something, then you need to have something like that. We'll ask the second panel about that.

Having said that, I am interested in continuing to learn where it should exist. We'll hear from USCIS in a minute. But I want to understand, Mr. Homan, on that question—we'll 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's here, they're in a tough situation, and they're saying, okay, we're getting shoved into a pipeline for expedited removal and then hoping there might be a question of discretion?

Mr. HOMAN. Well—

Mr. ROY. And can you kind of walk through how that might work in ICE?

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

Mr. ROY. Right.

Mr. HOMAN. Now, we have talked about stays. That's what ICE currently do. They give stays of removal.

Mr. Marino, what he says—I'm not disagreeing with him—is ICE prepared to make other decisions that CIS would make, and that's a question for ICE and the next panel. What I've talked about is ICE needs to have the authority of prosecutorial discretion, and that's a legal issue. And I think those decisions—no other agency is to say, well, ICE can't remove that person. That needs to be ICE prosecutorial decision, or you shouldn't put them in proceedings. That needs to be ICE's decision.

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

Mr. ROY. And the reason I think this matters, right, is the purpose of—I hope there's general agreement about the process and the communication and what should have occurred there, then we can have a debate, as I think we had a good conversation, Ms. Ocasio-Cortez and Mr. Meadows, about, okay, where do we go forward on this on that question. We'll ask the next panel some of these.

But it is important for us not to send some signal of, you know, panic, to use Mr. Meadows' term, that anything is going to be problematic going forward, that we'll address the issue and try to 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 DAPA, right. We had this litigation in DAPA. 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're talking about here is discretion. I think, Ms. Wadhia, I was looking at your testimony, the data points there. You said, one data I was able to identify included 118 deferred actions of which 107 were approved, pending, or unknown, and a particular dataset 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, you know, that's a case-by-case decision.

To that end, I'm going to 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?

Mr. HOMAN. Yes. I want to address the last comments made about me being appalling and—first of all, I served my country for 34 years. I saved many lives. And I ran an agency.

Let's be frank in what ICE does. ICE last year seized enough opioids off the streets of this country that could've killed every man, woman, and child in the United States twice. They've arrested thousands of sexual predators that preyed on children. They rescued thousands of children who are victims of predators. They arrested hundreds of women who are victims of sex trafficking. I am proud of the agency and ICE.

And what we don't want to talk about is nearly 90 percent of everybody ICE arrests for immigration violations either have a criminal history or are pending criminal charges when they were found,

meaning they were found in a county jail, which most likely means they weren't a choir boy.

So, to mis-message 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.

Ms. TLAIB. Chair, now—

Mr. HOMAN. In my 34 years, I've never seen such hate toward a law enforcement agency in my life that you want to abolish them—

Ms. OCASIO-CORTEZ. Mr. Homan, the time is expired.

Mr. HOMAN [continuing]. Rather than doing your job and legislate.

Ms. OCASIO-CORTEZ. Mr. Homan, your time is expired.

Mr. HOMAN. If they don't like it, legislate. You can't let—

Ms. OCASIO-CORTEZ. Mr. Homan, according to the rules of this committee—

Mr. HOMAN. I think this Congress is in the habit of enacting laws—

Ms. OCASIO-CORTEZ. Mr. Homan, your time is expired.

The chair now recognizes Ms. Hill.

Ms. 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 into an apartment, let alone somebody who is facing life or death, children, trying to transfer medical care out of the country within 33 days.

So, who I've heard from the most over the last week or so since this was—since this issue has come up were medical professionals. And days after the administration's policy reversal was revealed, the American Academy of Pediatrics, an organization of 67,000 pediatricians and pediatric specialists, 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 USCIS 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're 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?

Dr. DANAHER. No.

Ms. HILL. And what would you have advised USCIS if you had been consulted about this decision?

Dr. 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're already under tremendous stress, and to

add on top of that this fear not only for their own healthcare, but for their safety, is just mind-boggling.

I would also say that it's extremely difficult to transfer care anywhere within a month inside or outside of the country for kids like this.

Ms. HILL. Oh, yes. Trying to transfer your care across state lines or even across community lines is incredibly difficult.

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 USCIS telling them to leave the country within 33 days with a child, an infant in intensive care.

Mr. Marino, you noted in your written statement that the vast majority of cases your organization represents involve 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?

Mr. MARINO. I think they've been as shocked as we have and as our clients have been. It's astounding to think that this would happen at all and that it would happen just with a boilerplate form letter with 33 days' notice to get out. And a lot of—we partner with multiple hospitals in the Boston area, and so they're 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, that 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 shocked to see that it had ended and especially the way that it had ended.

Ms. HILL. Thank you.

And, Ms. Bueso, thank 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 worry about, that the parents are having to worry about? Just anything you want to add to what you've already said.

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

Ms. HILL. Well, thank you all. And I would just reiterate that 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 that

is about an immigration policy and a form letter. It is not that simple. This is human life.

So, thank you, and I yield back.

Mr. RASKIN.

[Presiding.] The gentlelady yields. Thank you for your questioning.

And finally, we'll go to Mr. Gomez for five minutes.

Mr. GOMEZ. Thank you, Mr. Chair.

First, one of the things I 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 with 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've seen this 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. You know, the outrage happened across the country. They reversed policy. 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 you do another.

I know this is not the panel, but this is why they lack credibility, not the women of the Border Patrol or ICE. I'm saying the administration, when it comes to making decisions on these important issues, they lack credibility, right, because they say one thing and do another.

Mr. Marino, you've got—what did the letter say?

Mr. MARINO. So, the letter said that—the initial letter said that USCIS field offices no longer considered deferred action cases, and then it said 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.

Mr. GOMEZ. Anything else? Footnotes?

Mr. MARINO. No.

Mr. GOMEZ. Pictures?

Mr. MARINO. No.

Mr. GOMEZ. Nothing, right?

Mr. MARINO. I think—actually, I have a copy of it, and I think it even said—yes. Thank you for your request for deferred action, so it said that.

Mr. GOMEZ. And then all of a sudden, now they got pushback and now, oh, you know what, we're going to change it. Now it becomes we're just considering moving it from one, you know, agency to another.

This is what this administration does. 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 wanted to invoke the 25th Amendment, I don't think they have a Cabinet large enough to invoke the 25th Amendment. So, it is just ridiculous. And it's just frustrating because they 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. BUESO, first, I love your story about going to college. Congratulations. How did you and your family first find out about the deferred action that it had ended?

Ms. BUESO BARRERA. As I mentioned, the way we found the letter that it was denied was after my treatment. My mom and I were like, normal day, walking out of the elevator, and our lawyer called my mom saying that he received the letter for members. So, my mom, my dad, my oldest sister, myself, saying that policy change and you have 33 days to leave, without no notification, nothing.

Mr. GOMEZ. How did your mother react?

Ms. BUESO BARRERA. She cried. She cried with me. They were like on the floor. They were just shocked because, like I mentioned before, I've 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 that I was going to go to the ER because I just lose it, honestly.

Mr. GOMEZ. And how does your family feel about the partial reversal of policy?

Ms. BUESO BARRERA. It's just uncertain. It's not clear. We're just like—honestly, we just want something that is 100 percent guaranteed, because as me and my family, and I'm sure other families, we definitely do not want to go through this again—

Mr. GOMEZ. Yes.

Ms. BUESO BARRERA [continuing]. The next two years. So, we just want to make sure that there's something like guaranteed 100 percent, 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.

Mr. GOMEZ. Yes. Now, and you need and your family needs predictability, especially since the condition that you have. I just also want to just 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, their families, the stress it would put out. Just a form letter, you know, that's it.

My staff calls constituents when they write them letters to give them, you know, to say that they got the letter and to have a little discussion. We make more than 424 calls in a month with just my four staffers.

They could've 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.

Mr. RASKIN. Thank you. Mr. Gomez, thank you very much for your questioning. The gentleman 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. DeSaulnier. 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're 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 you, Mr. Homan, Mr. Marino, Dr. Danaher, Dr. Wadhia, Mr. Sanchez, and Ms. Bueso, for your testimony.

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 Organization for Rare Disorders, as well as a number of other immigration and patient rights 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 that these letters be entered into the official hearing record. It is so ordered.

Mr. RASKIN. Okay. The committee will recess just for two minutes for a break, and if we could switch over the panelists, that would be terrific.

[Recess.]

Mr. RASKIN. All right. If all the members could find their seats, that'd be terrific.

We are now delighted to welcome our final witnesses. We thank you 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. Immigration 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 you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

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. And with that, Director Robbins, you are now recognized to give an oral presentation of your testimony.

STATEMENT OF TIMOTHY S. ROBBINS, ACTING EXECUTIVE ASSOCIATE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. ROBBINS. Chairman Raskin, Ranking Member Roy, and distinguished members of the subcommittee, thank you for the oppor-

tunity 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 the 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 may 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 in 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 may have on ICE's role in this matter.

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

Mr. Renaud.

**STATEMENT OF DANIEL RENAUD, ASSOCIATE DIRECTOR,
FIELD OPERATIONS DIRECTORATE, U.S. CITIZENSHIP AND
IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SE-
CURITY**

Mr. 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 nonmilitary deferred action, which is the subject of today's hearing.

My directorate does not decide 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 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 7, 2019, USCIS determined that field offices would no longer accept requests by nonmilitary 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 nonmilitary, non-DACA deferred action requests. For the past few years, USCIS has received very few deferred action requests annually.

Many nonmilitary, non-DACA deferred action requests received by USCIS are due to family support or medical reasons. This has

been incorrectly reported 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 servicemembers and their families and DACA beneficiaries was not affected by the August 7, 2019, redirection of agency resources, and consideration of those cases is ongoing. In addition, all cases that were denied on August 7, 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.

Mr. RASKIN. Mr. Renaud, thank you very much for your testimony.

I'm going to begin by recognizing Ms. Wasserman 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?

Mr. ROBBINS. Some of the witness testimony but not all.

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

Mr. RENAUD. Yes, sir.

Mr. RASKIN. Okay. Very good.

Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Gentlemen, welcome to the Oversight Committee. 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?

Mr. ROBBINS. I can't speak as to the benefits that are provided based on the stay, but I can tell you that prosecutorial discretion, we use prosecutorial discretion from the point of arrest throughout the enforcement—

Ms. WASSERMAN SCHULTZ. Why can't you speak to the benefits? Because what I've just laid out—is what I've just laid out accurate, as far as your understanding, in the differences in the two processes?

Mr. 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 adjudicate them on a case-by-case basis.

Ms. WASSERMAN SCHULTZ. And they're only available in one-year increments?

Mr. ROBBINS. No more than one year.

Ms. WASSERMAN SCHULTZ. Right.

Mr. ROBBINS. It could be less than one year.

Ms. WASSERMAN SCHULTZ. And ICE does not grant benefits to individuals like work authorizations?

Mr. ROBBINS. We do not.

Ms. WASSERMAN SCHULTZ. Right. Or eligibility for health benefits?

Mr. ROBBINS. We do not.

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

Mr. RENAUD. Thank you for your question. If someone were to receive deferred action, they have the opportunity to apply for employment authorization. That is a discretionary decision made on a case-by-case basis as well.

Ms. WASSERMAN SCHULTZ. Right. And they're also potentially eligible for health benefits as well in that process, obviously, or they wouldn't be applying for deferred action?

Mr. RENAUD. I'm sorry. I can't speak to whether they're eligible for health benefits. We do not provide health benefits at USCIS.

Ms. 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?

Mr. ROBBINS. We do not adjudicate health benefits—

Ms. WASSERMAN SCHULTZ. Right.

Mr. ROBBINS [continuing]. Either, so I would not be able to answer that.

Ms. 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 deferral lasts up to two years, which allows for greater certainty to these families.

Finally, a person granted deferred action by USCIS is not considered to be, quote, "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?

Mr. RENAUD. Not having expertise in administrative stays, I'm not able to compare and contrast the two forms of prosecutorial discretion.

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

Mr. RENAUD. Again, I can't confirm specifically how—

Ms. WASSERMAN SCHULTZ. You're not familiar with your own agency's procedures? I mean, 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?

Mr. RENAUD. As I've testified, someone who is a recipient of deferred action, someone who has deferred action is—

Ms. WASSERMAN SCHULTZ. But also the parents can apply. A family can be—

Mr. RENAUD. Yes. Any individual for any reason who happens to have deferred action—

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

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

Ms. 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?

Mr. ROBBINS. So, DHS is still considering a pathway forward, and we're—those are internal discussions that we're not prepared to discuss.

Ms. WASSERMAN SCHULTZ. Okay. Well, I appreciate making sure that the information that arose during this entire hearing makes it very clear that what Mr. Homan 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.

Mr. 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?

Mr. RENAUD. Unfortunately, we are not going to be able to answer that. Because of the ongoing litigation, we're not able to respond to that today.

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

Mr. RENAUD. Again, because the litigation specifically encumbers what the current policy is, as the committee was informed last evening by letter, these are areas that we are not going to be able to discuss—that I'm not going to be able to discuss today.

Mr. 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?

Mr. RENAUD. That is my testimony, sir, yes.

Mr. RASKIN. Okay. Let's see. Well, 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?

Mr. 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, in enforcing immigration law, has always used discretion and will always use discretion moving forward.

Mr. 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?

Mr. ROBBINS. Well, currently ICE does not have a process, an application process or an adjudicative 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.

Mr. RASKIN. And therefore—but so what is the answer to my question of what has changed?

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

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

Mr. ROBBINS. I can't answer that question.

Mr. 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?

Mr. 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. Those discussions are ongoing.

Mr. 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 the numbers of people affected as very few. And in terms of the overall number of people you've got to deal with, I understand that, but it's still 1,000 or more people. And, you know, 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 has 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 to 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?

Mr. ROBBINS. I'd love to be able to give you an answer on when that conversation would conclude. Those conversations are ongoing, and I don't have an answer for you.

Mr. RASKIN. Okay. Can you assure us that none of the people that we saw today or 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?

Mr. 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 has previously applied for deferred action. So,—

Mr. RASKIN. And you can assure us—I understand you can assure us that you're not targeting anyone in this situation for removal at this point?

Mr. 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 prosecutorial discretion on cases very similar to these. I can't speak to these specific cases because I do not have the facts. But I can't assure you that every case that has applied through CIS deferred action program or process would not be removed. I just don't know all the cases.

Mr. 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. So, thank you for your testimony.

And I recognize now Ms. Pressley for five minutes of questioning.

Ms. 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 certainly pales in comparison 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, Mr. Robbins.

Mr. RENAUD. I can't speak specifically of that—

Ms. PRESSLEY. Can you confirm receipt of the letter?

Mr. 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 meet the established guidelines and deadlines.

Ms. PRESSLEY. And the deadlines, okay. All right.

Mr. Robbins, are you under the same impression?

Mr. ROBBINS. Yes, ma'am.

Ms. 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?

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

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

Mr. 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.

Ms. PRESSLEY. I'll keep going.

What office or internal department at USCIS did this directive come from?

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

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

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

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

Mr. RENAUD. Ma'am, I'm not an attorney, and I don't pretend to understand or know all the aspects of law.

Ms. PRESSLEY. Well, I'll make a request—

Mr. RENAUD. I know that when attorneys ask me or instruct me that there is 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.

Ms. PRESSLEY. All right.

Mr. RENAUD. I appreciate you understanding.

Ms. 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 ques-

tions that gets to not only our request, 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?

Mr. RENAUD. I understand what you're asking.

Ms. PRESSLEY. All right. Very good.

Now that USCIS has been publicly shamed into processing the deferred action request that you had originally denied, how many requests has your agency processed since USCIS's September 2 announcement? Can you tell me how many you've processed?

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

Ms. 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?

Mr. 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.

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

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

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

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

Ms. 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.

Mr. 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 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 do vary or the—certainly geographic, to get to your question, the geographic distribution, we cannot be precise in that area, you know, in response to that question at all.

Ms. 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?

Mr. RASKIN. The witness may answer that question, so answer that question.

Mr. RENAUD. Well, I think I've answered it. I said that we will do our best. 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.

Ms. 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.

Mr. RASKIN. The gentlelady's time is expired. Thank you.

Mr. DeSaulnier, you are recognized for five minutes.

Mr. DESAULNIER. Thank you, Mr. Chairman.

I want to 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 then cried because they knew that was a death sentence. How do you respond to that as a human being?

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

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

Mr. RENAUD. I am certainly—

Mr. DESAULNIER. Was it a mistake?

Mr. RENAUD. I'm certainly empathetic to their situation.

Mr. DESAULNIER. Was it a mistake, sir?

Mr. RENAUD. I don't—

Mr. DESAULNIER. 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?

Mr. RENAUD. I am an operator. I am not a policymaker. 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.

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 the benefit to someone who we believe is a threat or we believe has secured a benefit through fraud despite our best effort.

Mr. DESAULNIER. Excuse me, would you—

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

Mr. 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?

Mr. RENAUD. I am not implying that, no.

Mr. DESAULNIER. So, you have said that your attorney can't answer questions because of litigation, but we've been told by the Supreme Court over and over again that private litigation 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?

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

Mr. DESAULNIER. Maybe you should get your own attorney.

Do you know who made the decision to stop accepting the processing deferred action requests on August 7 that led to the letter?

Mr. RENAUD. Yes. That, as you just indicated, that is something that is under litigation that I'm not able to respond to at the advice of counsel.

Mr. DESAULNIER. What role did the acting director play in the decision?

Mr. RENAUD. I'm sorry?

Mr. DESAULNIER. What role did the acting—

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

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

Mr. ROBBINS. Not that I'm aware of.

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

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

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

Mr. RENAUD. I think it's important to note 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, which could last months or longer.

So, I don't believe that—if you're asking if we had analysis of how many people would be impacted by this, we had an idea of the number of—the size of the population who received deferred action. But, again, the reasons why the process was changed I'm not at liberty to say at this time.

Mr. DESAULNIER. So, before that letter was sent out, was there any discussion anywhere about the consequences of that letter, and in the case of 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?

Mr. RENAUD. Again, 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—

Mr. DESAULNIER. Well, why would you send a letter?

Mr. RENAUD [continuing]. Lots of room for prosecutorial discretion. USCIS could choose not to issue an NTA, and that person would never be in proceedings unless otherwise—

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

Mr. RASKIN. The gentleman's time is expired. You can answer that question.

Mr. RENAUD. We have issued denial notices on deferred action requests. In fact, we historically have denied about half of the deferred action requests that we receive. There was a question earlier from one of the members that indicated that we see about 1,000

a year, that's about 1,000 applicants per year historically, and we have denied the majority of those, at least in the data that I see.

Mr. RASKIN. Thank you very much. The gentleman's time is expired.

Ms. Ocasio-Cortez is recognized for five minutes of questioning.

Ms. 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?

Mr. RENAUD. I'm not prepared or capable of arguing legal precedent with you. I'm here representing the agency and—

Ms. OCASIO-CORTEZ. So, why did the agency change the policy?

Mr. RENAUD. I'm sorry?

Ms. OCASIO-CORTEZ. Why did the agency change the policy with respect to deferred action?

Mr. RENAUD. Again, as I mentioned earlier, that is something under litigation that at the advice of counsel—

Ms. OCASIO-CORTEZ. And 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?

Mr. RENAUD. Why did ICE change the policy?

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

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

Ms. OCASIO-CORTEZ. Due to? What reason are you citing?

Mr. RENAUD. At the advice of counsel, I am not answering that question. I hope you'll understand and—

Ms. Ocasio-Cortez. Actually—

Mr. RENAUD [continuing]. I don't know what else to say.

Ms. OCASIO-CORTEZ.—because there's no reason being offered, we cannot understand.

Mr. RENAUD. I can only say that you're arguing with the wrong person, you know. I'm not in a position to—

Ms. 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 straightforward.

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

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

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

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

Ms. 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?

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

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

Mr. RENAUD. I cannot answer—I cannot answer questions regarding what standards we will be using going forward.

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

Mr. RENAUD. I don't know. 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—I know it came up in the last hearing the standard operating procedure. That essentially described the mechanics of how to process a case. It is not a guide to the use of discretion.

Ms. OCASIO-CORTEZ. Will USCIS impose any limits or caps on the number of deferred action cases that may be granted from reopened cases?

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

Ms. OCASIO-CORTEZ. Your September 2 announcement also stated, and I quote, "As USCIS' deferred action caseload 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."

The media reports indicate that USCIS receives only about 1,000 medical deferred action requests each year. USCIS has about 19,000 employees and contractors that handle hundreds of thousands requests each year. So, are these 1,000 requests really such a large burden that they justify ending deferred action for people with serious life-and-death medical conditions entirely and risking their lives?

Mr. RENAUD. Well, as you know, speaking to the language in the letter, USCIS has a sizable 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.

Ms. 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 make an effort to be in compliance of the law if they don't know what that enforcement is or will be in the future?

With that, I rest. Thank you.

Mr. RASKIN. The gentlelady's time has expired. I thank you for your comments. And it inspires me, actually, to close with another

five minutes of questioning, and I invite any of my other colleagues who want to pursue it.

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 rollout 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 do have a few final questions I want to try to pursue with you.

Our colleague Mr. Hice cited some data about the number 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?

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

Mr. RASKIN. Mr. Renaud, did you know?

Mr. RENAUD. I would have to go back and look at the tape of the hearing, but certainly, if there's data, we can share data.

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

Mr. RENAUD. No. Because of litigation and at the advice of counsel, I'm not able to.

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

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

Mr. RASKIN. No. We determine how the testimony will go, not you.

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

Mr. RASKIN. 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?

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

Mr. RASKIN. Can you tell us what role the Acting Secretary of Homeland Security, Kevin McAleenan, played?

Mr. RENAUD. No, sir.

Mr. 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?

Mr. RENAUD. No, sir.

Mr. 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, white—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?

Mr. RENAUD. No. Because of the pending lawsuit and the at the advice of counsel, I'm not—

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

Mr. RENAUD. I cannot.

Mr. RASKIN. Can you tell me where the policy came from?

Mr. RENAUD. For the same reason, I cannot.

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

Mr. RENAUD. No, sir.

Mr. RASKIN. And can you tell me what the policy is?

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

Mr. 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 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 families received denial letters because of the policy change? Mr. Renaud, do you know?

Mr. RENAUD. That I can tell you, so that the cameras left that I can tell you. 424, approximately 424 denial notices were sent on or after August 7.

Mr. RASKIN. And how many of the 424 have been reopened?

Mr. RENAUD. All 424.

Mr. RASKIN. Okay. If you were 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?

Mr. RENAUD. So, essentially we did. There were approximately 791 pending requests on August 7. 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 7 are now open active requests for deferred action.

Mr. RASKIN. Okay. And after August 7, are people still facing this 33-day cutoff?

Mr. RENAUD. At this point, no—there never was a 33-day cutoff. May I explain what the 33 days—

Mr. RASKIN. Please.

Mr. RENAUD. That was talked about a lot. We—as someone in the previous panel indicated, I think they used the word “boilerplate.” We use standard language in some of our denial notices. We have a standard process whereby if we are issuing a status denial 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 review their case, we will see if they have 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 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 is the context of the 33 days. No one was given 33 days to leave or else.

Mr. 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.

Ms. 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 we often have witnesses who come before us and I can’t call it anything other than what it is, it’s stonewalling, it’s obstructing. 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 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. There’s really not much 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 was 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, it’s 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?

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

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

Mr. RENAUD. I think, again, there seems to be an assumption in that question that there would be an NTA coming at the end of those 33 days. And, 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.

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

Mr. 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. 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.

Ms. PRESSLEY. It does seem we're missing each other here and, you know, I'm—

Mr. RENAUD. We are.

Ms. PRESSLEY. Yes. Because it's inconsistent with what the families testified to and the letters that they provided to substantiate and corroborate their experiences.

Mr. RASKIN. Will the gentlelady yield for a moment just to elaborate this point?

Ms. PRESSLEY. Absolutely. I yield.

Mr. RASKIN. The letter that you sent to Ms. Barrera said, if you fail to departing 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. That's coming from USCIS, that's not coming from ICE.

Mr. RENAUD. That's all true.

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

Mr. RENAUD. Well, again, I'm not an attorney, but, you know, words have meanings. What we indicate is that 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 to appear. That is accurate. At that time—

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

Mr. RENAUD. It does not say they will. It does not say they must leave the country.

Mr. RASKIN. Okay. But with all due respect, Mr. Renaud, we're talking about people who have cystic fibrosis, childhood cancer and so on. You're sending this to them in a change of policy which clearly indicates that they're 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.

Ms. PRESSLEY. All right. Thank you, Mr. Chair.

For the questions that you've not answered based on pending litigation, do you actually know the answers to those questions? Do you know the answers and you're not sharing them or you don't know? Do you know the answers to the questions that I've asked that you've declined to answer?

Mr. RENAUD. I understand your question. I was trying to decide if I knew—I do not know the answers to all of your questions, no.

Ms. PRESSLEY. To any of them?

Mr. RENAUD. I'm sorry?

Ms. 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?

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

Ms. PRESSLEY. I yield.

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

Mr. GROTHMAN. All right. As I mentioned earlier today to the first panel, I think you folks do a tremendous job. I've 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, 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 complaining—they might 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're talking about, it appears to me this letter is a form letter. Do you think that's true?

Mr. RENAUD. That is correct.

Mr. GROTHMAN. Would anybody who made out this letter know that Ms. Barrera had a medical condition?

Mr. 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.

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

Mr. 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 deny.

Mr. GROTHMAN. Okay. I think what you're trying to tell us here is that there are opportunities to appeal. And when you appeal, almost certainly—I shouldn't say almost certainly—certainly the two people who were on 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?

Mr. ROBBINS. I think it's 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.

Mr. GROTHMAN. Right. And the point I'm trying to make here—and it kind of bothers me a little bit what the other party is doing here. I think they are trying to scare people in to believe that they are going to be deported when they're 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 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're 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 those two individuals are going to be kicked out this country?

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

Mr. GROTHMAN. So, there are two young people with severe medical—

Mr. ROBBINS. It draws at 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. As far as ICE is concerned, we would use discretion at the very point on whether we arrest, place—

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

Mr. ROBBINS. I do not believe that someone—

Mr. GROTHMAN. They both had severe medical—

Mr. ROBBINS [continuing]. In a similar situation would be—we would use discretion to—use our limited resources to remove that individual and to prioritize our resources.

Mr. GROTHMAN. Mr. Renaud, same question.

Mr. RENAUD. I would agree with my colleague.

Mr. GROTHMAN. All right. So, I believe what's going on here today is for political reasons to embarrass President Trump. We have brought two 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's no way it's going to happen.

And I'll give you another question, because a lot of the—and I asked this of the prior person here. Sometimes in this hearing it's more to this idea of minors without their parents are being pulled apart. In this country, in both of your positions, do you see minors in this country without their parents, with both their parents probably in other countries, unaccompanied minors?

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

Mr. GROTHMAN. Correct. And their parents are in other countries. In the U.S., does—do they immediately send them back to be

reunited with their parents or do we try to tolerate putting them in this country?

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

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

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

Mr. GROTHMAN. They can wait up in this country for two or three years till they get a hearing?

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

Mr. RASKIN. The gentleman's time has expired.

Mr. DeSaulnier is recognized for five minutes.

Mr. 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 knew about Ms. Bueso Barrera's medical condition when that letter was sent out on August 7? That's what you just testified. And remind you that she's asked for it four times and got accepted prior to this. So, what you just said is somebody pulled her file.

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

Mr. DESAULNIER. So, someone under your direction, supervision—

Mr. RENAUD. Yes, I think—

Mr. DESAULNIER [continuing]. Pulled the file and knew what the circumstances were?

Mr. RENAUD. So, I think that they understood that they—that there were cases pending, in process, and that USCIS 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 and in a heartless way did what they did. This is—we certainly are—we're USCIS. We're 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 we have to say yes to someone we'd rather not because we think that there is—that there's fraud or misrepresentation or there could be harm to the country. It also means sometimes that we have to say no to people that, frankly, we feel bad for and we empathize with. That is—that's the hard work done by immigration officers across the country every day.

Mr. DESAULNIER. So, she's been approved four times in the past. You're 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's been approved four times, including during this administration?

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

Mr. RASKIN. Forgive me, I thought you just did comment in an 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?

Mr. RENAUD. I think my testimony was that I agree with my colleague. And I deferred to his expertise.

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

Mr. ROBBINS. I was referring to removal. Now, what I'm saying is I don't—when you're talking about stayed in this country, would we remove someone in that situation? I cannot speak to her specific case. I do not know all the facts.

Mr. RASKIN. Okay. So, let's be clear then. Mr. Grothman was trying to say that this was some kind of big political show because there was no chance any of these people being removed. And now what we're getting is answers saying there's a chance that Mr. DeSaulnier's constituent would be removed. And she was terrified long before she came into this committee. We didn't know anything about this. There is terror among hundreds of people in an 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 be 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 to you.

Mr. DESAULNIER. Do you care to respond to that as a humane institution, Mr. Renaud or Mr. Robbins?

I will tell you, Mr. Robbins, if you try to remove her, knowing my constituents, you better bring a lot of buses, because a lot of us are going to be arrested trying to protect her.

Mr. ROBBINS. What I was trying to make clear, if you'll allow me, was I cannot judge this case here for the people that we're talking about. But what I said was, there are similar cases that have compassion, compelling humanitarian reasons, we use discretion every day. We have in the past enforced an immigration law, we will in the future. We continuously use discretion on who we arrest, 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 removed.

Now, I can't speak to her specific case, because I think it's unfair for me to try to adjudicate that here in this hearing room. But 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.

Mr. DESAULNIER. And I appreciate that. 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 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 is a heartless, cruel thing sent out.

And, Mr. Renaud, knowing that somebody in our organization, I assumed you worked there a long time, knew what this would do and how this deviated from the 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, so 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.

Mr. 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.

Ms. 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, I respect that. But I also understand that at some point in our lives, we reach a moral crossroads.

In 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's 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 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?

Mr. RENAUD. I think on the balance it is correct, yes.

Ms. OCASIO-CORTEZ. Now, the claims are based on this idea that there's ongoing litigation. The Supreme Court has ruled that ongoing litigation is not a reason to resist that answer. That has never been the 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 that I have is, who is your counsel? Who advised you to do this?

Mr. RENAUD. We—I take counsel from the DHS General Counsel.

Ms. OCASIO-CORTEZ. And which individuals at DHS General Counsel advised you to resist answering these questions?

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

Ms. OCASIO-CORTEZ. 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?

Mr. RENAUD. I will take that back and get back with you.

Ms. OCASIO-CORTEZ. Was it a letter or a meeting?

So, you won't even tell us who told you to defy the Supreme Court?

Mr. RENAUD. I was never told to defy the Supreme Court, ma'am.

Ms. OCASIO-CORTEZ. To cite reasons in defiance of the Supreme Court.

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

Ms. OCASIO-CORTEZ. 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.

And, 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 as requested.

Mr. 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 and for participating as much as you felt that you could, given the institutional constraints you're open 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.

Meeting is adjourned.

[Whereupon, at 3:50 p.m., the subcommittee was adjourned.]