

DACA FAQs

Full Legal Name

Which name should USCIS place on official documents (e.g. EAD, approval notice, etc) when the name listed on the I-821D/I-765 does not match the name listed on the requestor's official identity documents?

According to AFM Ch. 51.4, USCIS will only use an individual's full legal name on any official documents issued by USCIS. In some cases, it may be necessary to issue an RFE to clarify the requestor's full legal name.

Absent From U.S. on 16th Birthday

Can a DACA requestor meet the "Under 16 at Entry" guideline if the requestor entered the U.S. before turning age 16 but was not present in the U.S. on his/her 16th birthday?

Interim Operational Guidance:

This guidance addresses the following fact situation: The DACA requestor entered the United States before turning age 16 but was not present in the United States on his or her 16th birthday. If all the other DACA guidelines are met (including continuous residence since June 15, 2007), the question is whether the person "established residence" in the United States before turning age 16. If the requestor demonstrated by a preponderance of the evidence that, before turning 16, he or she (a) attended an educational institution in the United States for any length of time; or (b) was employed in the United States for any length of time; or (c) was physically present in the United States for a consecutive period of at least 24 months, then residence before age 16 has been established.

If the requestor does not satisfy (a), (b) or (c), then (1) please consider the totality of the circumstances to evaluate whether the person nonetheless established residence in the United States before age 16; and (2) forward the case to HQSCOPSDACA with your recommendation explaining the factors considered. Factors relevant to this recommendation may include evidence that the requestor was physically present in the United States for an aggregate period of at least 24 months before age 16 and/or evidence of the requestor's pre-age-16 ties to the community such as participating in neighborhood, religious, or other community activities.

Not "on or about" 6/15/2007, but "since" 6/15/2007

Do DACA requestors need to provide evidence of continuous residence "on or about" 6/15/2007?

No. Although the 6/15/2007 and 6/15/2012 dates are "bookends" for the Continuous Residence guideline, the date-specific Physical Presence guideline only applies to 6/15/2012. This means that an officer can determine on a case-by-case basis that the DACA requestor meets the Continuous Residence guideline based on the totality of evidence presented even if the DACA requestor does not submit evidence of residence on or about 6/15/2007.

If there is a gap of evidence for a significant period of time at the beginning of the Continuous Residence period, then the officer should determine whether residence since 6/15/2007 can be inferred based on the totality of evidence presented in that case. If not, then an RFE is appropriate, but the officer should be careful not to ask for evidence of residence "on or about" 6/15/2007 because this implies a physical presence guideline that does not exist. It is better to specify in the RFE the gap in the evidence received and then to ask more broadly for additional evidence of continuous residence since 6/15/2007.

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Missing Addresses on Part 2 of Form I-821D

What should we do when the address section on the I-821D is incomplete, but the evidence submitted shows where the requestor was residing during those years?

The centers should RFE for missing addresses on the form if CR is not established based on the totality of evidence.

In School vs. Graduated From School

Is there a difference between USCIS' interpretation of the term "school" in the phrases "currently in school" and "graduated from school" for the purpose of meeting the educational guideline?

Yes, USCIS interprets the term "school" more broadly in the phrase "currently in school" than in the phrase "graduated from school." See Slide 67 of the DACA Workshop Presentation, posted on the DACA ECN site under Training Materials.

The SPB previously clarified during a Roundtable discussion and through an Internal FAQ that a requestor may demonstrate that he/she "graduated from school" by submitting evidence of graduation from a college, university or community college. This language will be included in the next version of the DACA SOP. However, for the purpose of considering an initial DACA request, the phrase "graduated from school" does not include graduation from an education, literacy or career training program (including vocational training or an ESL course).

Initial DACA requestors may be considered "currently in school" if they are currently enrolled in an education, literacy or career training program designed to lead to placement in post-secondary education, job training, or employment, but the requestor is not considered to have "graduated from school" based solely on having completed an education, literacy or career training program.

Acquired Lawful Immigration Status After 6/15/2012

If a DACA requestor was not in lawful immigration status on June 15, 2012 but acquired lawful immigration status after June 15, 2012, can USCIS defer action under DACA if the requestor appears to meet all of the other DACA guidelines?

The "Unlawful Immigration Status" guideline only addresses immigration status on June 15, 2012. However, USCIS has determined that we will not defer action under DACA for an individual who is currently in lawful immigration status. Therefore, if a DACA requestor acquired lawful immigration status after June 15, 2012 and remains in lawful immigration status at the time of adjudication of the DACA request, we will not defer action under DACA as a matter of discretion.

ICE Already Deferred Action Under DACA

What should we do when ICE defers action under DACA but the DACA recipient files a complete DACA packet instead of simply requesting employment authorization?

When ICE defers action under DACA, sometimes the DACA recipient files the complete DACA packet instead of simply requesting an EAD. In such cases, you should be able to verify in EARM that ICE deferred action under DACA. If ICE already deferred action under DACA, the I-821D should be denied

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using a standard template posted on the DACA ECN site and the I-765 should be adjudicated based on the decision made by ICE.

Felony/Misdemeanor Definition and "Wobbler" Offenses

If a court disposition specifically indicates that a conviction is for a "misdemeanor" or "felony" offense, do we still need to look at the maximum possible sentence in the State's criminal code to determine whether it is a misdemeanor or felony conviction for DACA purposes?

Yes, it is necessary to look at the statute to determine whether the offense is a misdemeanor or felony conviction for DACA purposes even if the court disposition uses the term "misdemeanor" or "felony" in the disposition. This is because federal law defines these terms based on the length of the maximum possible sentence, whereas individual States may define these terms based on other criteria. In addition, some States may have a "Wobbler" provision, which allows the charge to be filed as either a "felony" or "misdemeanor" according to that State's definition of these terms. So a "misdemeanor" conviction under State law can still be a felony conviction for DACA purposes (e.g. California Penal Code 273.5).

Potential inadmissibility grounds

Does a potential inadmissibility ground affect the decision on a DACA request?

DACA requestors do not need to establish admissibility in order for USCIS to defer action under DACA. Therefore, if the record contains any derogatory information, the officer does not need to determine whether a ground of inadmissibility applies before making a decision on the DACA request. Rather, the officer should only consider the derogatory information as it relates to the DACA guidelines and to determine whether favorable discretion is warranted.

Will the information I share in my request for consideration of deferred action for childhood arrivals be used for immigration enforcement purposes?

Information provided in this request is protected from disclosure to U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to U.S. Immigration and Customs Enforcement under the criteria set forth in USCIS's Notice to Appear guidance (www.uscis.gov/NTA). Individuals whose cases are deferred pursuant to the consideration of deferred action for childhood arrivals process will not be referred to ICE. The information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of deferred action for childhood arrivals request, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. The above information sharing policy covers family members and guardians, in addition to the requestor.

This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

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National Security and Public Safety

If I have a conviction for a felony offense, a significant misdemeanor offense, or multiple misdemeanors, can I receive an exercise of prosecutorial discretion under this new process?

No. If you have been convicted of a felony offense, a significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, you will not be considered for deferred action under the new process except where DHS determines there are exceptional circumstances.

What offenses qualify as a felony?

A felony is a federal, state, or local criminal offense punishable by imprisonment for a term exceeding one year.

What offenses constitute a significant misdemeanor?

For the purposes of this process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,

If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE). Notwithstanding the above, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion. DHS retains the discretion to determine that an individual does not warrant deferred action on the basis of a single criminal offense for which the individual was sentenced to time in custody of 90 days or less.

What offenses constitute a non-significant misdemeanor?

For purposes of this process, a non-significant misdemeanor is any misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

Is not an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and

Is one for which the individual was sentenced to time in custody of 90 days or less. The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by ICE.

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Notwithstanding the above, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion.

If I have a minor traffic offense, such as driving without a license, will it be considered a non-significant misdemeanor that counts towards the “three or more non-significant misdemeanors” making me unable to receive consideration for an exercise of prosecutorial discretion under this new process?

A minor traffic offense will not be considered a misdemeanor for purposes of this process. However, your entire offense history can be considered along with other facts to determine whether, under the totality of the circumstances, you warrant an exercise of prosecutorial discretion.

It is important to emphasize that driving under the influence is a significant misdemeanor regardless of the sentence imposed.

Will offenses criminalized as felonies or misdemeanors by state immigration laws be considered felonies or misdemeanors for purpose of this process?

No. Immigration-related offenses characterized as felonies or misdemeanors by state immigration laws will not be treated as disqualifying felonies or misdemeanors for the purpose of considering a request for consideration of deferred action pursuant to this process.

Will DHS consider my expunged or juvenile conviction as an offense making me unable to receive an exercise of prosecutorial discretion?

Expunged convictions and juvenile convictions will not automatically disqualify you. Your request will be assessed on a case-by-case basis to determine whether, under the particular circumstances, a favorable exercise of prosecutorial discretion is warranted. If you were a juvenile, but tried and convicted as an adult, you will be treated as an adult for purposes of the deferred action for childhood arrivals process.

What qualifies as a national security or public safety threat?

If the background check or other information uncovered during the review of your request for deferred action indicates that your presence in the United States threatens public safety or national security, you will not be able to receive consideration for an exercise of prosecutorial discretion except where DHS determines there are exceptional circumstances. Indicators that you pose such a threat include, but are not limited to, gang membership, participation in criminal activities, or participation in activities that threaten the United States.

Why do we need a reason for expunged criminal records?

The reason(s) for the expungement is needed.

Effect of Vacated Convictions

Vacated expunged, set-aside or dismissed convictions:

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- If on the legal merits [constitutional issue – ineffective assistance of counsel] or a procedural defect [failure to read immigration consequences] result is - NO conviction for immigration purposes.
- If for the purpose of avoiding immigration consequences result is – YES a conviction for immigration purposes.
- If the purpose is to restore state rehabilitative rights result is – YES a conviction for immigration purposes.

Matter of Pickering, 23 I&N Dec. 621 (BIA 2003) (If a court vacates an alien's conviction for reasons solely related to rehabilitation or immigration hardships, rather than on the basis of a procedural or substantive defect in the underlying criminal proceedings, the conviction is not eliminated for immigration purposes); *Matter of Rodriguez-Ruiz*, 22 I&N Dec. 1378 (BIA 2000) (Conviction expunged on the legal merits and was not a state action which purports to expunge, dismiss, cancel, vacate, discharge, or otherwise remove a guilty plea or other record of guilt or conviction by operation of a state rehabilitative statute); *Matter of Roldan*, 22 I&N Dec. 512 (BIA 1999) ([W]e have determined that a state action that purports to abrogate what would otherwise be considered a conviction, as the result of the application of a state rehabilitative statute, rather than as the result of a procedure that vacates a conviction on the merits or on grounds relating to a statutory or constitutional violation, has no effect in determining whether an alien has been convicted for immigration purposes).

Matter of Marroquin, 23 I&N Dec. 705 (A.G. 2005) (The federal definition of “conviction” at section 101(a)(48)(A) of the INA encompasses convictions, other than those involving first-time simple possession of narcotics, that have been vacated or set aside pursuant to an expungement statute for reasons that do not go to the legal propriety of the original judgment, and that continue to impose some restraints or penalties upon the defendant's liberty).

A conviction vacated for failure of the trial court to advise the alien defendant of the possible immigration consequences of a guilty plea is no longer a valid conviction for immigration purposes. *Matter of Adamiak*, 23 I&N Dec. 878, (BIA 2006)

DACA Inquiries Process Guide

Past Processing Time	If in WD (new work) notify DACA Customer Service Section Chief (Virginia Belzer)
If file is on a Hold shelf Don't Pull	Issue customer with this standard response: We have received your inquiry stating that your Consideration of Deferred Action for Childhood Arrivals (Form I-821D) is beyond the expected six month processing period. USCIS is making every effort to process these cases within the stated timeframes and hope to move your case in the near future. However, at this time we cannot provide a specific date on which a final decision will be made on your request for deferred action. Please allow 60 days for USCIS to complete your request.
Case Actions not Completed (ie. Missing claims updates)	Send the SRMT inquiry to the supervisor of the officer (not the file) If officer no longer in DACA – to DACA Customer Service Section Chief
Cases with Officers	Standard response “case is with officer”. Send a courtesy email to the officer informing them of SRMT and route a stamped copy of SRMT for interfiling.
Denials (w/admin errors) check this one	Handle per ‘Admin Errors’ guide that CCS uses to process all other product line Admin Errors. Send the case to Josephine Kennedy. All Admin Errors must come through the SRMT system. Correspondence stating “Admin Error” will not be considered.
Requesting Expedite	No DACA Expedites. (But if past processing time and not on a ‘Hold’ shelf then notify any DACA supervisor)
Needing Card Correction	For Service Error - Send to Rachel Meeks (without the file) Requestor Error – Instruct customer to file a stand-alone I-765 for replacement
DACA Motion Inquiry	There are no I-821 DACA Motions. Form I290Bs will be refunded/rejected. Can only file motion on the I-765 if I-821D was approved and the I765 was denied.
Motion filed for Card Correction (service error)	Will still refund/reject the Motion but will fix the 1 st card. File goes to supervisor for correction then to Section Chief for processing of refund.
New DACA packet filed for card correction	If Service Error - Original card corrected by officer –then to Section Chief to process refund
I-765 filed for a card w/NSC error	We will correct card from original I-765 and refund new correction. Rachel Meeks will review and keep log and have Section Chief process refund
Withdrawal Requests	Send file and correspondence to officer (or if in WD send to Jennifer Jacobsen, EX0466, NW2003)

SHELF LOCATIONS: Any files in the below listed codes/BCU/CFDO codes/OP codes should not be pulled. They receive the “under extended review” response.

- RAG (Request for Adjudicative Guidance)
- RAG (Request for Adjudicative Guidance)
- CFDO Returns – sort
- HQ DM Hold
- Disposition Hold
- Possible EPS Crimes – Review

(b)(7)(e)



U.S. Citizenship and Immigration Services (USCIS)

**Deferred Action for Childhood Arrivals
(DACA)**

(Form I-821D and Form I-765)

**Computer-Linked Application Information
Management System (CLAIMS) 3
Local Area Network (LAN)**

January 13, 2017

Revision History

Version	Date	Author	Summary Of Changes
1.0	1/13/2017	David Carneiro	Initial Document
1.1	3/8/2017	David Carneiro	Added SQL script, updated settings.

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Background:

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status. To apply for a DACA, the applicant would need to fill out the following forms:

- Form I-821D, Consideration of Deferred Action for Childhood Arrivals.
- Form I-765, Application for Employment Authorization with the worksheet, Form I-765WS
- Forms I-821D and I-765 must be filed concurrently.

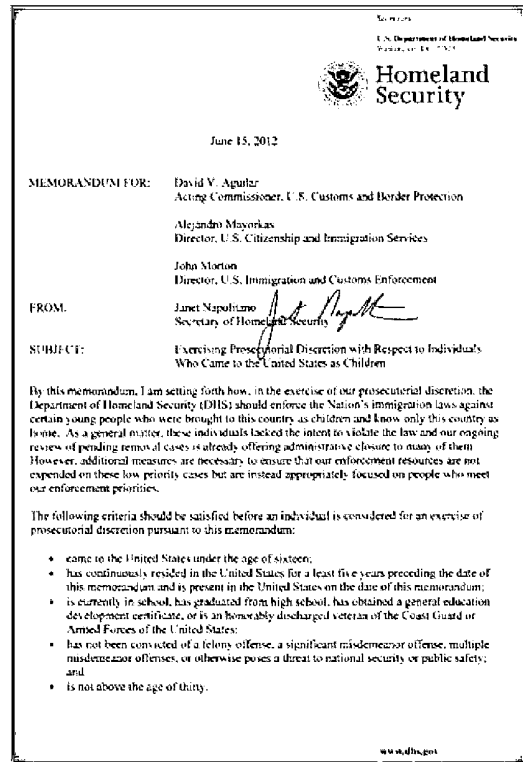


Figure 1 - Memorandum

You may request DACA if you:

1. Were under the age of 31 as of June 15, 2012;
2. Came to the United States before reaching your 16th birthday;
3. Have continuously resided in the United States since June 15, 2007, up to the present time;
4. Were physically present in the United States on June 15, 2012, and at the time of making your request for consideration of deferred action with USCIS;
5. Had no lawful status on June 15, 2012;
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
7. Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

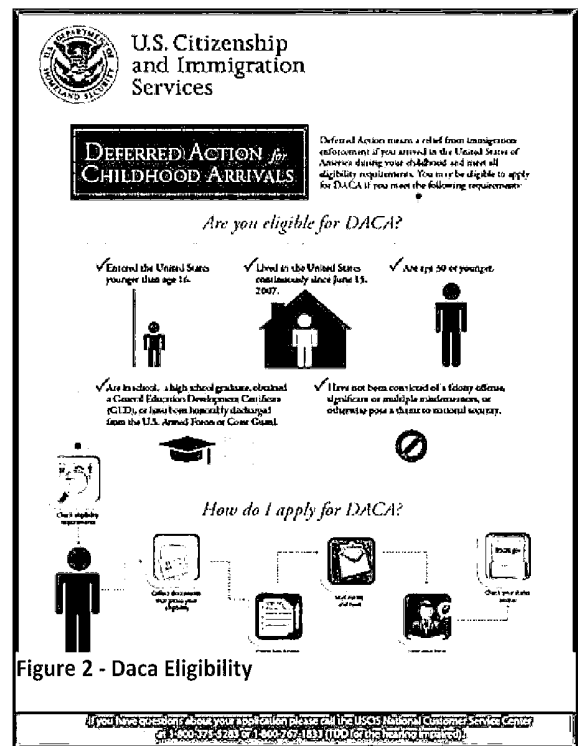


Figure 2 - Daca Eligibility

DACA Process Flow

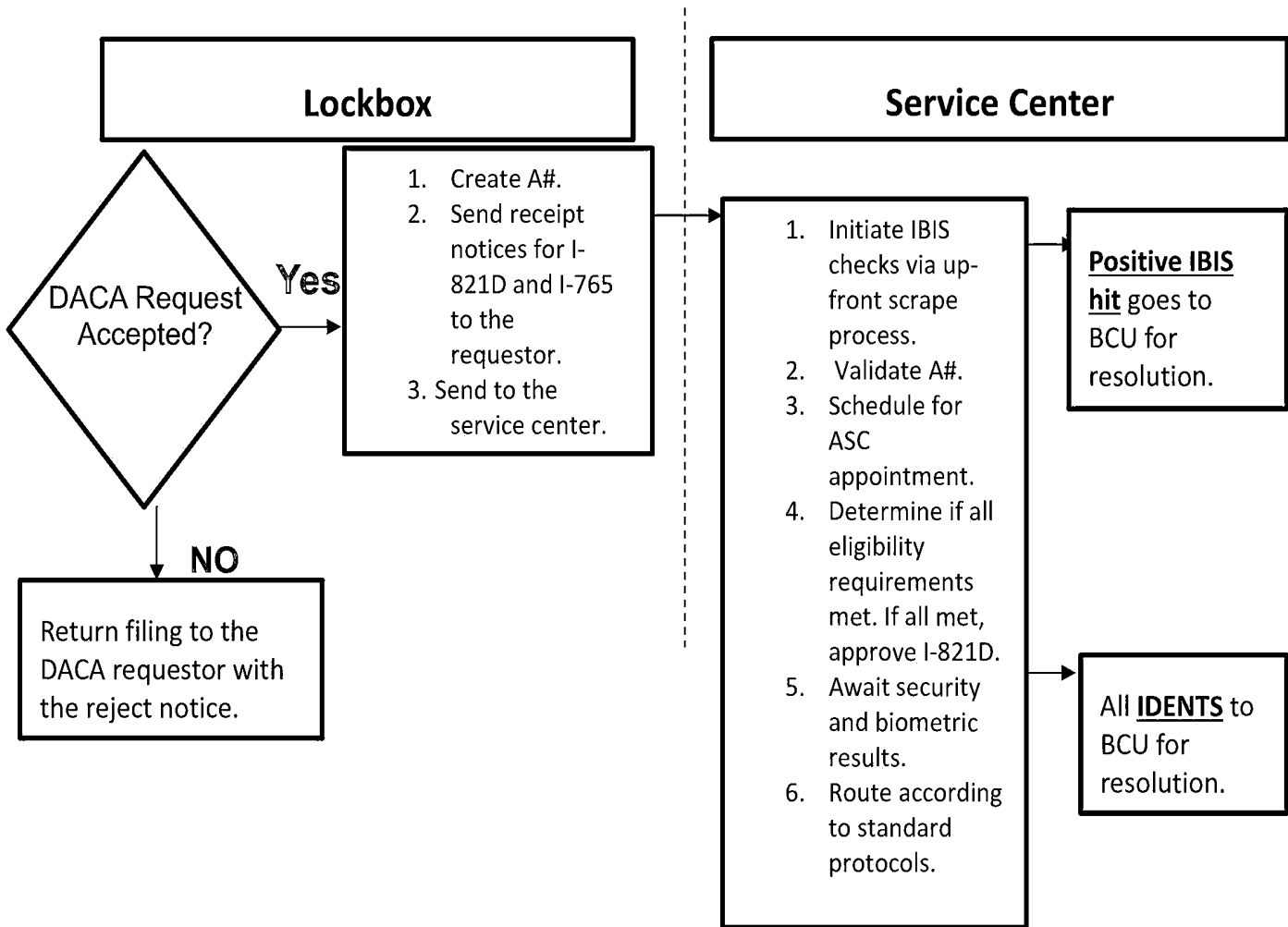


Table 1- DACA Process Flow

Acronyms

- IBIS – Immigration Benefits Background Check Systems.
- BCU – Background Check Unit.
- ASC – Application Support Center.

DACA for CLAIMS3 LAN

In C3, the operator would fill out an I-821D form in the receipting application. An example of the view is below in figure 3:

CLAIMS 3 Receipting I821D CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS For Official Use Only.

File Void Remove Hold Reprint Bar Code Options Reprint Endorsement Reprint Notices Fee Tracking Help

LEGEND : Mandatory Field - **Bold** Error Icon - Warning Icon -

Receipt #

A-Number (b)(6)

Last First Middle

Name LAST FIRST

C/O

Street

Zip 22193- City WOODBRIDGE State VA

Province Postal Code Country

COB DOB 05/05/1980 SSN COC

Marital Status Gender

COR ANDOR

Education Level:

Date of Arrival: 04/04/2006

I-94 #: Current Status

Status Expires On

Removal proceedings Information

Are you now or have been in removal proceedings?

Type of Proceedings

Part 3: Arrival/Residence Information

Attachments?

G-28 Send to Clerical

Signature

Receipting Version: 10.8 Tuesday, Jan 10 2017 14:15 User Name: Master Database:JETSC3DEV

Figure 3 - Example of a I821D form screen in Claim3 Receipting application

Brief Overview Of service

This service checks daily the R2App table for DACA notices (Form I-821D) that are 180 days (value set in App.Config) from expiration. It collects these cases from the R2APP table with the following fields:

- receipt_number.
- ben_a_number.
- form_number
- valid_to.
- flag_word.

After this is done, it retrieves rest of the case information (such as address) from ICaseService. If all criteria are met, it will place the notice to be printed in the INoticePosting Service and update the case according.

Error Logging

- The service logs all the services states to a log file in the [REDACTED]
- The service also [REDACTED] (b)(7)(e)

Troubleshooting

Initial troubleshooting steps for issues that may occur are

- View service logs in [REDACTED] (b)(7)(e)
- If the issue is case information related, look in the R2APP table to verify data.

Common Errors

- Not all cases are being loaded at scan.
 - Due to a limitation of Pervasive, it will only retrieve the first fifty thousand cases. It will process these and next day it will repeat the process and retrieve the cases it could the previous day and will do so until the case load becomes less than fifty thousand, when this happens it will become up to date.
 - A solution was proposed to business where it will initially scan simple within three day range and retrieve the cases and then it would do its normal operation where it will scan within the one hundred and eighty days.
- Outdated DLL's.
 - Occasionally changes are made to tables and the DACA notice service DLL's are not aware of these changes. Updates are needed to reflect the changes of these tables.

DACA Notice Service Process Flow

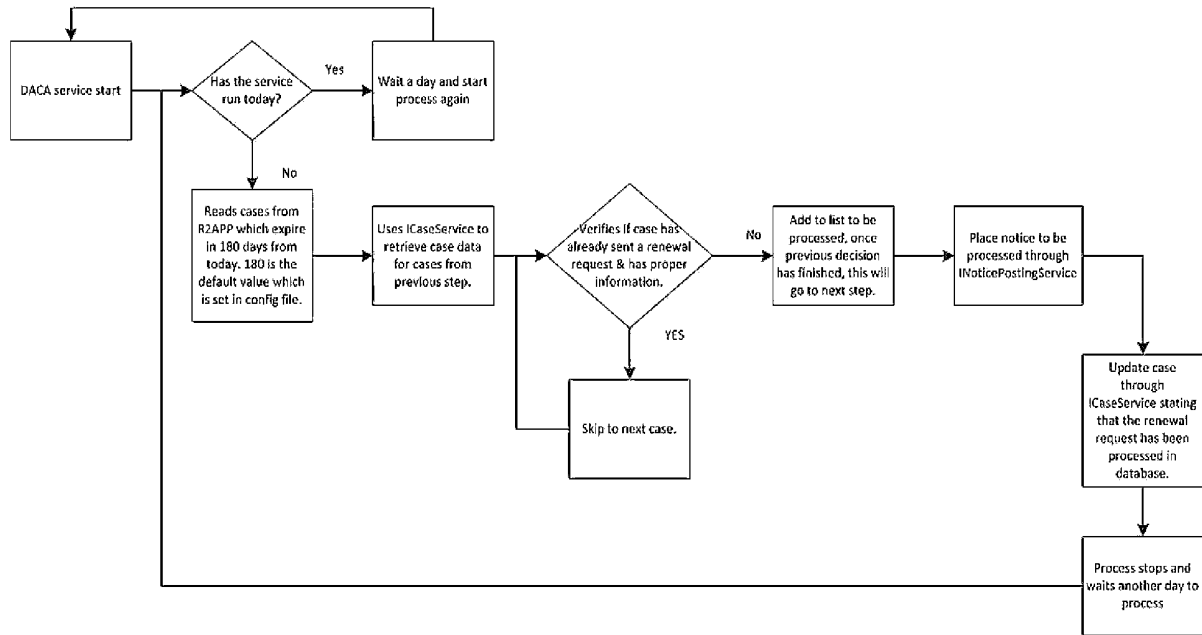
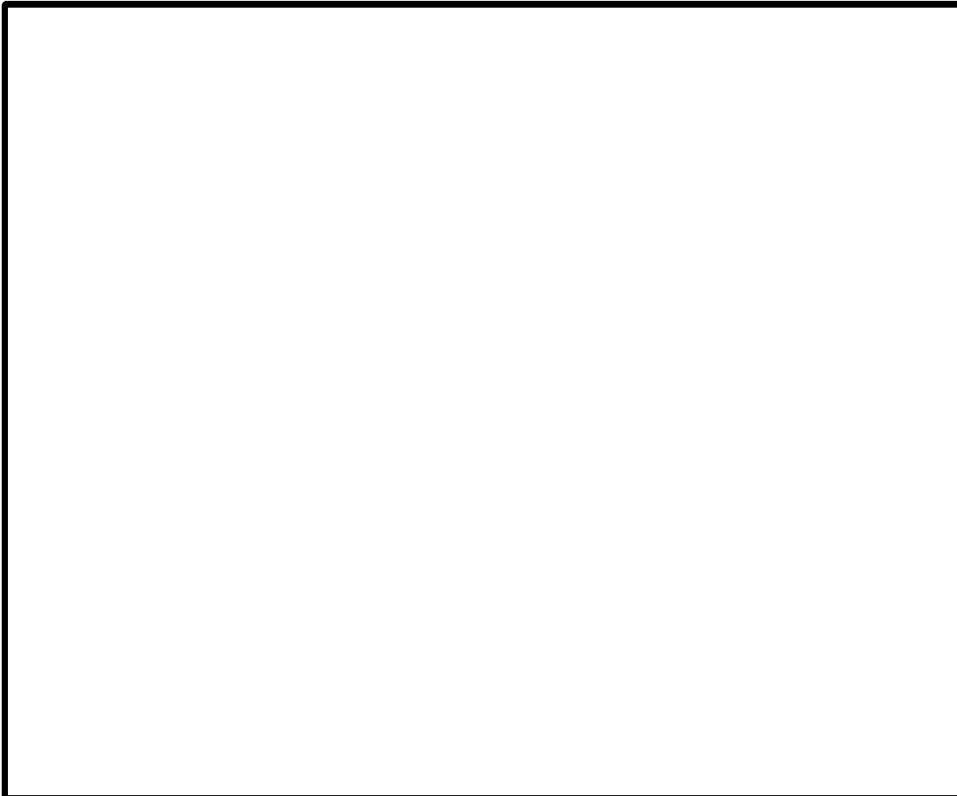


Figure 4 - DACA Notice Service Process Flow

SQL Script.

(b)(7)(e)



DACA for CLAIMS3 LAN



Fields used by DACA service.

(b)(7)(e)

Data Field Name	Data Type	Data Entry Verification & Comments
receipt_number	VarChar	Field contains the receipt number of the case.
ben_a_number	VarChar	Field contains the beneficiary's alien number.
form_number	VarChar	Field contains the form number.
flag_word	Integer	Note. For this service, it will always be I821D Represents status of the case, need to use the flag word calculator and use Master flag Word tab, enter value in Decimal Value textbox and it will display the case status.
valid_to	VarChar	Until When case is valid.

Table 2 - Fields used from R2APP table.

Data Field Name	Data Type	Data Entry Verification & Comments
date_received	VarChar	Date in which the case was received.

Table 2 - Fields used from R2DATEIN table.

Data Field Name	Data Type	Data Entry Verification & Comments
rep_zip	VarChar	Representatives zip code.

Table 4 - Fields used from R2G28 table.

Configurations available to Operator

appSettings (Settings to connect to the pervasive database.)

- host: the host name(if hosted on local machine) or address to the database.
- database: the database name.
- userkey: the user key.
- cipher: the algorithm for performing the encryption or decryption.
- encryptedkey: the encrypted key.
- decryptedIV: the decryptedIV.
- daysout: integer value which sets the number of days prior to the expiration of the date of the case.
- writeDacaReport: integer value which enables or disables the creation of a report. Report is created at the following directory C:\Temp\DacaNoticesServiceReport.txt. Value of 0 disables the report creation while 1(**default for production**) enables the report.
- writeToLogFile: integer value which enables or disables the creation of a log file. Value of 0 disables the report creation while 1 enables the report.
- Logpath: Represents the destination of where the log file is written.
- ReportAlreadyProcessedCases: integer value which enables already processed cases to be written to the log. Value of 0 disables the report creation while 1 enables the report.
- WriteToServiceLog: integer value which writing to the service log. Value of 0 disables the report creation while 1 enables the report

appTimers

- materTimerInterval: integer value which sets the master timer interval in minutes, this value scans every x minutes to verify if the noticeRequestInterval value has been reached.
- noticeRequestInterval: integer value which sets the time interval for notice process in hours, this value represents how many hours it will re-run the notice request process.
- startDaysAfterInstall: integer value which sets how many days to start the notification process after installation, the default value is 1
- timeOfDay: time format value, example "08:00 AM", sets the time of day the process will begin

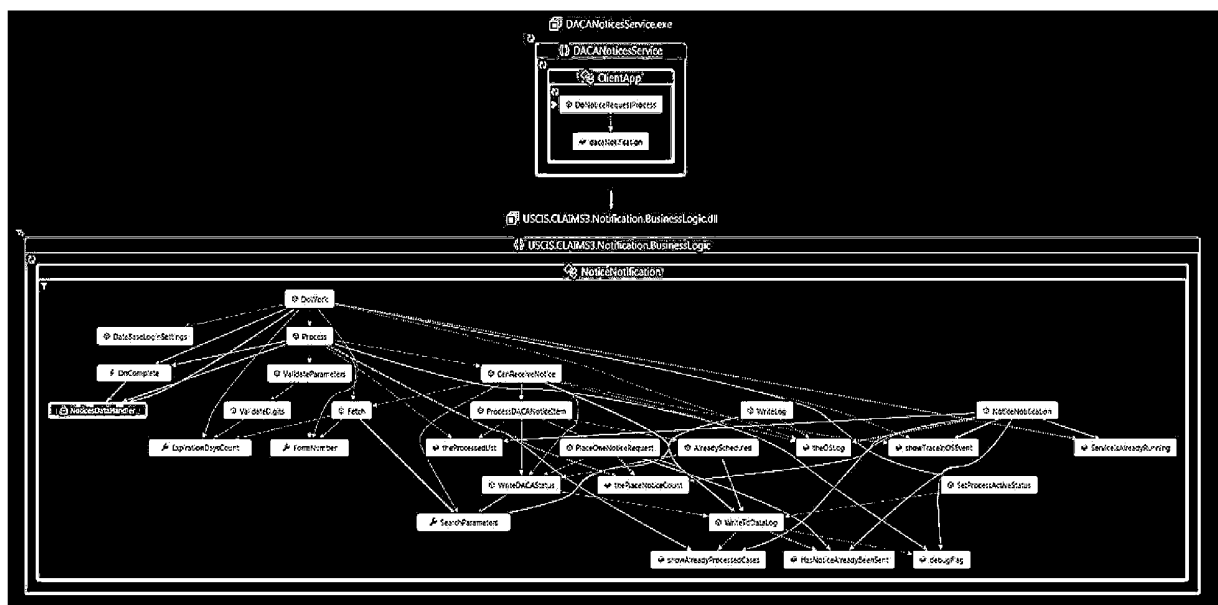
appTesting (these settings are not important, just for testing purposes)

- showTraceinOSEvent: integer value which sets on errors will be recorded in Event viewer. Value of 0 (default value for production) will show only fatal errors. Value of 1 sets a maintenance trace which will show errors, process statements and warning in OS Event Viewer.
- mainteanceDacaNotices: integer value which sets if we chose to connect to the database or not. A value of 0 (default value for production), a query will run to determine which cases that may request an expiration notice. A value of 1 isolates the service from database, so no database updates for notice requests will occur.
- maintenanceNoReadDacaCases: integer value, value of 0 (default for production) executes the DACA notice service to collect potential cases to request and make notice requests. A value of 1(maintenance) simulates the notice process and updates the history and batch Que.
- mainteanceDacaThreadTest: integer value, value of 0 (default for production) executes the DACA notice service to collect potential cases to request and make notice requests. A value of 1(maintenance) verifies proper thread handling.

- MaintenanceDacaTestRequestTime: integer value, value of 0 (default for production); value of > 0 (maintenance) ignores the start time schedule and performs the request process to measure latency on each master time interval.
- maintenanceOnConsoleClient: integer value, value of 0 (default for production), value of 1 executes the application by the console application.

Developer Guide

Code Map



Code Functionality

ClientApp Method

This service starts with the ClientApp method. This method starts off by reading configurations set by the user in the App.Config. These settings are:

- Event Log settings to write that the ClientApp has started
- Reads the number of days from installation to start the notification process. This is stored in variable days.
- Reads current date and adds number of days set above. Stores this variable in AppConfig under key DaccaTimeOfDayTime.

Afterwards it starts the masterTimer and calls for the method MasterTimer_Elapsed.

MasterTimer_Elapsed Method

When called by the ClientApp, this method initially verifies if there is another DACA process running. It checks this by looking at the app.config looking at the key ServicesAlreadyRunning. If key is set to true, another process is run; if false, it then retrieves the current date when started and compares it against the source date which is stored in the App.Config under startDate. If this value does not exist during the first run of the service, this key will be created. Once this comparison is done, if the current date is past the startDate value, the key will enter the "if" statement. Once in this statement, a new date will be stored for the startDate for next run, and will execute the DoNoticeRequestProcess method.

DoNoticeRequestProcess Method

This starts by calling the method SetDataCredentials which retrieves all the database login configurations from the App.Config, and stores these into fields of the theDacaNoticeCredentials. Once this is complete, it creates a separate thread called theDacaNoticesThd with the method "DoWork" passing the theDacaNoticeCredentials entity within it.

For debugging this thread, we cannot trace it just by using a simple break point. We need to search for the created thread and switch into this. A helpful tool for debugging this will be enabling the thread window for Visual Studio. This can be enabled by going to Debug -> Windows -> Threads or by simply clicking Cntl + D on your Keyboard.

DoWork Method

DoWork starts by running DataBaseLoginSettings, which decrypts the password for logging into the database. Once complete, it locates the INoticePostingService and registers it, passing the database login credentials as a parameter. It also locates ICaseService and initiates a new CaseService. The FormNumber is set to "I-821D" and ExpirationDaysCount is set to the key value "DaysOut" in the AppConfig. This value represents how many days until expiration of the form I-821D it will look for. Once done, it will call for the Process method.

Process Method

Process starts by verifying if the parameters are valid, these parameters are:

- If it has the correct form number.
- If the expiration day count is a valid integer value.

Once the parameters are validated, it calls the fetch method which runs the FetchDataBasedOnGivenDateOffsetJoined sql for cases that have the I821D form number and that will be expiring from today's date + days expiration dates value stored in the App.Config. These cases are returned back to the Fetch method, and are stored in a BaseEntityCollection of RecordNumberEntity named entities. This variable entities is returned back to the Process method and stored under the variable receiptNumbers.

A count is done on entities, and if there are existent cases within, it determines whether the receipts qualify for a notice by calling the method CanReceiveNotice passing the receiptNumbers as a parameter. The service then goes through each case in the receiptNumbers and verifies if each case has been processed. If it has been processed, it will log this in the DACA log. Once the case is logged, the service will look for all case data for the alien number in that case and store it in a BaseEntityCollection of

AlienNumberSerachDataEntity called alienNumbers. It will afterwards do a count on the variable, and if more than one case is found related to that alien number, it will verify if it has already scheduled a renewal request by comparing the receipt number from the case in the variable alienNumbers to the case in the variable receiptNumbers, and if different, it means it has been scheduled. Once complete, it logs stating it has been already scheduled and updates the case stating it.

When updated and logged, we add to the DataNoticeDataElements variable called dnde. The list contains the following elements:

- The Alien number from the ICaseService.
- The Receipt Number from the receiptNumbers variable from fetch method.
- If this case has already applied from renewal.

The service once again verifies that the case has not already filled for renewal in the “if” statement and goes to the ProcessDACANoticeItem. This method verifies that the case has not been rejected, transferred out and that has been approved in an “if” statement. Once its meets this criteria, it calls the PlaceOneNoticeRequest passing the case as a parameter.

Within PlaceOneNoticeRequest, it goes to the ICaseService and appends the history of the case by updating the requestDACANoticeActionCode to “MEND”, this mean that we have request to the notice has been placed requested to be printed. Afterwards the service creates an action notice to the INoticePostingService which place the notices requests so that they can be printed and sent to the applicant. This process is repeated for every case in variable dnde. When done the thread ends, writes the status to the log, and waits another day to restart the whole process again.

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**U.S. Department of Homeland Security (DHS) Engagement
With Honduras**

DHS Footprint

DHS Footprint (U.S. Direct Hire) in Honduras: 8
 DHS Footprint: 4 ICE and 4 CBP (2 Department of State-funded)
 DHS Dual-Hat Attaché/ICE Attaché: Vic Curley

DHS Central America Regional Attachés (all based in Panama): 5
 DHS Footprint: 1 PLCY, 1 CBP, 2 ICE, and 1 TSA

Agreements

Status	DHS Component	Agreement
In Progress	CBP/ICE	Customs Mutual Assistance Agreement
In Progress	CBP	Advance Passenger Information Sharing Memorandum of Cooperation with Honduras Immigration
In Progress	ICE	Update to the Criminal History Information Sharing Agreement
Completed (2014)	ICE	Criminal History Information Sharing Agreement
Completed (2013)	TSA	Federal Air Marshals Agreement
Completed (2000)	USCG	bilateral counter-drug agreement
Completed (2011)	ICE	Electronic

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		Travel Document
Completed (2011)	CBP	Advance Passenger Information Sharing Memorandum of Understanding with the Honduras Ministry of Security

Honduras

U.S. Customs and Border Protection (CBP)

Vetted Mobile Interdiction Unit: The Grupo de Operaciones Especiales Tacticas (GOET), or Special Operations Tactical Group, is a 30-member CBP vetted unit within the Honduran Border Police that concentrates its mobile interdiction operations on disrupting human and drug smuggling networks. GOET also provides tactical support to investigative units and works extensively with the U.S. Immigration and Customs Enforcement (ICE)-supported Transnational Criminal Investigative Unit (TCIU) in Honduras.

In collaboration with CBP, U.S. Department of State International Narcotics and Law Enforcement Affairs (INL) is generating a memorandum of understanding (MOU) to allow for recruitment and training of additional Honduran National Police (HNP) officers and hopes to expand the unit from one to three teams, as well as partner with similar or planned vetted units in Guatemala and El Salvador. Despite repeated CBP proposals to expand the GOET, the request has not been approved by the HNP. Per Minister of Security Pacheco, all efforts would be focused on the creation and expansion of the new Police Investigations Directorate or Dirección Policial de Investigaciones before increasing the size of any vetted unit working with the U.S. Embassy. The CBP Advisor is currently engaged in discussions with the Ministry of Security to revisit the proposal to expand the GOET and provide additional support in the restructuring of the Honduran Frontier Police (Policia de Frontera).

Advance Passenger Information (API) Sharing: The DHS Secretary signed an Automated Targeting System-Global (ATS-G) MOU in August 2011 with the Honduran Ministry of Security. Implementation stalled due to governmental changes. However, CBP began working with the National Institute of Migration (INM) to sign a new ATS-G memorandum in January 2017 because the INM owns the API data in Honduras. The parties have agreed to a final version of the new Memorandum, which is expected to be signed by Secretary Kelly and President Hernandez during their meeting in Washington, DC the week of March 22, 2017.

Container Security Initiative (CSI): CBP has been engaged in CSI operations at the Port of Cortes since December 2006. CBP targeting analysts assist Honduran customs officials in identifying cargo containers shipped to the United States that may pose a potential terrorist risk.

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CSI Puerto Cortes and Honduran counterparts also target and examine cargo based on an ‘all-threats’ perspective to include narcotics, trade violations and trans-national criminal activity. In February 2016, CSI initiated a precursor enforcement engagement with Honduran authorities. The goal of the enhanced enforcement activity is to identify and interdict precursor chemicals entering Honduras through the port Cortes. Participants in this initiative include CSI Honduras, ICE and associated vetted units; Drug Enforcement Administration (DEA) and associated vetted units; Department of State, INL; and CBP personnel from the National Targeting Center-Cargo (NTC-C).

Customs-Trade Partnership Against Terrorism (CTPAT): C-TPAT is a voluntary supply chain security program led by CBP and focused on improving the security of private companies' supply chains with respect to terrorism. In 2014 & 2015, C-TPAT worked with Honduras Customs on the development of an Authorized Economic Operator (AEO) program. This assistance was through an initiative with the Organization of American States (OAS). C-TPAT assessed and evaluated the procedures and processes that Honduras has in place for the development of their AEO program. While the Honduras AEO program has not been officially launched, its staff has made significant progress in the development of the program's security criteria.

The requirement of a Customs Mutual Assistance Agreement is not in place with Honduras for C-TPAT to continue assistance. The CMAA is the cornerstone for which we (C-TPAT) can provide assistance, training, and outreach.

Customs Mutual Assistance Agreement (CMAA): Similar to El Salvador and Guatemala, CBP and ICE are attempting to pursue a CMAA with Honduran officials to prevent the use of fraudulent documents, to prevent individuals from traveling in anonymity, and to deter the misuse of sea, air, and land ports of entry. Although a CMAA with Honduras was signed in 1992, Honduras has never sent a diplomatic note confirming the CMAA is in-force, despite repeated efforts by CBP, ICE, and DHS leadership to move the process forward.

Trade and Travel Facilitation: CBP has a regional goal of building partnerships and information-sharing agreements that expand CBP's ability to prevent the use of fraudulent documents, to prevent individuals from traveling in anonymity, and to deter the misuse of land, air, and maritime ports of entry. CBP is partnering with U.S. Agency for International Development (USAID) to provide training on efficient customs processing at Ports of Entry (POEs). CBP is also working with Department of State to provide Honduras Customs with assessment and advisory services for customs modernization. The objective is to have a more efficient customs and coordinated border management scheme at the POEs that could lead to more foreign investment.

Federal Emergency Management Agency (FEMA)

U.S. Immigration and Customs Enforcement (ICE)

Transnational Criminal Investigative Unit (TCIU): The ICE and the HNP collaborated to establish the TCIU in January 2009. In October 2016, in response to President Hernandez's

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request for enhanced collaboration and information sharing on human smuggling and trafficking, ICE initiated the TCIU expansion project in close collaboration and support of HNP and Honduran Immigration (INM). In November 2016, ICE supported the HNP to establish a second TCIU in San Pedro Sula to enhance efforts to combat transnational crime and illicit cross-border activity in the northern sector of Honduras which includes some of the highest violent crime rates in the world. The San Pedro Sula TCIU also provides persistent investigative support to the Puerto Cortes sea port and CBP CSI as well as the San Pedro Sula International Airport, which has been frequently exploited by human smuggling organizations to facilitate illicit travel of special interest aliens utilizing fraudulent documents to expedite the route towards the U.S. Southwest Border.

Enhancing Border Security: ICE and the Director of INM developed a program to integrate immigration officials and systems into the TCIU and Honduran Public Ministry to enhance collaboration to combat human smuggling and trafficking and enhance information sharing protocols. ICE developed a 3-day Counter Illicit Travel Seminar in collaboration with senior prosecutors from the Honduran Public Ministry, ICE senior investigators, and the TCIU. The seminar was designed to build capacity to identify illicit travelers and fraudulent travel documents, identify best practices for investigations and prosecutions, and implement protocols for human smuggling and trafficking investigations. To date, INM has nominated more than 100 inspectors to the project, of which 82 have successfully cleared Leahy vetting and completed the Counter Illicit Travel Seminar. ICE and INM selected two INM inspectors to join the TCIUs in Tegucigalpa and San Pedro Sula, who will be the first INM officers to participate in the 3 week International Task Force Agent Training (ITAT) course alongside 10 newly selected HNP TCIU investigators. Upon completion of the ITAT course in April 2017, the Honduras TCIU will have 37 total permanent members based in Tegucigalpa and San Pedro Sula, and 80 additional INM liaisons at key land borders and ports around the country. ICE is also collaborating with the Division of Airport Security (Division de Seguridad Aeroportuaria or DSA) to incorporate DSA inspectors into the Counter Illicit Travel Program.

Operation CITADEL: Operation CITADEL is a multi-year interagency effort that began in 2013 to bolster the law enforcement, customs, and immigration enforcement capabilities of several partner nations, while also supporting ICE investigations. In Honduras, ICE focuses on increasing training and mentorship for the TCIU, Public Ministry, GOET, and INM to identify, disrupt, and dismantle transnational criminal organizations (TCO), drug trafficking organizations (DTO), and terrorist support networks by targeting the mechanisms used to move migrants, illicit funds, and contraband through Central America. Operation CITADEL 2016 Honduras enforcement results: 25 initiated cases, 97 arrests, 40 indictments, 17 convictions, 12 search warrants executed, 6 TCOs identified, 2 illicit bank accounts identified, 69 media exploitations, \$19,597 seized currency, 10 intelligence reports generated, 1044 biometric enrollments, 14 initiated judicial wire intercepts, 11 monitored judicial wire intercepts, 141 foreign officers trained, and 34 minors rescued.

Operation Mesoamerica: Operation Mesoamerica was a multinational human-smuggling investigation that culminated with the combined arrests of 27 individuals in Guatemala, Costa Rica, Honduras, Panama, and El Salvador in June 2016. The principle target of investigation, a Peruvian national living illegally in Guatemala, was arrested by the Guatemalan National Police

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for human smuggling violations. Honduran officials arrested six individuals, including the senior members of the Honduras-based cell and two alleged corrupt immigration officials. A seventh individual, the leader of the Honduran cell, was arrested in Nicaragua while attempting to smuggle a group of Nepalese nationals into Honduras. The Public Ministry is currently coordinating with the Government of Nicaragua to extradite the subject to Honduras for prosecution. Evidence gathered during the investigation revealed that the target worked with TCOs in Panama, Costa Rica, Honduras, and El Salvador to smuggle individuals from Asia, Africa, Europe, and the Middle East through South America and Central America.

Biometric Identification Transnational Migration Alert Program (BITMAP): With the BITMAP program, Honduran authorities collect biometrics on criminal suspects and irregular migrants and shares the information with ICE to enroll biometrics into all three major U.S. databases and to receive a near “real-time” match/no match response. Currently the TCIU and GOET are the only entities that collect biometric data under the BITMAP program; however, ICE is working with the INM as part of the TCIU expansion program to expand the capability to INM inspectors to conduct BITMAP screenings at the Irregular Migrant Centers where the volume of special interest aliens are detained and screened. In 2016, the BITMAP program facilitated the full biometric vetting of 2,794 individuals. In Fiscal Year (FY) 2017, the TCIU has identified two irregular migrants with suspected ties to terrorism through this program.

Criminal History Information Sharing (CHIS): Following the agreements signed with El Salvador and Guatemala, ICE entered into a CHIS agreement with the Government of Honduras on August 19, 2014. The agreement ensures notice to Honduras authorities regarding criminal history information pertaining to 85 egregious felony convictions of Honduran nationals subject to removal from the United States. Though CHIS, HNP review manifests received from ICE of Honduran nationals with a final order at two different stages: when detained into ICE custody and when ready to be removed within 48 hours through ICE Charters flights. CHIS also facilitates the exchange of additional biographic and foreign conviction data back to ICE that would have previously gone unknown.

Since entering into the agreement, the Honduras CHIS Program has been very active in returning data, which is an essential tool to conduct investigations of Honduran nationals presumed to ICE on a daily basis. In FY16, ICE sent 26,337 outbound notices of removal and received 20,059 positive responses. Those positive responses yielded 780 foreign criminal history records and 103 criminal warrants from Hondurans possessing a criminal background. On November 15, 2016, ICE met with the Director of Honduras National Police to negotiate the signing of a new memorandum of cooperation (MOC) in order to implement two changes:

1. Increase the number of crimes from 85 egregious crimes to all felonies and significant misdemeanors; and
2. Include Honduran nationals identified with a final order of removal, and who are not detained.

ICE is working with Honduras to transition to the latest version of the MOC, which provides a larger number of conviction codes and gang affiliation information. The Honduras CHIS Program ranks number one within the northern triangle countries with 80 percent of information reviewed and exchanged with ICE.

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Security Alliance for Fugitive Enforcement (SAFE): The ICE SAFE initiative, which began in Honduras during FY12, has been designed to share information with the Honduran Prosecutor's Office and law enforcement officers—specifically the HNP and INTERPOL—regarding Honduran national fugitives who are amenable to removal proceedings in the United States. Furthermore, SAFE has proven to be more cost effective for both governments thus minimizing the protocols in place to conduct extraditions of certain Honduran nationals who are residing in United States. This is a vital bilateral law enforcement mission which has an indisputable direct nexus to the security of the United States. The intent of SAFE is to deliver modernized, improved, and sustainable methods of identifying, targeting, gathering evidence, sharing investigative intelligence, and facilitating the prosecution of individuals involved in transnational crime through joint investigative activities in Honduras and the United States. To date, the ICE Attaché Tegucigalpa, through its SAFE program has facilitated the Honduran Interpol's ability to arrest more than 425 criminal fugitives upon their arrival in Honduras from ICE Air Operations (IAO).

Repatriation: The Government of Honduras allows up to 10 IAO charter flights per week, with 135 aliens per flight. In ad-hoc circumstances, the Government of Honduras will coordinate with ICE to accept additional charter flights, as necessary, to accommodate any increased volume in repatriations. However, the Government of Honduras currently accepts adults and family units on separate flights with no mixing of these populations, and unaccompanied children (UAC) are repatriated via commercial aircraft. ICE is requesting that the Government of Honduras re-evaluate their current prohibition and allow for the use of mixed charter flight to facilitate the expeditious repatriation of family units and UACs over the age of 14. The Government of Honduras has requested that San Pedro Sula Airport be the only International Airport used to return minors and family units. Only in special circumstances and with proper official notifications will minors and family units be accepted at Soto Cano Air Base. The Soto Cano Air Base does not have a reception center to receive the family units and minors, which complicates the process for their return at this location.

Electronic Travel Document (eTD): Honduras has been a participating country within the eTD system since June 2011. Currently, the Government of Honduras charges ICE \$5.00 per travel document.

Honduran Pilot Initiative (HPI): The HPI was implemented in McAllen, Texas, to support the surge during 2014, remains in place today. The purpose of the HPI is to expedite the process of interviewing Hondurans nationals subject to final orders of removal and with the issuance of their travel documents. The HPI has proven successful, resulting in the expeditious issuance of travel documents and increased turnaround times with their removals.

Reception and Reintegration: The Government of Honduras has invested more than \$3 million in a third welcome center for repatriated adult migrants near the Guatemalan border. This has supported repatriated migrants registration for reintegration services such as school enrollment, a job bank, and the "Vida Mejor" program that helps with home improvements.

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In February, the Government of Honduras inaugurated its three renovated migrant reception centers in San Pedro Sula and Omoa. The centers provide additional resources to receive and process a higher volume of repatriated migrants daily with housing options available at two of these centers. The facilities include expanded kitchens, interview rooms, administrative facilities, and lavatories.

In 2017, the Government of Honduras anticipates receiving additional funding from Solidarity Fund with the Honduran migrant and the International Organization for Migration (IOM) to work on five different return and reintegration programs. Furthermore, on January 4, 2017, the Government of Honduras opened its first Protection Center for Honduran migrants abroad, located in Houston, Texas. The goal of this center is to not only centralize the issuance of travel documents for Honduran nationals with a final order of removal, but to also assist Honduran nationals who need information about their human and legal rights while residing abroad.

On March 7, 2017, the Government of Honduras opened its first Regional Center to assist returned Honduran migrants. The Center is known in Spanish as Unidad Municipal de Atención al Retornado. IOM supports this effort by identifying the efforts to provide additional social services to those Honduran nationals after being returned from Mexico and United States. This new Center has opened its services in the city of San Pedro Sula, and the goal is to engage local community authorities on following up with returned migrants in their reintegration to the community.

National Protection and Programs Directorate (NPPD)

Transportation Security Administration (TSA)

Outreach in Honduras/Capacity Development: TSA hosted a delegation visit to Miami International Airport (MIA) and Fort Lauderdale-Hollywood International Airport (FLL) in November 2016. During the visit, the delegation observed air carrier operations. TSA shared with the host government best practices in aviation security.

Federal Air Marshal Service (FAMS): In July 2013, TSA signed a FAMS Memorandum of Agreement (MOA) with the Honduran Ministry of Foreign Affairs. This agreement is enforced by the Directorate General of Civil Aviation. TSA currently conducts FAMS missions to and from Honduras.

Foreign Airport Assessments and Air Carrier Inspections: TSA conducts frequent airport security assessments and air carrier inspections at Honduras's three main international airports: Aeropuerto Internacional de Ramón Villeda Morales (SAP); Aeropuerto Internacional de Juan Manuel Gálvez (RTB); and Aeropuerto Internacional de Toncontín (TGU). These airports were found to be in compliance with International Civil Aviation Organization standards.

1. SAP
 - The last airport assessment and air carrier inspection was conducted on June 7, 2016.
 - The next airport assessment is scheduled on July 24, 2017.
2. RTB

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- The last airport assessment and air carrier inspection was conducted on June 16, 2016.
 - The next airport assessment is on June 21, 2019 and the next air carrier inspection is on June 19, 2017.
3. TGU
- The last airport assessment and air carrier inspection was conducted on November 14, 2016.
 - The next airport assessment is on November 28, 2017.

U.S. Coast Guard (USCG)

Comprehensive Naval Assessment: In July 2016, USCG conducted a Comprehensive Maritime Assessment of the Honduran Navy (HN) to review the HN's maintenance, logistics, training, staffing, and resources as a baseline for developing the HN's maritime security capacity.

Maritime Activities Coordinator: As part of an interagency agreement, INL is funding a USCG advisor at U.S. Embassy Tegucigalpa in fall 2017 to assist in building Honduras' law enforcement capability through training and engagement focused on interdiction, apprehension and prosecution of criminals operating in the maritime domain.

International Port Security (IPS): Honduras' Designated Authority for International Ship and Port Facility Security (ISPS) Code compliance is the National Commission for Port Security. The IPS Program has conducted six port security assessments of Honduras, most recently in September 2016, when they determined that Honduras was maintaining effective antiterrorism measures in its ports. The next assessment is scheduled for September 2018. In FY17, Honduras is listed to receive Port Security and Legal Capacity building assistance.

Maritime Law Enforcement: The U.S. Government maintains a bilateral agreement to suppress illicit traffic by sea with Honduras, which includes provisions for ship boarding, ship riders, pursuit, entry to investigate, over flight, order to land and for the use of third-party platforms. Honduras is also a key partner in OP MARTILLO. USCG has a good working relationship with the HN, although Honduras has limited ability to patrol its territorial waters because of inadequate funding. The USCG frequently engages with the HN through the framework set up by the bilateral agreement to suppress illicit traffic by sea. The agreement allows USCG to rapidly confirm registry of vessels claiming Honduran nationality and obtain authorization to stop, board, and search vessels where there is reasonable suspicion that they are engaged in drug trafficking.

U.S. Citizenship and Immigration Services (USCIS)

Deferred Action for Childhood Arrivals (DACA): On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of DACA for a period of two years, subject to renewal. DACA requestors may also apply for work authorization. DACA is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time and does not provide lawful status. Honduras has 31,313 total individual DACA grants, with

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13,794 of those having been granted renewal requests at the close of FY16. Honduras has 35,805 total individual DACA grants, with 17,636 of those having been granted renewal requests as of February 28, 2017.

(b)(5)

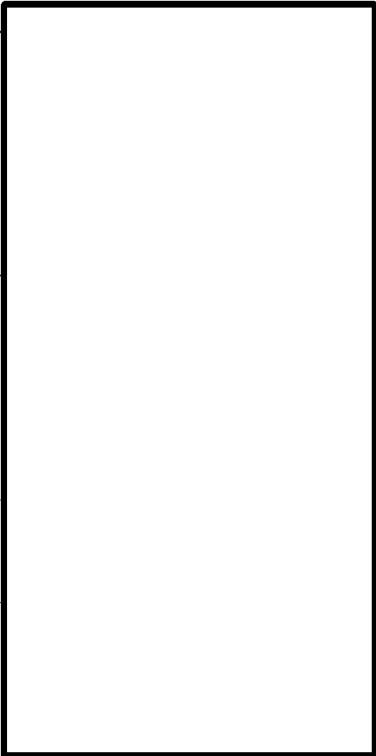
Temporary Protected Status (TPS): On May 16, 2016, DHS announced the Secretary's decision to extend TPS for eligible nationals of Honduras for an additional 18 months, effective July 6, 2016 through January 5, 2018. Honduras was designated for TPS on January 5, 1999, due to an environmental disaster within that country, specifically the devastation resulting from Hurricane Mitch. At the close of calendar year (CY) 16, there were approximately 86,000 Honduran TPS beneficiaries. As of May 4, [REDACTED] 2017, there have been 54, [REDACTED] 900 applications accepted and 53, [REDACTED] 760 approved for the most recent TPS extension.

Central American Minor (CAM) Refugee and Parole Program: The CAM program was established in 2014 and provides certain qualified children in El Salvador, Guatemala and Honduras a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States. As of February 17, 2017, USCIS has interviewed approximately 886 cases (representing 961 individuals) in Honduras. Approximately 20% have been approved as refugees and approximately 58% have been recommended parole. Approximately 2% of cases have been denied and the remaining cases are undergoing additional review. As of February 17, 2017 159 CAM refugees and 323 CAM parolees from Honduras have arrived to the United States, for a total of 482 arrivals. At this time, circuit rides to Honduras are on hold as a result of Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States. Though not yet announced publicly, pursuant to the recently signed Executive Order, under the CAM Program, USCIS no longer considers parole for individuals who do not establish eligibility for refugee status

U.S. Secret Service (USSS)

Overview: USSS does not have a permanent presence in Honduras, however it periodically provides protective and investigative training to law enforcement located in the Northern Triangle region. Honduras falls under the region of the USSS Miami Field Office who coordinate protective operations and counterfeit currency investigations, through close coordination with the in country ICE Attaché. In addition to the President and Vice President of the United States, the Secretary of Homeland Security also travels with a USSS protection detail.

Upcoming Trainings: USSS will conduct trainings for Honduran law enforcement to include Law Enforcement Leadership Development (February 2017), Computer Network Intrusion (June 2017), and Executive Policy and Development Symposium, Human Trafficking and Child Exploitation (November 2017).



U.S. Department of Homeland Security's Response to
Senator Feinstein's February 27, 2017 Letter

A. The Memorandum on Implementing the President's Border Security and Immigration Enforcement Improvement Policies and associated materials ("Memo on Border").

The Memo on Border states that the Department will return aliens arriving on land from a foreign territory contiguous to the United States, to the territory from which they arrived (Page 7, Section H).

- Will Mexican nationals seeking asylum be asked to return to Mexico pending the adjudication of their asylum claim?

(b)(5)

Use of § 235(b)(2)(C) of the Immigration and Nationality Act (INA) and contemplation of returning foreign nationals to [redacted] Mexico while awaiting a hearing with [redacted] an immigration judge requires negotiation with the Government of Mexico. However, U.S. Customs and Border Protection (CBP) will not, under any circumstances, return an individual to a country in which his or her life or freedom would be threatened.

- Describe any agreements the Department has made with Mexico in order for Mexico to be able to safely accommodate those nationals returned to Mexico pending the adjudication of their asylum claim?

[CBP defers to PLCY-OIE for comment]

The Memo on Border states that "aliens who are released from custody pending a determination of their removability are highly likely to abscond and fail to attend their removal hearings (Page 9, Section J).

- Please provide the source of this statement.
- Please define what the standard for "highly likely" is.

[DOJ/EOIR recommends that the DHS response should refer the members of Congress to DOJ for response of those questions they believe pertain to DOJ.]

The Memo on Border states that DHS will seek to utilize the "proper processing and treatment of unaccompanied alien minors encountered at the border" (Page 10, Section L). Please provide yes or no answers along with an explanation where appropriate.

- Will DHS be identifying children as accompanied when they are encountered at the border if the child has a parent or legal guardian in the United States?

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An unaccompanied alien child (UAC) is defined by section ~~§~~ 462(g) in the Homeland Security Act as: a person under 18, without a parent or legal guardian in the United States or without a parent or legal guardian in the United States who is able to provide care and physical custody. CBP will continue to screen all children in its custody to determine if they should be identified as accompanied or as unaccompanied alien children, as defined by statute.

- **If so, will these children be placed into expedited removal proceedings under section 235(b) of the INA?**

CBP will continue to process all children in accordance with all applicable law and CBP policy. Under the Trafficking Victims Protection Reauthorization Act (TVPRA), a UAC who is a national or habitual resident of Canada or Mexico may be permitted to withdraw his or her application for admission and be repatriated immediately, as long as CBP determines that he or she has not been a victim of a severe form of human trafficking and there is no credible evidence that the UAC is at risk of being trafficked upon return; has no fear of returning to his or her country of nationality owing to a credible fear of persecution; and have the ability to make an independent decision to withdraw their application for admission. However, for Mexican and Canadian ~~UAC~~UACs who cannot be returned immediately because they do not meet one or more of these requirements, and for all ~~UAC~~UACs from countries other than Mexico or Canada, the TVPRA requires that they be placed in INA § 240 removal proceedings, and transferred to the care and custody of ~~ORR~~the Office of Refugee Resettlement, U.S. Department of Health and Human Services~~ORR~~. *(Language cleared 2/23/2016: CBP hearing to Senate Judiciary Committee)*

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- **If so, will these children be subject to mandatory detention pending any proceedings under the INA?**

CBP will process and detain all individuals in accordance with the INA and relevant CBP policy.

B. The Memorandum on Implementing the President's Interior Enforcement ("Memo on the Interior").

In the opening paragraph the memo notes that, with a few exceptions, the February 20, 2017 memo supersedes all conflicting memos, guidance, etc.(top of page 2).

- **Please provide a detailed list of all memos, guidance, directives, or other documents affected by this memo and list the extent to which the memo is altered (for instance, fully rescinded, etc.).**

U.S. Immigration and Customs Enforcement (ICE) is engaged in a comprehensive review of all directives, memoranda, and field guidance to determine whether they are

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in conflict with the President's Executive Order 13,768, *Enhancing Public Safety in the Interior of the United States*. As directed by the Secretary, the directives, memoranda, and field guidance found to be in conflict, in whole, or in part, will be rescinded to the extent of the conflict. ICE's review is ongoing.

Comment [JSN3]: Later the EO number is used alone so providing that here for clarity.

The Memo on the Interior states that OHS will expand the 287(g) program to jurisdictions that request to participate and meet "all program requirements."

- **Please provide a copy of the program requirements for local law enforcement officers to participate in the 287(g) program. Provide any associated guidance for training, certification, or instruction related to the 287(g) program.**

The 287(g) program training material is Law Enforcement Sensitive.

The most vital program requirement is that the partnership be mutually beneficial to ICE and the prospective partner. ICE prioritizes state and local law enforcement agency (LEA) requests for a 287(g) Memorandum of Agreement by a metric analysis, an LEA needs assessment, and input from ICE Field Office Directors (FODs) based on the following criteria:

- number of foreign-born inmates arrested annually by the LEA;
- historical encounter and detainer data and anticipated increase in detainees upon implementation of continuous real-time screening by 287(g) Designated Immigration Officers;
- existing or anticipated Intergovernmental Service Agreement for detention and/or transportation services;
- LEA specific concerns: i.e., gang violence, human trafficking, and identity document fraud;
- program support or resistance received by the ICE Office of Congressional Relations; and
- availability of U.S. Department of Homeland Security (DHS) or ICE Headquarters resources requested by the FOD.

A Designated Immigration Officer (DIO) must be a U.S. citizen, have completed a current background investigation, and have experience in his or her current position.

Prior to being delegated immigration enforcement authority, selected state and local officers must attend and successfully complete ICE's initial 4-week 287(g) basic training course. The basic training program includes coursework in immigration law, the use of DHS and ICE systems and databases, multi-cultural communication, and the avoidance of racial profiling. Subsequently, these officers must attend 1-week refresher training every 2 years. DIOs perform delegated immigration enforcement functions under ICE supervision.

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The Memo on the Interior states that DHS will no longer afford Privacy Act protections to individuals who are not United States Citizens (USC) or Lawful Permanent Residents (LPR) (Page 5, Section G).

- How will the Department handle the release of information involving "mixed status" families. For instance, if the Department would like to release information about an undocumented individual that has a USC child, what steps will the Department take to ensure the privacy rights of LPRs and USCs are protected.

[Redacted]

(b)(5)

[Redacted]

- Will these changes apply to recipients of the Deferred Action Childhood Arrivals Program, known as DACA?

[NOTE: The Privacy Office defers to USCIS on their current and future practice for handling information pertaining to recipients of DACA]

- Will these changes apply to witnesses of crime or victims of domestic violence, sexual assault, and human trafficking?

[Redacted]

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- **Will this policy change be retroactive or will it only apply to individuals who give their information to the government moving forward?**

The policy change is effective as of the date of the Executive Order, January 25, 2017. Since the protections for information pertaining to use are applied at the time of use and not collection, the effect of the policy change applies to all uses of information going forward from January 25, 2017.

- **This section also indicates that the 2009 guidance is rescinded. When is the effective date of rescission of the 2009 guidance? Is the 2009 guidance in place until new guidance is issued?**

The effective date of the rescission of the 2009 guidance is January 25, 2017, the date of the Executive Order. New guidance is under development and its issuance is anticipated shortly.

The Memo on the Interior states that DHS will return to utilizing the Secure Communities Program. (Page 3, Section B).

- **Is the previous guidance surrounding the Secure Communities program in place or will there be forthcoming guidance indicating how the Secure Communities program will be implemented.**

ICE is developing a new detainer policy that will be utilized in concert with identification by Secure Communities' use of the Automated Biometric Identification System/Next Generation Identification interoperability.

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- **Please attach any current guidance on the implementation of the Secure Communities program.**

Full implementation of Secure Communities is dependent upon ICE development of a new detainer form.

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C. General Questions

Taking the Executive Order on the Interior and Border and the accompanying guidance and documents, it appears that in addition to the hiring of Border Patrol (5,000) and ICE agents (10,000), the Department will need to hire additional USCIS and FDNS officers.

- **Other than the Border Patrol and ICE officers specifically identified, specify how many additional staff will need to be hired in order to carry out the President's Executive Orders?**

DHS is currently focused on developing and implementing robust hiring plans, to include the necessary mission support positions, required to carry out the President's

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Executive Orders. The current request as submitted in the FY 2017 Budget Amendment is for 531.5 additional positions, to include USCIS and FDNS officers.

- **On January 23, 2017, the President issued a Presidential memorandum placing a hiring freeze on the federal government, except for military personnel. How will the additional staff be hired with the hiring freeze in place?**

Federal agencies were allowed to submit plans to ~~OMB~~ the Office of Management and Budget (OMB) and the Office of Personnel Management (OPM) to exempt occupations from the hiring freeze deemed necessary to ensure national security and public safety. DHS received concurrence on its process, which requires DHS Component Heads to review and submit requests to the Acting Under Secretary for Management (AUSM) to exempt from the hiring freeze the occupations critical for their Component to ensure public safety and national security. The AUSM was delegated hiring freeze exemptions from the Secretary. The Office of the Chief Human Capital Officer and the Office of the General Counsel review the requests prior to submitting them to the AUSM: for consideration. The AUSM reviews and makes final determinations. Exempted occupations are provided to Congress and OMB. We are carefully working to balance the intent of the hiring freeze while still quickly moving to implement the Executive Orders that call for a build-up.

In Section 2 of Executive Order 13767, the President said, that it is "the policy of the executive branch to ... detain individuals apprehended on *suspicion* of violating Federal or State law, including Federal immigration law, pending further proceedings regarding those violations."

- **Can you specifically identify the geographical regions where the standard to arrest will be *lowered from probable cause to suspicion*? In answering this question, you may use a map of the United States.**

Executive Order ~~13767~~13,767 does not lower the standard for making arrests or conducting searches at, or within a reasonable distance from, the border as provided in 8 U.S.C. § 1357-(a)(3) and further detailed in 8 C.F.R. § 287.1(a)-(d). ~~The U.S. Department of Homeland Security~~ DHS will continue to require probable cause for arrests and will continue to use its recognized authority to patrol the border. *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976).

- **Please provide the Constitutional basis for lowering the standard of arrest from probable cause to merely suspicion?**

Executive Order ~~13767~~13,767 does not lower the standard for making arrests and is consistent with the statutory and regulatory authority noted above as well as case law decided by the U.S. Supreme Court.

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**Meeting with the American Council on Education
DACA Talking Points**

- USCIS began accepting requests for consideration of Deferred Action for Childhood Arrivals (DACA) on August 15, 2012 in accordance with a policy memorandum issued on June 15, 2012, by then DHS Secretary Janet Napolitano titled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.”
- Two years later, on June 5, 2014, USCIS began accepting and processing requests for renewal of initial DACA grants. Initial and renewal grants of DACA are valid for a two year period. In January 2016, USCIS began adjudicating DACA filings in the USCIS Electronic Immigration System (ELIS).
- From the start of DACA through the end of Fiscal Year 2016 USCIS has received a total of 1,528,479 requests (both initial and renewal requests) for deferred action under DACA. Through the end of Fiscal Year 2016 USCIS has approved 752,154 initial requests for DACA and 588,151 requests for renewal of DACA.
- Each DACA request is reviewed on a discretionary case-by-case basis and DACA recipients are eligible to receive employment authorization if they can show an economic necessity to work. Individuals granted DACA may apply for travel authorization (advance parole) for educational, employment or humanitarian purposes.
- Since DACA is an exercise of prosecutorial discretion, DACA recipients are not granted lawful immigration status and do not have a pathway to U.S. citizenship based on their grant of DACA.
- USCIS is currently processing DACA requests under the June 15, 2012 guidelines, providing a two-year validity period for all approved requests. USCIS processes DACA renewals on a first-in, first-out basis, however; approvals of early filings of more than 150 days in advance are withheld until there are 150 days of validity or less remaining on the most recently approved DACA request and employment authorization document.
- Under the current DACA policy, information provided by DACA requestors is protected from disclosure to ICE and CBP for the purpose of immigration enforcement proceedings unless a requestor meets the criteria for the issuance of a Notice to Appear or a referral to Immigration and Customs Enforcement (ICE) under the criteria set forth in USCIS’ Notice to Appear guidance.



Homeland Security

June 15, 2012

MEMORANDUM FOR: David V. Aguilar
Acting Commissioner, U.S. Customs and Border Protection

Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

John Morton
Director, U.S. Immigration and Customs Enforcement

FROM:

Janet Napolitano
Secretary of Homeland Security

A handwritten signature in black ink, appearing to read "Janet Napolitano", written over the typed name.

SUBJECT:

Exercising Prosecutorial Discretion with Respect to Individuals
Who Came to the United States as Children

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty.

Our Nation's immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

- With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
- USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are in removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

- ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
- ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
- ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
- ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are not currently in removal proceedings and meet the above criteria, and pass a background check:

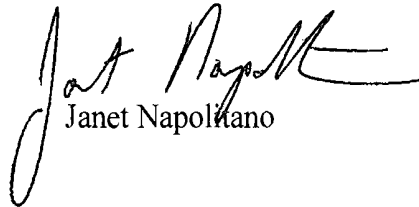
- USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the

above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.


Janet Napolitano

“HAPPENINGS ON THE HILL” FOR MONDAY; DECEMBER 12, 2016

CONGRESSIONAL ACTIONS:

- UPDATE: The Senate and House will conduct no further legislative business for the remainder of 2016. While both bodies have departed for the Holiday Season, the House and Senate will continue to hold *pro forma* sessions to preclude recess appointments. **Senate passage of the Continuing Resolution on last Friday evening insured continued government funding until April 28, 2017.** The 115th Congress is scheduled to convene at noon on Tuesday, January 3, 2017.
- On December 19, the Electoral College meets to cast the official votes for president.
- Inauguration Day is in 39 days on Friday, January 20. Cabinet nominees are expected to be submitted to the respective Senate Committees for confirmation action to be taken by the Committees and the full Senate prior to Inauguration Day, so the confirmed nominees can be sworn into office as soon as possible after the Inauguration Ceremony.
- The final General Election races were completed on Saturday – in two Congressional Districts in Louisiana, two Republican candidates won so there will be 241 Republican Members and 194 Democratic Members in the House of Representatives for the 115th Congress. The Senate race in the Louisiana run-off was won by a Republican, so the final ratio in the 115th Congress Senate will be 52 Republican Senators and 46 Democratic/2 Independent Senators (who caucus with the Democratic Members).

CONGRESSIONAL ACTIVITIES:

- To Be Scheduled: Conference call with Majority Counsel of the House Immigration Subcommittee who requested an update on present and future changes in E-Verify in advance of updated revision to the Mandatory E-Verify bill that will be introduced in the 115th Congress by Congressman Lamar Smith. Tammy Meckley (IRIS) and Kathy Lotspeich (Verification) will provide the update when it is scheduled.
- Thursday, December 15: USCIS meeting with new and returning minority staff of Senate Homeland Security and Governmental Affairs Committee on the subject of DACA 101: focus on operations, facilities, costs, and budget. Participants: Don Neufeld (SCOPs) and Angie Alfonso-Royal (Chief of OLA)

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IMMIGRATION POSTINGS:

Trump taps Kelly for DHS chief

Some Democrats have raised concerns over the number of generals the president-elect has selected for his administration. They have cited concerns about the amount of sway the military will have in the government.

In addition to Kelly, Trump has named two other generals to top positions: retired Lt. Gen. Michael Flynn for national security adviser and retired Gen. James Mattis for Defense secretary. Others are also being considered for additional positions in his administration.

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POLITICO By Ted Hesson
12/12/2016 02:47 PM EDT

Senate Majority Leader Mitch McConnell called retired Marine General John Kelly “an inspired choice” to take over the Department of Homeland Security in a statement released today.

The transition team for President-elect Donald Trump formally announced this morning that he plans to nominate Kelly to take over DHS. The four-star general served as the head of U.S. Southern Command from 2012 to 2016. During that time, he clashed with the Obama administration over plans to close the U.S. military prison in Guantanamo Bay and defended treatment of detainees at the facility.

McConnell said Kelly’s experience and expertise in the Western Hemisphere “will position him well to lead his department at a critical time.”

“We continue to confront a sophisticated terrorist threat which seeks to strike us here in the United States,” McConnell said. “His exemplary record, familiarity with Congress and experience as Commander of Southern Command as a Marine Corps general officer will be valuable as we work to secure our nation’s borders

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Sanctuary cities stand firm against Trump

At least 37 cities have reaffirmed their immigration policies despite the president-elect’s threat to withhold federal funding.

POLITICO By Ruairí Arrieta-Kenna
| 12/12/16 05:14 AM EST

At least three dozen so-called sanctuary cities across the country are standing firm against President-elect Donald Trump’s pledge to crack down on them, according to a POLITICO analysis.

Trump has pledged that one of the top priorities for his first 100 days in office is to “cancel all federal funding to sanctuary cities,” an unspecific term for jurisdictions that limit, in one way or another, their cooperation with federal immigration enforcement agents. But with six weeks to go until the inauguration, POLITICO identified not one city that is reconsidering its “sanctuary” policies—such as not inquiring residents about their immigration status or detaining people solely on that status—on account of the presidential election.

Instead, officials in at least 37 cities (listed below) have doubled down since Trump’s election, reaffirming their current policies or practices in public statements, despite the threat of pushback from the incoming administration, and at least four cities have newly declared themselves sanctuary cities since Trump’s win. Ten other cities have said they will wait to see what Trump does but are not currently making any changes, according to local news reports and inquiries from POLITICO.

There is no definitive list of U.S. sanctuary cities because of the term’s flexible definition. The 47 total sanctuary cities POLITICO identified were compiled from multiple sources, including a 2006 Congressional Research Service report, a 2014 Department of Homeland Security report and a 2016 Department of Justice memo. They range from small towns like Aberdeen, Washington, and Ashland, Oregon, to big cities like New York and San Francisco.

Some city officials just don’t take Trump’s threat seriously, while others are openly flouting a president-elect they see as hostile to immigrants. Regardless, legal experts say Trump would have a lot of trouble fulfilling his promise to withhold federal funds.

“It depends on how serious they get, but whatever is going to happen, this is going to end up in court,” said Bill Ong Hing, a law professor at the University of San Francisco and the founder of the Immigrant Legal Resource Center.

The Trump transition team did not respond to requests for comment.

Most local leaders avoid the ambiguous term “sanctuary city,” including Fresno Police Chief Jerry Dyer, who said he thinks it is somewhat of a misnomer because it implies that such cities offer blanket protection from deportation when that is not the case. In reality, Dyer said Fresno’s policy limits police officers’ cooperation with Immigration and Customs Enforcement, but they, like in almost every other sanctuary city, still must and do cooperate with federal authorities “when it is to assist them with criminal activity other than immigration status.”

Dyer doubts that Trump will follow through with his threat to withhold funds—and he’s not alone. Leaders of several cities—including Baltimore; Long Beach, California; Mesa, Arizona; and Springfield, Oregon—are satisfied with putting off any conversation about their sanctuary practices until Trump can prove that his funding threat is real. Tyler Gamble, the communications director of the New Orleans Police Department, said the city’s current

policies have been approved by the Department of Justice, and he sees no reason to speculate on the future.

Legal experts seem to agree that the Trump administration would have a difficult time enacting the type of defunding it wishes to see. The most basic argument against the federal government's ability to do that is nested in the Tenth Amendment. "It's about federalism. It's about separation of powers," Hing said. Phil Torrey, a lecturer at Harvard Law School and the supervising attorney of the Harvard Immigration Project, explained that the Tenth Amendment gives broad powers to the states that include the ability to set policy agendas for local law enforcement, while it gives broad powers to the federal government to decide how to tax and spend dollars. The Supreme Court comes in when these powers collide, and the court has established precedent that the federal government cannot be overly coercive, Torrey said.

One such example is *South Dakota v. Dole*, a 1987 case that clarified what rules Congress must follow when attaching conditions to federal funds. In that case, the court ruled that the federal government could withhold some highway funding for cities that did not enforce the federal drinking age because it wouldn't be so much money to be considered coercive and because it did not violate the "germaneness rule" since the drinking age condition was determined to be germane to the purpose of the funds: safe interstate travel. That second rule, in particular, will be harder to satisfy with sanctuary cities, Hing argues, because "most federal funds to cities and local governments are not germane to immigration enforcement."

Another relevant Supreme Court ruling is *National Federation of Independent Business v. Sebelius*, in which the Supreme Court in 2012 ruled unconstitutional a provision of the Affordable Care Act that would have blocked federal Medicaid funding to states that didn't accept Obamacare's proposed Medicaid expansion. Hing suggests that the Supreme Court struck that provision down because it "went too far" and was deemed too coercive.

Torrey said these ruling makes one thing very clear: "What the federal government can't do at this point is basically pull funding wholesale from states and localities in order to get their local law enforcement agents to basically enforce federal immigration law." There are, he noted, some Department of Justice grants set aside for local law enforcement that is arguably related to immigration enforcement and "could be at risk." But Hing said that allotment is equivalent to a drop in the bucket, estimating it to be about \$600 million total nationally. For context, San Francisco alone receives more than \$1 billion annually in federal funds.

The fact that there's no clear definition for sanctuary cities means it will be all the more difficult for Trump to implement any sort of defunding, Torrey said. "If the federal government is really looking to do this," he said, "they're going to have look at each individual sheriff's office, and I just think that politically that's not going to work, and logistically it doesn't sound tenable at all."

There are other actions besides the withholding of federal funds that the incoming Trump administration could take to reduce the number of sanctuary cities. Jessica Vaughan, director of policy studies for the Center for Immigration Studies, a research group that favors more restrictive immigration laws, said the most basic action the Trump administration could take is to clarify the expectations and obligations of local law enforcement officials. Vaughan said she believes the Obama administration's "ambiguity" on ICE detainer requests has left sheriffs confused about their legal liability if they comply with such requests. (In many cities, the ACLU has pursued litigation against county jails that hold undocumented immigrants without court orders to do so.) Vaughan said that Senator Jeff Sessions, Trump's pick for attorney general, could clarify to those sheriffs that detainer requests are not optional and assure them that they will not face prosecution for assisting ICE.

As for what Vaughan describes as the "most egregious" sanctuary cities—those like Los Angeles or Chicago that openly defy even the Obama administration's immigration enforcement efforts—she said they will likely lose the Justice Department law enforcement grants that Torrey mentioned, and might even face prosecution by the department. It is very likely, she suggested, that the legality of their practices will ultimately be decided by a federal court.

Nevertheless, many leaders are ready to remain steadfast. Mayors or police spokespeople from Aberdeen; Princeton, New Jersey; Northampton, Massachusetts; and Las Vegas, all told Politico that they have no plans to reassess their current practices. Similarly, in Ashland, the mayor, the city attorney and the police chief all asserted at a city council meeting on November 17 that they have no intention of changing their sanctuary status because of the election. And in Evanston, an ordinance was adopted just last week that promises the city will remain welcoming to immigrants and limit cooperation with federal immigration officials.

In just the past few weeks, several other cities, including Urbana, Illinois; Northfield, Minnesota; and Pittsburgh, have begun to consider taking steps to formally become sanctuaries in defiance of the president-elect. Santa Ana, California, as well as the Vermont cities of Burlington, Montpelier and Winooski, have already passed resolutions to formalize sanctuary city status since the election.

Trump may have lowered the number of immigrants he hopes to deport from "at least 11 million" to "probably 2 million," but even then, his administration will have a steep hill to climb without the cooperation of local law enforcement. The top 10 sanctuary cities by undocumented population (Los Angeles, New York, Chicago, Seattle, Austin, Newark, Denver, Philadelphia, Minneapolis and San Francisco) account for more than 2 million undocumented immigrants.

Municipal and police leaders from the following cities have publicly reaffirmed their sanctuary statuses (even if they don't all accept the "sanctuary city" designation).

Appleton, Wisconsin
Ashland, Oregon
Aurora, Chicago
Aurora, Colorado
Austin, Texas
Berkeley, California
Boston, Massachusetts
Cambridge, Massachusetts
Chicago, Illinois
Denver, Colorado
Detroit, Michigan
Evanston, Illinois
Hartford, Connecticut
Jersey City, New Jersey
Los Angeles, California
Madison, Wisconsin
Minneapolis, Minnesota
Nashville, Tennessee
New Haven, Connecticut
New York, New York
Newark, New Jersey
Newton, Massachusetts
Oakland, California
Philadelphia, Pennsylvania
Phoenix, Arizona
Portland, Oregon
Providence, Rhode Island
Richmond, California
San Francisco, California
Santa Fe, New Mexico
Seattle, Washington
Somerville, Massachusetts
St. Paul, Minnesota
Syracuse, New York
Takoma Park, Maryland
Tucson, Arizona
Washington, D.C.

The following cities are reported to have no plans at the moment to change their immigration-related policies or practices.

Aberdeen, Washington
Baltimore, Maryland
Fresno, California
Las Vegas, Nevada
Long Beach, California
Mesa, Arizona
New Orleans, Louisiana
Northampton, Massachusetts
Princeton, New Jersey
Springfield, Oregon

The following cities have formally declared themselves sanctuaries since the presidential election.

Santa Ana, California
Burlington, Vermont
Montpelier, Vermont
Winooski, Vermont

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Senior Policy Council – Briefing Paper Talking Points

Title of Subject-Matter: *DACA applications: Handling cases where active arrests could lead to convictions and subsequent ineligibility.*

Office / Point-of-Contact: OP&S, NSBI/Cristina Hamilton

Background:

- On January 9th the Director asked OP&S to determine how criminal records showing *arrests without dispositions* are handled by USCIS.
- The question arose because some DACA applicants have criminal records that put them on the “edge” of ineligibility---*one more conviction* will disqualify them, and these applicants also have criminal records showing an arrest for a crime that would indeed render them ineligible if convicted.
- In general, USCIS has limited formal guidance on handling cases where criminal records reveal *arrests without disposition*.
- Egregious Public Safety (EPS) *arrests, even without disposition*, are guided by the November 7, 2011 NTA PM, and are to be referred to ICE for possible NTA, pre-adjudication. If ICE declines, adjudication moves forward.
- For non-EPS offenses there is less formal guidance. Depending upon the offense, Adjudication is generally held for disposition and/or interview for Natz, Adjustment, and TPS. But for other form types, adjudication is not held for arrest outcomes.
- DACA cases with non-EPS *arrests without disposition* are adjudicated without outcomes. This could result in the grant of DACA to an individual who may later be convicted for the crime. A re-offense by such an individual, perhaps in areas involving EPS, could present potential public safety concerns and leave USCIS vulnerable.

Question: How should USCIS handle cases where background checks reveal an active arrest for a crime, where a conviction will render the applicant ineligible for DACA?

Considerations:

- The SPC briefing paper explores four options to address the question.
- The options each have impacts on work load, risk, and USCIS’ ability to maintain maximum integrity in the DACA process.
- Some of the options would delay benefits to the presumed-innocent applicant.
- Impact would be confined to applicants on the edge of disqualification, who may not be solidly part of the “low priority” target group for whom prosecutorial discretion was designed.

Options:

- **Option 1: Treat an arrest without disposition as a pending law enforcement check and defer adjudication until the applicant submits the disposition record.** (William Yates memorandum “Closing Cases with Pending Law Enforcement Checks,” April 05, 2004). “Offices may continue to withhold final adjudication until all required law enforcement check results are received.”

- **Option 2: Treat an arrest without disposition as an administrative investigation and defer adjudication until the applicant submits the disposition record.** Administrative investigations may be included under the Withholding Adjudication policy currently in draft (this would require that USCIS demonstrate that divulgence of the investigation to the applicant would hazard the investigation.) This would require routing to the FDNS office. It also must be invoked at the DD level (or as stipulated).
- **Option 3: Adjudicate the application without disposition** (excepting EPS cases which will continue to follow the NTA instruction). Take no action (on a subsequent conviction), unless brought to USCIS attention, or until a subsequent DACA renewal.
- **Option 4: Adjudicate the application without disposition** (excepting EPS cases which will continue to follow the NTA instruction) **and track cases where a conviction would render ineligibility.** Under Service Motion, reopen those cases where disqualifying criminal convictions occur; issue a Notice of Intent to Terminate; and terminate if the response does not overcome the grounds or is not received within 33 days.

Recommended course and form of action: OP&S recommends Option 1, or similar, in order to maintain integrity in the DACA program and for future considerations of public safety. While deferring adjudication may cause delays for certain applicants awaiting disposition of an arrest, the very fact of their arrest, which in some cases will be in addition to other arrests and/or convictions, suggests that these individuals may not be the primary “low priority” target group for whom prosecutorial discretion was designed. Rather, they are marginal applicants for whom USCIS must expend additional time and deliberation in the execution of its duty to the people of the United States.

Anticipated feedback from supporters/detractors:

It can be expected that supporters of DACA would be dissatisfied with any plan that involves a delay of benefits. USCIS could expect DACA detractors to capitalize on any DACA grant situation where the applicant was subsequently convicted of a crime about which USCIS had knowledge but did not act, particularly if the individual reoffends.

Proposed implementation process and schedule:

Should Option 2 be considered it must be noted that the Withholding of Adjudication PM has not been finalized.