

Question#:	1
Topic:	Staffing 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Which offices within USCIS currently adjudicate applications for Deferred Action for Childhood Arrivals (DACA) – the Service Centers, the Field Offices, or both?

Response: DACA requests are not adjudicated as DACA requests are not immigration benefits. DACA is a request for consideration for prosecutorial discretion. All DACA requests are processed at USCIS Service Centers. The Service Centers may refer requests to the Field Offices for interviews, where necessary, but the ultimate determination on whether to accord deferred action to an individual is handled at the Service Centers.

Question: Which offices within USCIS have ever adjudicated DACA applications?

Response: DACA requests are not adjudicated as DACA requests are not immigration benefits. DACA is a request for consideration for prosecutorial discretion. All DACA requests are processed at USCIS Service Centers. The Service Centers may refer requests to the Field Offices for interviews, where necessary, but the ultimate determination on whether to accord deferred action to an individual is handled at the Service Centers.

Question: Please explain the manner in which the processing of DACA applications has changed since the initial rollout of the program in 2012.

Response: DACA is still in effect under the guidelines established in 2012. Individuals may request consideration for deferred action for a period of two-years, subject to renewal and may be eligible for work authorization.

Under the 2012 guidelines, individuals may be considered for initial DACA if they:

- Were under the age of 31 as of June 15, 2012;
- Came to the United States before reaching their 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the present time;
- Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with USCIS;
- Had no lawful status on June 15, 2012;
- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED)

Question#:	1
Topic:	Staffing 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and,

- 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.

Individuals may be considered for renewal of DACA if they met the initial guidelines for DACA and they:

- Did not depart the United States on or after Aug. 15, 2012, without advance parole;
- Have continuously resided in the United States since they submitted their most recent DACA request that was approved up to the present time; and,
- Have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety.

Pursuant to the Secretary's November 20, 2014 memorandum, all first time DACA requests and renewals, and accompanying employment authorization, were to be issued for 3-year periods of validity increments beginning on November 24, 2014. USCIS complied with this directive until February 17, 2015 (immediately after the U.S. District Court for the Southern District of Texas, Brownsville Division, issued a preliminary injunction of the November 20, 2014 guidance), at which time USCIS reverted back to according 2-year periods of deferred action to individuals under the original 2012 guidelines.

Question#:	2
Topic:	Staffing 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to testimony at the hearing, USCIS has made tentative job offers to approximately 360 individuals, whose final clearance has been placed on hold since the date of the injunction issued by the U.S. District Court for the Southern District of Texas.

How long does it take to put a USCIS adjudicator in the field, from the posting of the job announcement to the first time the adjudicator is independently adjudicating cases?

Response: The process of hiring and onboarding a new Immigration Services Officer (ISO) may take several months, although the process may be slightly faster if the individual selected is a current USCIS employee. Most public job notices are open for a minimum of ten days. Thereafter, USCIS's Human Resources Operations Center prepares a list or lists of qualified candidates for the hiring official. In most instances, ISO candidates are interviewed and may be requested to submit a writing sample. If selected, the candidate will be given a tentative job offer contingent upon the favorable completion of background checks. All ISOs are also required to successfully complete a 5-week basic training course. In addition to the basic training, ISOs are provided with form-specific training, shadowing, and mentoring at their home office before and after basic training.

Question: How long does it take to complete a background check on new adjudicator hires?

Response: The background check process can be broken into three phases. The first phase is the pre-appointment screening process. During this phase the background investigation is initiated and electronic checks against criminal and financial records are conducted. USCIS takes an average of eight days to complete this first phase and make the pre-appointment determination. The second phase involves completion of the background investigation, which USCIS relies on the Office of Personnel Management (OPM) to complete. OPM takes an average of 96 days to complete the type of background investigation required for an ISO position. The final phase is the review of the completed background investigation during which USCIS reviews all of the information resulting from the investigation and makes a suitability determination. USCIS takes an average of five days to make a suitability determination once we receive the completed background investigation results from OPM.

Question: Has USCIS communicated with the individuals to whom tentative job offers were made regarding the federal court injunction? If so, please provide an example of

Question#:	2
Topic:	Staffing 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

such communication. If not, please explain why not.

Response: USCIS has communicated with individuals who have inquired about the status of their job offer. USCIS has indicated that all hiring for the facility in Arlington, VA is currently on hold. [An example of a written communication to one of the individuals who received a tentative job offer is attached. *See attachment Example of FOD communication of hiring on hold.*]

Question: Is there currently any ongoing hiring or application review activity by USCIS for the applications submitted by individuals for these positions? If so, please provide detailed information about this continued hiring or application review activity and explain why USCIS believes such activity does not violate the federal court injunction.

Response: All hiring activity for positions related to the workloads arising from the November 2014 Deferred Action Guidance has been suspended.

Question#:	3
Topic:	Staffing 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to testimony at the hearing, USCIS has hired two individuals to work permanently at the Crystal City facility on Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA)/expanded DACA applications.

Please provide the titles and salaries of these two employees.

Response: USCIS mistakenly reported that two permanent employees were hired as Immigration Services Officers. This was not accurate. There was only one full-time, permanent Federal employee hired. This individual is an Immigration Services Officer (Level 1), GS-9, who interviews and adjudicates applications for immigration benefits and assists with customer inquiries. The annual salary for a GS-9 is \$66,710.

Question: Please confirm that these two employees are not currently working in any capacity on DAPA/expanded DACA applications, substance, or policy, whether or not they are physically on site at the Crystal City facility.

Response: All activities relating to the November 2014 Deferred Action Guidance have ceased, and the employee mentioned in the response immediately above has been assigned to adjudicate immigration benefits and is not working on such matters in any capacity.

Question: If these two employees are not currently working in any capacity on DAPA/expanded DACA applications, substance, or policy, what are their current duties or functions?

Response: The Immigration Service Officer is currently working at a USCIS Field Office interviewing and adjudicating applications for immigration benefits and assisting with customer inquiries. *See attachment ISO GS-9 PD for a full position description.*

Question: If the employment of these two individuals, who were specifically hired to administer the DAPA/expanded DACA applications at the Crystal City facility, is ongoing, please explain how their continued employment does not violate the federal court injunction.

Response: The officer was hired as an Immigration Services Officer and is expected to be able to adjudicate a variety of immigration applications and petitions, just as is

Question#:	3
Topic:	Staffing 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

expected of all Immigration Service Officers. The officer was not hired to exclusively to handle requests arising out of the November 2014 Deferred Action Guidance.

Question#:	4
Topic:	Staffing 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the hearing testimony, USCIS has detailed a small number of individuals to the Crystal City facility.

Please provide the titles and salaries of the employees USCIS detailed to the Crystal City facility. Please indicate if these employees were detailed from within USCIS, some other component of DHS, or another federal agency.

Response: See chart below.

Title	Grade	Step	Salary (Includes Locality Pay)	Agency	Primary Duty Location
District Director	15	6	\$135,630	USCIS	Kansas City, MO
Supervisory Adjudication Officer	15	10	\$150,830	USCIS	St. Albans, VT
Supervisory Adjudication Officer	15	7	\$155,082	USCIS	Laguna Niguel, CA
Supervisory Immigration Officer (FDNS)	15	7	\$147,167	USCIS	Dallas, TX
General Attorney	15	4	\$127,624	USCIS	Charleston, SC
Field Office Director	15	7	\$151,496	USCIS	Baltimore, MD
Supervisory Management and Program Analyst	15	9	\$158,700	USCIS	Washington, DC
Special Assistant	13	5	\$94,596	USCIS	Tampa, FL
Special Assistant	14	3	\$114,480	USCIS	Washington, DC
Immigration Services Analyst	13	5	\$105,369	USCIS	Laguna Niguel, CA
Special Assistant	13	9	\$115,041	USCIS	Washington, DC
Supervisory Adjudication Officer	15	1	\$116,021	USCIS	Swanton, VT
Immigration Services Officer	9	9	\$66,710	USCIS	Fairfax, VA
Management and Program Analyst	14	2	\$110,902	USCIS	Washington, DC

Question#:	4
Topic:	Staffing 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Supervisory Operations Support Specialist	14	3	\$105,209	USCIS	S. Burlington, VT
Supervisory Immigration Services Analyst	14	7	\$131,838	USCIS	Laguna Niguel, CA
Supervisory Immigration Services Analyst	14	2	\$107,733	USCIS	Dallas, TX
Contractor	N/A	N/A		N/A	Washington, DC
Contractor	N/A	N/A		N/A	Washington, DC
Contractor	N/A	N/A		N/A	Washington, DC

Question: Please provide the status of these details.

Response: All but one detailee have returned to their regular positions. The remaining detailee has been transferred to USCIS HQ and is working on items unrelated to the November 2014 Deferred Action Guidance.

Question: If these federal employees are still functioning in a detail capacity, whether or not they are physically located in the Crystal City facility, please explain how their continuing details do not violate the current federal court injunction.

Response: All activities relating to implementation of the November 2014 Deferred Action Guidance, which was enjoined, have ceased and no detailees are working on such matters in any capacity in any location, including the Crystal City facility.

Question#:	5
Topic:	DACA applications 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to internal USCIS emails obtained through a Freedom of Information Act (FOIA) request (reproduced below), USCIS had to send I-130 Petitions for Alien Relatives to the Field Offices for adjudication because Service Center staff were diverted to DACA adjudications:

[The email above is taken from <http://www.scribd.com/doc/252040601/Exhibit-9-a-DACA-Emails-Part-II>, App. 0179.]

[The email above is taken from <http://www.scribd.com/doc/252040601/Exhibit-9-a-DACA-Emails-Part-II>, App. 0181.]

As noted by a 2014 article in the New York Times, the reallocation of this work to the Field Offices did not prevent a substantial backlog in I-130 processing.

Does USCIS maintain that no adjudicatory resources were diverted to handle DACA applications?

Response: No. USCIS routinely shifts work from one office to another to accommodate fluctuations in workloads in an effort to process all applications, petitions, and requests the agency receives in an efficient manner. The Form I-130 delays were the result of increased filings of certain form types as well as difficulties in hiring new staff to address these increased filings. In FY2013, Form I-485 receipts increased from 3,000 per month to 7,500 per month—well above projected volumes. In FY 2014, Form I-601A receipts increased by over 100% from projected volumes.

USCIS is ever-mindful of the need to process a U.S. citizen's immediate relative Form I-130 petition carefully and expeditiously.

In an effort to expedite the adjudication of these cases, USCIS began transferring stand-alone Form I-130s filed by U.S. citizens for their immediate relatives from USCIS's National Benefits Center to its Nebraska, Texas, and California Service Centers. This shift improves USCIS's ability to adjudicate the cases in a timely manner.

Additionally, while no adjudicatory resources within Field Operations were diverted to handle DACA requests, USCIS field offices did assist with interviews in certain DACA cases and field resources were also used to conduct fraud and national security-related inquiries. These efforts were not dissimilar from support the field provides for other

Question#:	5
Topic:	DACA applications 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Service Center-processed applications or petitions (e.g., employment-based applications and petitions).

Question: Was USCIS contemplating a similar reallocation of work to the Field Offices for DAPA/expanded DACA?

Response: USCIS assesses the workloads received and distributes work based on office capacity. USCIS was in the process of setting up the facility in Crystal City to accommodate ongoing workloads, including but not limited to the anticipated workload associated with the November 2014 Deferred Action Guidance. This facility would have helped ensure that the agency would not have to reallocate additional work to other offices.

Question: If handling hundreds of thousands of DACA applications caused wait times for the processing of green card petitions filed by U.S. citizens on behalf of their foreign spouses to go from a few months to a year or more, does it seem likely that an even greater backlog would result from the processing of millions of DAPA/expanded DACA applications?

Response: Prior to the injunction, USCIS was preparing for the new workloads while also ensuring that the agency's day-to-day operations were not adversely impacted. USCIS was planning to address these specific workloads in order to minimize the impact on other immigration applications and petitions. USCIS has experience dealing with new workloads while maintaining other applications and petitions to the best of its abilities. USCIS continues to manage its priorities and the influx of applications or petitions at different times and continues to improve and enhance those services.

Question: What were the adjudicatory and other functions normally handled by the Field Office employees who were diverted to I-130 adjudications during the implementation of DACA?

Response: Field Office employees primarily adjudicate Form I-130, Petition for Alien Relative; Form I-485, Application to Register Permanent Residence or Adjust Status; Form N-400, Application for Naturalization, and other citizenship and naturalization-related requests; international adoption-related requests; and requests for ancillary benefits (e.g., Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document).

Question#:	5
Topic:	DACA applications 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: What work that normally would have been done by the Field Offices was not completed because of the diversion of Field Office staff to I-130 adjudications?

Response: Since prior to the implementation of DACA in 2012 and continuing to this day, Form I-130, Petition for Alien Relative, is a workload routinely adjudicated in field offices. Field Offices continued to adjudicate the applications and petitions that were regularly assigned to them. Field office employees assisted in adjudicating the Forms I-130 transferred to the field offices in 2012. All work was completed.

Question: What were the adjudicatory and other functions normally handled by the Service Center employees who were diverted to DACA adjudications during the implementation of DACA?

Response: Service Center employees handle a wide array of form types and their work assignments are routinely revised and adjusted in response to and in anticipation of changes to filing volumes and other considerations. In making these adjustments, we consider our processing time goals as well as the fact that certain form types need special emphasis due to reasons of statute, regulation, policy, or other humanitarian considerations. The DACA workload was incorporated into the mix of work at the Service Centers, and it is not possible to state precisely what the specific impact was to other caseloads. As noted, with the implementation of DACA, newly filed I-130 Immediate Relative petitions were routed for adjudication at Field Offices rather than Service Centers. This freed up adjudicatory and other resources at the Service Centers for processing of DACA and other caseloads.

Question: What work that normally would have been done by the Service Centers was not completed because of the diversion of Service Center staff to DACA adjudications?

Response: Please see the answer above. In addition, it is important to note the I-130 work that was routed to Field Offices was either adjudicated at the Field Offices or was ultimately re-routed back to the Service Centers where it has since been completed. This workload is now being processed within normal processing cycle times.

Question#:	6
Topic:	USCIS personnel 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many total USCIS personnel work on DACA adjudications?

Response: Service Center employees have long handled a wide array of form types and their work assignments are routinely revised and adjusted in response to and in anticipation of changes to filing volumes and other considerations. Individual employees are usually not limited to working on one type of application, petition or request. Since work assignments are frequently and routinely adjusted, it is not possible to answer this with precision. However, USCIS forecasts that in FY15, the DACA caseload will require the full time equivalent of 331 federal employees, including adjudicators, clerical and mission support personnel, as well as supervisors and managers. All costs associated with consideration of DACA requests, including USCIS personnel responsible for processing DACA requests, will be paid for through DACA-related fees..

Question: How many USCIS personnel are involved in the processing of a single DACA application?

Response: In general, one USCIS immigration services officer is involved in the processing of a single DACA request, though others may become involved, depending on the circumstances.

Question#:	7
Topic:	USCIS personnel 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many total USCIS personnel perform DACA-related functions – whether in the field conducting adjudications, working on policy matters at headquarters, or involved with DACA in any manner whatsoever?

Response: While Field Operations staff generally does not process requests under the DACA program, field employees will occasionally assist by interviewing DACA requestors, conducting fraud or national security-related inquiries, or providing outreach to populations who may meet the threshold criteria for DACA.

There are approximately nine USCIS Headquarters SCOPS employees who spend the majority of their time working on DACA policy issues and other DACA-related matters. There are also other individuals who are involved with DACA on a less frequent basis, but USCIS does not track this information and cannot provide a substantive response.

The HQ Office of Intake and Document Production (OIDP) devotes approximately 15 staff to the processing of the Forms I-821D, Consideration of Deferred Action for Childhood Arrival filings. In addition, OIDP has 3-4 individuals who coordinate with other parts of USCIS in relation to any Lockbox functionality and/or form revisions as necessary related to the I-821D.

Personnel from other USCIS offices, including Chief Counsel, Legislative Affairs, and Communications, work on DACA matters as they may arise from time to time in their workload.

Question#:	8
Topic:	DACA applications 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many new application support centers (ASCs) were established to handle DACA applications?

Response: USCIS did not establish new ASCs to handle DACA requests.

Question#:	9
Topic:	additional personnel
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many ASCs required additional personnel or resources as a result of the DACA program?

How many personnel were hired or contracted to work at any new or staff-augmented, existing ASCs as a result of the DACA program?

Response: The ASC contract is a Firm Fixed Price (FFP) contract that puts the staffing responsibility on the contractor and as such, staffing levels are determined and managed by the contractor, and not dictated by the Government. The contractor gets paid per individual processed. Therefore, it is not possible to determine the additional staff or hours worked to support DACA. However, one temporary USCIS employee, with a four year term, was hired to support the Biometrics Division.

Question: What was the cost of establishing and staffing new ASCs or augmenting the staff of existing ASCs as a result of the DACA program?

Response: USCIS did not establish new ASCs or augment the Federal government staff of existing ASCs due to DACA. As the ASC contract cost is based on volume of applicants processed multiplied by a fixed unit price, USCIS does not know if the contractor changed its staffing due to DACA.

Question: From what specific accounts did the funds come from to pay for the new or staff-augmented ASCs and for the additional full-time or contract staff at the ASCs required to handle the DACA applications?

Response: Funding to support additional full-time federal or contract staff at the ASCs required to capture biometric information for DACA requestors was provided from the Immigration Examinations Fee Account (IEFA). DACA requestors were required to pay the \$85 USCIS Biometrics Service Fee, which was deposited in the IEFA established under section 286(m) and (n) of the Immigration and Nationality Act (codified at 8 U.S.C. 1356(m) and (n)). These revenues were used to fund the cost of processing DACA requestors for biometrics collection at the ASCs and for FBI fingerprint checks, as well as for a share of USCIS Biometrics and ASC management costs. These expenses were charged to the same account where the Biometrics Service Fee revenues were deposited, the IEFA.

Question#:	10
Topic:	DACA applications 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Mr. Neufeld testified that after a surge of DACA applications in 2012, USCIS subsequently “beg[a]n the hiring process to acquire [the] additional resources that [USCIS] needed to not only deal with the surge that [USCIS] had experienced, but also with the backlogs that had developed by redirecting some resources.” Please describe in detail the extent to which DACA applications caused a backlog in processing times for intending lawful immigrants, including statistics regarding processing times.

Response: Service Center employees handle a wide array of form types, and their work assignments are routinely revised and adjusted in response to and in anticipation of changes to filing volumes and other considerations. In making these adjustments, we consider our processing time goals as well as the fact that certain form types need special emphasis due to reasons of statute, regulation, policy, or other humanitarian considerations. The DACA workload was incorporated into the mix of work at the Service Centers, and it is not possible to state precisely what the specific impact was to other caseloads. As noted above, with the implementation of DACA, newly filed I-130 Immediate Relative petitions were routed for adjudication at Field Offices rather than Service Centers. This freed up adjudicatory and other resources at the Service Centers for processing of DACA and other caseloads. Resource allocations are adjusted frequently and routinely to accommodate changes in filing volumes and in consideration of processing time goals and other statutory, regulatory and humanitarian considerations. Because there are numerous factors that impact processing times over an extended period, it is not possible to isolate the impact of the DACA caseload. Attached hereto is a chart outlining processing times from the implementation of DACA through January 2015 for key form types relating to intending lawful immigrants. *See attachment: Processing Times Select Forms 3-18-15.*

Question#:	11
Topic:	processing an application
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Does USCIS consider the speed of processing an application when evaluating USCIS personnel during their annual evaluations?

Response: USCIS currently has standard national performance metrics for our Immigration Services Officers, who are responsible for adjudication of all form types across the organization. There are no metrics that are associated with speed of adjudication. This is the case for all USCIS employees.

Question#:	12
Topic:	DACA applications 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: On February 25, 2015, during an MSNBC/Telemundo town hall discussion at Florida International University in Miami, Florida, President Obama stated that “there may be individual [DHS employees] who aren’t paying attention to our new directives. But they’re going to be answerable to the head of the Department of Homeland Security, because he’s been very clear about what our priorities should be.” The President went on to state that “if somebody is working for ICE and there is a policy and they don’t follow the policy, there are going to be consequences to it.” In light of these comments, is it possible for USCIS personnel adjudicating DAPA/expanded DACA applications to exercise their individual discretion to reject such applications?

Response: As set forth in Secretary Johnson’s November 2014 Deferred Action Guidance, the decision whether to approve a request for deferred action is a discretionary determination to be made on a case-by-case basis. If the policies set forth in the 2014 Guidance are permitted to commence, each request for deferred action will be thoroughly reviewed in accordance with the guidance criteria outlined in Secretary Johnson’s memorandum before a decision is made regarding whether to defer removal action regarding a particular individual.

Question#:	13
Topic:	Lean and Lite
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Please explain the “Lean and Lite” process for conducting background checks on I-130 petitions described in the internal USCIS email reproduced below, which was obtained through a FOIA request.

Response: In Field Operations, case processing typically involves preliminary processing steps performed by the National Benefits Center (NBC), as well as interviews (when required) and final adjudication performed at the local field office. Workload surges impact the NBC and field offices differently. One tool that Field Operations managers use to balance workload in times of a surge is to shift certain preliminary processing steps from the NBC to field offices. In August 2012, the field offices were assigned responsibility for adjudication of stand-alone (*i.e.*, not concurrently filed with other applications) “immediate relative” Forms I-130, Petitions for Alien Relative, previously processed at USCIS service centers. (The term “immediate relative” generally refers to the spouses of U.S. citizens, the children (under 21 years of age and unmarried) of U.S. citizens, and parents of U.S. citizens 21 years of age or older.) This workload assignment increased the required throughput at the NBC in much the same way a surge in receipts would have. At that time, Field Operations shifted certain preliminary processing steps from the NBC to the field offices. For these cases, the NBC continued to address TECS hits that involved national security or egregious public safety concerns, and the field offices took on the responsibility to address all other TECS hits at the time of adjudication, as part of the full TECS process. As such, each case continued to receive full review, but NBC’s share of responsibilities in that process was relatively “leaner and lighter” than had been the case previously. There was, however, neither a truncation of processing steps nor a less rigorous review of eligibility or security concerns. The “Lean and Lite” process described in the question was implemented in September 2012 for Form I-485, Applications to Register Permanent Residence or Adjust Status, and Form N-400, Application for Naturalization. Again, all required security checks were conducted prior to adjudication. The “Lean and Lite” process merely reduces NBC workload by shifting the responsibility for resolving certain TECS hits from the NBC to the field offices.

Question: Does USCIS anticipate that a similar “Lean and Lite” process will be put in place for benefits applications in order to streamline adjudications, while other USCIS employees are adjudicating the expected millions of DAPA/expanded DACA applications?

Question#:	13
Topic:	Lean and Lite
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Response: Consistent with the injunction, USCIS has not begun accepting requests for deferred action under DAPA or the broadened criteria set forth in the November 2014 Deferred Action Guidance. If the November 2014 Deferred Action Guidance is implemented, USCIS's response would depend on a variety of factors including the volume of cases received, the technology available to process those cases, current staffing levels, and office capacity. USCIS is unable to speculate as to whether a similar process modification would be adopted at this time.

Question#:	14
Topic:	USCIS Directorates
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How much notice were the USCIS Directorates of Service Center Operations and Field Operations given prior to the June 15, 2012, public announcement that they would have to implement DACA?

Response: The Service Center Operations Directorate was informed of its role in implementing DACA approximately two days in advance of the June 15, 2012 announcement. Field Operations leadership was also informed at this time. Pursuant to the June 15, 2012 announcement, USCIS was directed to implement DACA within sixty days.

Question: How much notice were the USCIS Directorates of Service Center Operations and Field Operations given prior to the November 20, 2014, public announcement that they would have to implement DAPA/expanded DACA?

Response: USCIS leadership, including both Service Center Operations Directorate and Field Operations leadership, provided input for consideration in developing the relevant policies in advance of the November 20, 2014 announcement.

Question#:	15
Topic:	DACA applicants 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How was USCIS planning to handle taking biometrics from the expected millions of DAPA/expanded DACA applicants?

How many new ASCs would USCIS have to establish for this function?

Response: USCIS did not plan on opening any new ASCs. It planned on expanding capacity by lengthening the hours of operation at the ASCs (*i.e.* extended hours and/or 6 day production weeks as warranted site by site).

Question: How many additional staff would USCIS have to hire or contract for this function?

Response: The ASC staff is predominantly contractor-provided and the contract is a Firm Fixed Price (FFP) contract that puts the staffing responsibility on the contractor and, as such, staffing levels are determined and managed by the contractor, and not dictated by the Government. The contractor gets paid per individual processed. Therefore, it is not possible to determine the additional contractor staff needed to support requests under DAPA or the broadened criteria for DACA set forth in the November 2014 Deferred Action Guidance. However, extended hours at the ASCs would require additional Federal personnel (Immigration Services Officer (ISO)) for site management and oversight purposes. In the most extreme scenario, we would need to extend ASC hours to double shifts and a 6th day of operation which would effectively double the number of ISOs that provide contract oversight from 150 to 300. We do not believe that we would need to extend hours to this extreme at every ASC, so the impact would likely be somewhat less than that.

Question: How much does USCIS estimate this would cost and what funds would USCIS use to pay for this function?

Response: The \$85 biometric fee that USCIS collects with each DACA request fully funds the cost of biometric services. These fees would have been deposited into the Immigration Examination Fee Account and available to cover these costs.

Question#:	16
Topic:	DACA applicants 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Since the inception of the program, how many DACA applicants has USCIS interviewed?

Response: As of April 30, 2015, Service Centers have referred approximately 283 cases to local Field Offices.

Question: Which personnel conducted those interviews?

Response: Interviews were (or, if pending, will be) conducted by Immigration Service Officers at local USCIS Field Offices.

Question: How were the interviews conducted, i.e., at an ASC, by phone?

Response: Interviews were (or, if pending, will be) conducted in person in the USCIS field office with jurisdiction over the requestor's place of residence.

Question: How long were these interviews?

Response: The length of the interview depends on the circumstances of the case; there is no set length of time for immigration interviews.

Question: How much does it cost USCIS to interview a DACA applicant and what funds does USCIS use to pay for these interviews?

Response: USCIS has not calculated the specific cost of conducting a DACA interview. Rather, the costs associated with conducting interviews relating to immigration, petitions and benefit requests, and other programs are included within the broader "make determination" activity of the Immigration Examinations Fee Account (IEFA) regular fee setting process. The "make determination" activity is one of ten activities used within the fee setting process to assign costs, and involves the tasks of reviewing immigration form types; making and recording decisions; requesting and reviewing additional evidence; interviewing individuals; consulting with supervisors or legal counsel; and researching applicable laws and decisions on non-routine adjudications. It is through the fees collected and deposited into the IEFA that USCIS funds the costs of conducting interviews as part of the decision making process.

Question#:	17
Topic:	DACA applicants 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: What percentage of DAPA/expanded DACA applicants has USCIS estimated will require interviews?

Response: Consistent with the injunction, USCIS had not begun accepting requests under DAPA or the broadened criteria for DACA set forth in the November 2014 Deferred Action Guidance and is unable to speculate as to how many requests would require an interview.

Question#:	18
Topic:	DACA Adjudications 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: To date, how many DACA applications has USCIS adjudicated?

Response: Since DACA's 2012 inception, USCIS has processed 748,789 initial requests and 355,805 renewals as of March 30, 2015.

Question: How many DACA applications have been granted?

Response: Since DACA's 2012 inception, 664,607 initial requests and 243,872 renewals have been approved as of March 30, 2015.

Question: How many DACA applications have been denied (as opposed to rejected)?

Response: Since DACA's 2012 inception, 43,375 initial requests and 414 renewals have been denied as of March 30, 2015.

Question: Of the applications that USCIS has granted, how many received a fee waiver?

Response: Fee waivers, as authorized for some other form types, are not available for individuals requesting consideration for DACA. However, an individual requesting DACA may request a fee exemption, which is more restrictive and requires the individual to meet very specific criteria. Since DACA's inception in 2012, there have been a total of 540 fee exemption requests. Of these 540 requests, 310 were granted as of February 28, 2015.

Question: Of the applications that USCIS has denied (as opposed to rejected), how many received a fee waiver?

Response: None. As stated above, a fee waiver is not available. Since DACA's inception in 2012, there have been a total of 540 fee exemption requests with 310 requests granted as of February 28, 2015. USCIS does not track the number of exemptions associated with whether a request was ultimately approved or denied.

Question#:	19
Topic:	DACA Adjudications 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: To date, how many DACA applications have been rejected for failure to comply with the filing requirements for a DACA application? Please provide a breakdown of the specific reasons for the rejection of the applications.

Response: Since DACA's 2012 inception, 44,777 initial requests and 22,189 renewals had been rejected as of February 28, 2015. USCIS does not electronically track the specific reasons for rejecting DACA cases.

Question#:	20
Topic:	DACA Adjudications 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The administration claims that it is using prosecutorial discretion to grant deferred action to illegal immigrants on a case-by-case basis.

If that is the case, have there been any instances to date in which an individual applying for deferred action has met the requirements for deferred action as outlined in the President's 2012 executive action, but was not granted deferred action? In other words, to date, how many DACA applications that have met all of the programmatic requirements for DACA have been denied as a matter of discretion? In your response, please do not include DACA denials based on (1) a finding of fraud (as that would require the denial of an application for any immigration benefit), or (2) a conviction for a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or where the alien otherwise poses a threat to national security or public safety, as those grounds for denial are specifically included as criteria for denial in the June 2012 memo.

Response: Until very recently, USCIS was not able to automatically track and sort the reasons for DACA denials. USCIS is only able to track the reasons for DACA denials in very recent cases. As such, USCIS is unable to provide statistics on the number of DACA cases that a USCIS Immigration Services Officer denied using his/her discretion despite the requestor meeting the threshold criteria for consideration for DACA. However, USCIS may exercise discretion to deny a request where the requestor met all the guidelines but where other factors make the grant of deferred action inappropriate. Such cases usually result from information that surfaces during routine security checks or file review. For example, a DACA requestor was denied because USCIS believed that the individual submitted false statements or attempted to commit fraud in a prior application unrelated to the DACA request. As another example, when USCIS learned that a DACA requestor had falsely claimed to be a U.S. citizen and had previously been ordered removed, USCIS denied the request. In both of these examples, the derogatory information that surfaced in the security check process did not consist of a felony conviction, significant misdemeanor conviction, or three or more misdemeanor convictions, nor did the information indicate that individual posed a threat to national security or public safety. As such, the requestors technically met the threshold guidelines for DACA, but their DACA requests were denied in the exercise of discretion. Additionally, DACA requests have been denied for various discretionary reasons involving public safety in cases where the requestors did not have disqualifying convictions. Such cases include those where requestors: were subjects of ongoing criminal investigations; were suspected of gang membership or gang-related activity; had arrests resulting in pre-trial diversion; or had been arrested for criminal offenses not

Question#:	20
Topic:	DACA Adjudications 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

resulting in conviction. The denials in those cases were based on discretionary determinations.

Question: If there are no such cases, then please explain how USCIS adjudicators are exercising individualized discretion on a case-by-case basis, as opposed to implementing a blanket application of policy to all individuals who meet the criteria set forth by the President.

Response: Please see the answer above.

Question#:	21
Topic:	DACA Adjudications 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many DACA applications have included an indication, from U.S. Immigration and Customs Enforcement (ICE) or some other source, that the applicant had a known or suspected gang affiliation or indication of current or previous gang activity?

Response: All requests are queried against law-enforcement databases to determine if a requestor has a known or suspected gang affiliation. USCIS does not systematically track this information, therefore we cannot give a precise count of the total number of DACA requests, including all denied, approved, or terminated cases, where there has been information on current or previous gang affiliation. However, USCIS recently conducted a unique batch TECS query of all approved DACA requests in order to identify records that contained information indicating known or suspected gang association. Based on the information obtained from the recent batch TECS query, there were records pertaining to 49 DACA requestors whose requests had been granted. Of these 49, a total of 13 individuals had TECS records entered after DACA review. These cases are being reviewed for possible termination.

Question: Of those applications, how many were granted?

Response: Please see above response.

Question: Of those applications, how many were denied (as opposed to rejected)?

Response: Please see above response.

Question: Of those applications, how many are still pending?

Response: Please see above response.

Question#:	22
Topic:	DACA Adjudications 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many DACA applications have included some indication that the applicant had a possible affiliation with money laundering activity for drug cartels?

Of those applications, how many were granted?

Of those applications, how many were denied (as opposed to rejected)?

Of those applications, how many are still pending?

Response to all: USCIS does not systematically track this information.

Question#:	23
Topic:	DACA Adjudications 6
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many DACA applications/cases have included law enforcement information or information from intelligence agencies indicating that the applicant had a possible link to terrorism?

Response: USCIS has identified 16 DACA requests involving information that implicated possible national security concerns.

Question: Of those applications, how many were granted?

Response: Of the 16 DACA requests identified above, 6 were approved after further vetting. Each case was individually vetted and deconflicted with the appropriate law enforcement agency, and each request was considered on its individual merits.

Question: Of those applications, how many were denied (as opposed to rejected)?

Response: Of the 16 DACA requests identified above, 7 were denied.

Question: Of those applications, how many are still pending?

Response: Of the 16 DACA requests identified above, 3 remain pending. Each request is being individually vetted and deconflicted with the appropriate law enforcement agency, and each request is being considered on its individual merits.

Question#:	24
Topic:	DACA Adjudications 7
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many DACA applications contained some indication of fraud of any kind, whether on the part of the applicant, or associated with the application in any manner?

Response: As of May 4, 2015, a total of 15,541 filings have been referred to the Center Fraud Detection Office (CFDO) with an indication of possible fraud.

Question: Of those applications, how many were granted?

Response: As of May 4, 2015, approximately 3,959 of these DACA requests had been approved following resolution of the fraud indicators.

Question: Of those applications, how many were denied (as opposed to rejected)?

Response: As of May 4, 2015, approximately 9,870 of these DACA requests had been denied.

Question: Of those applications, how many are still pending?

Response: As of May 4, 2015, approximately 1,712 of these DACA requests were pending.

Question#:	25
Topic:	DACA Adjudications 8
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many recipients of deferred action under DACA have been arrested or otherwise detained by ICE, including in the Cross Check operation announced on March 9, 2015?

Response: In the Cross Check operation announced on March 9, 2015, ICE arrested 2,106 individuals, of whom 2,058 had been convicted of criminal offenses. Of these 2,106 individuals, 15 had DACA at the time of Operation Cross Check. Of those 15 individuals, 14 were convicted of disqualifying criminal offenses after being accorded deferred action and one had a pending criminal charge with no disposition at the time the request was considered. DHS automatically terminated the deferred action of all 15 individuals and has initiated removal proceedings in those cases.

Additionally, eight individuals encountered during Operation Cross Check had previously been granted DACA, but their DACA had been revoked. These individuals no longer had DACA because:

- Two had their renewal requests denied due to disqualifying convictions;
- One had a pending renewal request which was rejected due to an insufficient or no fee; and,
- Five individuals had an initial request that had either expired (2) or had been terminated due to disqualifying convictions (3).

Deferred action is an exercise of prosecutorial discretion. Therefore, deferred action may be denied or terminated at any time. Factors making deferred action inappropriate would include, but not be limited to, threats to public safety or national security. DACA is automatically terminated upon issuance of a notice to appear by ICE or CBP. Arrest and detention authority falls outside of USCIS' jurisdiction, and we refer you to ICE for further information on such arrests and detention.

Question#:	26
Topic:	DACA Adjudications 9
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many recipients of deferred action under DACA has USCIS placed into removal proceedings? Please note, this question is not referring to situations where ICE places a DACA recipient into removal proceedings, but rather is requesting the total number of DACA recipients that have been issued a Notice to Appear by USCIS.

Response: With the exception of findings of fraud where USCIS and ICE share authority to issue NTAs, ICE almost exclusively handles the issuance of NTAs in this area. USCIS has policy that guides the referral of cases to ICE for possible NTA issuance, especially in cases where there is a public safety concern. USCIS regularly issues NTAs to affirmative asylum applicants or NACARA applicants, who are referred to an Immigration Judge for removal proceedings. *See* 8 C.F.R. § 208.14(c). Some of these applicants, or their derivatives, may have had DACA at the time USCIS issued the NTAs. USCIS does not have readily obtainable electronic information on the numbers of DACA recipients who may have been issued referral NTAs following USCIS asylum or NACARA interviews. As of February 28, 2015, USCIS has issued three NTAs for DACA requestors due to fraud concerns.

Question#:	28
Topic:	DACA Adjudications 11
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The USCIS DACA web page indicates that applicants who knowingly and willfully provide materially false information may be placed into removal proceedings and subject to criminal prosecution. How many recipients of deferred action under DACA have been referred for prosecution to the U.S. Department of Justice for providing such false information?

Response: USCIS does not record referrals for prosecution to the Department of Justice. USCIS FDNS, however, does record Referrals to ICE (RTIs) for investigation. As of March 14, 2015, USCIS has referred to ICE a total of 516 fraud cases with a DACA nexus since FY 2012.

FDNS records RTIs in its Fraud Detection and National Security Data System (FDNS-DS) by case. It does not record RTIs by individual, organization, application, or petition. This means that the number of RTIs recorded in FDNS-DS is a low estimate as a case in FDNS-DS may include multiple individuals and organizations.

Question: Has USCIS ever terminated DACA for a DACA beneficiary?

Response: Yes.

Question: If so, how many times has USCIS terminated DACA for a DACA beneficiary?

Response: From the inception of DACA through April 29, 2015, USCIS has terminated DACA for 353 beneficiaries.

Question: What is the process for terminating DACA?

Response: DACA may be terminated at any time, with or without a Notice of Intent to Terminate, at DHS's discretion. In routine cases, it is the adjudicating officer, with supervisory concurrence that makes the decision. Complex or novel cases must be referred to USCIS Headquarters for review and concurrence.

In most cases, USCIS will issue a Notice of Intent to Terminate to the DACA recipient before issuing a Final Termination Notice. If an NTA is issued by ICE or CBP, deferred action under DACA terminates automatically as of the date the NTA was issued. Travel outside the United States after receiving DACA, without first receiving advance parole, automatically terminates deferred action under DACA.

Question#:	28
Topic:	DACA Adjudications 11
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Who makes the ultimate decision to terminate DACA?

Response: In routine cases, it is the adjudicating officer, with supervisory concurrence that makes the decision. In complex or novel cases, they must be referred to USCIS Headquarters for review and concurrence.

Question: If the preliminary injunction regarding the implementation of DAPA/expanded DACA is lifted, will applications for DAPA/expanded DACA be subject to the same termination process?

Response: Due to the ongoing injunction, all planning for deferred action under DAPA or the broadened criteria for DACA set forth in the November 2014 Deferred Action Guidance has been suspended and USCIS is unable to speculate on how requests would be treated if the injunction were lifted.

Question#:	29
Topic:	Cost and Fees 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: USCIS published its last fee rule in 2010. According to statements in the Federal Register, USCIS has committed to reviewing its fees every two years:

USCIS is committed to reviewing the [Immigration Examinations Fee Account (IEFA)] every two years consistent with the biennial review standard of the CFO Act and guidance from OMB Circular A-25. The FY 2008/2009 Fee Rule followed nearly a decade without a comprehensive review of IEFA fees, and fees increased by a weighted average of 86 percent to recover both base costs and costs for improving operations and service-wide performance needs. By reviewing the IEFA every two years, USCIS is able to implement more moderate fee changes and avoid periods of inadequate revenue that typically recede large fee increases. Additionally, conducting a comprehensive review every two years will allow USCIS to incorporate the productivity gains achieved from investments in technology and modernization of agency operations. These investments should result in improved performance and lower costs.

How long has it been since USCIS last performed a fee study?

Response: The last fee study was completed on April 21, 2014 for the FY 2014/FY 2015 biennial period. USCIS elected not to adjust the fee schedule at that time.

Question: Is USCIS currently working on promulgating a new rule pertaining to the fees that it charges? If so, please provide details.

Response: USCIS is not currently working on promulgating a new rule pertaining to the fees that it charges. It is, however, conducting its normal fee study in accordance with the Chief Financial Officers Act of 1990 for the fiscal year 2016/2017 biennial period. After the study has been completed, the results will be assessed to determine whether an adjustment to the USCIS fee structure would be appropriate. If a determination is made that fees should be adjusted we would then begin the rulemaking process.

Question#:	30
Topic:	Cost and Fees 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Why has USCIS failed, to date, to establish a fee for DACA, i.e., for the Form I-821D as opposed to the fee for the Form I-765 or biometrics collection?

Is USCIS currently working on a new fee rule for DACA and/or DAPA/expanded DACA applications?

Response: No. USCIS is not currently working on a new fee rule specifically for DACA, or for requests for DAPA or the broadened 2014 DACA criteria. Our current work related to setting fees is outlined in the question immediately above.

Question: If not, why not?

Response: Since current fees charged to DACA requestors have been sufficient to recover the full costs of administering the DACA policy, USCIS has not chosen to conduct a separate fee study for Form I-821D. Further, in light of the injunction, any consideration of this issue as it relates to requests for DAPA or the broadened 2014 DACA criteria has been suspended.

Question#:	31
Topic:	EAD
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the hearing testimony, USCIS requires DACA applicants to apply for an Employment Authorization Document (EAD) at the same time that he or she applies for DACA. Please cite the statutory or regulatory authority for such a requirement.

Response: Long-standing regulations at 8 C.F.R. § 274a.12(c)(14) provide that individuals approved for deferred action are eligible for work authorization if they can demonstrate an economic necessity for employment. As an exercise of its prosecutorial discretion authority, DHS determined that any requestor for deferred action under DACA must also apply for work authorization.

Question#:	32
Topic:	Cost and Fees 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In the prepared statement submitted to the Subcommittee, it states that USCIS keeps five percent of the fees collected under Section 286(s) of the INA (the H-1B Nonimmigrant Petitioner Account). Please provide the amount that USCIS collected in FY2014 and explain what USCIS does with these funds.

Response: USCIS is authorized to retain 5% of the fee collections deposited into the H-1B Nonimmigrant Petitioner Fee Account. In FY 2014, this provided \$16.5M in new fee revenue; however, USCIS fee spending authority was only \$13M. The funds were allocated to the Service Center Operations Directorate and were used to fund a portion of the directorate's mail, file and data entry operations contract, which in part directly supports the adjudication process associated with the H-1B nonimmigrant petitions filed during the year. The funds were also used to pay a portion of the GSA rent expenses for the Service Centers. Each of these the items for which H-1B nonimmigrant petitioner fees were expended were carried out in accordance with Section 286(s)(5) of the INA, which specifies that these USCIS funds must be used to carry out duties under section 214(c)(1) and (9) relating to H-1B petitions and under section 204(a)(1)(C) and (D) relating to petitions filed under section 203(b).

Question#:	33
Topic:	Cost and Fees 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Mr. Moore testified that USCIS currently has over \$1 billion in cash reserves, about \$460 million of which comes from Premium Processing fees. Under Section 286(u) of the INA, these fees are supposed to be used to provide Premium Processing services to benefits applicants and “to make infrastructure improvements in the adjudications and customer service processes.”

How much does it cost USCIS to provide Premium Processing services for each of the categories of petitions and applications for which such service is offered?

Response: While premium processing results in a minimal incremental increase in financial costs, the main cost of premium processing is the opportunity cost to regular requests in being passed over in the processing order and the logistical burden to service centers in managing separate adjudications processes for regular and premium applications. The premium processing fee was established by statute, which does not allow USCIS to set the fee based on the relative burden or costs of providing premium processing services. USCIS may adjust the fee only to account for inflation.

Question: Why did USCIS not use any of the \$460 million in Premium Processing fees to pay the cost of the premium services requested by the fee-paying benefits applicants?

Response: Since FY 2008, USCIS has dedicated its use of premium processing fee revenues for infrastructure improvements by the Office of Transformation Coordination for longer-term investments to strategically improve USCIS operations, centralizing and consolidating the electronic environments used for case processing and management and to developing and integrating information management systems, which include the Electronic Immigration System (ELIS). The positions and operating expenses associated with administering the premium processing program are funded through normal application and petition fees, and premium processing fees are being used to transform USCIS from a paper-based process to an electronic environment.

Question: Why has USCIS not used any of the \$460 million to comply with the statutory mandate “to make infrastructure improvements in the adjudications and customer service processes,” for example, by hiring more adjudicators to further reduce wait times for benefits requested by U.S. citizens and employers?

Response: While USCIS has not used premium processing funds to hire more adjudicators, it is using those funds to speed adjudications and customer service

Question#:	33
Topic:	Cost and Fees 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

processes for U.S. citizens and employers. Since FY 2008, USCIS has specifically used the premium processing revenue to support the development of the agency's Transformation Program and its electronic case processing system, known as the Electronic Immigration System (ELIS). ELIS is specifically intended to improve the customer experience by making USCIS case processing activities more transparent, predictable, and timely. In FY 2014, USCIS expended \$154.6M of premium processing fee revenues for this purpose which complies with the statutory mandate to make infrastructure improvements.

Question: What does USCIS anticipate doing with the approximately \$1 billion it currently has in cash reserves?

Response: At the end of FY 2014, USCIS had \$1.2B in total cash reserves which included \$735M of non-premium processing fee revenue and \$467M of premium processing fee revenue. As a matter of normal business operations, USCIS seeks to preserve a non-premium cash reserve of at least \$600M to support the agency operations during the transition from one fiscal year period to the next when start-up operational expenses typically exceed new fee-based revenues by as much as \$300M. The cash reserve also provides stability in times of fluctuating revenue receipts. Premium processing revenue is used to finance the Transformation program and development of the new ELIS case processing system. A large premium processing cash reserve is a recent development. USCIS has lowered its annual costs of ELIS development, thus annual premium processing fee revenues have exceeded expenses. USCIS has begun evaluating other areas in which to use these available resources for infrastructure improvements. For example, USCIS has decided that premium processing fee revenue would, as presented within the FY 2016 President's Budget Submission, be used, as needed, to support USCIS Financial Systems Modernization, which is another key infrastructure improvement initiative.

Question#:	34
Topic:	Cost and Fees 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In a January 22, 2015, letter, Chairman Grassley, Chairman Sessions, and Chairman Johnson requested answers to a number of questions relating to DACA and DAPA/expanded DACA implementation. The February 26, 2015, response from USCIS Director Leon Rodriguez did not provide complete responses to the below questions, which are restated here:

How many USCIS personnel were transferred from adjudications work on existing legal visa programs to administer DACA? According to the hearing testimony, “the initial stand up for [DACA, USCIS] took on with the existing workforce that [USCIS] had.” In light of that testimony, is it USCIS’s position that none of USCIS’s existing workforce was diverted from its regular duties to handle DACA adjudications? Please explain your answer.

Response: No. While USCIS began to hire additional staff to increase its capacity to process requests, some existing Service Center Operations staff were trained and assigned to process DACA requests that were received beginning August 15, 2012.

Field Operations did not divert any personnel to specifically administer DACA; however, field employees did on occasion assist by interviewing DACA requestors, conducting fraud or national security-related inquiries, and providing outreach to populations who may be eligible for DACA. These tasks may have briefly diverted the employee from adjudication of another type of request, but such delays are indiscernible. No staff was transferred away from a benefit caseload to DACA to the detriment of that other caseload.

Question: What is the actual cost of adjudicating the I-821D for Deferred Action for Childhood Arrivals (DACA), including direct costs for adjudication, management costs, and support and overhead, not the cost of taking the biometrics or adjudicating the application for an employment authorization document (EAD)? Please provide the exact dollar cost of adjudicating the I-821D only.

Response: USCIS has not calculated the exact dollar cost of adjudicating only the form I-821D. A DACA request includes both Forms I-821D and I-765, a \$380 fee for the Form I-765 and an \$85 biometric services fee. DACA revenue collected since 2012 has been sufficient to cover all DACA-related costs.

Question#:	34
Topic:	Cost and Fees 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: What are the actual costs of creating and adjudicating EAD applications? If there are “excess fees” collected in the \$380 fee set by rule in September 2010, what are they? If the cost of the EAD application exceeds actual costs, why was an extra amount added to the fee in the first place? What was the extra amount intended to cover?

Response: USCIS sets its application and petition fees at levels that are intended to ensure the recovery of full costs. The individual fees established are meant to produce fee-based revenue that is sufficient to cover the forecasted costs of operating the agency. USCIS uses Oracle Hyperion Profitability and Cost Management (PCM) to obtain visibility into its costs. The goal is that, by using specific cost drivers to improve resource alignment, the fees being charged are a reflection of the comparative level of effort required to process each individual application or petition. As a result, USCIS has established different fees for each of its applications and petitions.

DHS last adjusted the Form I-765, Application for Employment Authorization (EAD), fee on November 23, 2010 in the FY 2010/2011 fee rule. The fee that was established for the I-765 was \$380. The EAD fee was determined by assigning all of the known direct costs of processing the EAD to the Form I-765 and then adding an appropriate share of indirect overhead costs. USCIS then added additional costs related to specific policy decisions made to exempt payment of a fee for humanitarian reasons, or limit the fee increase for a specific form such as the Form N-400, Application for Naturalization. Finally, USCIS added a surcharge to each fee to recover the costs of fee waivers, exemptions and form types that do not require a fee under law or other policy reasons.

The PCM cost model from the FY 2010/2011 fee review identified that the actual cost of processing the EAD prior to the reallocation of costs and the addition of the surcharge was \$338. The following table displays the specific activity costs that make up the I-765 base fee.

Activity	Activity Cost
Conduct Security Check	\$14
Fraud Detection and Prevention	\$31
Inform the Public	\$38
Intake	\$15
Issue Document	\$25
Make Determination	\$60
Review Records	\$69

Question#:	34
Topic:	Cost and Fees 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Management and Oversight	\$86
Total	\$338

As noted, the final step of the fee setting process is to assign the reallocated costs and the surcharge amounts to the applicable fees. For the EAD, USCIS added an additional \$42 dollars to the estimated cost of the I-765 which reflected the reallocation of \$9 to the I-765 to keep the N-400 fee (\$595) the same as the FY 2008/2009 fee rule, and \$33 was added to reflect other policy decisions. These items are described in the table below.

Title	Description	EAD Surcharge
EAD cost to keep the N-400 fee \$595	This is the cost assigned to the I-765 relating to holding the Form N-400 at the FY 2008/2209 fee review rate.	\$9
Other policy decisions	Represents the cost of fee waivers and exemptions, workload that does not generate revenue, and policy decisions to hold certain immigration fees lower than the total cost identified by the PCM model.	\$33
Total		\$42

Question: What are the actual costs of collecting biometric information? If there are “excess fees” collected in the \$85 fee set by rule in September 2010, how much are they? If the biometric fee exceeds actual costs, why was such an extra amount added to the fee in the first place? What was the extra amount intended to cover? Please provide the exact dollar cost of collecting biometric information.

Response: The biometric fee adjusted in the September 2010 fee rule did not include any “excess” costs. USCIS projected that the cost was \$86 but was rounded to the nearest \$5 increment. It is important to note, however, that the costs are not only for collection of biometrics, but also to conduct required law enforcement checks, to maintain this biometric information for reuse to support other benefit requests, and related services.

Question: In the above-referenced January 22, 2015, letter, USCIS was asked to provide “projections of the number of administrative appeals generated from the executive action and costs related thereto.” Director Rodriguez’ reply states that USCIS “has not, and would not, offer individuals the opportunity to appeal an unfavorable decision on their request for DACA or DAPA consideration.” Though USCIS may not allow DACA applicants to file a formal appeal with the USCIS Administrative Appeals Office, does it currently allow for DACA applicants to file motions to reopen or motions for

Question#:	34
Topic:	Cost and Fees 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

reconsideration (or the substantial equivalent of such motions), like other applicants for benefits? If so, how many such motions have been received and approved and/or denied?

Response: An appeal under 8 C.F.R. § 103.3 applies only to an application, petition or request for immigration benefits. DACA is not a benefit—it is an exercise of prosecutorial discretion. Therefore, appeals, motions to reopen, and motions to reconsider do not apply to DACA. In addition, a denial of Form I-765, Application for Employment Authorization, is not appealable. *See* 8 C.F.R. § 274a.13(c). However, a requestor may request a review of his or her I-821D denial by contacting USCIS’ Call Centers at 1-800-375-5283 to have a service request created if the individual believes that he or she actually meets all of the DACA guidelines and otherwise merits a favorable discretionary determination, but only if his or her request was denied due to one of the following errors:

- USCIS denied the request based on abandonment, when the requestor actually responded to an RFE or NOID within the prescribed time;
- USCIS mailed the RFE or NOID to the wrong address although the requestor had submitted a Form AR-11, Change of Address, or changed his or her address online at www.uscis.gov before USCIS issued the RFE or NOID;
- USCIS denied the request on the grounds that the requestor did not come to the United States prior to his or her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did arrive before reaching that age;
- USCIS denied the request on the grounds that the requestor was under age 15 at the time of filing but not in removal proceedings, while the evidence submitted at the time of filing shows that the requestor indeed was in removal proceedings when the request was filed;
- USCIS denied the request on the grounds that the requestor was 31 or older as of June 15, 2012, but the evidence submitted at the time of filing shows that the requestor was under the age of 31 as of June 15, 2012;
- USCIS denied the request on the grounds that the requestor had lawful status on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor indeed was not in a lawful immigration status on that date;
- USCIS denied the request on the grounds that the requestor was not physically present in the United States on June 15, 2012, and up through the date of filing, but the evidence submitted at the time of filing shows that the requestor was, in fact, present;

Question#:	34
Topic:	Cost and Fees 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

- USCIS denied the request due to the requestor's failure to appear at a USCIS ASC to have his or her biometrics collected, when the requestor in fact either did appear at a USCIS ASC to have this done or requested prior to the scheduled date of his or her biometrics appointment to have the appointment rescheduled; or
- USCIS denied the request because the requestor did not pay the filing fees for Form I-765, Application for Employment Authorization, when the requestor actually did pay these fees.

Even if the requestor establishes one or more of these errors, however, USCIS may sustain the adverse determination as a matter of discretion.

Question#:	35
Topic:	preparatory work
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the hearing testimony, all “preparatory work” relating to implementation of DAPA/expanded DACA has ceased. Does this include policy-related work and legal analysis (unrelated to the Texas litigation)?

Response: USCIS has ceased all activities supporting implementation of the policies set forth in the November 2014 Deferred Action Guidance.

Question#:	36
Topic:	DAPA/expanded DACA 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Has USCIS had any meetings, conference calls, emails, or interactions of any kind with outside advocacy groups regarding the implementation of DAPA/expanded DACA both prior to and since the date of the injunction? If so, please explain.

Response: USCIS hosted or participated in national and local engagements on the policies set forth in the November 2014 Deferred Action Guidance. These engagements began on November 21, 2014 and ended the day of the injunction, February 16, 2015. Engagements included listening sessions, focus groups, and presentations. Common themes were effective outreach strategies to support the President’s Executive Actions on Immigration and avoiding immigration scams. Specific events included:

- Three national listening sessions via teleconference (DACA expansion: January 13 and February 12. DAPA: January 26)
- Approximately 135 local community events with participation by USCIS Field Offices
- Two focus groups with stakeholders and customers (Los Angeles: January 26. Washington DC: February 12)

USCIS hosted engagements for embassy officials on December 5, 2014 and February 11, 2015. These briefings provided an overview of the policies set forth in the November 2014 Deferred Action Guidance and the President’s Executive Actions.

In addition to these formal engagements, USCIS communicated telephonically and electronically with stakeholders to plan local engagements and answer general questions on the President’s Executive Actions.

USCIS has not hosted such an engagement since the injunction was issued on February 16, 2015. Since the date of the injunction, communications have included directing stakeholders to the USCIS website for updated information on the injunction as available or to the Department of Justice. USCIS continues to prioritize engagement on the unauthorized practice of immigration law and avoiding immigration scams. These messages are incorporated into all national and local engagements.

The USCIS Office of Legislative Affairs hosted two conference calls with congressional staffers on January 12, 2015, and on February 12, 2015, both on DACA changes set forth in the November 2014 Deferred Action Guidance.

Question#:	37
Topic:	DAPA/expanded DACA 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the hearing testimony, USCIS continues to pay rent costs for the Crystal City facility. Please explain how the continuation of such rent payments does not constitute an “aspect[] or phase[]” of the DAPA/expanded DACA programs.

Response: USCIS has ceased all activities supporting implementation of the policies set forth in the November 2014 Deferred Action Guidance at any location. The Crystal City facility is not being used for any activity related to the policies set forth in the November 2014 Deferred Action Guidance.

Question#:	38
Topic:	DAPA/expanded DACA 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Please provide any information about any effort or expenditure that has been made to evaluate and select DAPA/expanded DACA processing facilities – including the Crystal City facility – to include any effort or expenditure to:

Formally or informally evaluate or study potential sites throughout the U.S. to be used as either standalone DAPA/expanded DACA processing centers or as facilities intended to support the Crystal City facility’s efforts;

Response: The General Services Administration provided a list of 20 facilities/sites that met either all of the requirements noted below, or most of them. After conducting additional research, USCIS determined that the majority of the buildings/sites listed below were not actually available or did not actually meet enough of the requirements.

Requirements/criteria that were used in considering a site:

- Minimum of 50,000 square feet contiguous space
- Space had to be in GSA’s current inventory
- Space could be located in federally-owned or leased buildings
- Space had to be available immediately as is or with minor renovations and
- Available for a long-term requirement

Question: Travel to potential such sites;

Response: \$4,586 was expended to travel to Seattle, WA, Atlanta, GA, and Burlington, NJ to visit potential sites. Other sites visited were local to Washington, DC.

Question: Discuss such sites in in-person meetings or through correspondence either within DHS or with non-DHS individuals or organizations; or

Response: Meetings were held with GSA at each site visited and analysis conducted to determine if the sites would meet requirements.

Question: Otherwise procure or secure such sites.

Response: USCIS began reaching out to GSA to assess properties already in GSA’s inventory when we became aware of the possibility of additional workloads as well as ongoing workloads since facilities were already stretched thin. Any new facility was

Question#:	38
Topic:	DAPA/expanded DACA 3
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

always intended to become a part of our normal inventory and USCIS work would move in and out of that site as it does in all our offices.

USCIS asked GSA to update the list of properties routinely throughout the exercise of attempting to identify the most suitable space for USCIS expansion. Given our typical experience when beginning a new facilities project usually takes 2-3 years before it is occupant ready, USCIS was interested in leveraging properties that GSA already had in their inventory but which were not occupied. This strategy was viewed to benefit both USCIS, by allowing for quicker occupancy, and GSA by more fully utilizing inventory for which the government was already incurring costs.

USCIS was seeking a Service Center type facility; USCIS currently has four Service Centers and those Centers range from 300,000-400,000 square feet. While we were willing to consider facilities much smaller than that, our preference was for a few large facilities rather than several smaller sites per our normal business model. On August 22, 2014, Crystal City, VA was initially identified as non-viable because the lease that GSA held was only valid until 2016; however it became a short-term option for us when GSA indicated that they would work to identify options for a competitive replacement lease solicitation. In addition, during our review of available facilities the amount of space in the Crystal City site that was available increased after another agency vacated a portion of the facility, which made it more suitable for our needs. USCIS Facilities experts visited a number of the sites, and the Crystal City site was the only location that was close to the desired size; had the desired features; and did not require substantial investment to bring it up to occupant-ready standard. USCIS did check-in with GSA on a number of occasions after August 22, 2014, but no additional viable properties became available. After the President's announcement on Executive Action on November 20, 2014, USCIS reached out to GSA and requested an Occupancy Agreement for the Crystal City site. It should be noted that while the Executive Action workload did jumpstart our search for a site, it was clear at that time that any site that we took possession of would become part of our normal inventory and that we would move USCIS work in and out of that site as we do all of our offices.

Question#:	39
Topic:	DAPA/expanded DACA 4
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Please provide all correspondence between USCIS and the General Services Administration (GSA) regarding the evaluation, study, discussion, or procurement of, or travel to, potential sites throughout the U.S. to be used as either standalone DAPA/expanded DACA processing facilities or as facilities intended to support the Crystal City facility's efforts.

Response: This request is currently being processed.

Question#:	40
Topic:	DAPA/expanded DACA 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Is USCIS making any other payments or disbursements with respect to the Crystal City facility in order to prepare or maintain it for eventual use (including those for utilities or support services)?

If so, please provide a list of these additional payments or disbursements, along with the contractor or subcontractor that is receiving such payments or disbursements, and the duration of the respective underlying contracts.

Response: USCIS is paying rent to GSA and security costs to the Federal Protective Service (FPS).

Month	GSA PBS	FPS	Total
December	\$642,825.12	\$18,621.24	\$661,446.36
January	\$642,825.12	\$18,621.24	\$661,446.36
February	\$642,825.12	\$18,621.24	\$661,446.36
YTD	\$1,928,475.36	\$55,863.72	\$1,984,339.08

Also, reimbursable work authorizations were sent to and accepted by GSA for the following:

- (1) \$14,730.19 for the inspection and service of the Government-owned supplemental air units, fire suppression system, fire alarm system and emergency generator.
- (2) \$138,316.42 for the sub-metered electric costs for the Government-owned supplemental air units.

Question: In the event USCIS is making other non-rent payments or disbursements with respect to the Crystal City facility, please explain how such payments or disbursements do not constitute an “aspect[] or phase[]” of the DAPA/expanded DACA programs.

Response: Consistent with the injunction, USCIS has ceased all activities supporting implementation of the policies set forth in the November 2014 Deferred Action Guidance at any location.

Question#:	41
Topic:	DACA applications 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: On Tuesday, March 3, 2015, the U.S. Department of Justice filed a supplementary “Defendant’s Advisory” in the U.S. District Court for the Southern District of Texas, in which it admitted that it had already approved approximately 100,000 expanded DACA applications.

Question: Were Mr. Moore, Mr. Neufeld, or Mr. Renaud aware at the time of their testimony of the Justice Department’s Advisory?

Response: The witnesses do not recall when they learned of the Justice Department’s Advisory.

Question: Were Mr. Moore, Mr. Neufeld, or Mr. Renaud aware at the time of their testimony of the content of Justice Department’s Advisory?

Response: The Secretary directed USCIS to begin issuing deferred action under DACA and employment authorization for three years beginning on November 24, 2014 for those individuals who requested and were approved for deferred action under the original 2012 DACA guidelines (who would otherwise have been issued only two years before the lengthening to three years set forth in the November 2014 Guidance). Mr. Renaud and Mr. Neufeld were aware that more than 100,000 DACA EADs had been approved under the 2012 DACA eligibility guidelines between November 24, 2014 and February 16, 2015 for individuals eligible for deferred action under the 2012 DACA guidelines; Mr. Moore was aware that EADs had been issued as directed by the Secretary, but not of the number of such EADS.

Question: Were Mr. Moore, Mr. Neufeld, or Mr. Renaud aware at the time of their testimony of the fact that USCIS had already approved approximately 100,000 DACA requests?

Response: The Secretary directed USCIS to begin issuing deferred action under DACA and employment authorization for three years beginning on November 24, 2014 for those individuals who requested and were approved for deferred action under the original 2012 DACA guidelines (who would otherwise have been issued only two years before the lengthening to three years set forth in the November 2014 Guidance). Mr. Renaud and Mr. Neufeld were aware that more than 100,000 DACA EADs had been approved between November 24, 2014 and February 16, 2015 for individuals eligible for deferred

Question#:	41
Topic:	DACA applications 5
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

action under the 2012 DACA guidelines; Mr. Moore was aware that EADs had been issued as directed by the Secretary, but not of the number of such EADS.

Question: Please explain why the witnesses did not inform the Subcommittee, in the course of their testimony or thereafter, that USCIS had already approved approximately 100,000 expanded DACA applications.

Response: The USCIS witnesses provided detailed written testimony for a hearing with the very broad title of “An Update to Congress with Respect to the Expenditures, Service Center and Field Operations of U.S. Citizenship and Immigration Services” that was responsive to the invitation letters on that subject, as well as oral testimony summarizing their written statements within the time frames expected by the Subcommittee for length of statement. The witnesses answered all questions asked of them to the best of their knowledge and ability, none of which were about the three-year validity period of EADs issued to DACA recipients under the 2012 DACA guidelines commencing Nov. 24, 2014, as publicly announced in the Secretary’s Nov. 20 memorandum.

Question: Please explain each witness’s role, if any, in processing the approximately 100,000 expanded DACA applications.

Response: Mr. Neufeld oversees the USCIS Service Center Operations directorate, which processes applications for EADs under DACA, including the EADs described in the answers above. Mr. Moore and Mr. Renaud did not play any role in processing these applications.

Question#:	42
Topic:	DAPA/expanded DACA applications
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Are any materials for DAPA/expanded DACA applications currently available either electronically or in paper form? If so, please provide those materials to the Subcommittee.

Response: Forms and instructions for requests under the policies set forth in the November 2014 Deferred Action Guidance are not currently available to the public in electronic or paper form.

Question: Are any USCIS personnel currently engaged in efforts to revise or change the DAPA/expanded DACA application forms, or create new application forms for future DAPA/expanded DACA applicants?

Response: No. Work associated with revising, changing or creating new forms in support of the policies set forth in the November 2014 Deferred Action Guidance has ceased as of the date of the injunction.

Question: If USCIS personnel are currently engaged in such efforts, please explain how such work does not violate the current federal court injunction.

Response: USCIS employees are not currently engaged in these efforts.

Question: What is the physical mailing address (or addresses) for DAPA/expanded DACA applicants to submit paper applications?

Response: USCIS does not have a dedicated mailing address for receiving requests under the policies set forth in the November 2014 Deferred Action Guidance. USCIS does continue to accept requests for DACA under the original 2012 guidelines at three of its lockbox facilities in Chicago, Dallas and Phoenix. See <http://www.uscis.gov/i-821d-addresses> for more detailed information on these filing locations.

USCIS is rejecting or denying requests from individuals who may have qualified under the policies set forth in the November 2014 Deferred Action Guidance but who do not meet the 2012 DACA guidelines.

Question#:	42
Topic:	DAPA/expanded DACA applications
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question:

- i. Is USCIS currently returning all expanded DAPA/expanded DACA applications it receives at this address/these addresses?

Response: The USCIS lockbox is designed to reject requests which are incomplete or which do not meet certain basic requirements. In the case of DACA requests, for example, this means individuals who are over the current DACA age cap will have their request rejected at the lockbox stage. Cases that are not rejected at this stage are then sent to a USCIS service center for full adjudication. USCIS adjudicators deny DACA requests submitted by requestors who do not meet the 2012 DACA guidelines, including requests submitted by requestors who may have qualified under the broadened eligibility criteria for DACA or DAPA guidelines set forth in the November 2014 Deferred Action Guidance.

Question:

- ii. If not, please explain how such retention of applications does not violate the current federal court injunction.

Response: USCIS is not holding or retaining any such requests.

Question#:	43
Topic:	Federal Acquisition Regulation
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Does USCIS adhere to the Federal Acquisition Regulation for all of its acquisition-related activities, including when USCIS uses funds from the Immigration Examinations Fee Account?

Response: Yes, USCIS adheres to the FAR for all of its acquisition-related activities, including when Immigration Examinations Fee Account funds are being used.

Question#:	44
Topic:	EADs 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Information obtained through a FOIA request to USCIS reveals that 7.4 million foreign nationals in the U.S. have been issued EADs since 2009. This number is in addition to the approximately one million lawful permanent residents and approximately 700,000 foreign guest workers admitted annually to the U.S. (and excludes those who have work authorization by virtue of their immigration status and do not require an EAD).

According to this information, the administration granted EADs to hundreds of thousands of individuals who are not authorized to work under the INA, such as tourists, illegal immigrants, and foreign students. Please provide a breakdown of all new, renewal, and replacement EADs issued since 2009, listed according to the categories in 8 C.F.R. § 274a.12.

According to this information, the administration granted EADs to 2,111,726 individuals who crossed the U.S. border without inspection, which is a deportable offense under 8 U.S.C. § 1182(a)(6)(A)(i). Please provide a breakdown of the status and disposition of each case in which EADs were considered for or issued to an alien who entered the U.S. without inspection, as well as the legal authority for the issuance of such EADs.

According to this information, the administration granted EADs to 1,919,732 aliens whose status was listed as unknown or unreported. Please explain why these individuals' statuses were described as "unknown" and whether any of these individuals were in the U.S. on expired or revoked visas. Please also provide the legal authority for the issuance of these EADs.

Under 8 U.S.C. § 1324a and 8 C.F.R. § 214.2, dependents of individuals who hold certain visas authorizing temporary employment (e.g., H, J, O, P, and TN visas) are barred from working in the U.S. regardless of whether they have applied for legal permanent residence. According to the released information, the administration has issued 186,256 EADs to such dependents since 2009. Please provide the legal authority for the issuance of these EADs.

Tourist visas, student visas, and the Visa Waiver Program were not intended by Congress to be a work authorization program or to supplement the statutorily defined categories of aliens authorized to work in the U.S. According to the released information, the administration granted EADs to 1,176,262 individuals who entered the country on these

Question#:	44
Topic:	EADs 1
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

types of visas. Please provide the legal authority for the issuance of these EADs.

Response: On October 14, 2014, the Center for Immigration Studies submitted a FOIA request to U.S. Citizenship and Immigration Services (USCIS), requesting information regarding Employment Authorization Document (I-765) grants issued by USCIS from FY 2008 to FY 2014. The information provided by USCIS was discovered to be inaccurate and non-responsive. Therefore, we have attached the correct data to the FOIA request. *Please see Excel attachment: "I765_byClass_Pref_2008to2014 03-20".*

Question#:	45
Topic:	EADs 2
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Please provide statistics regarding how many EADs the administration has issued on a provisional, interim, or temporary basis since 2009. Specifically, please provide a breakdown of how many EADs were issued since 2009 to individuals who were recipients of deferred action, in deportation proceedings, had a pending asylum application, had a pending green card application, or were otherwise involved in pending immigration-based proceedings. Please also indicate how many of these EADs were ultimately approved and how many were denied after all pending applications and proceedings were resolved.

Response: USCIS strives to avoid issuing interim EADs by prioritizing the adjudication of Forms I-765 that have been pending 75 days or longer. For information on the total number of EADs issued since 2009 to individuals who were recipients of deferred action, in deportation proceedings, had a pending asylum application, had a pending green card application, or were otherwise involved in pending immigration-based proceedings, *please see Excel attachment: "I765_byClass_Pref_2008to2014 03-20"*. USCIS does not electronically track how many of these EADs were ultimately approved and how many were denied after all pending applications and proceedings were resolved.

Question: Please provide the zip codes for all individuals granted EADs since 2009.

Response: See attachment *EADS_FY_COUNTS_BY_ZIP*.

Question: How many EAD cards does USCIS produce in a month?

Response: On average USCIS currently produces approximately 144,275 Employment Authorization Documents per month.

Question: What is USCIS' maximum monthly capacity for the production of EAD cards?

Response: USCIS has the capacity to produce approximately 400,000 cards per month.

Question#:	46
Topic:	EAD applications
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Is USCIS currently meeting the 90-day production requirement at 8 CFR § 274a.13(d) for all EAD applications?

Response: USCIS works diligently to give an adjudicative response to each employment authorization request that it receives within the time limits imposed by regulation. USCIS is successful in the vast majority of cases; however, there are some that are not completed in a timely fashion. To minimize untimely adjudications, numerous reviews are conducted electronically to ensure that cases are worked in a first-in-first-out (FIFO) order. Further data scrapes are completed throughout the lifecycle of the pending application to ensure that the regulatory time frame is met. When cases approaching the regulatory limit are identified, processing steps are in place to attempt to adjudicate them as expeditiously as possible without compromising the integrity of the process.

Question: If not, what percentage of EAD applications are not processed within the required 90-day timeframe?

Response: Less than one percent of EAD applications are processed outside the normal processing time.

Question: Are interim EAD cards (per 8 CFR § 274a.13(d)) issued to applicants whose EAD cards are not produced within the 90-day timeframe?

Response: USCIS may issue an interim EAD card pursuant to 8 C.F.R. § 274a.13(d) when it becomes aware of a delay and adjudication of the EAD application cannot be finalized immediately. However, our goal is to eliminate the need for interim EAD issuance by taking final action on the EAD application whenever possible. To date, USCIS has not issued any interim EAD cards for DACA requestors. Note: In the DACA context, the 90-day period for adjudicating an EAD application filed together with a DACA request does not begin unless and until USCIS has approved the DACA request.

Question#:	47
Topic:	cost
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How much does it cost to produce an interim EAD card (per 8 CFR § 274A.13(d))?

Response: An EAD costs \$10.39 to produce, but as previously stated, USCIS's goal is to eliminate the need for interim EAD issuance by taking final action on the EAD application whenever possible.

Question#:	48
Topic:	EAD cards
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Does USCIS anticipate that it will be able to meet, within the 90-day timeframe, the demand for potentially millions of additional EAD cards under DAPA/expanded DACA?

Response: All activities related to the policies set forth in the November 2014 Deferred Action Guidance have been suspended consistent with the injunction. Therefore, USCIS is unable to speculate on this issue.

Question#:	49
Topic:	deferred action programs
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: Question for Mr. Moore:

Collectively, the witnesses bring over 75 years of experience in immigration, both at U.S. Citizenship and Immigration Services and in its predecessor agency, INS. And you've done this work when the government has implemented other deferred action programs under other administrations.

Can you speak to any lessons you have learned from implementing previous deferred action programs that proved useful as you prepared to execute the Deferred Action for Parental Accountability program and the expansion of the Deferred Action for Childhood Arrivals program?

Response from Mr. Moore: In considering the planning efforts undertaken to implement the DACA program in FY 2012, a number of important lessons learned were identified and were actively being applied to the planning efforts associated with the November 2014 Guidance before USCIS ceased such planning as a result of the preliminary injunction ordered by the federal district court in Texas.

The lessons learned relate specifically to the production management activities that USCIS undertook in the face of processing a large surge in new and uncertain workload volumes. As is customary with all workloads managed by USCIS Service Centers, which collectively employ more than 2,000 immigration services officers (ISOs), there is always a balancing of experienced officers and newly hired officers to ensure that cases being received are being appropriately examined by individuals with the requisite training, experience and skills. This means that Service Center leadership personnel must routinely adjust staff assigned to the various product lines in response to actual workload volumes received, pending inventories of cases on hand, and the established processing time goals.

As USCIS was planning to accept requests for DACA under the November 2014 Guidance in mid-February 2015, it had started the process of assessing its on-board adjudications staff to determine how to most appropriately assign them and the staff to be hired to the existing and new workloads expected. Assigning immigration officers to applications that their training and experience has prepared them to handle is essential to maintaining quality and timely processing. Through the agency's established production management process, we work to ensure that all customers seeking service from USCIS

Question#:	49
Topic:	deferred action programs
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

are given the proper attention and servicing of their requests, while endeavoring to minimize service delays and the accumulation of backlogs.

Managing service delivery expectations during times of fluctuating workloads is an ongoing project for the agency as we must fluctuate workloads based on influxes of benefit requests throughout the year. It is one of the most challenging operational activities as it takes time, attention, and a focus on production data to effect course corrections. In evaluating these models, agency leadership considered all available adjudicative strategies to ensure that the workload associated with the EA initiatives would not unduly impact the processing of existing applications and petitions, while ensuring that the integrity of the process remained sound. These strategies considered assigning preexisting staff to workloads commensurate with their level of training and skills, effectively integrating new hire employees into the adjudications flow, and providing overtime to employees to increase adjudication capacity while hiring efforts continued in response to established staffing plans. Finally, the planning efforts assumed continuous monitoring of workload volumes. As new workloads were received, USCIS production models and operational planning would have continued to be assessed and adjusted, as necessary, to respond to the actual situation encountered. Regardless of the status of the November 2014 Guidance, USCIS is committed to managing all agency workload in the most timely, efficient and effective manner possible, while ensuring the integrity of the immigration system and our national security.

Question for Mr. Neufeld:

Collectively, the witnesses bring over 75 years of experience in immigration, both at U.S. Citizenship and Immigration Services and in its predecessor agency, INS. And you've done this work when the government has implemented other deferred action programs under other administrations.

Can you speak to any lessons you have learned from implementing previous deferred action programs that proved useful as you prepared to execute the Deferred Action for Parental Accountability program and the expansion of the Deferred Action for Childhood Arrivals program?

Response from Mr. Neufeld: All four Service Centers have experience administering deferred action under the original DACA guidance of June 15, 2012. In preparing to implement the November 2014 Guidance DACA prior to the federal court's injunction, we leveraged this experience to forecast our staffing and facilities requirements.

Question#:	49
Topic:	deferred action programs
Hearing:	Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question for Mr. Renaud:

Collectively, the witnesses bring over 75 years of experience in immigration, both at U.S. Citizenship and Immigration Services and in its predecessor agency, INS. And you've done this work when the government has implemented other deferred action programs under other administrations.

Can you speak to any lessons you have learned from implementing previous deferred action programs that proved useful as you prepared to execute the Deferred Action for Parental Accountability program and the expansion of the Deferred Action for Childhood Arrivals program?

Response from Mr. Renaud: The Field Operations Directorate primarily handles non-DACA humanitarian requests for deferred action. Although the volume of non-DACA humanitarian requests for deferred action is not on the same scale with respect to the projected number of DAPA requests, such types of deferred action requests have commonality. Field Operations' handling of such deferred action requests also demonstrates the discretionary nature of such requests, an element that USCIS would continue under DAPA if the agency is permitted to proceed with that policy. In administering deferred action, Field Operations weighs the totality of the circumstances to determine if the request warrants favorable consideration and an exercise of discretion to grant on a case-by-case basis; this is something that would continue should DAPA or a similar action be implemented.