



**Looking Beyond DACA/DAPA
Part 2: Deferred Action Status
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TABLE OF CONTENTS

I. Executive Summary	1
II. Political Context.....	2
a. Recap: Legalization	2
b. Recap: US v. Texas	2
III. What Next?: Framework for Deferred Action.....	2
a. What is Deferred Action Status?	3
b. Statutory Grounding	4
c. Regulatory Grounding	5
d. Agency Policy.....	5
IV. Effects of Deferred Action	10
V. CHRCL’s Deferred Action Strategy	11
a. Political Advocacy.....	11
b. Individual Cases	14
c. Example Case	14

I. Executive Summary

The focus of this practice briefing is on how “deferred action status” can be used by many immigrants who lack lawful status in the United States in order to secure a minimum level of protection from deportation and authorization to work lawfully in the country..

It has been clear for several years that comprehensive legislative immigration reform is not possible given the absence of anything close to consensus about the terms of a comprehensive statutory remedy. At some point, stakeholders, community-based organizations and legal services providers must face up to this reality and “reset” the debate to focus on what may actually be achievable through a process of Executive Immigration Reform -- what we may call “EIR.”

With the Supreme Court’s rejection of the expanded DACA and DAPA programs the Obama Administration attempted to implement in 2015, advocates and human rights defenders must re-examine both advocacy strategies and administrative steps that may be taken in the representation of immigrants to legalize the status of substantial numbers of immigrants *without* requiring the passage of legislation by Congress.

Other practice advisories we have issued and will issue focus on various remedies immigrants may pursue despite the absence of Congressional reform and the Supreme Court’s affirming of lower court decisions holding that the Obama Administration violated the U.S. Administrative Procedures Act when it issued the expanded DACA and DAPA programs as agency policies rather than as formal regulations. This practice advisory will focus on deferred action status as one such potential remedy that could provide hundreds of thousands of people with protection from deportation and the authority to work legally in the United States should this or the next administration decide to take the relevant steps.

We recommend a strategy with at least two parts: (i) Political advocacy at local and national levels seeking to expand the categories of persons to whom deferred action is granted, and (ii) Individual representation of persons requesting deferred action in order to shield them from imminent deportation and enable them to work legally.

II. Political Context

a. Recap: Legalization

Immigrants' rights advocates have long been concerned with strategies for legalization of persons who lack lawful immigration status in the United States. Many of these persons have strong equities in their favor, including lengthy periods of residence in the country, close familial relationships to U.S. citizens and lawful residence, and other humanitarian concerns.

As the prospects for a Congressionally sponsored solution for the broken immigration system have diminished in each session, and with the election of an apparently progressive President Obama, many advocates placed increased hope in the possibility of executive action in furtherance of immigrants' rights. Hard fought battles finally produced some results, and in 2012 the immigrants' rights community celebrated the announcement of DACA, while in 2014 they welcomed the announcement of DAPA and extended DACA.

b. Recap: US v. Texas

In December 2014, various states filed a legal challenge to these executive programs. Implementation of DAPA and expanded DACA has been blocked by a preliminary injunction issued by the District Court in Brownsville, Texas, and upheld by the Fifth Circuit Court of Appeals, because of the lack of a regulatory framework and complete absence of a rule-making process. On June 23, a divided Supreme Court issued a 4-4 tied decision, indicating that the decision to grant a preliminary injunction on DAPA/expanded DACA, which was upheld by the Fifth Circuit Court of Appeals, was affirmed by an equally divided Supreme Court.

As the possibility of pursuing relief under DAPA/expanded DACA remains closed, immigrants' rights advocates should consider shifting their time and energy to other strategies that would bring significant relief to a large number of immigrants, are relatively straightforward to implement, and would not detract from the possibility of an immigrant-positive outcome should US v. Texas be considered again on its merits.

III. What Next?: Framework for Deferred Action

“Deferred Action Status” is the cornerstone of an alternative strategy that would bring relief, albeit temporary, for many undocumented immigrants in the United States, by protecting them for a period of time from deportation and enabling them to work lawfully in the United States. Undertaking advocacy aimed at expanding the availability of deferred action would be a welcome and important way to slow down the deportation machinery and protect immigrant communities. Similarly, individual representation of persons seeking deferred actions would certainly bring great relief to families and communities across the country.

a. What is Deferred Action Status?

A grant of deferred action status represents DHS’s decision not to seek an alien’s removal for a prescribed period of time. See generally Reno v. Am.-Arab Anti-Discrim. Comm., 525 U.S. 471, 483–84 (1999) (describing deferred action). As has been recognized by the Department of Justice’s Office of Legal Counsel:

In immigration law, the term “deferred action” refers to an exercise of administrative discretion in which immigration officials temporarily defer the removal of an alien unlawfully present in the United States. Am.-Arab Anti-Discrim. Comm., 525 U.S. at 484 (citing 6 Charles Gordon et al., *Immigration Law and Procedure* § 72.03[2][h] (1998)); see USCIS, *Standard Operating Procedures for Handling Deferred Action Requests at USCIS Field Offices* at 3 (2012) (“USCIS SOP”); INS *Operating Instructions* § 103.1(a)(1)(ii) (1977). It is one of a number of forms of discretionary relief—in addition to such statutory and non-statutory measures as parole, temporary protected status, deferred enforced departure, and extended voluntary departure—that immigration officials have used over the years to temporarily prevent the removal of undocumented aliens.¹

¹ Parole is available to aliens by statute “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Among other things, parole gives aliens the ability to adjust their status without leaving the United States if they are otherwise eligible for adjustment of status, see id. § 1255(a), and may eventually qualify them for Federal means-tested benefits, see id. §§ 1613, 1641(b)(4). Temporary protected status is available to nationals of designated foreign states affected by armed conflicts, environmental disasters, and other extraordinary conditions. Id. § 1254a. Deferred enforced departure, which “has no statutory basis” but rather is an exercise of “the President’s constitutional powers to conduct foreign relations,” may be granted to nationals of appropriate foreign states. USCIS, *Adjudicator’s Field Manual* § 38.2(a) (2014). Extended voluntary departure was a remedy derived from the voluntary departure statute, which, before its amendment in 1996, permitted the Attorney General to make a finding of

DHS’s Authority to Prioritize Removal of Certain Aliens Unlawfully Present, Opinions of the Office of Legal Counsel in Volume 38 (November 19, 2014).

b. Statutory Grounding

The laws created by Congress in the Immigration and Nationality Act (INA) do not directly grant anyone deferred action status. However, Congress has passed laws that do reference the *administrative practice* of deferred action status. For example, in 8 U.S.C. § 1227(d)(2) - entitled Deportable Aliens – the law states: “The denial of a request for an administrative stay of removal under this subsection shall not preclude the alien from applying for a stay of removal, *deferred action*, or a continuance or abeyance of removal proceedings under any provision of the immigration laws of the United States.” (emphasis added).

Additionally, though not in the context of substantive legislation, Congress has spoken on the DHS’s discretionary authority through its appropriations. In appropriating funds for DHS’s enforcement activities—which are sufficient to permit the removal of only a fraction of the undocumented aliens currently in the country—Congress has directed DHS to “prioritize the identification and removal of aliens convicted of a crime by the severity of that crime.” Department of Homeland Security Appropriations Act, 2014, Pub. L. No. 113-76, div. F, tit. II, 128 Stat. 5, 251 (“DHS Appropriations Act”). Nevertheless, no federal statute appears to explicitly authorize deferred action status or discuss its requirements.

removability if an alien agreed to voluntarily depart the United States, without imposing a time limit for the alien’s departure. See 8 U.S.C. §§ 1252(b), 1254(e) (1988 & Supp. II 1990); cf. 8 U.S.C. § 1229c (current provision of the INA providing authority to grant voluntary departure, but limiting such grants to 120 days). Some commentators, however, suggested that extended voluntary departure was in fact a form of “discretionary relief formulated administrative- ly under the Attorney General’s general authority for enforcing immigration law.” Sharon Stephan, Cong. Research Serv., 85-599 EPW, Extended Voluntary Departure and Other Grants of Blanket Relief from Deportation at 1 (Feb. 23, 1985). It appears that extended voluntary departure is no longer used following enactment of the Immigration Act of 1990, which established the temporary protected status program. See U.S. Citizenship and Immigration Services Fee Schedule, 75 Fed. Reg. 33446, 33457 (June 11, 2010) (proposed rule) (noting that “since 1990 neither the Attorney General nor the Secretary have designated a class of aliens for nationality-based ‘extended voluntary departure,’ and there no longer are aliens in the United States benefiting from such a designation,” but noting that deferred enforced departure is still used); H.R. Rep. No. 102-123, at 2 (1991) (indicating that in establishing temporary protected status, Congress was “codif[ying] and supersed[ing]” extended voluntary departure). See generally Andorra Bruno et al., Cong. Research Serv., Analysis of June 15, 2012 DHS Memorandum, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children at 5–10 (July 13, 2012) (“CRS Immigration Report”).

c. Regulatory Grounding

Nor have the requirements for deferred action status been included in agency regulations. An existing immigration regulation at least recognizes the existence of deferred action status. 8 C.F.R. § 247a.12(c)(14) states that certain immigrants may be granted employment authorization, including an immigrant “who has been granted deferred action, an act of administrative convenience to the government which gives some cases lower priority, if the alien establishes an economic necessity for employment.”

d. Agency Policy

Instead, the criteria for deferred action status were included in the former INS’s “Operations Instructions” or “OIs”. The OIs made clear that deferred action status is “an act of administrative choice to give some cases lower priority and *in no way an entitlement...*” (emphasis added). These Operation Instructions were withdrawn on June 24, 1997. However, the relief continues to be available to certain visa applicants and undocumented immigrants with significant medical conditions or close U.S. citizen or lawful resident relatives with significant medical conditions. The vast majority of cases in which deferred action is granted involve medical grounds.

With respect to removal decisions in particular, the Supreme Court has recognized that “the broad discretion exercised by immigration officials” is a “principal feature of the removal system” under the INA. Arizona v. United States, 132 S. Ct. 2492, 2499 (2012). The INA expressly authorizes immigration officials to grant certain forms of discretionary relief from removal for aliens, including parole, 8 U.S.C. § 1182(d)(5)(A); asylum, id. § 1158(b)(1)(A); and cancellation of removal, id. § 1229b. But in addition to administering these statutory forms of relief, “[f]ederal officials, as an initial matter, must decide whether it makes sense to pursue removal at all.” Arizona, 132 S. Ct. at 2499. And, as the Court has explained, “[a]t each stage” of the removal process—“commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—immigration officials have “discretion to abandon the endeavor.” Am.-Arab Anti-Discrim. Comm., 525 U.S. at 483 (quoting 8 U.S.C. § 1252(g) (alterations in original)). Deciding whether to pursue removal at each of these stages implicates a wide range of considerations.

In their exercise of enforcement discretion, DHS and its predecessor, INS, have long employed guidance instructing immigration officers to prioritize the enforcement of the immigration laws against certain categories of aliens and to deprioritize their enforcement against others. See, e.g., INS Operating Instructions § 103(a)(1)(i) (1962); Memorandum for All Field Office Directors, ICE, et al., from John Morton, Director, ICE, Re: Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens (June 17, 2011); Memorandum for All ICE Employees, from John Morton, Director, ICE, Re: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens (Mar. 2, 2011); Memorandum for Regional Directors, INS, et al., from Doris Meissner, Commissioner, INS, Re: Exercising Prosecutorial Discretion (Nov. 17, 2000).

Indeed, there are several agency memos from ICE that provide guidance for how DHS Officers should utilize their prosecutorial discretion with regard to deferred action. In its April 2011 “Toolkit for Prosecutors,” ICE explains that:

Deferred Action (DA) is not a specific form of relief but rather a term used to describe the decision-making authority of ICE to allocate resources in the best possible manner to focus on high priority cases, potentially deferring action on cases with a lower priority. There is no statutory definition of DA, but federal regulations provide a description: “[D]eferred action [is] ‘an act of administrative convenience to the government which gives some cases lower priority. . . .’” There are two distinct types of DA requests: (i) those seeking DA based on sympathetic facts and a low enforcement priority, and (ii) those seeking DA based on his/her status as an important witness in an investigation or prosecution. Basically, DA means the government has decided that it is not in its interest to arrest, charge, prosecute or remove an individual at that time for a specific, articulable reason.

U.S. Immigration and Customs Enforcement, *Protecting the Homeland: Toolkit for Prosecutors*. April 2011. p. 4

In his June 7, 2011 memorandum ICE Director, John Morton, further describes exercising prosecutorial discretion, such as deferred action,

consistent with civil immigration enforcement priorities:

One of ICE's central responsibilities is to enforce the nation's civil immigration laws in coordination with U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS). ICE, however, has limited resources to remove those illegally in the United States. ICE must prioritize the use of its enforcement personnel, detention space, and removal assets to ensure that the aliens it removes represent, as much as ' reasonably possible, the agency's enforcement priorities, namely the promotion of national security, border security, public safety, and the integrity of the immigration system...

Factors to Consider When Exercising Prosecutorial Discretion

When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents, and attorneys should consider all relevant factors, including, but not limited to

- the agency's civil immigration enforcement priorities;
- the person's length of presence in the United States, with particular consideration given to presence while in lawful status;
- the circumstances of the person's arrival in the United States and the manner of his or her entry, particularly if the alien came to the United States as a young child;
- the person's pursuit of education in the United States, with particular consideration given to those who have graduated from a U.S. high school or have successfully pursued or are pursuing a college or advanced degrees at a legitimate institution of higher education in the United States;
- whether the person, or the person's immediate relative, has served in the U.S. military, reserves, or national guard, with particular consideration given to those who served in combat;
- the person's criminal history, including arrests, prior convictions, or outstanding arrest warrants;
- the person's immigration history, including any prior removal, outstanding order of removal, prior denial of status, or evidence of fraud;

- whether the person poses a national security or public safety concern;
- the person's ties and contributions to the community, including family relationships;
- the person's ties to the home country and condition~ in the country;
- the person's age, with particular consideration given to minors and the elderly;
- whether the person has a U.S. citizen or permanent resident spouse, child, or parent;
- whether the person is the primary caretaker of a person with a mental or physical disability, minor, or seriously ill relative; ;
- whether the person or the person's spouse is pregnant or nursing;
- whether the person or the person's spouse suffers from severe mental or physical illness;
- whether the person's nationality renders removal unlikely;
- Whether the person is likely to be granted temporary or permanent status or other relief from removal, including as a relative of a U.S. citizen or permanent resident;
- whether the person is likely to be granted temporary or permanent status or other relief from removal, including as an asylum seeker, or a victim of domestic violence, human trafficking, or other crime; and
- whether the person is currently cooperating or has cooperated with federal, state or local law enforcement authorities, such as ICE, the U.S Attorneys or Department of Justice, the Department of Labor, or National Labor Relations Board, among others.

This list is not exhaustive and no one factor is determinative. ICE officers, agents, and attorneys should always consider prosecutorial discretion on a case-by-case basis. The decisions should be based on the totality of the circumstances, with the goal of conforming to ICE's enforcement priorities.

That said, there are certain classes of individuals that warrant particular care. As was stated in the Meissner memorandum on Exercising Prosecutorial Discretion, there are factors that can help ICE

officers, agents, and attorneys identify these cases so that they can be reviewed as early as possible in the process.

The following positive factors should prompt particular care and consideration:

- veterans and members of the U.S. armed forces;
- long-time lawful permanent residents;
- minors and elderly individuals;
- individuals present in the United States since childhood;
- pregnant or nursing women;
- victims of domestic violence; trafficking, or other serious crimes;
- individuals who suffer from a serious mental or physical disability; and
- individuals with serious health conditions.

In exercising prosecutorial discretion in furtherance of ICE's enforcement priorities, the following negative factors should also prompt particular care and consideration by ICE officers, agents, and attorneys:

- individuals who pose a clear risk to national security;
- serious felons, repeat offenders, or individuals with a lengthy criminal record of any kind;
- known gang members or other individuals who pose a clear danger to public safety; and
- individuals with an egregious record of immigration violations, including those with a record of illegal re-entry and those who have engaged in immigration fraud.

Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens. June 7, 2011.

Deferred action as a form of prosecutorial discretion is thus an extremely well established practice in US immigration law and procedure. However, given that the deferred action status program has never been formalized into agency regulations, and exists only as DHS's administrative discretion to

give some cases lower priority, it is widely understood there is virtually no judicial review of decisions concerning deferred action status. See Reno v. American Arab Anti-Discrimination Comm., 525 U.S. 471 (1999).

IV. Effects of Deferred Action

A grant of deferred action serves to effectively postpone the removal of an alien from the United States by establishing a period of time, usually one year, in which ICE will not pursue removal proceedings.

Additionally, as summarized by the DOJ's Office of Legal Counsel:

“Under longstanding regulations and policy guidance promulgated pursuant to statutory authority in the INA, deferred action recipients may receive two additional benefits. First, relying on DHS's statutory authority to authorize certain aliens to work in the United States, DHS regulations permit recipients of deferred action to apply for work authorization if they can demonstrate an “economic necessity for employment.” 8 C.F.R. § 274a.12(c)(14); see 8 U.S.C. § 1324a(h)(3) (defining an “unauthorized alien” not entitled to work in the United States as an alien who is neither an LPR nor “authorized to be . . . employed by [the INA] or by the Attorney General [now the Secretary of Homeland Security]”).

Second, DHS has promulgated regulations and issued policy guidance providing that aliens who receive deferred action will temporarily cease accruing “unlawful presence” for purposes of 8 U.S.C. §1182(a)(9)(B)(i) and (a)(9)(C)(i)(I). 8 C.F.R. § 214.14(d)(3); 28 C.F.R. § 1100.35(b)(2); Memorandum for Field Leadership, from Donald Neufeld, Acting Associate Director, Domestic Operations Directorate, USCIS, Re: Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act at 42.” (May 6, 2009) (“USCIS Consolidation of Guidance”) (noting that “[a]ccrual of unlawful presence stops on the date an alien is granted deferred action”); see 8 U.S.C. § 1182(a)(9)(B)(ii) (providing that an alien is “unlawfully present” if, among other things, he “is present in the United States

after the expiration of the period of stay authorized by the Attorney General”).

While many immigrants would likely prefer a more durable legal status in the United States, in the absence of statutory and/or regulatory pathways, deferred action at least serves to authorize the alien to remain in the United States and enables him or her to support themselves through lawful employment.

V. CHRCL’s Deferred Action Strategy

a. Political Advocacy

In addition to continued advocacy for the administration to publish DAPA/expanded DACA regulations, and update the DACA continuous residence cutoff to June 15, 2013, there are a number of policy changes that should be incorporated into the advocacy platforms of immigrants’ rights organizations and entities.

Immigrants’ rights advocates should lobby for the immediate extension of deferred action status to the largest population possible, including all immigrants who would be eligible to apply for legalization under the latest iterations of the comprehensive immigration reform legislation. Additional consideration should be given to particular sub-groups of immigrants with special equities and long-term residence in the United States, including:

- Immigrants residing in the United States with already approved family and work-related visa petitions: These persons are unable to receive permanent resident status only because of visa backlogs or because of the zero tolerance 1996 bars to legalization. Neither the backlogs nor the 1996 bars have caused these immigrants with approved visa petitions to “self-deport.” Instead they simply remain in the United States in undocumented status, unable to take advantage of their approved visa petitions. These immigrants are already “in the USCIS system.” DHS knows why they are, where they live, their social security numbers, criminal histories, etc. Since they are already in the system, are not likely to leave the country, are highly unlikely to be

apprehended, and have largely played by the rules, granting this population deferred action status would be rational policy.

- Parents of U.S. citizens: The parents of U.S. citizen children are unable to be petitioned for lawful permanent resident status until the child turns 21 years of age. Even then, 99.99% of these immigrants face a ten-year-bar for being present in the United States for one year or longer in undocumented status, even if they have no criminal record. Under the 1996 amendments wrought by IIRAIRA, there is no waiver of the unlawful presence bar for parents who have raised U.S. citizen children over the course of twenty-one years in the United States, despite the fact that there is a waiver for an individual who has a two-week-old marriage arranged over the internet. Like other groups in this list, these immigrant parents have largely been here for many years, are unlikely to self-deport, and may but are unlikely to be apprehended and removed unless they commit crimes. Without employment authorization, the vast majority of these immigrants are working for workers who prefer undocumented workers over equally qualified U.S. workers.
- Immigrants with administratively closed cases: Under the ICE Morton Memo, several thousand immigrants with special equities have had their removal cases administratively closed but have not been granted temporary employment authorization. They are “in the system,” ICE knows who they are, where they live, their social security numbers, etc. Releasing them indefinitely without employment authorization forces the vast majority of these immigrants to work in violation of federal law and encourages their employers to exploit them and prefer them over more expensive U.S. workers.
- Immigrants with pending employment-related claims: Sound policy suggests that workers with employment-related claims, which often impact U.S. workers and working conditions, should not fear removal if they come forward to bring illegal employment practices to the attention of the authorities. These immigrants, whether involved in pending labor disputes, union drives, or with pending labor complaints should be granted Deferred Action Status to encourage workplace compliance with federal and state labor, health and safety, and anti-discrimination laws.

- Unaccompanied abused and abandoned minors: Under present policy, all unaccompanied minors apprehended by DHS are placed in removal proceedings. Absent any mandate that these minors be provided counsel at government expense, as in other civil matters involving children, the majority of these children face adversarial removal hearings without any type of advocate representing their interests. The number of unaccompanied children arriving to the U.S., having fled violence and trauma in their home countries, has increased to historic levels. Until such time that the “best interests of the child” principle can be upheld with respect to this group of children, DHS should cease to subject them to the harsh rigors of removal proceedings. To do so would benefit the already overburdened and backlogged immigration courts and allows these children to seek administrative remedies outside the time constraining context of removal proceedings.
- Parents of immigrants granted DACA status: By definition this group has lived in the United States continuously for many years, in most cases, over 20. They have raised children here and those children have now been granted temporary status. This group is highly unlikely to voluntarily depart the United States and be separated from their children, and probably over 90% will never be apprehended or deported, other than for criminal reasons. Most are likely eligible to seek stays of removal proceedings under ICE’s so-called Morton memo, however that memo does not enable stay recipients to receive employment authorization. Without employment authorization, the vast majority of these immigrants will be forced to work for employers who prefer undocumented workers over equally qualified U.S. workers.

Granting deferred action status and temporary employment authorization to immigrants would immediately benefit U.S. workers, by removing the unfair incentive of unscrupulous employers to hire undocumented migrants over equally or better qualified U.S. citizens, as well as the business community which often hires undocumented workers despite full compliance with federal employer sanctions laws, only to suffer sudden and costly losses of workers as a result of ICE work-site enforcement operations.

b. Individual Cases

Immigrants' rights advocates should seek deferred action status on behalf of immigrants who are presently ineligible for adjustment of status can nonetheless remain and work in the United States. Although certain categories of aliens have traditionally been eligible for deferred action, while others become eligible pursuant to the publication of memos and other policies delineating enforcement priorities, advocates should continue to seek deferred action for any undocumented immigrant who is at risk of deportation.

Although there is no standard form for requesting deferred action, a well-prepared submission with a clearly articulated legal brief, supported by relevant professional evaluations and attestations to good character, will be the cornerstone of individual advocacy. Many other steps may be necessary to be successful in obtaining advance parole.

c. Example Case

CHRCL has successfully secured deferred action for low-income clients, through concerted advocacy with faith and community leaders, as well as through persistent interventions with the immigration authorities. The following summary provides an example strategy for individual case advocacy:

November 2009: Request for Deferred Action Submitted

An initial request for deferred action, formatted as a letter to the Director of the ICE DRO Field Office of the jurisdiction, was accompanied by extensive evidence of a compelling need for deferred action and extensive community support for the applicant. The request included a detailed summary of the relevant facts, including immigration procedural history, and arguments tailored to the criteria for deferred action under INS/DHS policy memos.

February 2010: Deferred Action Denied

DHS issued a two-line denial of the request for deferred action without addressing any of the evidence in support of the request.

May 2010: Preparation of Request for Reconsideration

A licensed psychologist conducted an evaluation of the applicant's minor son aimed at establishing whether he would suffer extreme and unusual

hardship if the applicant was removed to Mexico and her family remained in the United States, as well as whether he would suffer such hardship in the event he accompanied his mother to Mexico if deported. She concluded that in the event of the mother's deportation, the son will be "very negatively impacted with an extremely deleterious effect on his current mental status and his subsequent meeting of developmental milestones."

Mid-July 2010: Request for Reconsideration of Deferred Action Submitted and Meeting held with ICE Field Office Director and local religious leaders in support of applicant

A meeting was scheduled with the ICE Field Office Director and detailed submission was made, outlining the history of the case and all of the equities in favor of the applicant. The request drew upon the text of the intervening Morton Memo on prosecutorial discretion published in June 2010 and also submitted additional evidence of the psychological condition of the applicant's child and the applicant's pregnancy. An alternative request was made for ICE to refrain from opposing the applicant's attempt to adjust status, despite having been deemed ineligible due to a prior false claim for citizenship. A detailed argument was presented under the standards presented in the Morton Memo, addressing immigration status, length of residence in the U.S., criminal history, humanitarian concerns (including humanitarian concerns, hardship likely to be experienced in Mexico, and outlining the possibilities of relief. In particular, the request outlined the applicant's intent to seek reconsideration of the denial of her adjustment of status application, explaining in detail the reasons leading to her denial and the basis on which a different result was possible.

Late-July 2010: Deferred Action Status Granted

As the notice explains, "[t]he Department of Homeland Security, Immigration and Customs Enforcement (ICE), in exercising its prosecutorial discretion, has placed you in Deferred Action status, effective immediately, for a period of one year. This action is based, in part, upon your continuing efforts to seek successful adjudication in your case allowing you to lawfully immigrate to the United States. Deferred action does not confer any immigration status, or bestow protection or benefits upon an alien, nor is it a reflection of an alien's immigration status. It does not affect periods of unlawful presence" as defined in section 212(a)(9) of the INA and "it does not alter the status of any alien who is present in the US without being inspected and admitted." During one-year period in which action is deferred, the notice provides, ICE will not attempt removal unless the alien is

convicted of a criminal offense that subjects him or her to another ground of removability or inadmissibility. Such an event immediately terminates deferred action status.

Subsequent Years: Requests for Extension of Deferred Action Status

Meetings were scheduled with the Field Office Director around the time that the one-year deferred action status would expire and formal written requests were made for extension of deferred action status. These requests referenced that deferral of enforcement action was necessary to permit the full adjudication of the applicant's adjustment of status application. Deferred action status has been extended multiple times in order to enable USCIS to adjudicate the motion to reconsider, which was eventually granted. Following a subsequent interview and request-for-evidence process with USCIS, the client was granted adjustment of status in November 2015

Sample Documents

1. Template Request for Reconsideration of Deferred Action
2. Template Request for Extension/Renewal of Deferred Action
3. Example Memo Requesting Deferred Action Status dated August 5, 2009
4. Example Memo Requesting Deferred Action Status dated November 19, 2009
5. Example Letter from ICE approving deferred action status dated July 26, 2010

(Request for Reconsideration of Deferred Action Status)

DATE

Hand delivered

NAME

Field Office Director DRO
Immigration and Customs Enforcement
300 N. Los Angeles St, Room 7631

CLIENT NAME A# NUMBER

Dear Director NAME,

On behalf of Bishop NAME, Bishop NAME, Bishop NAME, ORGANIZATION, ORGANIZATION, and ORGANIZATION, I am writing you to further discuss the case of CLIENT NAME, A# NUMBER. I have previously submitted a Notice of Appearance form on behalf of Ms. CLIENT NAME. I hope that this letter will be considered along with the information to be shared at our meeting at your office today with Bishops NAME, NAME, and NAME.

On DATE, this office submitted a request for Deferred Action for Ms. CLIENT NAME. This request was supported by extensive evidence of a compelling need for deferred action and extensive community support for Ms. CLIENT NAME. Nevertheless, on DATE, NAME of your office denied our request for Deferred Action. The two-sentence denial letter did not address any of the evidence submitted in support of the request. The denial letter is attached as Exhibit 1.

We believe that this case warrants reconsideration, especially in light of Immigration and Customs Enforcement's recent decision to focus enforcement on criminals and threats to national security in its enforcement operations. As you are no doubt aware, on June 30, 2010, Assistant Secretary John Morton sent a memorandum to all ICE employees concerning the "Priorities for the Apprehension, Detention and Removal of Aliens." A copy of that memo is attached hereto as Exhibit 2. In the memo, Secretary Morton makes clear that ICE's priority should be first on aliens who pose a danger to national security or a risk to public safety, second on recent illegal entrants, and lastly on aliens who are fugitives or otherwise obstruct immigration controls. Ms. CLIENT NAME falls into none of these categories.

Importantly, the memo also calls upon "ICE employees to exercise sound judgment and discretion consistent with these priorities when conducting enforcement operations, making detention decisions, making decisions about release on supervision pursuant to the Alternatives to Detention Program, and litigation cases. Particular care should be given when dealing with lawful

permanent residents, juveniles, and the *immediate family members of U.S. citizens.*” Exhibit 2 at 4, emphasis added. As described below and in the petition for Deferred Action, **CLIENT NAME** is the mother of three U.S. citizen children and the wife of a naturalized U.S. citizen.

We also feel that this case requires reconsideration because **CLIENT NAME** is expecting another child. Her physician has deemed it too risky for **CLIENT NAME** to travel at this time, and after her child is born, she will obviously be unable to leave the United States during the early stages of her newborn’s life. See Exhibit 3, Letter from Dr. **NAME**, M.D. to **ICE DIRECTOR**. **“In my professional medical opinion, Ms. CLIENT NAME and her unborn child would risk significant and irreparable harm if she were detained or deported prior to the birth of her child and for six months after the child is born, barring any complications during the birth.”** Exhibit 3 at 1.

Director Morton echoed this concern in his recent Memorandum. “Absent extraordinary circumstances or the requirements of mandatory detention, field office directors should not expend detention resources on aliens ... who are ... elderly, pregnant, or nursing, or demonstrate that they are the primary caretakers of children or an inform person, or whose detention is otherwise not in the public interest.” Exhibit 2 at 3.

In addition, the condition of **CLIENT NAME**’s son **NAME** has become more acute. He was recently evaluated by a clinical psychologist. See Exhibit 4, Declaration of **NAME**, PhD. “My clinical impression regarding **NAME** is that he will suffer extreme and unusual hardship if he family is separated.” Exhibit 4 at 2.

In light of **CLIENT NAME**’s changed condition, the condition of her son **NAME**, the denial of the request for Deferred Action and the recent guidance put forth by Secretary Morton, we continue to seek appropriate avenues of relief for Ms. **CLIENT NAME**. I hereby request the opportunity to speak to you or one of your agents to discuss the following options for Ms. **CLIENT NAME**. We suggest that the following suggested actions be considered.

- 1. The Reconsideration of the Denial of the Request for Deferred Action.**

Sec. Morton’s memorandum makes clear that, in exercising prosecutorial discretion, “ICE officers and attorneys should be guided by the November 17, 2000 prosecutorial discretion memorandum from then-INS Commission Doris Meissner; the October 24, 2005 Memorandum from Principal Legal Advisor William Howard; and the November 7, 2007 Memorandum from then-Assistant Secretary Julie Myers.” Exhibit 2 at 4. This is precisely the authority we cited to in our request for Deferred Action for Ms. **CLIENT NAME**. The Memorandum also states that “[a]dditional guidance on prosecutorial discretion is forthcoming.” *Id.*

In light of the very recent affirmation of the authority cited in our petition for Deferred Action, we request that the denial be reviewed and Ms. **CLIENT NAME** be given deferred action. The two-sentence denial issued by Mr. **NAME** provides us no basis to evaluate on what grounds the petition was denied. In the alternative, we request that Ms. **CLIENT NAME** be allowed to leave Sanctuary and her petition held in abeyance until the forthcoming additional guidance for prosecutorial discretion is released and his petition then re-evaluated under the standards contained therein.

2. Immigration and Customs Enforcement Join in a Motion to Reopen Her Case

If ICE is unwilling to reconsider Ms. **CLIENT NAME** 's request for a Deferred Action, we therefore request that ICE join in a Motion to Reopen her deportation case.

CLIENT NAME is a thirty-one year old female, native and citizen of Mexico. She is married to **NAME**, a naturalized United States ("U.S.") citizen. Together, they have three children; **NAME** is eight years old, **NAME** is five years old and her youngest son, **NAME** is one year old. All three children are U.S. citizens by birth. **NAME**, a clinical psychologist opines in her previously-submitted report, "If **CLIENT NAME** is deported...these children will, in my professional opinion, be very negatively impacted with serious deleterious effects on the meeting of usual developmental milestones in their young lives."

CLIENT NAME entered the U.S. without inspection on or about **DATE**, 1998. Since that date, **CLIENT NAME** has resided continuously in the U.S. **CLIENT NAME** is the beneficiary of an I-130 petition that was filed on her behalf by her then Lawful Permanent Resident (LPR) husband, **NAME**, on **DATE**, 1999, (he became a naturalized U.S. citizen on **DATE**, 2002). In **DATE** 2003, **CLIENT NAME** applied *pro se* to adjust her status to lawful permanent resident. She was scheduled for an Adjustment interview on **DATE**, 2004. On the day of her interview, **CLIENT NAME** was informed by the interviewing officer that she would not be able to complete the Adjustment process because of a border detention in **YEAR**, when she was nineteen years old at the San Ysidro, California port-of-entry. There it was alleged that she made a false claim of U.S. citizenship at the border.

CLIENT NAME recalls presenting a document to the Inspection officer that was given to her by a smuggler (coyote), her aunt had hired in Tijuana, Mexico. The coyote handed **CLIENT NAME** a document and told her to memorize certain information on the document. **CLIENT NAME** was not told that it was a U.S. birth certificate. Being young, scared and unsophisticated, as she got closer to the Inspection station, she became more nervous and started to cry in front of the officer. She recalls handing the "document" to the officer. When the officer questioned her identity, she immediately gave her true name and nationality. **CLIENT NAME** states in her previously-submitted declaration, "I couldn't control myself and continued to cry, as I answered no."

CLIENT NAME deserves the opportunity to have the allegation that she made a false claim of U.S. citizenship adjudicated by an impartial party. **CLIENT NAME** does not agree that she made a knowing false claim of U.S. citizenship. We respectfully request that Immigration and Customs Enforcement join in a Motion to Reopen her case to allow her to challenge that allegation.

Summary of **CLIENT NAME**'s Case

Although there is no set formula for an exercise of prosecutorial discretion, the Service has provided several factors to be taken into account. "The decision should be based on the totality of circumstances, not on any one factor considered in isolation." Factors that are considered include: 1) length of residence in the U.S.; 2) criminal history; 3) humanitarian concerns; 4) whether the alien is eligible or likely to become eligible for some form of relief; and 5) community attention.

The pertinent factors to the instant case are discussed as follows:

1) Length of Residence in the United States

CLIENT NAME has lived in the United States since **YEAR**. During that time, she has not traveled outside of the country.

2) Criminal history

CLIENT NAME has no criminal history, aside from a border detention in **YEAR** at the San Ysidro, CA port-of-entry, when she was nineteen years old. She was detained for an attempted admission to the U.S. and was issued an expedited removal order, alleging a false claim to U.S. citizenship. **CLIENT NAME**'s accounting of this detention is described in detail in her sworn declaration.

CLIENT NAME recalls presenting a document to the Inspection officer that was given to her by a smuggler (*coyote*), her aunt had hired in Tijuana, Mexico. The *coyote* handed **CLIENT NAME** a document and told her to memorize certain information on the document. **CLIENT NAME** was not told that it was a U.S. birth certificate. Being young, scared and unsophisticated, as she got closer to the Inspection station, she became more nervous and started to cry in front of the officer. She recalls handing the "document" to the officer. When the officer questioned her identity, she immediately gave her true name and nationality. **CLIENT NAME** states in her declaration, "I couldn't control myself and continued to cry, **as I answered no.**" (emphasis added)

CLIENT NAME did not knowingly make a falsely claim to U.S. citizenship. She was handed a document that was in English and told to memorize the information on it. The instant she was questioned as to whether "it was her, she said no." Based on her recollection of the event, **CLIENT NAME** did not at any time claim that she was a citizen of the United States.

In the memorandum to the Regional Directors discussing Exercising Prosecutorial Discretion, on page 7 under Criminal History, Ms. Meissner directs that, "Other factors relevant to assessing criminal history include an alien's age at the time the crime was committed and whether or not she is a repeat offender." **CLIENT NAME** was nineteen years old when she was detained at the San Ysidro port-of-entry. She was eager to be reunited with her family members that already resided in the U.S. and desperate because she had attempted to obtain a tourist visa and was denied.

3) Humanitarian concerns

A. Family ties in the United States

Nearly all of **CLIENT NAME**'s immediate family and extended family reside in the U.S. All of these family members are either U.S. citizens or Lawful Permanent Residents. Neither parent has extended family in Mexico."

As stated earlier, **CLIENT NAME** is married to **NAME**, a naturalized U.S. citizen, who has resided in the U.S. since **YEAR**. **CLIENT NAME** and **NAME**'s three children were born in the U.S. and have lived in the U.S. for their entire lives.

Both of **CLIENT NAME**'s parents are Lawful Permanent Residents residing in the U.S. **CLIENT NAME** has ten siblings, eight of which reside legally in the U.S. (three are U.S. citizens; two are Lawful Permanent Residents and three others are in the process of legalizing their status in the U.S.

B. Medical conditions affecting **CLIENT NAME's family**

Both of **CLIENT NAME**'s parents have health issues. Her mother has a curved spine, osteoporosis and high blood pressure. **CLIENT NAME**'s father is seventy-four years old and was diagnosed with prostate cancer in September 2007. He has undergone two operations and continues to receive cancer treatment under the care of Dr. **NAME**, M.D.

C. Ties to **CLIENT NAME's home country**

CLIENT NAME was born in **CITY**, Mexico on **DATE**. **CLIENT NAME** was nineteen years old when she entered the United States in **YEAR**. She has never returned to Mexico. Except for one brother and one sister, both in religious orders, who reside in Mexico, **CLIENT NAME** does not have any ties to her home country.

D. Home County Conditions

The conditions of Mexico as they exist today would present tremendous difficulty to CLIENT NAME to survive there. "Our country certainly has many resources, but unfortunately they are in the hands of very few; it has progressed in communication, science and technology, but many are excluded. In a few words, we could say our beautiful country Mexico is a country that has a lot to offer, but it gives very little to it's people. Maybe this sounds very harsh, but the reality demonstrates this," says CLIENT NAME's two siblings who live in Mexico.

"...Where we are from in Mexico there are not a lot of jobs and it is hard for people to survive," says CLIENT NAME's dad, NAME. "I have been in contact with people who live in the same town we are from and they have told me that there is more drug use and crime going on. They said there are fewer jobs and people are stealing from each other. The jobs that do exist are not paid very well and the prices of everyday things are very high," says CLIENT NAME's mother, NAME.

Wages are very low in CITY, Mexico. When CLIENT NAME graduated from high school, she worked in a store in CITY that sold home furnishings, gifts and construction materials. "I worked from 10 a.m. until 8 p.m. with a one hour break. I worked seven days a week and the only days off were in the afternoons on Thursdays and Sundays. I was paid 700 pesos every two weeks which is about \$70 U.S. dollars."

Not only are economic conditions dire, but there is a lack of resources and services in regard to education, health care and public safety. "CLIENT NAME and her children in our country, simply and basically would be a family without a future. Here, the majority of the families live day to day, without knowing what the following day holds for them. We are from a very, small town, that barely has basic resources in terms of health and education. The best services are located in the larger cities and in general are offered to particular people and associations; this implicates the investment of time in order to move to the larger cities closer to you and money to cover the costs," says CLIENT NAME's two siblings who live in Mexico.

"If mother and children return to Mexico, the children will be living in a risk-laden social situation, with few resources to help them cope with the risks," said NAME, PhD. CLIENT NAME's brother NAME visited CITY, Mexico in December 2007. "While we were there, a young boy who is thirteen years old killed another young boy who was saying mean things to him. The young boy killed the other one by beating him to death with a bat. Afterwards, he castrated him and slit his throat. This is very unusual for our town, although the people who I know told me that there is more and more violence between the youth there. The mothers who are raising these children say that it is

very difficult to raise them alone without their fathers. Most of the fathers are living and working in the United States. In the case of **CLIENT NAME** she would most likely be alone because her husband would have to stay in the United States to work."

CLIENT NAME's brother also visited their home town in May 2008 and said, "I was very surprised because I went to a couple of the local bars there and saw many underage young people drinking. I recognized some of the young people as sons and daughters of people we know that live in the town. I know that they are only about fifteen or sixteen years old. Many of these young people were very intoxicated in the bar...I thought of my niece and nephew, **CLIENT NAME**'s children and how different their lives would be if they were forced to move to Mexico if their mom is deported...If they [nephews and nieces] had to live in **CITY** with their mother and no father, I would feel afraid for them." **NAME**, PhD said, "The children will struggle to cope with the separation using coping techniques that will leave them with too few inner resources to deal with the violent and dangerous environment now characteristic of **CITY**."

E. Extreme Hardship on **CLIENT NAME's U.S. Citizen husband and Children**

i. **CLIENT NAME**'s U.S. Citizen Children's Mental Health has been Affected, Continues to be Impacted and there Exists a Great Likelihood for Damage in the Future if **CLIENT NAME** is Deported.

Due to **CLIENT NAME**'s children's ages, especially the two older ones, they would suffer extreme hardship if their mother is deported. To date, the children are experiencing trauma since officers of the Immigration and Customs Enforcement arrived at their home in May 2007 and attempted to deport **CLIENT NAME**. All of her children were in the home at the time. Since May 2007, **CLIENT NAME** has lived outside her home, residing in sanctuary at a home on church property in Simi Valley, California.

Both minors are receiving mental health services at **CLINIC NAME**, California. **NAME** has been seen since **DATE** by **NAME**, LCSW and **NAME** has been seen since **DATE** by **NAME**, MFT.

"The minor, **NAME** has been diagnosed with an Adjustment Disorder with Mixed Emotional and Conduct Disturbance. The minor, **NAME** has been diagnosed with an Adjustment Disorder with Depressed Mood. Both minors have similar challenges to resolve as both experienced the same trauma when their mother was removed from the family home."

NAME is a psychologist with a practice in **CITY**, California who met and interviewed **CLIENT NAME** and her children,

NAME y and NAME in DATE. She did not evaluate the youngest child NAME because of his very young age.

Ms. NAME's "clinical impression of NAME is that she is a very active and bright child. She has been impacted by the separation of the mother from the family home. She copes with her feelings by taking control of situations such as the interview with me. These are techniques commonly used to deal with trauma, namely active denial and excessive taking control of situations. If her mother is deported NAME is likely to continue dealing with the trauma of the breakup of her family with these same techniques. While technically the situation does not meet criteria for Post-Traumatic Stress Disorder (in spite of the recurrent dreams reported by the mother), her use of these defensive techniques will most likely result in a precocious developmental path that will impact negatively on her handling of the usual developmental milestones for children."

"My clinical impression regarding NAME is that NAME is a more insecure child in comparison with his younger sister and also in comparison with an average 7 year-old boy. He has less healthy coping mechanisms than his sister for dealing with family situation. The trauma of a family breakup will result in NAME using 'numbing of his emotion' as the preferred coping technique, instead of effortful avoidance. Numbing of emotion is a most deleterious phenomenon in a child, because emotion is the primary facilitator for learning and meeting of developmental milestones in children. Moreover NAME has identified with his father...Separation from his father will deprive him of the role model needed to cope with the difficulties implicit in his move to an unfamiliar environment in Mexico," said NAME, PhD.

ii. CLIENT NAME's U.S. Citizen Children's Education and Educational Opportunities Would Suffer Extremely

CLIENT NAME's children's current education and future opportunities would suffer extremely if they are forced to relocate to Mexico with their mother. "Both NAME and NAME are United States Citizens and have been in all English classrooms. They would have a difficult time in all Spanish language classes. Also, the additional resources they need and may need in the future would not be available to them."

NAME and NAME have adapted to the educational system in the United States. In encountering learning difficulties, CLIENT NAME has made sure they received the proper intervention and support to address their needs and they are both excelling at school.

In **DATE**, **NAME** had difficulty with reading and resolving conflict appropriately, working without distracting others and participating in class. As of her second trimester she had improved in reading and was making friends and liked to help out in the classroom. **CLIENT NAME** assists her two older children with their homework, involves them in sports and teaches them to value their education.

NAME's school records indicate that he demonstrated difficulties in kindergarten and there was an identification of a speech and language impairment. In **DATE**, he failed a hearing test administered by the school. **CLIENT NAME** requested a language evaluation in **DATE** and **NAME** received speech therapy treatments at school. "Most likely, **NAME** would not have access to a speech therapist in Mexico. This could affect his self esteem, as well as feeling like he has to start all over in his education," wrote **NAME**, kindergarten teacher to both **NAME** and **NAME**. at **SCHOOL** in **CITY**, California.

In kindergarten, **NAME**'s teacher asked **CLIENT NAME** to read to him in a progress report sent home in **DATE**. By **DATE**, the teacher reported that he made good progress in reading. When **NAME** was in first grade, he "performed in the top 10% of his class, mastering over 280 out of 300 recommended English sight words and was able to do so because his mom helped him read all of the books that were sent home each night." **NAME** excelled in first grade with **CLIENT NAME** in the home assisting and supporting him. He received many awards such as; the award for outstanding student in language arts, student of the month, a special teacher's award and perfect attendance.

Mrs. **NAME**, **NAME**'s first grade teacher reported that "**NAME** was working towards the Outstanding Achievement in Language Arts Award but his grades and work went down during May and June and he did not manage to earn the award." Mrs. **NAME** reports in her letter attached herein that "This is the period of time that **NAME**'s grandmother mentioned to her that his mother was not at home and he was not receiving assistance with his homework." **NAME**'s education and grades have been affected by the absence of his mother from the home.

Not until she started to reside in sanctuary in Simi Valley, a town closer to **CITY**, California where the children reside and go to school, did his grades improve. Now, he has assistance with his homework from **CLIENT NAME** a few times a week. Mrs. **NAME** writes, "**NAME** is doing well in school, but if you remove his mother and her love and support, it will have a disastrous impact on **NAME**. She ends her letter of support with, "Please grant the

petition of **CLIENT NAME** to help secure the educational future of **NAME**."

iii. CLIENT NAME's U.S. Citizen Children's Care would be Compromised without Their Mother Living in the United States with Them.

In **DATE**, **CLIENT NAME** made the decision to move out of her home and into a church in sanctuary while her legal options were being considered. Because her husband works two jobs in order to make the mortgage payment on a house they bought, **CLIENT NAME**'s two older children, **NAME** and **NAME**, have lived with her parents in **CITY** near the school they attend.

To date, the children suffer anxiety and fear due to their living situation. They are not living in the home they were being raised in, they do not see their mother everyday as they wake up in the morning, go to and from school and when going to bed at night. **CLIENT NAME**'s mother describes, "If they stay at my home for a week without going to visit her and their younger brother, they start to get anxious, crying that they want to go see them." When the children do visit their mother, they experience strong emotions upon having to leave the home she is staying in. The Reverend of the Church where **CLIENT NAME** is staying has spent extensive time with both **CLIENT NAME** and her children and describes, "Her children **NAME** and **NAME** have struggled with fear and anger as they have had to endure prolonged absences from their mother."

"The consistency of these children's lives has been altered and they are struggling to make the best with their current living situation, living apart from their mother," says **NAME**, LCSW. **NAME** is a teacher who lives in Simi Valley and teaches in **CITY**, thus she provides transportation to the children to enable them to see their mother during the week. **NAME** comments, "I see and hear daily the questions, concerns and anxiety that **CLIENT NAME**'s children experience regarding their concerns about their mother." **NAME**, LCSW who has provided therapy on a weekly basis to both **NAME** and **NAME** comments, "In order for these children to develop and flourish the stability of their family unit and environment should be maintained."

If **CLIENT NAME** were to be deported and the decision was made that **CLIENT NAME**'s children had to remain in the United States, **CLIENT NAME** and her husband would be hard pressed to find full time care for their children. **NAME**, **CLIENT NAME**'s husband comments, "I would have to make a decision about what I would do. I might have to stay here to work to maintain my family in Mexico because there are no jobs there. The decision to deport

my wife would separate my family. My children have the right to grow up and live in a united family with both parents that want to raise them together in the country they were born in." NAME further comments in his declaration, that he is depressed and nervous at times due to the current situation. If his family were separated, there is a likelihood that these emotions could increase and affect his ability to care for his children without their mother.

CLIENT NAME's children would be not able to be cared for by their maternal grandparents. "If CLIENT NAME had to leave to Mexico and NAME and NAME had to stay here in the United States, it would be very difficult for them. My wife and I would try to take care of them but it would be difficult to take them to school and pick them up with the doctor's appointments we have. The children also ask me for help on their homework because their father works two jobs and I don't know how to help them. My son NAME has a son who is autistic and he comes to our home every afternoon after school. He requires a lot of attention and care from us. It would be very difficult for me and my wife to take care of all of the children with our medical conditions," says NAME, CLIENT NAME's father.

CLIENT NAME's mother, NAME comments, "If CLIENT NAME lived in Mexico and left her children here, it would be very difficult for me and my husband to take care of their children every day. I have raised eleven kids and now I am helping to raise my two grandchildren. I feel that I can do this right now and do it with a lot of pleasure, but hopefully it will be temporary. I do not know if I can do this forever and raise two young children all over again. I have to consider my patience and my health. I am not in the same health and as I get older, it is harder to keep my patience."

4) Whether the alien is eligible or likely to become eligible for other relief

As stated earlier, CLIENT NAME is the beneficiary of an I-130 petition that was filed on her behalf on DATE. CLIENT NAME has twice attempted to adjust status in the U.S. based on her eligibility under 245(i) of the Immigration and Nationality Act ("INA"). Once, in YEAR and again in YEAR. Both applications were denied because of the brief border detention in YEAR, more than ten years ago.

The application for adjustment of status is still pending with CIS, however the I-601 (waiver for grounds of inadmissibility) was denied on DATE. A notice of appeal of the I-601 denial has been filed and is still pending with the AAO, as evidenced by the Receipt Notice dated DATE.

5) Community Attention

For the ten years that **CLIENT NAME** has lived in the United States she has demonstrated her stellar character to both her family and members of the community. So much so, that many people who have gotten to know her have written letters in support of this request.

On **DATE**, Congresswoman **NAME** of the #rd District of California wrote, "I am requesting that **CLIENT NAME** be permitted to live with her family while her application for adjustment is considered...While I understand that our country's immigration system is complex and can be difficult to navigate, as a public servant I strongly believe in the importance of keeping families together. I am aware of DHS guidelines which instruct Field Offices to exercise humanitarian discretion when faced with primary caretakers, with special consideration for breast-feeding mothers like **CLIENT NAME**. I concur with the need to exercise this discretion as there are times when the separation of a family would cause incalculable suffering and should, if at all possible, be avoided."

Both of **CLIENT NAME**'s parents, nearly all of her siblings, a sister-in-law and her father-in-law have provided letters in support of this request. Her husband describes her as "...a good mother to our three children and a good wife to me. She has worked outside of the home to contribute to achieving our goals and has always made time to spend with our children. **CLIENT NAME** did things and still tries to do things to make sure that our family is united. Together we would take the kids to the park or beach and play with them."

CLIENT NAME's mother describes her as having a loving character and details how much assistance **CLIENT NAME** was to her parents, picking her mother up and taking her to doctor's appointments. Her brother **NAME** states, "My parents have always needed help for a lot of things and she was always the one mindful of them and all of their needs; for their medical appointments, to take them to buy the things they needed and all of that...Because my parents are older people, she is the one who would help them out."

Expressions of opinions in favor of this request for the exercise of favorable prosecutorial discretion are evidenced by the letters and declarations of seven community members who proudly call themselves **CLIENT NAME**'s friends. They describe her as, "a hard working person with strong morals and family values." **NAME** who visits with **CLIENT NAME** and her family on a weekly basis states, "They are a family that prays together often and practice their faith." **NAME**, a member of the community states that, "**CLIENT NAME** is thoughtful, dependable, loving and dedicated to raising her family."

A community member of **CITY**, California states that, "**CLIENT NAME** is a contributor to this country rather than a liability." Indeed there are many examples of ways in which **CLIENT NAME** has contributed to American society. **CLIENT NAME** volunteered in her

son's classroom at school when he was in first grade during a Christmas project. The kindergarten teacher of both her older children, **NAME** and **NAME** writes that she has known **CLIENT NAME** since **YEAR** and **CLIENT NAME** volunteered in her classroom, "monitoring the children, reading to them, working in small groups with them and watching them on the playground." **CLIENT NAME** is also described by Reverend **NAME** as a faithful member of her church, a person who pays taxes and does not have a criminal record.

CLIENT NAME has also demonstrated her contributions to our society through her acts of kindness to those in their times of need. Her father describes a time when **CLIENT NAME** started a monetary collection for a family whose mother had been killed in a tragic accident in their neighborhood. **CLIENT NAME**'s sister **NAME** comments, "I went to the store with **CLIENT NAME** and my other sister **NAME** in **CITY**, California. When we came out of the store, there was a couple that told us they did not have anything... **CLIENT NAME** went back into the store and bought them some food and other items like soap. She did not ask anything of them and took the food and things out to them."

Further evidence of the expressions of opinion in favor of this request can be seen by the letters from the faith-based community. From the Reverend of the church where **CLIENT NAME** is in sanctuary to Bishop **NAME** of the Archdiocese of Los Angeles, these religious figures have spoken on her and her family's behalf.

I am available to discuss these suggestions or any others you may have. Please feel free to contact me at **PHONE NUMBER** or at **EMAIL**.

Thank you for your consideration.

Sincerely,

NAME

Exhibits as described above.

(Request for Extension/Renewal of Deferred Action)

DATE

NAME

Field Office Director
Immigration and Customs Enforcement
300 N. Los Angeles Street
Los Angeles, CA. 90012

RE: CLIENT NAME (A# NUMBER)
Deferred Action Extension Renewal

Dear Field Office Director NAME,

Thank you for recently meeting with Bishop NAME, Reverend NAME, NAMES and myself regarding the case of CLIENT NAME. As you know I have previously submitted an executed G-28 in this case.

I am writing to respectfully request that CLIENT NAME's deferred action status be extended for a period of one year in order to permit full adjudication of the request we have presented to the USCIS to reconsider its denial of CLIENT NAME's application for lawful permanent resident status. A copy of our correspondence to USCIS District Director NAME dated today is attached (without exhibits) along with a copy of the most recent grant of CLIENT NAME's deferred action status. We respectfully request that her DAS be extended for a period of one year during which time we assume USCIS will make a final decision on CLIENT NAME's eligibility for adjustment of status.

Please do not hesitate to contact me if you have any questions. My mobile number is NUMBER. Thank you.

Respectfully,

NAME AND SIGNATURE

Attachments (as noted in text above)

August 5, 2009

U.S. Department of Homeland Security
Citizenship and Immigration Services
Attn: Ms. Jane Arrellano, District Director
District 23
300 N. Los Angeles Street, Room 6570
Los Angeles, California 90012

Re: **Request for Deferred Action Status**

Liliana [REDACTED]

Dear Sir or Madam:

This office represents Mrs. Liliana [REDACTED] in her request for the exercise of prosecutorial discretion and grant of Deferred Action status based on the exceptional circumstances present in this case. I have enclosed for your records a signed G-28, Notice of Entry of Appearance as Attorney. This request is further made in collaboration with three other similar petitions with the Center for Human Rights and Constitutional Law.

Previous communication regarding Mrs. [REDACTED] request were made in person with Agent Eric Saldana, the Assistant Director of the Field Office on August 4, 2008. At that time, a packet of supporting documents warranting a favorable exercise of prosecutorial discretion were provided to Officer Saldana. Since the August 4, 2008 meeting with Officer Saldana, there has been no response in regards to the Mrs. [REDACTED] request for Deferred Action Status.

AUTHORITY TO GRANT DEFERRED ACTION STATUS

In a memorandum dated November 17, 2000, addressing the exercise of prosecutorial discretion from then Commissioner Doris Meissner of the Immigration and Naturalization Service ("INS"), to Regional Directors, District Directors, Chief Patrol Agents and Regional and District Counsel, Ms. Meissner discusses the principles of Prosecutorial Discretion.

Ms. Meissner points out that the Principles of Federal Prosecution governing the conduct of U.S. Attorneys is the concept of a "substantial Federal Interest." She goes on to say that the principle provides a useful frame of reference for the INS, although applying it presents challenges that differ from those facing a U.S. Attorney. "In an immigration case, the interest at stake will always be Federal. Therefore, we must place particular emphasis on the element of substantiality. How important is the Federal interest in the case, as compared to other cases and priorities? As a general matter, INS officers may decline to prosecute a legally sufficient

immigration case if the Federal immigration enforcement interest that would be served by prosecution is not substantial.”¹

Identified priorities for deploying investigative resources were detailed in Ms. Meissner’s memorandum. They include “identifying and removing criminal and terrorist aliens, deterring and dismantling alien smuggling, minimizing benefit fraud and document abuse, responding to community complaints about illegal immigration and building partnerships to solve local problems.”²

Mrs. Liliana [REDACTED] (“Liliana”), is not a criminal alien nor a terrorist alien. She has not been involved alien smuggling or benefit fraud. Individuals from her community in Ventura County, ranging from Congresswoman Lois Capps to her children’s school teachers support her request to remain in the U.S. lawfully. Liliana is not an immigrant so described above within the Department’s high priority to identify and remove and the enforcement interest in deporting her is not substantial.

FACTUAL AND PROCEDURAL BACKGROUND

Liliana is a thirty-one year old female, native and citizen of Mexico. She is married to Gerardo [REDACTED] a naturalized United States (“U.S.”) citizen. Together, they have three children; Gerardo Jr. is eight years old, Susy is five years old and her youngest son, Paul is one year old. All three children are U.S. citizens by birth. Margaret [REDACTED] PhD a clinical psychologist opines in her report, “If Liliana is deported...these children will, in my professional opinion, be very negatively impacted with serious deleterious effects on the meeting of usual developmental milestones in their young lives.”³

Liliana entered the U.S. without inspection on or about February 15, 1998. Since that date, Liliana has resided continuously in the U.S. Liliana is the beneficiary of an I-130 petition that was filed on her behalf by her then Lawful Permanent Resident (LPR) husband, Gerardo [REDACTED] on 10-7-1999, (he became a naturalized U.S. citizen on 11-20-2002. In July 2003, Liliana applied *pro se* to adjust her status to lawful-permanent resident. She was scheduled for an Adjustment interview on 5-7-2004. On the day of her interview, Liliana was informed by the interviewing officer that she would not be able to complete the Adjustment process because of a border detention in 1998, when she was nineteen years old at the San Ysidro, California port-of-entry. She was free to leave and was instructed to return home to husband.

After the initial interview on 5-7-2004, Liliana did not receive a written notice or decision regarding the denial of her Adjustment application. It wasn’t until the early morning hours of 5-16-2007, when ICE (Immigration & Customs Enforcement) officers stormed Liliana’s home at 1944 San Benito St. in Oxnard, CA to arrest her on an alleged outstanding Order of Deportation. Because Liliana was nursing her infant son, Paul, the officers instructed Liliana to report to the ICE office in Camarillo, CA on 5-21-2007 for deportation to Mexico.

¹ Page 4 of the Memorandum of November 17, 2000 attached hereto as Ex. 1

² Page 5 of the Memorandum of November 17, 2000 attached here to as Ex. 1

³ Page 3, paragraph 21 of the Declaration of Margaret [REDACTED] PhD attached here to as Ex. 12

On 5-7-2004, Liliana sought sanctuary with VC CLUE (Ventura County Clergy and Laity United for Economic Justice), while all legal options were being considered. Liliana remains in sanctuary with the United Church of Christ of Simi Valley, CA.

On 9-5-2007, Liliana finally received a decision on the aforementioned 2003 application for Adjustment of Status at her former address, 280 Helsam Ave., Oxnard, CA, (see Exhibit 5 – Decision on Application for Adjustment of Status dated 9-5-2007.)

APPLICABLE STANDARD

Although there is no set formula for an exercise of prosecutorial discretion, the Service has provided several factors to be taken into account. “The decision should be based on the totality of circumstances, not on any one factor considered in isolation.”⁴ Factors that are considered include: 1) length of residence in the U.S.; 2) criminal history; 3) humanitarian concerns; 4) whether the alien is eligible or likely to become eligible for some form of relief; and 5) community attention.

The pertinent factors to the instant case are discussed as follows:

1) Length of Residence in the United States

Liliana has lived in the United States since 1998. During that time, she has not traveled outside of the country.

2) Criminal history

Liliana has no criminal history,⁵ aside from a border detention in 1998 at the San Ysidro, CA port-of-entry, when she was nineteen years old. She was detained for an attempted admission to the U.S. and was issued an expedited removal order, alleging a false claim to U.S. citizenship. Liliana’s accounting of this detention is described in detail in her sworn declaration.

Liliana recalls presenting a document to the Inspection officer that was given to her by a smuggler (*coyote*), her aunt had hired in Tijuana, Mexico. The *coyote* handed Liliana a document and told her to memorize certain information on the document. Liliana was not told that it was a U.S. birth certificate. Being young, scared and unsophisticated, as she got closer to the Inspection station, she became more nervous and started to cry in front of the officer. She recalls handing the “document” to the officer. When the officer questioned her identity, she immediately gave her true name and nationality. Liliana states in her declaration, “I couldn’t control myself and continued to cry, as I answered no.” (emphasis added)⁶

Liliana did not knowingly make a falsely claim to U.S. citizenship. She was handed a document that was in English and told to memorize the information on it. The instant she was

⁴ Pages 7-8 of the Memorandum of November 17, 2000 attached here to as Ex. 1

⁵ United States Department of Justice/Federal Bureau of Investigation attached as Ex. 2

⁶ Pages 1-2, paragraphs 2-8 in Petitioner Liliana’s declaration attached herein as Ex. 3

questioned as to whether "it was her, she said no."⁷ Based on her recollection of the event, Liliana did not at any time claim that she was a citizen of the United States.

In the memorandum to the Regional Directors discussing Exercising Prosecutorial Discretion, on page 7 under Criminal History, Ms. Meissner directs that, "Other factors relevant to assessing criminal history include an alien's age at the time the crime was committed and whether or not she is a repeat offender."⁸ Liliana was nineteen years old when she was detained at the San Ysidro port-of-entry. She was eager to be reunited with her family members that already resided in the U.S. and desperate because she had attempted to obtain a tourist visa and was denied.⁹

3) Humanitarian concerns

A. Family ties in the United States

Nearly all of Liliana's immediate family and extended family reside in the U.S. All of these family members are either U.S. citizens or Lawful Permanent Residents. Neither parent has extended family in Mexico."¹⁰

As stated earlier, Liliana is married to Gerardo [REDACTED] a naturalized U.S. citizen, who has resided in the U.S. since 1986.¹¹ Liliana and Gerardo's three children were born in the U.S. and have lived in the U.S. for their entire lives.¹²

Both of Liliana's parents are Lawful Permanent Residents residing in the U.S.¹³ Liliana has ten siblings, eight of which reside legally in the U.S. (three are U.S. citizens; two are Lawful Permanent Residents and three others are in the process of legalizing their status in the U.S..¹⁴

B. Medical conditions affecting Liliana's family

Both of Liliana's parents have health issues. Her mother has a curved spine, osteoporosis and high blood pressure.¹⁵ Liliana's father is seventy four years old and was diagnosed with prostate cancer in September 2007. He has undergone two operations and continues to receive cancer treatment under the care of Dr. Tung-Hua Chieng, M.D.¹⁶

⁷ Pages 1-2, paragraphs 2-8 in Liliana's declaration attached herein as Ex. 3

⁸ Page 7 of the Memorandum of November 17, 2000 attached here to as Ex. 1

⁹ Page 1, paragraph 8 of Liliana's declaration attached here to as Ex. 3

¹⁰ Page 2, paragraph 9 of Margaret [REDACTED] PhD's declaration attached here to as Ex. 12

¹¹ Page 1, paragraph 2 of Gerardo [REDACTED]'s attached here to as Ex. 4

¹² Gerardo [REDACTED] Jr., Susy [REDACTED] and Paul [REDACTED] U.S birth certificates attached here to as Group Ex. 6 & page 1, paragraph 6 Margaret [REDACTED], PhD declaration attached here to as Ex. 12

¹³ Page 1, paragraph 5 of Liliana's declaration attached here to as Ex. 3

¹⁴ Page 1, paragraph 7 of Liliana's declaration attached here to as Ex. 3

¹⁵ Page 1, paragraph 10-11 of Susana [REDACTED] declaration attached here to as Ex. 7

¹⁶ St. John's Medical Center History and Physical dated September 11, 2007 attached hereto as Group Ex. 9

C. Ties to Liliana's home country

Liliana was born in Pandicuaro, Michoacan, Mexico on March 7, 1978.¹⁷ Liliana was nineteen years old when she entered the United States in February 1998. She has never returned to Mexico. Except for one brother and one sister who reside in Mexico, Liliana does not have any ties to her home country.

D. Home County Conditions

The conditions of Mexico as they exist today would present tremendous difficulty to Liliana to survive there. "Our country certainly has many resources, but unfortunately they are in the hands of very few; it has progressed in communication, science and technology, but many are excluded. In a few words, we could say our beautiful country Mexico is a country that has a lot to offer, but it gives very little to it's people. Maybe this sounds very harsh, but the reality demonstrates this," says Liliana's two siblings who live in Mexico.¹⁸

"...Where we are from in Mexico there are not a lot of jobs and it is hard for people to survive," says Liliana's dad, Jesus [REDACTED].¹⁹ "I have been in contact with people who live in the same town we are from and they have told me that there is more drug use and crime going on. They said there are fewer jobs and people are stealing from each other. The jobs that do exist are not paid very well and the prices of everyday things are very high," says Liliana's mother, Susana [REDACTED].²⁰

Wages are very low in Pandicuaro, Michoacan, Mexico. When Liliana graduated from high school, she worked in a store in Pandicuaro that sold home furnishings, gifts and construction materials. "I worked from 10 a.m. until 8 p.m. with a one hour break. I worked seven days a week and the only days off were in the afternoons on Thursdays and Sundays. I was paid 700 pesos every two weeks which is about \$70 U.S. dollars."²¹

Not only are economic conditions dire, but there is a lack of resources and services in regard to education, health care and public safety. "Liliana and her children in our country, simply and basically would be a family without a future. Here, the majority of the families live day to day, without knowing what the following day holds for them. We are from a very, small town, that barely has basic resources in terms of health and education. The best services are located in the larger cities and in general are offered to particular people and associations; this implicates

¹⁷ Page 1, paragraph 1 of Liliana's declaration attached here to as Ex. 3 and Mexican birth certificate with English extract translation attached here to as Group Ex. 6

¹⁸ Page 1, last paragraph of siblings Ignacio & Lorena [REDACTED] letter attached hereto as Ex. 10

¹⁹ Page 3, paragraph 21 of Jesus [REDACTED]'s declaration attached here to as Ex. 8

²⁰ Page 4, paragraph 26 of Susana [REDACTED]'s declaration attached here to as Ex. 7

²¹ Page 2, paragraph 10 of Liliana's declaration attached here to as Ex. 3

the investment of time in order to move to the larger cities closer to you and money to cover the costs," says Liliana's two siblings who live in Mexico.²²

"If mother and children return to Mexico, the children will be living in a risk-laden social situation, with few resources to help them cope with the risks," said Margaret [REDACTED] PhD.²³ Liliana's brother Adolfo visited Pandicuaro, Michoacan, Mexico in December 2007. "While we were there, a young boy who is thirteen years old killed another young boy who was saying mean things to him. The young boy killed the other one by beating him to death with a bat. Afterwards, he castrated him and slit his throat. This is very unusual for our town, although the people who I know told me that there is more and more violence between the youth there. The mothers who are raising these children say that it is very difficult to raise them alone without their fathers. Most of the fathers are living and working in the United States. In the case of Liliana she would most likely be alone because her husband would have to stay in the United States to work."²⁴

Liliana's brother also visited their home town in May 2008 and said, "I was very surprised because I went to a couple of the local bars there and saw many underage young people drinking. I recognized some of the young people as sons and daughters of people we know that live in the town. I know that they are only about fifteen or sixteen years old. Many of these young people were very intoxicated in the bar...I thought of my niece and nephew, Liliana's children and how different their lives would be if they were forced to move to Mexico if their mom is deported...If they [nephews and nieces] had to live in Pandicuaro with their mother and no father, I would feel afraid for them."²⁵ Margaret [REDACTED] PhD said, "The children will struggle to cope with the separation using coping techniques that will leave them with too few inner resources to deal with the violent and dangerous environment now characteristic of Michoacan."²⁶

E. Extreme Hardship on Liliana's U.S. Citizen husband and Children

i. Liliana's U.S. Citizen Children's Mental Health has been Affected, Continues to be Impacted and there Exists a Great Likelihood for Damage in the Future if Liliana is Deported.

Due to Liliana's children's ages, especially the two older ones, they would suffer extreme hardship if their mother is deported. To date, the children are experiencing trauma since officers of the Immigration and Customs Enforcement arrived at their home in May 2007 and attempted to deport Liliana. All of her children were in the home at the time. Since May 2007, Liliana has lived outside

²² Page 2, first paragraph of the siblings Ignacio & Lorena [REDACTED]'s letter attached hereto as Ex. 10

²³ Page 3, paragraph 18 of Margaret [REDACTED], PhD's declaration attached hereto as Ex. 12

²⁴ Page 1, last paragraph of brother Adolfo [REDACTED]'s letter attached hereto as Group Ex. 11

²⁵ Page 2, first paragraph of brother, Adolfo [REDACTED]'s letter attached hereto as Group Ex. 11

²⁶ Page 3, paragraph 18 of Margaret [REDACTED] PhD's declaration attached here to as Ex. 12

her home, residing in sanctuary at a home on church property in Simi Valley, California.

Both minors are receiving mental health services at Clinicas del Camino Real in Oxnard, California. Gerardo Jr. has been seen since March 17, 2008 by Lucrecia [REDACTED] LCSW and Susy has been seen since February 8, 2008 by Lisette [REDACTED] MFT.²⁷

“The minor, Susy [REDACTED] has been diagnosed with an Adjustment Disorder with Mixed Emotional and Conduct Disturbance. The minor, Gerardo [REDACTED] has been diagnosed with an Adjustment Disorder with Depressed Mood. Both minors have similar challenges to resolve as both experienced the same trauma when their mother was removed from the family home.”²⁸

Margaret [REDACTED] is a psychologist with a practice in Oxnard, California who met and interviewed Liliana and her children, Suzy and Gerardo in February 2008. She did not evaluate the youngest child Paul because of his very young age.

Ms. [REDACTED]’s “clinical impression of Susy is that she is a very active and bright child. She has been impacted by the separation of the mother from the family home. She copes with her feelings by taking control of situations such as the interview with me. These are techniques commonly used to deal with trauma, namely active denial and excessive taking control of situations. If her mother is deported Suzy is likely to continue dealing with the trauma of the breakup of her family with these same techniques. While technically the situation does not meet criteria for Post-Traumatic Stress Disorder (in spite of the recurrent dreams reported by the mother), her use of these defensive techniques will most likely result in a precocious developmental path that will impact negatively on her handling of the usual developmental milestones for children.”²⁹

“My clinical impression regarding Jerry is that Jerry is a more insecure child in comparison with his younger sister and also in comparison with an average 7 year-old boy. He has less healthy coping mechanisms than his sister for dealing with family situation. The trauma of a family breakup will result in Jerry using ‘numbing of his emotion’ as the preferred coping technique, instead of effortful avoidance. Numbing of emotion is a most deleterious phenomenon in a child, because emotion is the primary facilitator for learning and meeting of developmental milestones in children. Moreover Jerry has identified with his father...Separation from his father will deprive him of the role model needed to cope with the difficulties implicit in his move to an unfamiliar environment in Mexico,”³⁰ said Margaret [REDACTED] PhD.

²⁷ Letter from Lucrecia [REDACTED] LCSW attached here to as Ex. 13

²⁸ Letter from Lucrecia [REDACTED] LCSW attached here to as Ex. 13

²⁹ Page 2, paragraph 15 of Margaret [REDACTED] PhD’s declaration attached hereto as Ex. 12

³⁰ Page 3, paragraph 17 of Margaret [REDACTED] PhD’s declaration attached hereto as Ex. 12

ii. Liliana's U.S. Citizen Children's Education and Educational Opportunities Would Suffer Extremely

Liliana's children's current education and future opportunities would suffer extremely if they are forced to relocate to Mexico with their mother. "Both Gerardo and Susy are United States Citizens and have been in all English classrooms. They would have a difficult time in all Spanish language classes. Also, the additional resources they need and may need in the future would not be available to them."³¹

Gerardo Jr. and Susy have adapted to the educational system in the United States. In encountering learning difficulties, Liliana has made sure they received the proper intervention and support to address their needs and they are both excelling at school.

In October 2007, Susy had difficulty with reading and resolving conflict appropriately, working without distracting others and participating in class. As of her second trimester she had improved in reading and was making friends and liked to help out in the classroom.³² Liliana assists her two older children with their homework, involves them in sports and teaches them to value their education.³³

Gerardo [REDACTED] Jr.'s school records indicate that he demonstrated difficulties in kindergarten and there was an identification of a speech and language impairment. In May 2005, he failed a hearing test administered by the school. Liliana requested a language evaluation in July 2005 and Gerardo received speech therapy treatments at school.³⁴ "Most likely, Gerardo would not have access to a speech therapist in Mexico. This could affect his self esteem, as well as feeling like he has to start all over in his education," wrote Angie [REDACTED] kindergarten teacher to both Susy and Gerardo Jr. at Lemonwood School in Oxnard, California.³⁵

In kindergarten, Gerardo's teacher asked Liliana to read to him in a progress report sent home in October 2005. By June 2006, the teacher reported that he made good progress in reading.³⁶ When Gerardo was in first grade, he "performed in the top 10% of his class, mastering over 280 out of 300 recommended English sight words and was able to do so because his mom helped him read all of the books that were sent home each night."³⁷ Gerardo excelled in first grade with Liliana in the home assisting and supporting him. He received

³¹ Page 2, paragraph 5 of Angie [REDACTED] letter, teacher at Lemonwood School attached hereto as Group Ex. 15

³² Susy [REDACTED] Kindergarten Progress Report from Lemonwood Elementary School attached herein as Ex. 16

³³ Page 3, paragraph 16 of Liliana's declaration attached herein as Ex. 3

³⁴ Gerardo [REDACTED] Jr.'s school records from Lemonwood Elementary School attached herein as Group Ex. 17

³⁵ Page 2, paragraph 5 of the Letter from Angie [REDACTED] of Lemonwood School attached herein as Group Ex. 15

³⁶ Gerardo [REDACTED] Jr.'s school records from Lemonwood Elementary School attached herein as Group Ex. 17

³⁷ Page 1, paragraph 3 of letter from Mrs. [REDACTED], Gerardo, Jr.'s 1st grade teacher attached herein as Group Ex. 15

many awards such as; the award for outstanding student in language arts, student of the month, a special teacher's award and perfect attendance.³⁸

Mrs. [REDACTED] Gerardo's first grade teacher reported that "Gerardo was working towards the Outstanding Achievement in Language Arts Award but his grades and work went down during May and June and he did not manage to earn the award."³⁹ Mrs. [REDACTED] reports in her letter attached herein that "This is the period of time that Gerardo's grandmother mentioned to her that his mother was not at home and he was not receiving assistance with his homework."⁴⁰ Gerardo's education and grades have been affected by the absence of his mother from the home.

Not until she started to reside in sanctuary in Simi Valley, a town closer to Oxnard, California where the children reside and go to school, did his grades improve. Now, he has assistance with his homework from Liliana a few times a week. Mrs. [REDACTED] writes, "Gerardo is doing well in school, but if you remove his mother and her love and support, it will have a disasterous impact on Gerardo. She ends her letter of support with, "Please grant the petition of Liliana to help secure the educational future of Gerardo."⁴¹

iii. Liliana's U.S. Citizen Children's Care would be Compromised without Their Mother Living in the United States with Them.

In May 2007, Liliana made the decision to move out of her home and into a church in sanctuary while her legal options were being considered. Because her husband works two jobs in order to make the mortgage payment on a house they bought, Liliana's two older children, Susy and Gerardo Jr. have lived with her parents in Oxnard near the school they attend.⁴²

To date, the children suffer anxiety and fear due to their living situation. They are not living in the home they were being raised in, they do not see their mother everyday as they wake up in the morning, go to and from school and when going to bed at night. Liliana's mother describes, "If they stay at my home for a week without going to visit her and their younger brother, they start to get anxious, crying that they want to go see them."⁴³ When the children do visit their mother, they experience strong emotions upon having to leave the home she is staying in. The Reverend of the Church where Liliana is staying has spent extensive time with both Liliana and her children and describes, "Her children Susy and Jerry have struggled with fear and anger as they have had to endure prolonged absences from their mother."⁴⁴

³⁸ Gerardo, Jr.'s awards from Lemonwood Elementary School attached herein as Group Ex. 17

³⁹ Page 1, paragraph 4 from Mrs., [REDACTED] Gerardo, Jr.'s 1st grade teacher attached herein as Group Ex. 17

⁴⁰ Page 1, paragraph 4 from Mrs., [REDACTED] Gerardo, Jr.'s 1st grade teacher attached herein as Group Ex. 17

⁴¹ Page 1, last paragraph from Mrs., [REDACTED] Gerardo, Jr.'s 1st grade teacher attached herein as Group Ex. 17

⁴² Deed of the House attached herein as Exhibit 18

⁴³ Page 3, paragraph 23 of Susana [REDACTED] declaration attached herein as Ex. 7

⁴⁴ Page 3, paragraph 14 of Reverend Dr. June C. Goudey's declaration attached herein as Group Ex. 19

"The consistency of these children's lives has been altered and they are struggling to make the best with their current living situation, living apart from their mother,"⁴⁵ says Lucrecia [REDACTED], LCSW. Rita [REDACTED] is a teacher who lives in Simi Valley and teaches in Oxnard, thus she provides transportation to the children to enable them to see their mother during the week. Rita comments, "I see and here daily the questions, concerns and anxiety that Liliana's children experience regarding their concerns about their mother."⁴⁶ Lucrecia [REDACTED] LCSW who has provided therapy on a weekly basis to both Susy and Gerardo comments, "In order for these children to develop and flourish the stability of their family unit and environment should be maintained."⁴⁷

If Liliana were to be deported and the decision was made that Liliana's children had to remain in the United States, Liliana and her husband would be hard pressed to find full time care for their children. Gerardo, Liliana's husband comments, "I would have to make a decision about what I would do. I might have to stay here to work to maintain my family in Mexico because there are no jobs there. The decision to deport my wife would separate my family. My children have the right to grow up and live in a united family with both parents that want to raise them together in the country they were born in."⁴⁸ Gerardo further comments in his declaration, that he is depressed and nervous at times due to the current situation.⁴⁹ If his family were separated, there is a likelihood that these emotions could increase and affect his ability to care for his children without their mother.

Liliana's children would be not able to be cared for by their maternal grandparents. "If Liliana had to leave to Mexico and Susy and Gerardo had to stay here in the United States, it would be very difficult for them. My wife and I would try to take care of them but it would be difficult to take them to school and pick them up with the doctor's appointments we have. The children also ask me for help on their homework because their father works two jobs and I don't know how to help them. My son Guillermo has a son who is autistic and he comes to our home every afternoon after school. He requires a lot of attention and care from us. It would be very difficult for me and my wife to take care of all of the children with our medical conditions,"⁵⁰ says Jesus [REDACTED] Liliana's father.

Liliana's mother, Susana [REDACTED] comments, "If Liliana lived in Mexico and left her children here, it would be very difficult for me and my husband to take care of their children every day. I have raised eleven kids and now I am helping to raise my two grandchildren. I feel that I can do this right

⁴⁵ Page 1, paragraph 2 of Lucrecia [REDACTED] letter attached herein as Ex. 13

⁴⁶ Page 1, paragraph 3 of Rita [REDACTED] s letter attached herein as Group Ex. 20

⁴⁷ Page 1, paragraph 2 of Lucrecia [REDACTED] letter attached herein as Ex. 13

⁴⁸ Page 2, paragraph 15 of Gerardo [REDACTED] declaration attached herein as Ex. 4

⁴⁹ Page 4, paragraph 17-18 of Gerardo [REDACTED] declaration attached herein as Ex. 4

⁵⁰ Page 3, paragraph 20 of Jesus [REDACTED] declaration attached herein as Ex. 8

now and do it with a lot of pleasure, but hopefully it will be temporary. I do now know if I can do this forever and raise two young children all over again. I have to consider my patience and my health. I am not in the same health and as I get older, it is harder to keep my patience.”⁵¹

4) Whether the alien is eligible or likely to become eligible for other relief

As stated earlier, Liliana is the beneficiary of an I-130 petition that was filed on her behalf on October 7, 1999.⁵² Liliana has twice attempted to adjust status in the U.S. based on her eligibility under 245(i) of the Immigration and Nationality Act (“INA”). Once, in 2004 and again in 2007. Both applications were denied because of the brief border detention in 1998, more than ten years ago.

The application for adjustment of status is still pending with CIS, however the I-601 (waiver for grounds of inadmissibility) was denied on August 14, 2008. A notice of appeal of the I-601 denial has been filed and is still pending with the AAO, as evidenced by the Receipt Notice dated September 16, 2008.⁵³

5) Community Attention

For the ten years that Liliana has lived in the United States she has demonstrated her stellar character to both her family and members of the community. So much so, that many people who have gotten to know her, have written letters in support of this request.

On June 16, 2008, Congresswoman Lois Capps of the 23rd District of California wrote, “I am requesting that Liliana be permitted to live with her family while her application for adjustment is considered... While I understand that our country’s immigration system is complex and can be difficult to navigate, as a public servant I strongly believe in the importance of keeping families together. I am aware of DHS guidelines which instruct Field Offices to exercise humanitarian discretion when faced with primary caretakers, with special consideration for breast-feeding mothers like Liliana. I concur with the need to exercise this discretion as there are times when the separation of a family would cause incalculable suffering and should, if at all possible, be avoided.”⁵⁴

Both of Liliana’s parents, nearly all of her siblings, a sister-in-law and her father-in-law have provided letters in support of this request. Her husband describes her as “...a good mother to our three children and a good wife to me. She has worked outside of the home to contribute to achieving our goals and has always made time to spend with our children. Liliana did things and still tries to do things to make sure that our family is united. Together we would take the kids to the park or beach and play with them.”⁵⁵

⁵¹ Page 3, paragraph 24 of Susana [REDACTED] declaration attached herein as Ex. 7

⁵² I-130 Approval Notice attached herein as Group Ex. 21

⁵³ I-601 Appeal receipt notice dated September 16, 2008 attached herein as Group Ex. 21

⁵⁴ Page 2, paragraphs 1-2 of Congresswoman Lois Capps’s 23rd District attached herein as Group Ex. 22

⁵⁵ Page 1, paragraph 8-9 of Gerardo [REDACTED] declaration attached herein as Ex. 4

Liliana's mother describes her as having a loving character and details how much assistance Liliana was to her parents, picking her mother up and taking her to doctor's appointments.⁵⁶ Her brother Adolfo states, "My parents have always needed help for a lot of things and she was always the one mindful of them and all of their needs; for their medical appointments, to take them to buy the things they needed and all of that...Because my parents are older people, she is the one who would help them out."⁵⁷

Expressions of opinions in favor of this request for the exercise of favorable prosecutorial discretion are evidenced by the letters and declarations of seven community members who proudly call themselves Liliana's friends. They describe her as, "a hard working person with strong morals and family values."⁵⁸ Alice Linsmeier who visits with Liliana and her family on a weekly basis states, "They are a family that prays together often and practice their faith."⁵⁹ Elina [REDACTED], a member of the community states that, "Liliana is thoughtful, dependable, loving and dedicated to raising her family."⁶⁰

A community member of Simi Valley, California states that, "Liliana is a contributor to this country rather than a liability."⁶¹ Indeed there are many examples of ways in which Liliana has contributed to American society. Liliana volunteered in her son's classroom at school when he was in first grade during a Christmas project.⁶² The kindergarten teacher of both her older children, Susy and Gerardo writes that she has known Liliana since 2004 and Liliana volunteered in her classroom, "monitoring the children, reading to them, working in small groups with them and watching them on the playground."⁶³ Liliana is also described by Reverend Daniel F. Romero as a faithful member of her church, a person who pays taxes and does not have a criminal record.⁶⁴

Liliana has also demonstrated her contributions to our society through her acts of kindness to those in their times of need. Her father describes a time when Liliana started a monetary collection for a family whose mother had been killed in a tragic accident in their neighborhood.⁶⁵ Liliana's sister Paulina [REDACTED] comments, "I went to the store with Liliana and my other sister Susy in Oxnard, California. When we came out of the store, there was a couple that told us they did not have anything...Liliana went back into the store and bought them some food and other items like soap. She did not ask anything of them and took the food and things out to them."⁶⁶

⁵⁶ Page 2, paragraphs 14-15 of Susana [REDACTED]'s declaration attached herein as Ex. 7

⁵⁷ Page 1, paragraph 2 of brother, Adolfo [REDACTED] declaration attached herein as Group Ex. 11

⁵⁸ Letter from Marisela [REDACTED] Liliana's friend and co-worker attached herein as Group Ex. 23

⁵⁹ Page 3, paragraph 18 of Alice [REDACTED] declaration attached herein as Group Ex. 20

⁶⁰ Page 1, paragraph 6 of Elina R. [REDACTED] declaration attached herein as Group Ex. 20

⁶¹ Page 2, paragraph 11 of Mary [REDACTED]'s declaration attached herein as Group Ex. 20

⁶² Page 1, of Mrs. [REDACTED]'s letter, Gerardo, Jr.'s 1st grade teacher attached herein as Group Ex. 15

⁶³ Page 2, of Mrs. Angie [REDACTED] letter, teacher at Lemonwood Elementary School attached herein as Group Ex. 15

⁶⁴ Page 1, of Reverend Daniel F. [REDACTED] letter attached herein as Group Ex. 19

⁶⁵ Page 3, paragraph 17 of Jesus [REDACTED] declaration attached herein as Ex. 8

⁶⁶ Page 1, paragraph 8 of Paulina [REDACTED]'s declaration attached herein as Group Ex. 11

Further evidence of the expressions of opinion in favor of this request can be seen by the letters from the faith based community. From the Reverend of the church where Liliana is in sanctuary to Bishop Solis of the Archdiocese of Los Angeles, these religious figures have spoken on her and her family's behalf.⁶⁷

CONCLUSION

This request and the enclosed packet is a credible factual record upon which to base a favorable exercise of prosecutorial discretion to stay the deportation order of Liliana [REDACTED] [REDACTED] thus allowing her to return home to her family under "Deferred Action" status, without fear of being forcibly removed from her the U.S.

Should you require any further information, please do not hesitate to contact this office. I look forward to your favorable consideration of this request.

Respectfully,



Gabriella Navarro-Busch, Esq.
Attorney for Liliana Sanchez de Salidvar

Enclosures

- G-28, Notice of Entry of Appearance of Attorney
- Table of Contents
 - Exhibits 1-67

⁶⁷ Letters from Religious leaders attached herein as Group Ex. 19

Notice of Entry of Appearance as Attorney or Representative

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. Availability of Records - During the time a case is pending, and except as otherwise provided in 8 CFR 103.2(b), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he/she may, in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

In re: [REDACTED], Liliana	Date: 1-7-08 File No: [REDACTED]
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I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s):

Name: GERARDO [REDACTED]	<input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Applicant <input type="checkbox"/> Beneficiary
Address: (Apt. No.) [REDACTED] (Number & Street) [REDACTED] (City) [REDACTED] (State) [REDACTED] (Zip Code)	
Name: [REDACTED] Liliana	<input type="checkbox"/> Petitioner <input type="checkbox"/> Applicant <input checked="" type="checkbox"/> Beneficiary
Address: (Apt. No.) [REDACTED] (Number & Street) [REDACTED] (City) [REDACTED] (State) [REDACTED] (Zip Code)	

Check Applicable Item(s) below:

- 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
California SUPREME COURT and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.
Name of Court
- 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- 3. I am associated with _____ the attorney of record previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
- 4. Others (Explain Fully.)

SIGNATURE 	COMPLETE ADDRESS Law Office of Gabriella Navarro-Busch 1583 Spinnaker Drive Suite 210 Ventura CA 93001
NAME (Type or Print) Gabriella Navarro-Busch	TELEPHONE NUMBER (805) 639-0037

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS:

Gabriella Navarro-Busch
(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:
I-485, ADJUSTMENT OF STATUS
and all immigration matters

Name of Person Consenting [REDACTED] Liliana	Date 1-7-08
---	----------------

(NOTE: Execution of this box is required under the Privacy Act of 1974 for U.S. citizens and lawful permanent residents, and for non-U.S. citizens who are lawfully admitted for permanent residence.)

REQUEST FOR DEFERRED ACTION STATUS

Liliana Sanchez de Saldivar, A77-194-565

TABLE OF CONTENTS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1.	Prosecutorial Discretion memo from prior INS Commissioner Doris Meissner dated Nov. 17, 2000	1-13
2.	FBI Identification Record for Liliana [REDACTED] dated Jun. 9, 2008	14-15
3.	Applicant, Liliana [REDACTED], sworn declaration	16-22
4.	Gerardo [REDACTED] sworn declaration, Liliana's U.S. citizen husband	23-27
5.	CIS Decision for I-485 filed in 2004, decision dated Sept. 5, 2007	28-30
6.	<ul style="list-style-type: none">Liliana's Mexican birth certificate and English extract translationLiliana's U.S. marriage certificateGerardo's (husband) U.S. Naturalization certificateSon, Gerardo's Jr.,'s U.S. birth certificateDaughter, Susy's U.S. birth certificateSon, Paul's U.S. birth certificate	31-32 33 34 35 36 37
7.	Susana [REDACTED] sworn declaration, Liliana's mother	38-42
8.	Jesus [REDACTED] sworn declaration, Liliana's father	43-47
9.	Jesus [REDACTED] medical records <ul style="list-style-type: none">Jun. 20, 2007 medical report from Dr. Tun-Hua Chieng, MDJul. 17, 2007 medical report from Dr. Tun-Hua Chieng, MDSept. 11, 2007 surgery records from St. John's Hospital and follow-up visitsJan. 22, 2008 surgery records from St. John's Hospital and follow-up visitMay 16, 2008 letter from Dr. Tun-Hua Chieng, MD	47-48 49 50-59 60-64 65
10.	Letter from Liliana's siblings, Ignacio and Lorena [REDACTED] in Mexico	66-67
11.	Liliana's siblings that reside in the U.S. <ul style="list-style-type: none">Letter from brother, Adolfo [REDACTED]Sworn declaration from brother, Guillermo [REDACTED]Letter from sister, Graciela [REDACTED]Sworn declaration from sister, Paulina [REDACTED]Letter from sister, Leticia [REDACTED]Sworn declaration from brother Bernardo [REDACTED]	68-69 70-71 72 73 74 75-76
12.	Declaration from Margaret [REDACTED] re. family interview, dated Mar. 20, 2008	77-79
13.	Letter from Lucrecia [REDACTED], LCSW from Clinicas del Camino Real, regarding treatment she's provided to Liliana's children, dated May 19, 2008	80
14.	Declaration from Margaret [REDACTED] re. interview with Gerardo, Liliana's husband dated Jun. 11, 2009 and Resume	81-85

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
15.	<ul style="list-style-type: none"> Letter from Angie [REDACTED] teacher at Lemonwood Elementary School in Oxnard, CA Martha [REDACTED] Gerardo's 1st grade teacher at Lemonwood School in Oxnard 	86-87 88
16.	Susy's Kindergarten Progress Report, 2007/2008	89-90
17.	Gerardo, Jr.'s school records <ul style="list-style-type: none"> 8-7-2007, Notice of Individualized Education Program (IEP); other special ed. programs 1st grade report, 2006/07; IEP records; continue speech therapy Kindergarten rpt, 2005/06; IEP records; placement in speech therapy Certificates and awards 	91-99 100-103 104-109 110-116
18.	<ul style="list-style-type: none"> Deed of Trust for home at 1944 San Benito St. in Oxnard, CA Mortgage documents for home at 1944 San Benito St. in Oxnard, CA 	117-128 129-134
19.	Letter from Religious leaders <ul style="list-style-type: none"> Letter from Rev. Dr. June C. Goudey, United Church of Christ, Simi Valley, CA Letter from Rev. Gary Commins, D.D., Rector and Rev. Julia Wakelee-Lynch, Associate Rector at St. Luke's Episcopal Church, Long Beach, CA Most Rev. Oscar A. Solis, D.D., Auxiliary Bishop of Los Angeles; Director, Office of Justice and Peace, Archdiocese of Los Angeles, CA Most Rev. Gabino Zavala, D.D., J.C.L., Bishop, San Gabriel Patorial Region, Archdiocese of Los Angeles, CA Rev. Chester L. Talton, Bishop Suffragan, The Episcopal Diocese of Los Angeles Rabbi Linda Bertenthal, Union for Reform Judaism, Pacific Southwest Council Rev. Norman D. Copeland, Sr., Presiding Elder, African Methodist Episcopal Church, Los Angeles, District Bishop Dean W. Nelson, Evangelical Lutheran Church in America, Southwest California Synod Rev. Daniel F. Romero, Retired Conference Minister, United Church of Christ, Southern California Nevada Conference Mary Ann Swanson, Resident Bishop, United Methodist Church, Los Angeles area Shakeel Syed, Executive Director, Islamic Shura Council of Southern California 	135-139 140 141 142-143 144-145 146-147 148-149 150-151 152-153 154-155 156-157 158-159
20.	Letters from community volunteers assisting Liliana and her family <ul style="list-style-type: none"> Letter from Rita [REDACTED] Sworn declaration from Alice Linsmeier, Director, Ventura County Clergy and Laity United for Economic Justice (VC CLUE) and New York Times article, "THE JANUARY REPORT; Treating Trauma, Jan. 7, 1990 Sworn declaration from Mary Starck Sworn declaration from Theadora [REDACTED] Member of the Unitarian Universalist Fellowship of the Conejo Valley, Ventura County, California Letter from Elina [REDACTED] 	160 161-166 167-168 169-170 171-172

21.	Adjustment of Status re-filing, Dec. 3, 2007	173
	<ul style="list-style-type: none"> • I-130 Approval Notice, priority date: Oct. 27, 1999 • I-485; I-212 and I-601 receipt notices, dated Dec. 20, 2007 • I-485 Interview notice for Aug. 6, 2008 • I-212 and I-485 Notice of Decision, dated Aug. 14, 2008 (denials) • I-290 Notice of Appeal receipt notice, dated Sept. 16, 2008 	174-176 177 178-184 185
22.	Letters from community leaders	186-187
	<ul style="list-style-type: none"> • Letter from Lois Capps, Congresswoman, 23rd District, California • Letter from Martin Sheen 	188-189
23.	Letters from friends and co-workers	190
	<ul style="list-style-type: none"> • Letter from Marisela [REDACTED] friend and co-worker • Letter from Luisa [REDACTED], friend and co-worker 	191
24.	Family photographs	192-196



Center for Human Rights and Constitutional Law

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November 19, 2009

Hand Delivered

George H. Lund, III
Field Office Director
Immigration and Customs Enforcement (DRO)
300 N. Los Angeles St, Room 7621
Los Angeles, CA 90012

*Re: Deferred Action Requests for Liliana [REDACTED],
Jose [REDACTED], Juan [REDACTED],
[REDACTED], Yolanda [REDACTED]*

Dear Mr. Lund,

On behalf of the Center for Human Rights and Constitutional Law (CHRCL), the New Sanctuary Movement, Clergy and Laity United for Economic Justice of California, and Clergy and Laity United for Economic Justice of Ventura County, California, I am submitting the enclosed petitions for Deferred Action Status or such other relief as you may extend on behalf of the four individuals listed above. These four individuals have openly resided in Sanctuary in religious communities in Southern California over the past two years. As discussed below, we are respectfully requesting a meeting as soon as reasonably possible with faith-based and ICE representatives to confer about these applications, and that these four individuals be permitted to live at home with their children with temporary employment authorization while their eligibility for relief, including Deferred Action Status, is considered by the agency.

On July 19, 2008, I wrote to Brian DeMore, then Acting Field Office Director, Office of Detention and Removal Operations, and informed him, as I had previously informed Government officials, that Liliana [REDACTED], Jose [REDACTED], Juan [REDACTED] and Yolanda [REDACTED] were residing in sanctuary at the United Church of Christ Simi Valley, St. Anne's Catholic Church, Santa Monica, San Pablo Lutheran, North Hollywood, and Immanuel Presbyterian Church, Los Angeles. We requested a meeting with ICE representatives to discuss these cases. My letter was accompanied by Notice of Appearance forms for these immigrants. My letter made clear that it is our intention to cooperate with ICE and other agencies to address any relief for which the four immigrants may be eligible. I also mentioned that we hoped an interim agreement could be reached permitting these four individuals to return to their homes under appropriate terms or conditions of supervision pending final adjudication of their cases.

On August 4, 2008, religious leaders from Southern California, including Rev. Leonard Jackson, Special Assistant to the Mayor, Dr. Jane Fisler Hoffman, United

Church of Christ, Fr. Richard Zanotti, Our Lady of the Holy Rosary Catholic Church and Member of Catholic Justice for Immigrants Task Force of the Archdiocese of Los Angeles, Rev. Frank Alton, Presbyterian Church, Rabbi Linda Bertenthal, Acting Director, Pacific Central, West Coast Council, Dr. Jane Fisler Hoffman, Interim Conference Minister for the Southern California and Nevada United Church of Christ, Fr. Mike Gutierrez, Pastor, St. Ann's Catholic Church, and Alice Linsmeier, Executive Director, Ventura County Clergy and Laity United for Economic Justice, met with representatives of ICE in Los Angeles to discuss these cases. Eric Saldana and Kenneth Cox represented ICE at the meeting.

Representatives of faith-based groups also recently met with representatives of DHS and ICE in Washington, DC, including Jannah Scott, Th. D., Deputy Director, Center for Faith-Based and Community Initiatives, U.S. Department of Homeland Security, Andrew Lorenzen-Strait, Coordinator, National Community Outreach Program, ICE Office of Policy, and Stephanie Marica, ICE Office of Detention and Removal Operations, to discuss national policies impacting on family unity and the cases of a small number of immigrants in sanctuary, including the four immigrants addressed in this letter.

I am now writing to provide you with the attached four applications for Deferred Action Status and to respectfully request a follow-up meeting with faith-based representatives during the next two to three weeks to explore whether you would consider granting these four immigrants interim relief and employment authorization while their applications for Deferred Action Status are thoroughly considered and other possible forms of relief explored with ICE representatives.

In the event that interim relief in any form is granted, we and representatives of the faith-based congregations where these immigrants have taken sanctuary will keep ICE informed of their whereabouts and the immigrants are fully prepared to report in person or telephonically as may be reasonably required by ICE.

What follows is a brief summary of these four cases. The submitted petitions and hundreds of supporting documents demonstrate that certain compelling factors are found in each case. All involve long-term residents of the United States, with dependant United States-citizen children, with little or no ties to their countries of origin, and with strong community support including from government officials. None of these individuals have any criminal history. Religious communities in Southern California support these four individuals and believe that they should clearly be allowed to remain here in the United States.

Liliana [REDACTED], is a thirty-one year old woman with a U.S.-citizen husband and three young United States citizen children. Ms. [REDACTED] has been in the United States for over a decade and is the beneficiary of an I-130 petition that her husband filed in 1999. She has been denied adjustment of status because of an allegation that she made a false claim of U.S. citizenship at the border in 1998. Assuming *arguendo* there was a false claim, we understand that it was immediately withdrawn. We would like to review but have not been provided documents showing the alleged false claim. In any event, as shown in the enclosed

petition, her father suffers from prostate cancer and her mother suffers from health complications making it impossible for them to care for Ms. ██████'s small children. We believe that Ms. ██████ should be granted Deferred Action Status. Pending a complete review of her application, we urge you to permit her to live with her family with temporary employment authorization and without fear of imminent arrest.

Juan ██████, ██████, fled persecution by guerillas in Guatemala over 17 years ago and has been in the United States ever since. He runs a landscaping business, pays his taxes and owns a home with his mother in Pasadena. He is the father of two U.S. citizen children, both under the age of ten. His mother and sister have received asylum based on the same persecution Juan faced in Guatemala. Juan was issued a Notice to Appear in removal proceedings and at a hearing in 2002 was informed by the Immigration Judge that he was required to appear for a further hearing on October 17, 2002. I understand that it was his attention to apply for asylum. A short time after his hearing, he received a notice in the mail. Mr. ██████ does not read English and misinterpreted the notice as a reminder of his upcoming October 17, 2002 hearing. Actually, the notice *accelerated* his hearing date to October 2, 2002. Mr. ██████ dutifully arrived at court on October 17, 2002 only to be told that he had missed his hearing on October 2, 2002, and a removal order was entered against him. Mr. ██████ is the approved beneficiary of a form I-130 filed by his mother, who is a United States citizen. We respectfully request that Mr. ██████ be granted Deferred Action Status and temporary employment authorization while ICE and CIS determine whether the CIS may entertain an application for adjustment of status, or whether ICE will join a Motion to Reopen his removal case so that he may apply for and be granted adjustment of status by an Immigration Judge.

Jose ██████, has been in the United States for over twenty years. In 2002, Mr. ██████ applied for cancellation of removal on the advice of an attorney. His case was not fully presented and his application was denied. At about the same time, his wife abandoned the family and he became the sole provider and caretaker for his two minor United States citizen children. Had his wife left the family shortly before he applied for cancellation, rather than at the time his application was denied, he may have made out an approvable case. Mr. ██████ suffered a work-related injury in July of 2001 and has been rated "permanent and stationary" by medical experts. We believe that Jose should be granted Deferred Action Status. Pending a complete review of his application, we urge you to permit him to live with his family with temporary employment authorization and without fear of imminent arrest.

Yolanda ██████, has been in the United States for over twenty years. She became an orphan in Guatemala at the age of fifteen and has no ties whatsoever to that country. She has extensive family ties to the United States and is the sole provider for her U.S.-citizen daughter. Her daughter suffers from well-documented learning disabilities. Ms. ██████ sought asylum in 1996 on the advice of a notary. She only briefly met with the attorneys she retained and her petition was inadequately prepared and presented, resulting in an administrative denial. The evidence submitted herein demonstrates that there is widespread community support for Yolanda to remain in the U.S. The ICE should take into account that in a short

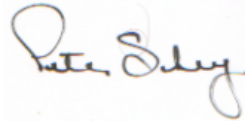
George H. Lund, III
November 19, 2009
Page 4

period of time Ms. [REDACTED]'s U.S. citizen child will be able to file an immediate relative visa petition on her behalf. Ms. [REDACTED] is one of the leading members of her congregation at Immanuel Presbyterian Church. She is a deacon and has spent countless hours ministering to those in need. Pending a complete review of her application, we urge you to permit her to live with her family with temporary employment authorization and without fear of imminent arrest.

I look forward to hearing from you or one of your officers. My mobile number is 323 251-3223. If you need any further information, please let me know.

Thank you for your consideration.

Sincerely,



Peter Schey
President and Executive Director

Enclosures: Four binders - Petitions for Deferred Action Status, Supporting Evidence

ccs: John T. Morton (without enclosures)
Assistant Secretary of Homeland Security for
U.S. Immigration and Customs Enforcement (ICE)
500 12th St, SW
Washington, DC 20536

Jannah Scott, Th. D. (with enclosures)
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Center for Faith-Based and Community Initiatives
U.S. Department of Homeland Security
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Andrew Lorenzen-Strait (without enclosures)

George H. Lund, III
November 19, 2009
Page 5

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U.S. Department of Homeland Security
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Thomas J. Schiltgen – AFOD (without enclosures)
Office of Detention and Removal
Immigration and Customs Enforcement
300 N. Los Angeles St. Room 7631
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///

Office of Enforcement and Removal Operations
Office of the Field Director
U.S. Department of Homeland Security
300 North Los Angeles Street #7621
Los Angeles, California, 90012



U.S. Immigration and Customs Enforcement

JUL 26 2010

Liliana SANCHEZ de Saldivar
c/o Peter Soney
Center for Human Rights and Constitutional Law
256 S. Occidental Blvd
Los Angeles, CA 90057

Re: Deferred Action for Liliana [REDACTED]

Dear Ms. [REDACTED]

The Department of Homeland Security, Immigration and Customs Enforcement (ICE), in exercising its prosecutorial discretion, has placed you in Deferred Action status, effective immediately, for a period of one year. This action is based, in part, upon your continuing efforts to seek successful adjudication in your case allowing you to lawfully immigrate to the United States (US).

Deferred Action does not confer any immigration status, or bestow protection or benefits upon an alien, nor is it a reflection of an alien's immigration status. It does not affect periods of unlawful presence as defined in section 212(a)(9) of the Immigration and Nationality Act (INA) and it does not alter the status of any alien who is present in the US without being inspected and admitted.

During this period, ICE will not attempt to remove you from the US unless you are convicted of a criminal offense that subjects you to another ground of removability or inadmissibility under the INA. If such an event occurs, your Deferred Action status will be immediately terminated and ICE will seek to effect your removal order. At ICE's discretion, you may be required to report to the field office (location, date and time will be in the correspondence), during this period. Although Deferred Action is not an immigration status, you may be granted work authorization pursuant to 8 CFR 271.12(c)(14).

Sincerely,

A handwritten signature in black ink, appearing to read "T. S. Robbins".

Timothy S. Robbins
Field Office Director
Los Angeles Field Office