

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
LILIAN PAHOLA CALDERON JIMENEZ)	
and LUIS GORDILLO, et al.,)	
)	
Individually and on behalf of all others)	
similarly situated,)	No. 1:18-cv-10225-MLW
)	
Plaintiffs-Petitioners,)	
)	
v.)	
)	
KIRSTJEN M. NIELSEN, et al.,)	
)	
Defendants-Respondents.)	
_____)	

PETITIONERS' NOTICE OF FILING

To: The Clerk of the Court and all parties of record

Please take notice that Petitioners are filing on the public docket a redacted version of their August 1, 2018 Supplemental Memorandum in Support of their Motions for Preliminary Injunctive Relief and Class Certification and accompanying exhibits. Dkt. Nos. 127, 128. Respondents reviewed the memorandum and exhibits and proposed redactions for Confidential Information. Accordingly, Petitioners now file redacted versions of the Supplemental Memorandum, attached as Exhibit 1, the Declaration of Stephen N. Provazza, attached as Exhibit 2, and accompanying exhibits, attached as Exhibits A through J.

Respectfully submitted this 13th day of August, 2018.

/s/ Kevin S. Prussia

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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2018, a true copy of the foregoing and the accompanying exhibits will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF).

/s/ Kevin S. Prussia
Kevin S. Prussia

EXHIBIT 1

REDACTED

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LILIAN PAHOLA CALDERON JIMENEZ)	
and LUIS GORDILLO, et al.,)	
)	
Individually and on behalf of all others)	No. 1:18-cv-10225-MLW
similarly situated,)	
)	
Plaintiffs-Petitioners,)	
)	ORAL ARGUMENT REQUESTED
v.)	
)	
KIRSTJEN M. NIELSEN, et al.,)	
)	
Defendants-Respondents.)	

**PETITIONERS' SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF THEIR MOTIONS FOR
PRELIMINARY INJUNCTIVE RELIEF AND CLASS CERTIFICATION**

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INTRODUCTION

Limited discovery has revealed the stunning extent to which Department of Homeland Security (DHS) in New England transformed the 2016 provisional waiver regulations—which were supposed to protect the families of noncitizens with final orders of removal from unnecessary separation and hardship during the legalization process—into a trap calculated to cause that separation. Discovery has also demonstrated that Immigration and Customs Enforcement (ICE) is entrenched in its commitment to detain and remove the noncitizen members of the putative class despite their efforts to obtain lawful status under these regulations. Petitioners submit this supplemental brief pursuant to the Court’s order (Dkt. No. 117) to alert the Court to information uncovered by the documents and depositions which confirm the need for immediate, class-wide intervention to prevent irreparable harm to Petitioners and putative class members.

First, the discovery has verified that ICE’s Enforcement and Removal Operations (ERO) in Boston intends to continue detaining and removing putative class members despite their ability to obtain lawful status under the provisional waiver regulations. For one thing, Rebecca Adducci, Interim Field Office Director for the Boston ERO, has confirmed that Respondents have disavowed what it told the Court just two months ago—that “absent a danger to public safety, the Boston Field Office would no longer make arrests of persons pursuing I-130s and presenting themselves at U.S. [Citizenship and Immigration Services (CIS)].” According to Ms. Adducci, who was abruptly appointed to lead ICE’s Boston Field Office in the immediate aftermath of the Court’s hearings in this case in May, Executive Order 13768 requires ICE to continue arresting, detaining, and removing putative class members—regardless of their pursuit of provisional waivers. As such, putative class members are still in danger of being detained and removed, whether through arrest at CIS offices or through other enforcement actions. These

actions violate Petitioners' and class members' legal and constitutional rights on grounds common to the class by pretermittting noncitizens' ability to pursue provisional waivers and detaining them without a constitutionally permissible justification. Pets. Mot. for Prelim. Inj. (Dkt. No. 50); Pets. Reply in Supp. (Dkt. No. 97). And irreparable harm is clear; some putative class members have already been removed. Lyons Dep.¹ 69:25-70:4, 79:16-19; Lyons Dep. Ex. 6 (Email to Greenbaum and others from Guarna-Armstrong, with attachment, Jul. 18, 2018) (Decl. Ex. E) (showing that five people arrested at CIS interviews in 2018 have already been removed).

Second, discovery confirmed that DHS in New England actually uses the provisional waiver process to target individuals with final orders of removal. Indeed, arrests at CIS offices are not random. They are the result of active coordination between the Boston ERO and CIS. Specifically, the Boston ERO receives “referrals” from CIS, which inform ICE about the individuals who have applied for I-130s and have final orders of removal. ICE then works with CIS to facilitate arrests at CIS offices, including offering to set up an interview, scheduling that interview to occur at a convenient time for ICE, and notifying ICE about when an individual arrives for his or her interview and how the interview is progressing. The Boston ERO and CIS thus act in concert to use the provisional waiver process—and, specifically, the I-130 interviews—to target individuals for detention and removal rather than, as contemplated by the regulations, a method to minimize family separation and encourage noncitizens with final orders to seek to obtain legal status. This shows that Petitioners have a strong likelihood of success on

¹ All deposition transcripts are attached to the contemporaneously filed August 1, 2018 Declaration for Stephen N. Provazza (“Provazza Decl.”). Citations to “Decl. Ex. []” refer to exhibits to the Provazza Decl.

the merits of their claims and that Respondents are violating Petitioners' constitutional and statutory rights.

Third, notwithstanding their promises to this Court in May, the Boston ERO continues to struggle to comply with the 8 C.F.R. § 241.4 (the "POCR regulations") and has failed to implement changes necessary to ensure compliance. Moreover, ICE continues to detain individuals for up to 90 days without any meaningful review of the reasons for their detention, in violation of the INA and the Constitution. Petitioners are likely to succeed on the merits of their detention-specific claims (Counts 5 and 6).

Another court has already rejected arguments similar to those made in Respondents' motion to dismiss and held that it "has jurisdiction to review the limited question of whether a person has a right to complete the process of obtaining a provisional waiver of grounds of inadmissibility before his removal," and that the petitioner in that case "indeed does have a right to complete the process of obtaining a provisional waiver." *Villavicencio Calderon v. Sessions*, 18-cv-5222 (PAC), (S.D.N.Y. July 24, 2018) (Decl. Ex. D). Petitioners here, too, have an urgent need for this Court to recognize their rights under the provisional waiver regulations.

STATEMENT OF SUPPLEMENTAL ARGUMENT

Pursuant to this Court's Order, Dkt. No. 117, Petitioners took the depositions of Rebecca Adducci on July 26, Todd Lyons on July 27, and Thomas Brophy on July 30. Additionally, the government produced information and documents responsive to the Court's order.² The information revealed confirms the need for immediate, class-wide intervention to prevent irreparable harm to Petitioners and putative class members. It shows that the Boston ERO

² Petitioners are still awaiting production of a limited number of documents relating to certain noncitizens, and will seek leave to update this submission if necessary upon receipt of these documents.

uniformly ignores a candidate's eligibility or application for an I-130 or other stages in the provisional waiver process, clearly acting or refusing to act "on grounds that apply generally to the class," Fed. R. Civ. P. 23(b)(2), and in violation of Petitioners' and class members' rights under the Administrative Procedure Act (APA), and the Immigration and Nationality Act (INA), and to due process and equal protection under the Fifth Amendment to the U.S. Constitution.

I. Discovery confirms that without class-wide injunctive relief, Petitioners and putative class members will continue to be arrested, detained, and removed while they pursue provisional waivers in violation of the law

The Boston ERO is committed to continuing enforcement actions against individuals participating in the provisional waiver process. Indeed, discovery has confirmed that the Boston ERO interprets Executive Order 13768 to prohibit ICE from exempting any classes of individuals—including noncitizens who are eligible to gain lawful status through the provisional waiver process—from enforcement actions. And all deponents confirmed that a person's pursuit of the provisional process will not prevent ICE from arresting, detaining, or removing that person.

As Ms. Adducci testified, the Boston ERO's policy pursuant to the Executive Order is that "there is no specific class of individuals that is exempt from enforcement action." Adducci Dep. 67:8-10. Ms. Adducci's policy is thus to allow the arrest, detention, and removal of anyone with a final order of removal, regardless of their pursuit of provisional waivers, including at CIS offices. *See, e.g.*, Adducci Dep. 66:2-7; 90:22-91:4; 133:7-13 (Decl. Ex. A); *see also* Brophy Dep. 99:11-17 (Decl. Ex. C) ("Q. Executive Order 1368 requires ICE to remove all individuals with final orders of removal, correct? . . . A. I don't know if that the specific language in it or not, but yes."); Lyons Dep. 40:19-41:10 ("[A]s far as what they were applying for, no, that wasn't one of the options or one of the considerations" used to decide not to take enforcement action). Thus, in addition to the approximately 13 would-be class members who were arrested in

2018 at I-130 interviews,³ there are likely many more who have had their pursuit of provisional waivers obstructed through arrest, detention, or removal. *See, e.g.*, Dkt. No. 117 at 5 (citing *Nkojo v. Nielsen*, C.A. No. 18-11401 (filed July 3, 2018)).

ICE apparently recognizes that removing Petitioners denies them the benefits of the provisional waiver process. Lyons Dep. 67:14-68:9. But at no stage in ICE's apprehension and removal process does eligibility for or pursuit of provisional waivers have any impact on ICE's actions. Ms. Adducci has not given any instruction to deportation officers that they should account for the fact that a noncitizen with a final order of removal was arrested at or immediately after an I-130 interview. Adducci Dep. 207:24-208:6, 135:6-15.

Not surprisingly, the Boston ERO's policy of refusing to account for eligibility for the provisional waiver process is coupled with an almost complete lack of knowledge and understanding of the process. The Boston ERO's three most recent FODs hardly know about the process: current Interim FOD Rebecca Adducci testified that she is "not that versed with" the provisional waiver process (Adducci Dep. 111:20-112:10), admitted that she was not aware that the 2016 regulations made noncitizens with final orders of removal who are married to U.S. citizens eligible for provisional waivers (*id.* at 113:21-114:2), and was not aware that the purpose of the regulations was to minimize the hardship of family separation (*id.* at 114:3-10). Former Acting FOD Todd Lyons does not know whether an interview is required for CIS to approve an

³ ICE identified seventeen individuals with final orders of removal arrested at I-130 interviews in 2018. Lyons Dep. 77:11-79:15; 107:7-21. Based on the available information (Petitioners are still awaiting some files), four appear to fall outside the class definition for other reasons. The remaining 13, including Petitioners Lilian Calderon and Lucimar de Souza, are likely to have fallen within the definition of the putative class at the time of their detention. Of these, six are not currently putative class members because they have been removed (four individuals) or have reopened their immigration cases (two individuals). Five noncitizens who were arrested at their I-130 interviews in New England in 2018, in addition to Petitioners Calderon and de Souza, appear to be current members of the putative class. None remain in custody.

I-130 (Lyons Dep. 53:20-54:3) or what forms a person has to file in applying for provisional waivers (*id.* at 63:18-21). And Former Acting FOD Thomas Brophy testified that he is unfamiliar with how an individual would benefit from provisional waivers (Brophy Dep. 26:16-25), or each of the required forms (*id.* at 28:3-18).

ICE makes no effort to learn whether someone is pursuing provisional waivers. Lyons Dep. 45:14-17 (“Q: Did ICE receive any information from CIS regarding whether a person was eligible for provisional waivers? A: No.”). Thus, despite claiming to make holistic determinations, it is clear that ICE does not account for individuals’ pursuit of provisional waivers. Adducci Dep. 134:17-19 (expecting subordinates to consider all factors in executing prosecutorial discretion); 135:13-136:4, 137:19-138:11 (stating she has no idea whether her subordinates know about how the provisional waiver process works or that the waivers are available to people with final orders of removal).⁴

ICE continues to violate Petitioners’ and class members’ constitutional and statutory rights. Named Petitioners would be subject to removal if it were not for this Court’s jurisdictional Order. Lyons Dep. 66:13-67:4. Indeed, Ms. de Souza nearly was. *See* Dkt. No.

⁴ ICE still does not track whether a person was arrested at an I-130 interview. Adducci Dep. 206:14-207:3. Thus, the information ICE provided in response to this Court’s order to produce “the identity and status of all aliens arrested while at a USCIS office in 2018 within the jurisdiction of the ICE Boston Field Office while appearing for an I-130 interview” (Dkt. No. 117 at 11) may not be complete. *Id.*

98-2.⁵ And unless they receive similar protection, ICE will not refrain from removing any unnamed putative class members on the basis that they are applying for provisional waivers. Lyons Dep. 82:13-17; *id.* at 61:19-62:2 (suggesting their attorneys should advise them not to attend their scheduled interviews). A class-wide injunction is necessary to put an end to these legal violations.

II. Class-wide injunctive relief is necessary to prevent the provisional waiver process from being used as a trap.

The discovery has revealed that DHS in Boston not only disregards putative class members' participation in the provisional waiver process in making enforcement decisions—it uses that process to target them. Absent Court intervention, DHS will continue to violate the APA, INA, and due process by turning the provisional waiver process into a trap.⁶

Indeed, CIS and the Boston ERO have worked hand-in-hand to bring individuals in for interviews so that ICE could arrest and remove them. CIS sends ICE a full list of pending I-130 interviews where the beneficiary is subject to a final order of removal. Lyons Dep. 45:24-46:5; Lyons Dep. Ex. 3 (Email chain from Graham to Rutherford and Lyons, Jan. 30, 2018) (Decl. Ex. F). Until Acting FOD Brophy temporarily halted the practice, ICE would then tell CIS which

⁵ On June 12, Petitioner Lucimar de Souza was told to report to ICE with plane tickets for her departure. Adducci Dep. 120:9-15. This apparently occurred because she was assigned to meet with an “enforcement and removal assistant,” who was not qualified to give Ms. de Souza instructions about her case. Adducci Dep. 120:9-121:12. The assistant whose improper actions caused Ms. de Souza such anxiety was not disciplined or given further training, but merely “spoken to.” *Id.* at 122:13-124:13. As it turns out, enforcement and removal assistants often receive little or no training before working at ICE. *Id.* at 130:15-131:12. This shows continued carelessness for the law, and the need for injunctive relief identifying the procedures necessary for ICE to comply with its legal obligations.

⁶ By confirming that its treatment of putative class members is a direct result of President Trump's Executive Order 13768, the discovery also confirms the claim that Petitioners stated under the equal protection clause, that President Trump's policies towards Petitioners and other noncitizens are motivated by animus.

noncitizens it wanted to arrest. *Id.* at 46:6-8, 50:8-51:11, 51:4-16, Lyons Dep. Ex. 4 (I-130 Ordered Removed Spreadsheet) (Decl. Ex. G).

For example, in January 2018, the Boston ERO had a list of twenty-six individuals whom CIS was considered asking to come in for I-130 interviews. Lyons Dep. 50:21-11; Decl. Ex. G (I-130 Ordered Removed Spreadsheet). For nineteen of the individuals referred, ICE noted in the spreadsheet: “Will arrest barring significant medical or childcare issues.” *Id.*; Lyons Dep. 51:7-11. ICE would send this information back to CIS. *Id.* at 50:23-51:3. ICE arrested these noncitizens simply because they “had a valid unexecuted final order,” not because of any perceived danger to the community. Lyons Dep. 37:24-38:21, 51:12-16; Decl. Ex. G (I-130 Ordered Removed Spreadsheet) (noting most individuals as “non-criminal”). No consideration was given to the individuals in the provisional waiver process. Lyons Dep. 44:23-45:3 (“Q: So ICE officers would arrest people even if their I-130s were likely to be approved? . . . A: Yes.”); Lyons Dep. 61:2-22 (explaining that people with final orders can apply for provisional waivers, but “they are subject to arrest” at their interviews).

Although interviews are not necessary to adjudicate most I-130s,⁷ CIS then scheduled interviews for those individuals, and did so at a time convenient for the Boston ERO to arrest them. *Id.* at 46:9-13; Decl. Ex. G (I-130 Ordered Removed Spreadsheet). In some instances, ICE officers asked CIS to spread out the interviews on different days so that ICE could employ its limited resources to arrest all the people appearing for interviews. CIS complied. Lyons Dep. 54:13-55:11; Lyons Dep. Ex. 1 (Email Chain from Andrew Graham to Todd Lyons, May

⁷ USCIS Service Center Operations Directorate, Form I-130 Petition for Alien Relative (date unknown), available at <https://www.uscis.gov/sites/default/files/USCIS/Resources/Resources%20for%20Congress/Congressional%20Reports/I-130%20Petition%20for%20Alien%20Relative.pdf> (last visited Aug. 1, 2018) (noting “[m]ost standalone I-130 petitions [i.e. petitions not accompanied by an I-485 application for adjustment of status] will be completed without the need of a personal interview”).

24, 2018) (Decl. Ex. H). For example, in October 2017, ICE officer Graham explained to a CIS employee:

As far as scheduling goes, I would prefer not to do them all at one time as it is only a strain on our ability to transport and process several arrests at once, but it also has the potential to be a trigger for negative media interests, as we have seen in the past. If you have the ability to schedule one or two at a time and spread them apart, that would work best for us.

Decl. Ex. H.

Under this collaboration, ICE officers would then arrive to arrest the interviewee immediately following the interview. Lyons Dep. 47:5-8. ICE and CIS officers worked closely in concert in this process. For example, on December 5, 2017, the ICE officers were running late. Decl. Ex. I (Dec. 5, 2017 e-mail chain). An ICE officer asked CIS to delay the applicant's interview by fifteen minutes to accommodate the officers' tardiness. *Id.* A CIS officer then alerted ICE when the interviewee appeared. *Id.* CIS also notified the ICE officers that the CIS officer "believes the case is approvable." *Id.* ICE nonetheless arrested the applicant. *See* Lyons Dep. Ex. 5 (Email Chain from Lyons To Guarna-Armstrong, July 16, 2018) (Decl. Ex. J) (listing Confidential/PII as arrested on Dec. 5, 2017).

Pursuant to this efficient round-up system, far more people were arrested at CIS offices than ICE previously represented to this Court. *Compare* Lyons Decl. Feb. 2, 2018 (Dkt. No. 19) ¶ 12 (identifying five individuals arrested at CIS offices in Massachusetts and Rhode Island in January 2018, in addition to Ms. Calderon and Mr. De Oliveira) *with* Lyons Decl. July 27, 2018 (Dkt. No. 125) ¶ 4 (correcting that number to ten additional arrests); Lyons Dep. 105:3-107:13.

Moreover, the Boston ERO concealed this practice from the public. It tried to avoid media attention in making these arrests (Lyons Dep. 56:15-17), and in responding to media inquiries and inquiries from elected officials, ICE declined to mention anything about its referral

system from CIS. Lyons Dep. 98:6-15 (agreeing that ICE never announced that it would be making arrests at CIS offices); Brophy Dep. 54:12-15.

DHS also ignored CIS's own guidelines. As Petitioners explained in their Motion for a Preliminary Injunction (Dkt. No. 50 at 6-7, 13, 16), CIS's publicly available Field Manual provides that noncitizens with final orders of removal are generally not subject to arrest if they are "seeking benefits under a provision of a law ... which specifically allows an alien under an order of deportation or removal to seek such benefits." Dkt. No. 50 Ex. A (CIS Adjudicator's Field Manual Ch. 15) at § 15.1(a), (c)(2). But the Boston ERO made arrests directly contrary to this policy. Lyons Dep. 90:18-20; Adducci Dep. 155:9-157:3. In fact, none of the Boston ERO's last three Field Office Directors were even aware of the relevant CIS policy. Lyons Dep. 84:4-6, Adducci Dep. 152:11-19, 157:21-158:2; Brophy Dep. 52:6-53:9.

Because DHS turned the provisional waiver process into a trap, CIS did not appear to schedule or conduct interviews in furtherance of adjudication, but instead in order to facilitate enforcement and deprive the applicant of the benefit of the process. ICE continued to regularly make arrests through mid-February 2018 when, in the face of media and political outrage, Mr. Brophy issued a directive voluntarily, and temporarily, ceasing it. Lyons Dep. 56:18-24 (agreeing that this kind of coordination was common between ICE and CIS); Brophy Dep. 35:20-36:19; 71:5-24 (acknowledging media coverage of and Congressional interest in Ms. Calderon's detention prior to issuing directive).

Now that Mr. Brophy has left the Boston ERO, Ms. Adducci has instructed her team that "no class of aliens is off the table" for potential arrest and that arrests at CIS offices are permissible as long as she approves them. Adducci Dep. 92:20-93:14. She testified that she believes Mr. Brophy's directive was contrary to Executive Order 13768, and that individuals

with final orders of removal are subject to arrest regardless of location and regardless of whether they are pursuing provisional waivers. Adducci Dep. 65:15-66:7; 135:3-5 (“Q. And [the Executive Order and Memorandum] each say that everyone is fair game for enforcement, right? A. They do say that.”); Lyons Dep. 134:9-25 (stating that Adducci conveyed to him that she believed Mr. Brophy’s policy was contrary to the Executive Order). Indee, even while Mr. Brophy’s directive was in effect, CIS continued to send ICE regular referrals that listed any individuals with final orders of removal who may be scheduled for I-130 interviews. Lyons Dep. 57:10-15. Petitioners have every reason to fear that ICE officers will resume targeting them for arrest when they appear for interviews at CIS offices.⁸

The Boston ERO is thereby premitting Petitioners’ and class members’ ability to pursue provisional waivers in violation of their rights to due process and under the APA and INA, and will continue to do so without intervention by this Court.

III. The Boston ERO struggles to comply with its own interpretation of the POCR regulations, and continues to deny Petitioners and class members a constitutionally adequate detention review.

As Petitioners explained in their motion for a preliminary injunction, Dkt. No. 50 at 20-23, Petitioners are entitled to a meaningful review of their detention as soon as practicable to comply with the plain language of 8 U.S.C. § 1231 of the INA and the strictures of due process. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). This Court has already held that Respondents have

⁸ Even under Mr. Brophy’s direction, nothing prevented ICE from using the information CIS provided to target these individuals for arrest and removal in other settings. Brophy Dep. 81:13-18 (“Q. . . . your directive did not prevent ICE officers from arresting individuals who weren’t national security or public safety concerns after their USCIS interview, correct? A. No.”). Mr. Brophy testified that he has no idea whether his staff was still utilizing those lists to target class members for arrest or removal. *Id.* at 80:21-81:7. Indeed, he expected ICE may use those lists to target individuals for eventual removal in a “non-detained” setting by requiring them to come to an ICE office, placing them on an order of supervision, or utilizing another program like GPS ankle monitoring. *Id.* at 81:19-82:10.

not even met the much lower bar of providing review on the much more lenient timeline they believe to be required. *See* Dkt. No. 95 at 61-62. As the Court has also noted, these violations have continued. Dkt. No. 117 at 6; *see also* Dkt. Nos. 25, 26, *Matias v. Tompkins*, C.A. No. 18-11056 (noting POOCR violations in June 2018).

The discovery confirmed that compliance with even Respondents' limited view of their POOCR obligations remains a continuing problem. Adducci Dep. 60:10-25 (stating that at least two people, and maybe "a handful," were released from detention due to POOCR violations after her tenure as Interim FOD began on June 1, 2018); Dkt. No. 66 (Order, May 8, 2018); Dkt. No. 95 at 10 ("Any unjustified loss of liberty for even another day would be a painful form of irreparable harm to them and to the United States citizens who love them."). The office's review of its docket for compliance remains ongoing, more than eleven weeks after this Court found violations in Ms. de Souza's and Mr. Juqueira's cases. Adducci Dep. 180:6-181:23; 193:3-13.

The Boston ERO also failed to cure the causes of these repeated constitutional violations. Despite identifying additional staff training as necessary for compliance with the POOCR regulations (*id.* at 45:15-20), no further formal training has taken place or been scheduled. *Id.* at 47:23-48:9. Nor has Ms. Adducci asked whether everybody in the office has had sufficient training on the process. *Id.* at 49:24-50:10. And despite identifying a lack of unit staff rotation throughout the field office as a cause of the POOCR violations, Ms. Adducci testified that this was "still a problem." *Id.* at 167:5-22.

Class-wide injunctive relief is necessary to protect Petitioners and class members from further detention that violates their statutory and constitutional rights.

CONCLUSION

For these reasons, and those stated in Petitioners' briefs, Petitioners' motions for a preliminary injunction and class certification should be granted.

Respectfully submitted this 1st day of August, 2018.

/s/ Kevin S. Prussia

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EXHIBIT 2
REDACTED

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LILIAN PAHOLA CALDERON JIMENEZ)	
and LUIS GORDILLO, et al.,)	
)	
Individually and on behalf of all others)	No. 1:18-cv-10225-MLW
similarly situated,)	
)	
Plaintiffs-Petitioners,)	DECLARATION OF STEPHEN N. PROVAZZA IN SUPPORT OF PETITIONER’S SUPPLEMENTAL MEMORANDUM
v.)	
KIRSTJEN M. NIELSEN, et al.,)	
)	
Defendants-Respondents.)	
)	

I, Stephen N. Provazza, declare as follows:

1. I am an attorney with the firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel for the Petitioners in the above-captioned matter. I am an attorney licensed to practice in the Commonwealth of Massachusetts. I am over the age of eighteen and I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would competently testify thereto. I submit this Declaration in support of Petitioners’ August 1, 2018 Supplemental Memorandum in Support of Their Motions for Preliminary Injunctive Relief and Class Certification.

2. Attached hereto as Exhibit A is a true and correct copy of the transcript of the deposition of Rebecca Adducci, taken on July 26, 2018 in Boston, Massachusetts and is designated “Confidential” pursuant to the Stipulated Protective Order (Dkt. No. 119) (“Protective Order”).

3. Attached hereto as Exhibit B is a true and correct copy of the transcript of the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts and is designated “Confidential” pursuant to the Protective Order.

4. Attached hereto as Exhibit C is a true and correct copy of the transcript of the deposition of Thomas Brophy, taken on July 30, 2018 in Boston, Massachusetts and is designated “Confidential” pursuant to the Protective Order.

5. Attached hereto as Exhibit D is a true and correct copy of Judge Paul A. Crotty’s July 24, 2018 Order in *Villavicencio Calderon v. Sessions*, No. 18-cv-5222 (PAC) (S.D.N.Y.).

6. Attached hereto as Exhibit E is a true and correct copy of a July 18, 2018 e-mail chain produced by Respondents at ICE-0002125 through ICE-0002135 and designated “Confidential” by Respondents’ counsel pursuant to the Protective Order. Exhibit E was entered as Exhibit 6 to the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts.

7. Attached hereto as Exhibit F is a true and correct copy of a January 30, 2018 e-mail chain produced by Respondents at ICE-0001641 through ICE-0001644 and designated “Confidential” by Respondents’ counsel pursuant to the Protective Order. Exhibit F was entered as Exhibit 3 to the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts.

8. Attached hereto as Exhibit G is a true and correct copy of the Excel spreadsheet titled “Copy of I-130 Ordered Removed – Current AR-11 Address” produced by Respondents at ICE-0001648 and designated “Confidential” by Respondents’ counsel pursuant to the Protective Order. Exhibit G was entered as Exhibit 4 to the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts.

9. Attached hereto as Exhibit H is a true and correct copy of a May 24, 2018 e-mail chain produced by Respondents at GOV-003046 through GOV-003048 and designated

“Confidential” by Respondents’ counsel pursuant to the Protective Order. Exhibit H was entered as Exhibit 1 to the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts.

10. Attached hereto as Exhibit I is a true and correct copy of a December 5, 2017 e-mail chain produced by Respondents at GOV-003033 through GOV-003036 and designated “Confidential” by Respondents’ counsel pursuant to the Protective Order.

11. Attached hereto as Exhibit J is a true and correct copy of a July 16, 2018 e-mail chain produced by Respondents at ICE-0001996 through ICE-0002021 and designated “Confidential” by Respondents’ counsel pursuant to the Protective Order. Exhibit J was entered as Exhibit 5 to the deposition of Todd Lyons, taken on July 27, 2018 in Boston, Massachusetts

I declare under penalty of perjury that, to the best of my knowledge and belief, the facts set forth above are true and correct.

Executed this 1st day of August, 2018, in Boston, Massachusetts.

/s/ Stephen N. Provazza
Stephen N. Provazza (BBO # 691159)
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street Boston, MA 02109
Tel.: (617) 526-6000
Fax: (617) 526-5000
Email: stephen.provazza@wilmerhale.com

EXHIBIT A
REDACTED

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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LILIAN PAHOLA CALDERON JIMENEZ and
LUIS GORDILLO, et al.

Plaintiff-Petitioners,

vs.

Civil Action No.

KIRSTJEN M. NIELSEN, et al.,

1:18-cv-10225-MLW

Defendants-Respondents

- - - - - x

CONFIDENTIAL

VIDEOTAPED DEPOSITION of REBECCA J. ADDUCCI

Boston, Massachusetts

Thursday, July 26, 2018

9:36 a.m.

Reported By: Michael D. O'Connor, RMR, CRR, CRC

Job No: 145302

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Thursday, July 26, 2018
9:36 a.m.

VIDEOTAPED DEPOSITION of REBECCA
J. ADDUCCI, held at the Offices of Wilmer,
Cutler, Pickering, Hale and Dorr, LLP, 60
State Street, LLP, Boston, Massachusetts,
before Michael D. O'Connor, Registered Merit
Reporter, Registered Realtime Captioner,
Certified Realtime Reporter and Notary Public
in and for the Commonwealth of Massachusetts.

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APPEARANCES, Continued:

ON BEHALF OF RESPONDENTS:
U.S. DEPARTMENT OF JUSTICE/CIVIL DIVISION
450 Fifth Street Northwest
Washington, DC 20001
BY: MARY LARAKERS, ESQ.
WILLIAM WEILAND, ESQ.

- and -

U.S. DEPARTMENT OF JUSTICE/CIVIL DIVISION
John Joseph Moakley U.S. Courthouse
One Courthouse Way
Boston, MA 02210

BY: EVE PIEMONTE, ESQ.

- and -

U.S. IMMIGRATION CUSTOMS & ENFORCEMENT
15 New Sudbury Street
Boston, MA 02203

BY: JOELLEN ARDINGER, ESQ.

ALSO PRESENT: Crystal Strawbridge, Videographer
Emma Goold, ACLU.
Emily Kase, ACLU
Katherine Jones, U.S. DOJ

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APPEARANCES:

ON BEHALF OF PETITIONERS:

WILMERHALE
60 State Street
Boston, MA 02109
BY: MICHAELA SEWALL, ESQ.
STEPHEN PROVAZZA, ESQ.
COLLEEN MCCULLOUGH, ESQ.

- and -

KATHLEEN M. GILLESPIE, ESQ.
6 White Pine Lane
Lexington, MA 02421

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R. ADDUCCI
PROCEEDINGS

MS. PIEMONTE: The parties are
proceeding today under the following
stipulations; that all objections, except as
to form, are reserved until the time of trial.
That includes motions to strike that are also
reserved until the time of trial.

We would like the witness to have
30 days to read and sign any deposition
transcript in this case, waive the notary and
filing of the transcript.

VIDEOGRAPHER: This is the start of
tape label number one of the videotape
deposition of Rebecca Adducci in the matter of
Lilian Pahola Calderon Jimenez and Luis
Gordillo, et al. v. Kirstjen M. Nielsen, et
al., in the United States District Court,
District of Massachusetts, Civil Action Number
1:18-cv-10225-MLW.

This deposition is being held at 60
State Street, Boston, Massachusetts on July
26, 2018, approximately 9:36 a.m.

My name is Crystal Strawbridge from

1 R. ADDUCCI
 2 TSG Reporting, and I am the legal video
 3 specialist. The court reporter is Michael
 4 O'Connor in association with TSG Reporting.
 5 Will counsel please introduce
 6 yourself.
 7 MS. SEWALL: Michaela Sewall of
 8 Wilmer Hale. I represent the Plaintiff
 9 Petitioners, along with my colleagues, Colleen
 10 McCullough and Stephen Provazza, as well as
 11 Kathleen Gillespie, who also is counsel for
 12 Plaintiff Petitioners and is an attorney in
 13 Lexington, Massachusetts.
 14 MS. LARAKERS: My name is Mary
 15 Larakers. I'm with the Department of Justice,
 16 Office of Immigration Litigation, District
 17 Court Section, and I represent the United
 18 States, along with my colleague William
 19 Weiland.
 20 MS. PIEMONTE: Eve Piemonte, the
 21 United States Attorneys Office, representing
 22 the government.
 23 * * *
 24
 25

1 R. ADDUCCI
 2 REBBECA ADDUCCI,
 3 having been satisfactorily identified by a
 4 Massachusetts drivers license and duly sworn
 5 by the Notary Public, was examined and
 6 testified as follows:
 7 EXAMINATION
 8 BY MS. SEWALL:
 9 Q. Good morning.
 10 A. Good morning.
 11 Q. Would you please state and spell
 12 your name for the record.
 13 A. Rebecca Adducci, R-e-b-e-c-c-a,
 14 A-d-d-u-c-c-i.
 15 Q. And where do you live?
 16 A. I live in Michigan.
 17 Q. Do you currently live in Michigan?
 18 A. My permanent address is Michigan,
 19 but I'm residing in a residence in **Confidenti**
 20 Q. So you currently reside in **Confidenti**
 21 **Confidentia** Massachusetts?
 22 A. Yes.
 23 Q. Do you understand that you are
 24 testifying under oath today and your answers
 25 are subject to the pains and penalties of

1 R. ADDUCCI
 2 perjury?
 3 A. Yes.
 4 Q. You will provide truthful testimony
 5 today?
 6 A. Yes.
 7 Q. I'll be asking you a number of
 8 questions. If you don't understand a question
 9 that I ask you, just let me know, and I will
 10 try to clarify it.
 11 Do you understand that?
 12 A. Yes.
 13 Q. If you need a break at any time,
 14 you can tell me, or you can tell your
 15 attorney, and we'll try to accommodate that.
 16 The only time that we wouldn't be able to take
 17 a break is if a question is pending. I would
 18 ask you to finish your answer to the question,
 19 and then we can break.
 20 Do you understand that?
 21 A. I do.
 22 Q. If you realize at any time during
 23 the deposition today that the answer you gave
 24 to a question was inaccurate or incomplete,
 25 just let me know, and we can get that clear on

1 R. ADDUCCI
 2 the record.
 3 Do you understand?
 4 A. Yes.
 5 Q. And is there any reason that you
 6 wouldn't be able to recall events and testify
 7 truthfully today?
 8 A. No.
 9 Q. Will you please describe your
 10 educational background since high school?
 11 A. I attended Michigan State
 12 University, and got a Bachelor's degree in
 13 criminal justice in 1987. Subsequently, I
 14 attended the Federal Law Enforcement Training
 15 Academy in Glynco, Georgia.
 16 Q. Did you obtain any degrees after
 17 attending the academy?
 18 A. No.
 19 Q. And what sort of degree do you get
 20 when you attend the Law Enforcement Academy?
 21 A. I don't think it's a degree. It's
 22 just you graduate from the academy. I
 23 graduated as a criminal investigator special
 24 agent with at the time Immigration and
 25 Naturalization Service. Basically, just a

Page 10

1 R. ADDUCCI
 2 certificate of completion. It was a long time
 3 ago. I can't remember exactly what it looked
 4 like.
 5 Q. Where do you work currently?
 6 A. I currently am the interim field
 7 office director for ICE Enforcement and
 8 Removal Operations in Burlington.
 9 Q. You are on detail at that position,
 10 correct?
 11 A. Correct.
 12 Q. What does "on detail" mean exactly?
 13 A. I'm temporarily -- it's a temporary
 14 duty assignment away from my permanent duty
 15 station.
 16 Q. So do you currently also work for
 17 the Detroit office?
 18 A. Well, someone is in my stead in
 19 Detroit right now. My deputy is covering the
 20 Detroit field office.
 21 Q. Do you have any current
 22 responsibilities to the Detroit field office?
 23 A. Technically, I'm dealing with some
 24 disciplinary issues with employees, things
 25 like that, that can't be handled by anyone

Page 12

1 R. ADDUCCI
 2 Boston, and I said, For how long?
 3 Q. How long did he answer?
 4 A. He said, Can you do 60 days?
 5 Q. Do you expect to work for 60 days?
 6 A. It's going to be a little bit
 7 longer, because I have to go home for a
 8 medical appointment. So I'm going to come
 9 back. So it's going to go a little past that,
 10 but I'm currently scheduled to leave on August
 11 17th.
 12 Q. And why did you accept the position
 13 in Boston?
 14 A. I don't really know that it was an
 15 option. I like to -- you know, I want to
 16 help. If my boss calls me and asks me to do
 17 something, I generally say yes.
 18 Q. You said this was approximately May
 19 30th, this conversation?
 20 A. It would have been the Wednesday
 21 after Memorial Day. I just don't know the
 22 date.
 23 Q. Okay. And when did you start
 24 working in the Boston field office?
 25 A. I came on June 7th. I think I flew

Page 11

1 R. ADDUCCI
 2 else. But for operational purposes, I'm not
 3 involved.
 4 Q. And when -- how did you come to
 5 work on detail at the Boston field office?
 6 A. I received a phone call from my
 7 boss. It would have been the Wednesday after
 8 Memorial Day. So I'm not sure of the date.
 9 Maybe the 30th, I think. I was standing
 10 outside of Pirates Stadium and I got a phone
 11 call asking if I could go to Baltimore -- I
 12 mean, Boston. If I could go to Boston.
 13 Q. Who's your boss?
 14 A. This boss was David Jennings.
 15 Q. Where does he work?
 16 A. In Washington.
 17 Q. What department?
 18 A. ICE Enforcement and Removal
 19 Operations.
 20 Q. And what's his title?
 21 A. He's the acting assistant director
 22 for field operations.
 23 Q. So he offered you the position in
 24 Boston?
 25 A. He asked me if I could go to

Page 13

1 R. ADDUCCI
 2 in midday. So I did stop by the office on the
 3 7th. And then from there, I have been in
 4 charge.
 5 I did have to leave for a
 6 conference in between. I think I left on the
 7 Friday after that. So it would have been
 8 maybe the 15th, and then I returned the
 9 following Monday the twenty -- I'd have to see
 10 a calendar, but I think it would have been
 11 maybe about the 24th or 25th, whatever that
 12 Monday was.
 13 Q. After August 17th, do you expect to
 14 return to Detroit?
 15 A. Yes.
 16 Q. And resume your prior position?
 17 A. Yes.
 18 Q. Do you know who will succeed you in
 19 Boston?
 20 A. Yes.
 21 Q. Who?
 22 A. Todd Lyons.
 23 Q. What's your current job title?
 24 A. Field office director.
 25 Q. And what are your responsibilities

1 R. ADDUCCI
 2 in that role?
 3 A. Basically you oversee all
 4 operational functions of enforcement and
 5 removal operations. In this instance, it
 6 would be in the New England area.
 7 Q. Do you report to anyone currently?
 8 A. I do.
 9 Q. Who do you report to?
 10 A. My first-line supervisor, or
 11 first-line report, is Christopher Cronin.
 12 Q. Where does he work?
 13 A. In Washington.
 14 Q. In what department?
 15 A. In ICE Enforcement and Removal
 16 Operations.
 17 Q. What's his title?
 18 A. He's the deputy assistant director
 19 for field operations.
 20 Q. And you said he's your first-line
 21 supervisor?
 22 A. Correct.
 23 Q. Is there a supervisor above that?
 24 A. That would be Dave Jennings.
 25 Q. Is there anybody above that?

1 R. ADDUCCI
 2 A. There's the deputy executive
 3 associate director would be Jennings' boss.
 4 That would be -- did you want that person's
 5 name? Nathalie Asher.
 6 Q. I think you explained this a little
 7 bit, but what does it mean to be an interim
 8 field office director?
 9 A. I think that it's a distinction
 10 between an acting in that I'm actually a field
 11 office director versus somebody who is in a
 12 deputy role, or a subordinate role, stepping
 13 into the position.
 14 Q. So the person who is currently in
 15 Detroit, for example, would be an acting
 16 director?
 17 A. Correct.
 18 Q. So interim is temporary?
 19 A. Right.
 20 Q. But you're the field office
 21 director?
 22 A. Correct.
 23 Q. I might call that FOD. Will you
 24 understand what I'm talking about?
 25 A. That's okay.

1 R. ADDUCCI
 2 Q. Is there generally, you know, a
 3 default amount of time where somebody would
 4 serve as an interim FOD or does it vary?
 5 A. I would say it varies.
 6 Q. Do you know what the procedures
 7 are, if any, to be reappointed after your
 8 expected time period runs out?
 9 A. To be reappointed to Boston?
 10 Q. Yes. If you're the interim FOD and
 11 your time period runs out, but you want --
 12 either you want to or your boss wants you to
 13 be reappointed, are there any procedures for
 14 that?
 15 A. I suppose it would start with the
 16 conversation. I believe there is some
 17 paperwork that is completed at the
 18 headquarters level, but it's done by support
 19 staff in headquarters.
 20 Q. Have you ever been involved in
 21 litigation before?
 22 A. As the field office director, I've
 23 been involved in habeas cases.
 24 Q. In your role as field office
 25 director, is that in the Detroit office?

1 R. ADDUCCI
 2 A. Yes.
 3 Q. The office has been named as a
 4 Defendant in litigation, correct?
 5 A. Yes.
 6 Q. In any of those cases, has a Court
 7 made a finding that you or the field office
 8 acted improperly?
 9 MS. LARAKERS: Objection. It's
 10 outside the scope. You're talking about
 11 Detroit, and we're talking about Boston here.
 12 MS. SEWALL: I think her prior
 13 experience with litigation is just background
 14 information that's relevant to everything that
 15 we're going to be talking about today.
 16 MS. LARAKERS: Continue.
 17 A. I cannot say I know for certain.
 18 Q. You can't remember one way or the
 19 other?
 20 A. No.
 21 Q. Would you remember if there was a
 22 finding against your office?
 23 A. I guess I need clarification. Can
 24 you give me an example of a finding?
 25 Q. If a Court found that your office

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1 R. ADDUCCI
 2 committed a constitutional violation, for
 3 example, or a violation of the law.
 4 A. I think I would recall if somebody
 5 alleged we violated the law.
 6 Q. If the Court found --
 7 A. Found. I can't think of an
 8 instance, but I -- I can't. I'm sorry. I
 9 don't know what you're getting at. I don't
 10 know -- if someone told me that our staff
 11 violated the law, I think I would know, or the
 12 field office violated the law, I think I would
 13 know. But I've been the field office director
 14 there for nine years. I don't -- there's been
 15 multiple litigation.
 16 So would a -- a habeas case that is
 17 found to, you know, that we are ordered to
 18 release someone from custody, that's happened.
 19 Q. Okay.
 20 A. I mean, I'm not sure if I...
 21 Q. Do you know, approximately, how
 22 many habeas cases have been released from
 23 custody?
 24 A. No.
 25 Q. Would it be more than five?

Page 20

1 R. ADDUCCI
 2 we were looking for, his brother was, I think,
 3 asking to get out of custody. All I remember
 4 is my specifics, I had encountered him at a
 5 traffic stop, and he had been sort of
 6 threatening.
 7 So I had to testify to the
 8 encounter at the traffic stop. I don't
 9 remember what his litigation -- what his
 10 situation was. I don't know if he was trying
 11 to get, you know, some type of relief from the
 12 Court. I just had to testify to my
 13 interaction with him.
 14 Q. Have you ever been deposed before?
 15 A. No.
 16 Q. When did you first learn about this
 17 litigation?
 18 A. I think I read something about it
 19 just in our ICE clips when I was still in
 20 Detroit. But, you know, very cursory
 21 information. I just saw something about some,
 22 I believe, testimony from the previous -- the
 23 acting field office director, I think.
 24 Q. And after that, did you learn more
 25 about the litigation?

Page 19

1 R. ADDUCCI
 2 A. I would not want to guess.
 3 Q. Have you ever testified at trial
 4 before?
 5 A. In -- many years ago as a special
 6 agent.
 7 Q. What was the case?
 8 A. I think I was a witness, and I
 9 think it was, I believe, in a marriage fraud
 10 case.
 11 Q. This was before your time as FOD?
 12 A. Oh, yes.
 13 Q. Have you ever testified at a
 14 hearing before?
 15 A. I've testified in immigration
 16 court.
 17 Q. When was that?
 18 A. It was before I was field office
 19 director. I can remember the person. I just
 20 can't remember the timeframe. It would have
 21 been prior to 2007; I can say that.
 22 Q. And what was the issue?
 23 A. He had -- he had escaped from
 24 custody, I believe, and -- oh, actually, no.
 25 That's not it. His brother -- somebody that

Page 21

1 R. ADDUCCI
 2 A. Yes.
 3 Q. How?
 4 A. Since coming here, I've been
 5 briefed on it, had conversations with counsel,
 6 and had conversations with subordinate staff.
 7 And before I came, I actually spoke
 8 to the previous -- once I found out I was
 9 coming, I called and spoke to acting FOD
 10 Brophy. B-r-o-p-h-y.
 11 Q. What did you speak to Mr. Brophy
 12 about?
 13 MS. PIEMONTE: Objection to the
 14 extent it includes law enforcement.
 15 MS. LARAKERS: Oh, yeah. Objection
 16 to the extent it includes law enforcement
 17 sensitive information.
 18 MS. SEWALL: This isn't to the
 19 current question, or is it -- is it to the
 20 current question?
 21 MS. LARAKERS: It's to the current
 22 question.
 23 BY MS. SEWALL:
 24 Q. Without revealing any law
 25 enforcement sensitive information, what did

Page 22

1 R. ADDUCCI
 2 you discuss with Mr. Brophy?
 3 A. I think general situation within
 4 the office; the fact that there had been
 5 extensive litigation, and that there were some
 6 challenges with some of the processes within
 7 the office and how the post-order custody
 8 review process was taking place.
 9 Q. You mentioned some challenges with
 10 the processes of the office. Can you explain
 11 that?
 12 A. Some lack of staffing issues, some,
 13 I guess, training issues, possible -- some
 14 need for some more training for some newer
 15 staff, very, very new staff in certain parts
 16 of the office, and sort of staffing
 17 assignments as it relates to the challenges
 18 that they were facing with getting POCRs
 19 completed timely, and things like that.
 20 Q. Did he mention an audit report that
 21 he had conducted?
 22 A. Yes. I don't know if he mentioned
 23 it or if I got it after I got -- I might have
 24 learned that in -- I don't know how I learned
 25 it, but I know there was an audit.

Page 24

1 R. ADDUCCI
 2 level as it relates to, you know,
 3 litigiousness. So things, orders to show
 4 cause, motions, declarations of mine, the
 5 62-page order that the Judge required me to
 6 read. I think that was in late June.
 7 Then there were some other
 8 documents that I read prior to doing my
 9 declaration. I just don't remember the, you
 10 know, the names of all of the documents. I
 11 think there was a lobby conference, and then I
 12 think there was another order, or an initial
 13 order, an order with a little "1" that was
 14 maybe May 8th maybe. I don't know. I think.
 15 Q. Why did you review all of those
 16 documents?
 17 A. To familiarize -- well, some I was
 18 instructed. I had to. Otherwise, to
 19 familiarize myself with sort of the situation.
 20 Q. Okay.
 21 A. Some of them, many of them, I would
 22 need to have interpreted for me, just because
 23 they're very legal and technical.
 24
 25

Page 23

1 R. ADDUCCI
 2 Q. Have you reviewed that report?
 3 A. Yes.
 4 Q. Have you reviewed the issues that
 5 it lists in the recommendation?
 6 A. Yes.
 7 Q. And since becoming field office
 8 director, have you worked to make the changes
 9 that are in the report?
 10 MS. LARAKERS: Objection.
 11 Deliberative process.
 12 MS. SEWALL: I can rephrase.
 13 Q. Have you, since becoming field
 14 office director, have you been addressing the
 15 issue -- have you been working to address the
 16 issues that are in the report?
 17 A. Yes. Many had been addressed by
 18 the time I got here.
 19 Q. We can revisit that later.
 20 You've reviewed documents from this
 21 litigation, right?
 22 A. Yes.
 23 Q. Which documents have you reviewed?
 24 A. Well, I -- many. A lot of them are
 25 a little above my, I want to say, education

Page 25

1 R. ADDUCCI
 2 (Adducci Exhibit 1, Notice of
 3 Substituted Party Under Rule 25(d),
 4 marked for identification)
 5 Q. The court reporter has handed you
 6 what's been marked as Exhibit 1. Do you
 7 recognize this document?
 8 A. Yes.
 9 Q. What is it?
 10 A. It's my declaration from June 19th.
 11 Q. If you turn a few pages, the first
 12 is where your declaration starts, correct?
 13 A. Hmm-hmm.
 14 Q. It's titled "Declaration of Rebecca
 15 J. Adducci."
 16 And if you look at the last page,
 17 it says "Executed this 19th day of 2018 in New
 18 Orleans, Louisiana."
 19 A. Yes.
 20 Q. It has your signature on it?
 21 A. Yes.
 22 Q. Why was it executed in New Orleans?
 23 A. Because I was at a conference in
 24 New Orleans.
 25 Q. If you turn back to Paragraph 5 --

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1 R. ADDUCCI
 2 actually, sorry. Turn back all the way to the
 3 beginning, and then go to Paragraph 5, which
 4 is on Page 2. The first two pages are the
 5 filing in this case, correct?
 6 A. (Witness nods.)
 7 Q. Paragraph 5 says you have been
 8 given the following documents from this
 9 matter, and it lists these documents. Do you
 10 see that?
 11 A. Yes.
 12 Q. Did you review all of these
 13 documents, to the best of your knowledge?
 14 A. Yes. These are the sequestration
 15 orders and the orders to show cause. Those
 16 are the types of documents that were very
 17 litigious. The transcript of the lobby
 18 conference was probably the most -- the
 19 easiest to read.
 20 Q. And you read the Amended Complaint,
 21 correct?
 22 A. Yes.
 23 Q. So you're familiar with the claims
 24 that the petitioners are asserting in this
 25 case?

Page 28

1 R. ADDUCCI
 2 reviewed multiple documents since I've been
 3 here on different habeas cases, different
 4 judges. I'd be really uncomfortable saying
 5 these are the only documents I've seen, but I
 6 have seen all of those.
 7 Q. Can you tell me in your own words
 8 what the dispute in this litigation is?
 9 A. You had -- you have a situation
 10 where you have U.S. citizens married to
 11 illegal aliens who are attempting to adjust
 12 their status at CIS, and to my understanding
 13 -- I don't know that they were all going
 14 through the provisional way, but they all were
 15 filing I-130 applications, and there's an
 16 opinion, or the Plaintiffs believe, that it's
 17 a violation for ICE to arrest people when
 18 they're trying to regularize their status or
 19 make themselves legal.
 20 Q. When did you first learn you were
 21 giving a deposition in this case?
 22 A. Last Monday. I mean, I saw the
 23 motion for. But the order from the Judge, I
 24 believe, was a week ago Monday.
 25 Q. And from that date to today, have

Page 27

1 R. ADDUCCI
 2 A. Correct.
 3 Q. You mentioned you also reviewed the
 4 Court's June 11, 2018, order that he ordered
 5 you to review?
 6 A. If that was the 62-page...
 7 Q. To the best of your knowledge,
 8 these documents and that June -- that 60-page
 9 order would be all the documents you've
 10 reviewed from this case?
 11 A. There could be more. I've reviewed
 12 those. But I've -- when you say "this case"
 13 documents, do you mean only court documents?
 14 MS. LARAKERS: Can you just clarify
 15 a little bit?
 16 Q. The court documents. The filings
 17 within this case.
 18 MS. LARAKERS: Can you restate the
 19 question as a whole so she makes sure she gets
 20 it?
 21 MS. SEWALL: Sure. If she's
 22 confused by the question, then she can always
 23 tell me that she's confused.
 24 A. So I don't know if these are the
 25 only documents that I've reviewed. I've

Page 29

1 R. ADDUCCI
 2 you talked with anyone other than counsel
 3 about your deposition?
 4 A. I told my husband I had to give a
 5 deposition. No.
 6 Q. Nobody at the office?
 7 A. My bosses know that it's happening.
 8 I mean, actually, a lot of people know,
 9 because it was in the paper. So, no. But
 10 about the specifics, no.
 11 Q. So about the fact of the
 12 deposition, but not about --
 13 A. Right. What to say, no.
 14 Q. So the court reporter reminds me
 15 that it's important for us not to speak over
 16 each other. It's something that can be
 17 challenging, but we should do our best to let
 18 the other person finish before the other
 19 person starts speaking. We'll be reminded of
 20 that throughout the process, I'm pretty sure.
 21 So you testified that your current
 22 supervisor, first-line supervisor, is
 23 Christopher Cronin, correct?
 24 A. Correct.
 25 Q. When did you first learn about

1 R. ADDUCCI
 2 Mr. Cronin? When did you first hear about
 3 him?
 4 A. As a person?
 5 Q. Hmm-hmm.
 6 A. Probably shortly after I became
 7 field office director or -- I shouldn't say
 8 that. I don't really know. It was sometime
 9 probably maybe 2010. I believe he worked in
 10 our Firearms Division at headquarters. I
 11 think I was on detail there. Don't hold me to
 12 dates. It's a long time ago. But I met him
 13 sitting at a table like this.
 14 Q. Is this the first time you've
 15 worked with him?
 16 A. Well, he's my supervisor in Detroit
 17 as well, because he covers the eastern half of
 18 the country.
 19 Q. So you have been working with him
 20 for the past nine years?
 21 A. No, I wouldn't say that. I'm not
 22 sure when he became -- I mean, he was a
 23 colleague as a field office director in
 24 Boston, whenever he became the field office
 25 director in Boston. Then he became my boss

1 R. ADDUCCI
 2 after that. So I think maybe January of this
 3 year he became my boss. Prior to that, you
 4 know, I didn't have a lot of interaction with
 5 him. He wasn't one of my closer colleagues.
 6 **Beyond Scope of Deposition Order**
 [Redacted text block]

1 [Redacted text block]
 2 [Redacted text block]
 3 [Redacted text block]
 4 [Redacted text block]
 5 [Redacted text block]
 6 [Redacted text block]
 7 [Redacted text block]
 8 [Redacted text block]
 9 [Redacted text block]
 10 Q. **beyond scope of deposition order**
 11 [Redacted text block]
 12 [Redacted text block]
 13 [Redacted text block]
 14 [Redacted text block]
 15 Q. When was the first time you learned
 16 of Mr. Brophy?
 17 A. Probably when he got the deputy
 18 field office director position in Buffalo, but
 19 I don't recall when that was. A few years
 20 ago.
 21 Q. And he's currently in Buffalo,
 22 correct?
 23 A. He's assigned in Buffalo.
 24 Q. The field office director in
 25 Buffalo?

1 R. ADDUCCI
 2 A. Deputy.
 3 Q. Deputy field office director.
 4 Are you familiar with Mr. Brophy's
 5 work generally?
 6 A. No.
 7 Q. Do you have an opinion about the
 8 quality of his work?
 9 A. No. I have no reference to it.
 10 Q. Are you familiar with his
 11 reputation at ICE?
 12 A. Yes.
 13 Q. And do you know what it is?
 14 A. He has a good reputation.
 15 Q. What about Mr. Cronin's reputation
 16 at ICE?
 17 A. He's -- yeah, I would say he has a
 18 fine reputation.
 19 Q. And you know Todd Lyons, correct?
 20 A. Yes.
 21 Q. Are you working with Todd Lyons
 22 currently?
 23 A. Yes. We haven't had a really large
 24 opportunity to work together, because we have
 25 not been in the same office but for a handful

1 R. ADDUCCI
2 of days since between different assignments.
3 But yes, he is the deputy here.

4 Q. And his current title is?
5 A. Deputy field office director.

6 Q. And when did you first learn about
7 Mr. Lyons?

8 A. Beyond the scope of deposition
order
[Redacted]

1 R. ADDUCCI
2 ago.

3 Q. And --

4 A. Almost two years ago, I guess.

5 Q. That's the first time you've
6 learned about it?

7 A. Yes. I didn't know him before
8 then.

9 Q. And are you familiar with his work
10 currently?

11 A. Very little, because I've -- as I
12 said, we've sort of been ships passing in the
13 night. He has been in some trainings and he
14 has had some vacation. I've had a little bit
15 of occasion to work with him, but nothing of
16 -- not a long enough time to make any judgment
17 calls.

18 Q. And are you familiar with his
19 reputation at ICE generally?

20 A. Yes.

21 Q. And what's that reputation?

22 A. He has a good reputation.

23 Q. Have you ever spoken to Mr. Cronin
24 about this litigation?

25 A. No.

1 R. ADDUCCI
2 Q. Have you ever spoken to Mr. Brophy
3 about this litigation?

4 A. Yes.

5 Q. Are those the conversations that we
6 talked about when you were first onboarding in
7 your role as interim field office director in
8 Boston?

9 A. Correct.

10 Q. Any other conversation?

11 A. I mean, I talked to him about the
12 fact that he was coming here, or potentially
13 coming here to do a deposition, but it was
14 more about the order. I probably talked to
15 him, I think, twice maybe since I've been
16 here. That was kind of making arrangements to
17 come here when he was coming. It's my
18 understanding his was postponed. Some e-mails
19 about his availability because of the
20 timeframe involved with completing the
21 depositions.

22 I think -- actually, I don't know
23 if that was e-mails between he and I; because
24 it was part of my declaration or I just saw it
25 later, if it was e-mails -- I think I might

1 R. ADDUCCI
2 have been copied on the e-mail.

3 Q. Okay. And what did you discuss
4 with him about this case, aside from
5 depositions?

6 A. Nothing. It has been somewhat of a
7 challenge, because there's a sequestration
8 order. So I think that's been -- that's been
9 a lot of a challenge, because people don't
10 know what they can talk about or should or
11 shouldn't, and I think it has been -- other
12 than the after action report that was provided
13 to me and, you know, sort of -- we really
14 haven't discussed much at all about it.

15 Q. Can you remember anything that you
16 did discuss?

17 A. We discussed -- we discussed the
18 fact that a team came in, what they referred
19 to as sort of a tiger team, to do some
20 reviews. And then completed the after action
21 report. I've had so many things going on, I
22 can't...

23 I'm sure we discussed people
24 potentially having been released because of
25 what I would refer to as a POCR timeline

1 R. ADDUCCI
 2 issue, kind of more in generalities.
 3 I really haven't talked to Tom
 4 much. He wasn't at the conference that I was
 5 at in New Orleans. I'm trying to think of
 6 when I would have had an opportunity to talk
 7 to him. I might have, you know -- I don't
 8 even think I did that.
 9 That's pretty much what we
 10 discussed.
 11 Q. What is the after action report you
 12 referred to?
 13 A. That's this -- the result of this
 14 team of people that came in, and we talked
 15 about it earlier, the recommendations to make
 16 some improvements in processes in the field
 17 office.
 18 Q. And you called it a tiger team,
 19 correct?
 20 A. That's not my term, but that's what
 21 it has been referred to as.
 22 Q. What does "tiger team" mean?
 23 A. It just means a team to come in and
 24 do an evaluation, I mean, to work a project.
 25 Sort of a working group is probably a

1 R. ADDUCCI
 2 better...
 3 Q. Is it a common practice in ICE to
 4 bring in a tiger team if you identified any
 5 issues with the procedures in the office?
 6 A. I can't -- I wouldn't call it
 7 common.
 8 Q. Have you ever in your nine years in
 9 Detroit brought in a tiger team?
 10 A. No.
 11 Q. Do you know James Rutherford?
 12 A. Yes.
 13 Q. And when did you first learn of
 14 him?
 15 A. I believe he was also -- I don't
 16 know if I interviewed him, but I think I may
 17 have interviewed him as the deputy field
 18 office director, because there was a big pool
 19 of people. I think he may as well have been
 20 one of the interviews that was conducted at
 21 the same time that I interviewed now-Deputy
 22 Field Office Director Lyons.
 23 Q. And you work with Mr. Rutherford
 24 currently?
 25 A. Correct.

1 R. ADDUCCI
 2 Q. Confidential/Privacy Sensitive
 [Redacted text]

1 R. ADDUCCI
 2 A. Confidential/Privacy Sensitive
 [Redacted text]

R. ADDUCCI

Q. Confidential/Privacy Sensitive/
Beyond Scope of Deposition
Order

Q. Have you ever spoken to Mr. Rutherford about this case?

A. Other than the, you know, having had to testify, but not the details of the testimony. Certainly trying to resolve issues or address potential challenges, we have. But there's a lot going on in the field office, so day-to-day operations kind of are very fluid, and we're -- you know, other than to say that he had done testimony, which again, I don't think, you know, he knows obviously I'm here today. He's running the office, because Mr. Lyons is on vacation. So he knows I'm at a deposition for this today. But just really, again, nothing of substance, I guess.

Q. And so when you said that you talked to him about trying to resolve issues

R. ADDUCCI

or address what's going on in the field office, what were you referring to?

A. Making sure that the paperwork is done timely, making sure that the processes that are in place are adhered to, making sure that we have appropriate staffing for the different divisions within the office, making sure they have the right equipment that they need to get the job done; things like that.

Q. When you say making sure paperwork is done timely and processes adhered to, are you referring to POCR processes specifically?

A. Right. I mean, I don't know that I specifically talked to -- I talked to the management team. You know, we have meetings pretty regularly. So talking kind of through the process and making sure everyone understands.

Again, like I said, I think there was a bit of a lack of clarity as to -- I think people were very reluctant to talk about what was going on. So there were a lot of people wanting to do the right thing, taking obviously this very seriously, but not exactly

R. ADDUCCI

knowing what was kind of behind that sequestration curtain to some degree.

So it has been sort of getting people a little bit educated, and things like that. Much of that, I think, was addressed before I got here, but I think that there was some, you know, reinforcing. It was more in a group setting with, you know, the management team.

Q. Did you mean uncertainty about the POCR regulations or uncertainty about the sequestration order and what could be discussed?

A. Well, I just think the general gist of the case. Because people -- I mean, what you can read. Again, a lot of what you can read, one, is in the media, which is sometimes not accurate. A lot of what you can read is very litigious. And, you know, we're not lawyers; we're operators.

So that's, I mean, I can't say that no one is a lawyer, but, I mean, if there are, it's very few lawyers that are actual officers. I think they just needed clearer

R. ADDUCCI

guidance. And, you know, new people onboard learning or being trained properly.

Q. When you're saying all of this, are you referring to POCR regulations? Are you referring to what the Judge has ordered in this case? I'm just not sure what the confusion -- I'm just not sure what the source of the confusion is.

A. No. I would say in the POCR regulations.

Q. So people being unsure about the processes necessary to comply with the POCR regulations?

A. I wouldn't -- I mean, I think there was some training that needed to occur, because you had some very, very brand new staff and some overwhelmed staff.

Q. And training to occur on what?

A. On the POCR process.

Q. And has that training happened?

A. Much of it has, and it is still ongoing. It's more of an informal sort of mentor-type training.

Q. So what training specifically has

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1 R. ADDUCCI
 2 already occurred?
 3 A. It would be, again, an officer
 4 working with another officer. It's more of an
 5 informal training, and having probably access
 6 to some more staff and senior staff in the
 7 office, and readjustment of staffing levels.
 8 Q. What do you mean "readjustment of
 9 staffing levels"?
 10 A. So there were three people on what
 11 would be the group that did the POCRs before I
 12 got here; and, as of now, there are 12. Three
 13 people, and an acting supervisor kind of
 14 situation. The staffing has been
 15 significantly increased, as well as bringing
 16 in some seasoned officers.
 17 Q. And with this informal mentoring
 18 training, do you know that everybody has had
 19 training in the office?
 20 A. Everybody in the office?
 21 Q. Everybody who needs it who deals
 22 with POCRs, who needs to be trained on the
 23 POCR process.
 24 A. It's not an official training, so I
 25 don't know how -- you know, different people

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1 R. ADDUCCI
 2 needs to attend?
 3 A. Correct. A formal POCR training
 4 comes out of ICE headquarters.
 5 Q. And is that scheduled to happen at
 6 any time?
 7 A. They were here prior to the issues.
 8 So it's not scheduled. It has been discussed,
 9 but it is not scheduled yet.
 10 Q. And so the people who are, let's
 11 say, lower level who might need the training,
 12 who are either new or they are overwhelmed or
 13 they need information on how the process
 14 works, how did they go about getting that?
 15 They just reach out to a mentor?
 16 A. And their supervisor. I mean,
 17 there's information that is on our ICE
 18 internal website or -- internal website, the
 19 processes. I mean, they have access to
 20 things. And then there have been some, for
 21 lack of a better term, sort of go-bys that
 22 have been created, or some are in the process
 23 of being created and being reviewed, and
 24 others are -- this is above. Again, I'm not a
 25 computer person -- but they use certain

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1 R. ADDUCCI
 2 require different levels. So to say somebody
 3 has had sufficient training, I feel like
 4 everybody has had access -- has access to and
 5 understands the issues that we saw were
 6 generally the lack of service or the
 7 timeliness of service of the Notice of File
 8 Custody Review.
 9 I mean, there were some other, you
 10 know, issues; but that was a big issue, the
 11 timeliness of the service of that Notice of
 12 File Custody Review.
 13 Q. So how has the training that's been
 14 conducted helped people in the office on that?
 15 A. Well, I would hope it has helped in
 16 that I haven't seen any issues since. But,
 17 you know, it still is a time -- there's still
 18 some time to pass before you have a huge level
 19 of confidence that everybody is -- I mean,
 20 I've had meetings with staff. I've had
 21 meetings with line officers just to say the
 22 importance of the process.
 23 Q. So if I have this right, there's
 24 been no formal classes or training sessions
 25 that come in that everybody in the office

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1 R. ADDUCCI
 2 programs to be able to access certain things.
 3 One of the more senior people has worked
 4 pretty hard on putting something together for
 5 them.
 6 I haven't reviewed it, because I
 7 don't do POCRs, but I saw -- I mean, I've
 8 spoken to them about it.
 9 Q. So what's a go-by?
 10 MS. LARAKERS: Objection to the
 11 extent that that's prepared by counsel.
 12 A. It would be sort of a checklist, a
 13 checklist of what to do when.
 14 Q. With relation to the POCR process?
 15 A. There's different, but that would
 16 be one example, yes.
 17 Q. So go-bys are in the process of
 18 being created now?
 19 A. I think they are created. I think
 20 they are just being reviewed.
 21 Q. And those will be distributed to
 22 people?
 23 A. Yes.
 24 Q. So how will you know when everybody
 25 in the office has had enough training on the

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1 R. ADDUCCI
 2 POCR process to be familiar with it going
 3 forward?
 4 A. I would have to rely on my
 5 subordinates to tell me that they're confident
 6 their staff is appropriately trained.
 7 Q. And has that happened?
 8 A. I haven't asked.
 9 Q. Are you planning to ask them?
 10 A. Yes. Now that we brought it up.
 11 I feel -- I've asked multiple times
 12 how we're doing, are things improving, things
 13 have improved vastly, the kinds of things that
 14 I'm hearing, and I haven't seen any issues of
 15 -- huge issues of concern since I've been
 16 there, you know, anything that's occurred
 17 since I've been there that I can think of. I
 18 know there were several before.
 19 Again, I'm not taking
 20 responsibility for fixing it. A lot of that
 21 was in the works when I got here. So I feel
 22 like -- I feel like the staffing level had a
 23 lot to do with some of the issues.
 24 Q. And how would you become aware of
 25 any issues that arise in people receiving

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1 R. ADDUCCI
 2 Brophy's successor?
 3 A. I don't know. I don't know if I
 4 know the answer to that. I don't know that I
 5 was bound by the sequestration order, but I
 6 don't know anything that's behind it, so I
 7 couldn't say anything about it.
 8 Q. I'll rephrase the question.
 9 A. Okay.
 10 Q. I don't think it was put very well.
 11 I more mean, have you been abiding by the
 12 sequestration order?
 13 A. I think so, yes.
 14 Q. The sequestration order says that
 15 you're not allowed to discuss what was asked
 16 --
 17 MS. LARAKERS: Objection. Can you
 18 show her the document and not just
 19 characterize it, because I know it doesn't say
 20 "you."
 21 (Adducci Exhibit 2, Order, marked
 22 for identification)
 23 Q. The court reporter has handed you
 24 what's been marked as Exhibit 2. Do you
 25 recognize this document?

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1 R. ADDUCCI
 2 proper POCR review?
 3 A. Through the chain of command, I had
 4 a subordinate reviewing the detained docket,
 5 and, you know, working with the staff and
 6 working with the assistant field office
 7 directors to ensure if he noted any issues of
 8 concern, they were being addressed.
 9 Q. So he's reviewed the entire
 10 currently detained docket?
 11 A. Yes.
 12 Q. And when did he conduct that review
 13 or she?
 14 A. Beginning June 25th or 26th.
 15 Q. And when did he finish his review?
 16 A. Yesterday.
 17 Q. And what did he report on that
 18 review?
 19 A. It's in the office. I haven't seen
 20 it, because he was there late and I left, and
 21 I'm here today.
 22 Q. And you mentioned the sequestration
 23 order. Just to confirm, it sounds like this
 24 is the case, but have you been acting as if
 25 you were bound by the sequestration order as

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1 R. ADDUCCI
 2 A. Okay.
 3 Q. Do you recognize this document?
 4 A. Yes.
 5 Q. What is it?
 6 A. It's the sequestration order. I
 7 think it's part of this document as well,
 8 ECF No. 69 or No. 85. There's two. I don't
 9 know if it's the revised or the original.
 10 But, yes.
 11 Q. Is it your understanding that you
 12 are bound to the requirements that are set out
 13 in this document?
 14 A. Well, my name is not in this
 15 document.
 16 Q. Correct. My question is, so is it
 17 your understanding that you're bound to the
 18 requirements in this document?
 19 A. I -- no.
 20 Q. Okay. If you turn back to Exhibit
 21 1, your June 22nd declaration. If you turn to
 22 the second-to-last page, Paragraph 4 of your
 23 declaration.
 24 Are you with me?
 25 A. Yes.

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1 R. ADDUCCI
 2 Q. In the second sentence you say, "I
 3 have also been made aware of the Court's
 4 concerns regarding the implementation of the
 5 relevant POOCR regulations in ensuring timely
 6 reviews conducted with proper notice to the
 7 parties. In light of those concerns, I plan
 8 to include those issues among my priorities to
 9 address."
 10 Do you see that?
 11 A. Yes.
 12 Q. Have you included those issues
 13 among your priorities to address since being
 14 the interim FOD in the Boston field office?
 15 A. Yes.
 16 Q. Can you explain how you've included
 17 it in your priorities?
 18 A. Well, probably the biggest thing is
 19 I've brought a subject matter expert from
 20 Detroit with me to review the entire detained
 21 docket.
 22 Q. Is that the subordinate you were
 23 referring to earlier?
 24 A. Yes.
 25 Q. What makes him a subject matter

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1 R. ADDUCCI
 2 So sometimes, depending on if there
 3 is a potential data quality issue, he may or
 4 may not know if something occurred timely.
 5 I know he was working with the
 6 officers. If he saw something that he
 7 considered to be a potential problem, and he
 8 didn't share with -- he was very busy, and he
 9 didn't, you know, he didn't share with me on
 10 individual cases. He was working with the
 11 assistant field office director over the
 12 detained docket, as well as the SDDOs, and
 13 then provided guidance to some of the newer
 14 deportation officers as well, again, just on
 15 an as-needed basis if they came in to talk to
 16 him.
 17 Q. What is the data quality issue
 18 you're referring to?
 19 A. If something wasn't put into a
 20 system, and it actually occurred, you know,
 21 the best way to know what's happened is the
 22 file. It's sort of, I mean, when I started,
 23 we didn't have computers. So you had to rely
 24 on the files for everything.
 25 Then as time progressed and you

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1 R. ADDUCCI
 2 expert?
 3 A. He was SDDO in Detroit over the
 4 detained docket -- I'm sorry -- supervisory
 5 detention and deportation officer over the
 6 detained docket. And then subsequently the
 7 assistant field office director over the
 8 detained docket in Detroit. I rely very
 9 heavily on him for his expertise in that -- in
 10 my office in Detroit.
 11 Q. So his review of the detained
 12 docket, is that one of the ways you've made
 13 this a priority?
 14 A. Yes.
 15 Q. And his review was finished
 16 yesterday, but you haven't had time to look,
 17 because it was late yesterday, correct?
 18 A. Right.
 19 Q. Did he tell you if he encountered
 20 any major issues yet?
 21 A. He -- one of the problems or
 22 challenges he had was he couldn't be for sure,
 23 certain, on everything, because he didn't have
 24 all of the files. He had to rely much on a
 25 computer screen.

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1 R. ADDUCCI
 2 start using computer systems, everything in
 3 the computer is as good as the person putting
 4 it in. Occasionally something might get
 5 overlooked or something might be input
 6 improperly or erroneously. The best evidence
 7 has always been the actual file itself.
 8 One of the challenges we have is we
 9 don't own the files. They're owned by another
 10 agency. So we have to coordinate and, you
 11 know, and the files are needed by other
 12 divisions of our agency as court occurs, or
 13 being needed by potentially citizenship and
 14 immigration services for adjudication of
 15 applications. So the best evidence has always
 16 been the file.
 17 So without -- if there was a
 18 question, he wasn't comfortable saying until
 19 he actually saw the file, which sometimes
 20 weren't available. I mean, files get moved
 21 all over the country unfortunately.
 22 Q. Besides bringing in somebody to
 23 review the detained docket, what else have you
 24 done to make the implementation of the POOCR
 25 regulations one of your priorities?

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1 R. ADDUCCI
 2 A. Personally, I've done -- I haven't
 3 done anything. I've spoken to staff. Oh, I
 4 did have a meeting with the non-detained -- or
 5 the detained staff. I can't be certain that
 6 they were all present based leave and it was
 7 very early in my tenure here, although it
 8 still feels very early in my tenure here. I
 9 don't know everyone here. I don't know
 10 everyone's names, and I don't know if the full
 11 contingent of staff was present for the
 12 meeting, but it was a good-sized meeting.
 13 But I expect my subordinate
 14 managers, as we discuss things, to be talking
 15 to their staff. And I've told the subordinate
 16 managers to make sure that people are feeling
 17 comfortable and educated. And there's
 18 reviews, you know, the SDDOs have assured me
 19 they have reviewed the cases on a pretty
 20 regular basis to -- again, something that --
 21 I'm speaking to something that occurred before
 22 I got here, but part of -- I think it might
 23 have been part of the after action report, or
 24 part of the team that came in was a
 25 recommendation to use some spreadsheets.

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1 R. ADDUCCI
 2 will take place before that happens. So I
 3 would review it with our counsel to make a
 4 determination if it appears as though there
 5 has been.
 6 But ultimately, yeah, if there's an
 7 improper POCR timeline issue or POCR review,
 8 the remedy has sort of been release -- has
 9 been release.
 10 Q. So once it's definitively
 11 determined that somebody has had their -- has
 12 had an improper POCR review, they will be
 13 released; is that correct?
 14 A. In consult with our attorneys.
 15 Q. Has anybody been released that you
 16 know of since you started office?
 17 A. Yeah, there have been a couple.
 18 Q. Do you know who they are?
 19 A. No.
 20 Q. You said a couple. Is that two?
 21 A. I'm thinking of two, but there may
 22 have been three. I don't want to be pinned-in
 23 on that number. I can find out and get back.
 24 It has been less than, you know, it has been a
 25 handful at most.

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1 R. ADDUCCI
 2 I haven't actually seen the
 3 spreadsheets, but the staff has assured me
 4 that they are reviewing these spreadsheets on
 5 a regular basis; that being the supervisors,
 6 not -- on more of a random as opposed to every
 7 single case, every single week, or every other
 8 week. I mean, that would be a lift. And say
 9 that things are doing much better.
 10 Q. What are the spreadsheets that
 11 you've referenced?
 12 A. I haven't seen them. It's sort of
 13 -- it came from another field office and it's
 14 sort of an antiquated way of using a system.
 15 It's sort of a 2008 way of using a system, but
 16 it's more visual than using what we call
 17 call-ups in our system to sort of tell you
 18 when things are due. It's just a visual tool.
 19 Q. Anything else that you've done
 20 since?
 21 A. I can't think of anything.
 22 Q. Is it the current policy of the
 23 Boston field office to release somebody who
 24 has not received proper POCR review?
 25 A. There's usually a discussion that

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1 R. ADDUCCI
 2 Q. Are you familiar with the name
 3 **Confidential/PII** ?
 4 A. Yes.
 5 Q. Has he been released from custody?
 6 A. He's not in custody, to my
 7 knowledge, unless something happened in the
 8 last day. But I believe he was released by --
 9 I think that's a case that was released by a
 10 district court judge.
 11 Q. Did your office determine whether
 12 he had received a POCR violation?
 13 A. I think that happened before -- I
 14 don't know. I don't -- I don't know the
 15 answer.
 16 Q. You're aware that in this
 17 litigation the Court conducted hearings on May
 18 22nd and May 23rd, correct?
 19 A. Yes. Towards the end of May, yes.
 20 Before Mr. Brophy left.
 21 Q. Are you aware that at those
 22 hearings Thomas Brophy testified?
 23 A. Yes.
 24 Q. And Todd Lyons testified?
 25 A. Yes.

1 R. ADDUCCI
 2 Q. And James Rutherford testified?
 3 A. Yes.
 4 Q. Have you read the transcripts of
 5 the testimony from those hearings?
 6 A. No.
 7 Q. If you look back at your
 8 declaration, Exhibit 1, and you turn to
 9 Paragraph 4, the first sentence says, "I'm
 10 aware that testimony was taken by the Court
 11 from the then-Acting FOD as well as other
 12 local ERO leadership regarding operations of
 13 the Boston Field Office, so I wanted to ensure
 14 the Court was made aware of my transition to
 15 the position of Interim FOD at the Boston
 16 Field Office."
 17 Do you see that?
 18 A. Yes.
 19 Q. What testimony are you referring
 20 to?
 21 A. The lobby conference. I don't know
 22 if that was technically testimony.
 23 Q. Yeah, well, you said "testimony was
 24 taken from then-Acting FOD, as well as other
 25 local ERO leadership, regarding the operations

1 R. ADDUCCI
 2 of the Boston Field Office."
 3 Do you know who you were referring
 4 to?
 5 A. That would have been Lyons and --
 6 Brophy is the acting FOD, and then Lyons and
 7 Rutherford.
 8 Q. Why did you say you wanted to
 9 ensure the Court was made aware of your
 10 transition?
 11 A. I read the lobby conference, and in
 12 the lobby conference they indicated that
 13 Mr. Lyons was going to be the acting FOD, and
 14 it was a recommendation of counsel that we
 15 notify the judge that that had changed.
 16 Q. If you turn to Paragraph 5, you
 17 state, in the first sentence you state, "I
 18 also understand that statements may have been
 19 made by prior local ERO leadership which may
 20 have been interpreted as a commitment with
 21 regard to the prioritization of enforcement
 22 resources."
 23 Do you see that?
 24 A. Hmm-hmm.
 25 Q. Were you aware that Mr. Brophy

1 R. ADDUCCI
 2 testified that absent a danger to public
 3 safety, the Boston field office would no
 4 longer make arrests of persons pursuing I-130s
 5 and presenting themselves as CIS officers?
 6 A. Yes, because it was in the lobby
 7 conference.
 8 Q. And were you referring to that in
 9 Paragraph 5?
 10 A. In part.
 11 Q. What other part?
 12 A. Is there a possibility I could see
 13 -- I know what I'm thinking of, but I don't
 14 know if I'm going to say it exactly right.
 15 There was some discussion about the
 16 CIS-related arrests. But then there was
 17 subsequent discussion in the lobby conference
 18 about final orders with -- final order aliens
 19 with no criminal activity, and the fact that
 20 we would -- there was a desire or there was a
 21 discussion about whether those people would be
 22 targeted for arrest outside of CIS.
 23 Then my recollection is Mr. Brophy
 24 said that he would -- he would not commit to
 25 not -- he could not commit to not arresting

1 R. ADDUCCI
 2 those, but that he would not detain them.
 3 Q. So if you turn back to your
 4 declaration, after that sentence you say, "As
 5 Interim FOD, I intend to prioritize
 6 enforcement resources consistent with
 7 Executive Order No. 13768."
 8 Do you see that?
 9 A. Yes.
 10 Q. So that was a true statement at the
 11 time, right?
 12 A. Yes.
 13 Q. And that is true today?
 14 A. Yes.
 15 Q. Do you think that Mr. Brophy's
 16 practice that you were referencing contradicts
 17 the President's executive order?
 18 A. Yes.
 19 Q. In what sense?
 20 A. There are no specific classes of
 21 individuals that are off the table for
 22 enforcement action.
 23 Q. What do you mean by "enforcement
 24 action"?
 25 A. Arrest, detention, removal.

1 R. ADDUCCI
 2 Q. And so Mr. Brophy's statement that
 3 "absent a danger to public safety, the Boston
 4 Field Office would no longer make arrests of
 5 persons pursuing I-130s and presenting
 6 themselves at U.S. CIS" was contrary to that?
 7 A. Correct.
 8 Q. And his statement that they
 9 wouldn't detain individuals who were pursuing
 10 provisional waivers was contrary to that?
 11 A. Yes.
 12 Q. So in your view, the President's
 13 order requires arrest of anyone with final
 14 orders of removal?
 15 A. I don't know if I would say
 16 requires. I would say permits.
 17 Q. Regardless of where the person is
 18 located at the time of arrest?
 19 A. That's just -- it's not addressed.
 20 So yes, regardless.
 21 Q. And regardless of whether they're
 22 pursuing a provisional waiver?
 23 A. Correct.
 24 Q. Regardless of their marriage to a
 25 U.S. citizen?

1 R. ADDUCCI
 2 A. Correct. These are all factors
 3 that should be considered when making a
 4 decision on whether or not to conduct an
 5 enforcement action. But the policy, the
 6 executive order, I'm sorry, doesn't address
 7 that issue.
 8 Again, the premise behind it is
 9 there is no specific class of individuals that
 10 is exempt from enforcement action. And if you
 11 say that, you're making a class of individuals
 12 that is exempt from enforcement action.
 13 Q. So what considerations go into
 14 whether to conduct an enforcement action?
 15 A. I mean, there's really no magic
 16 bullet or magic potion for that. It's all
 17 case by case. There are so many things that
 18 can go on in a case.
 19 Q. And you said that somebody -- but
 20 the fact that somebody is pursuing a
 21 provisional waiver is married to a U.S.
 22 citizen is something that should be
 23 considered, correct?
 24 A. I think everything should be
 25 considered when you're making a custody

1 R. ADDUCCI
 2 determination, a decision to make an
 3 enforcement action of any kind, a removal
 4 decision.
 5 Q. How can everything be considered?
 6 A. Well, everything that's part of
 7 that case. Anything that's presented to you
 8 for consideration should be considered.
 9 Q. And what should be -- so if it's
 10 considered, does it affect the decision at
 11 all?
 12 A. It could.
 13 Q. But it could not?
 14 A. It could not.
 15 Q. So when ICE makes a decision to
 16 arrest somebody appearing at U.S. CIS offices,
 17 it doesn't actually matter if after that
 18 interview they have an approved I-130
 19 application, does it?
 20 MS. PIEMONTE: Objection.
 21 A. What do you mean it doesn't matter?
 22 Q. It doesn't matter to the decision
 23 to arrest, the decision to arrest --
 24 A. I could.
 25 Q. -- will go forward?

1 R. ADDUCCI
 2 A. I mean, I would have to -- it's a
 3 case-by-case situation. I mean, there could
 4 be a situation where they may make a
 5 determination not to exercise prosecutorial
 6 discretion on the spot and not arrest the
 7 individual.
 8 I mean, prosecutorial discretion is
 9 not a new term. It's a term that's been
 10 around forever. Officers are exercising
 11 prosecutorial discretion every day. There is
 12 so many people out there, there is no way we
 13 could possibly enforce all cases. But when
 14 someone is in front of our -- in front of us,
 15 and we have dockets that we manage, we are
 16 responsible to manage those dockets. And the
 17 ultimate goal is to enforce the Judge's order
 18 for somebody who has a final order of removal.
 19 Q. Have you ever heard of a case where
 20 somebody declined to make an arrest, because
 21 once they had decided to make an arrest at a
 22 CIS office because during the interview the
 23 applicant's I-130 application was approved?
 24 A. I have not.
 25 Q. Is there any guidance that tells

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1 R. ADDUCCI
 2 arresting officers what factors to account for
 3 in making and enforcing an enforcement
 4 decision?
 5 A. Guidance that's in existence --
 6 there were some policy -- I mean, I think
 7 those have been superseded by the executive
 8 order, because I believe that there were some
 9 sort of more detailed guidance from previous
 10 directors of ICE and/or secretaries that laid
 11 out some factors to consider.
 12 So, I mean, I don't think anyone
 13 forgot those, but I don't think -- and I think
 14 some of it is common sense. But I don't think
 15 there's any written guidance at this juncture.
 16 The guidance that the staff follows
 17 is the executive order, followed by at the
 18 time Secretary Kelly's implementation memo.
 19 Q. So the guidance is the executive
 20 order and Secretary Kelly's implementation
 21 memo, and that's it?
 22 A. Right.
 23 Q. Are there consequences for not
 24 following the President's executive order?
 25 MS. PIEMONTE: Objection.

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1 R. ADDUCCI
 2 continue forward.
 3 Q. And how did you first learn that he
 4 said he would continue Mr. Brophy's policies?
 5 A. By reading the lobby conference.
 6 Q. And you replaced Mr. Lyons as --
 7 well, you became interim field office director
 8 on June 7th, correct?
 9 A. Correct.
 10 Q. So Mr. Lyons did not go forward
 11 with the field office director position?
 12 A. Correct. I mean, if he was -- I'm
 13 not exactly sure what date Mr. Brophy left.
 14 So there was a -- there would have been
 15 someone probably in an acting role, just as if
 16 I'm out, you know, today James is sort of
 17 covering the field office. I don't know. He
 18 assumed it for maybe a short window until I
 19 got there.
 20 THE WITNESS: Is now a time for a
 21 break? Is that okay?
 22 MS. LARAKERS: You can ask.
 23 A. Could we take a quick break,
 24 please?
 25 Q. Sure, yes. Of course.

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1 R. ADDUCCI
 2 A. I'm sure that it would be some type
 3 of a policy violation, and it could be --
 4 policy violations are on the table of
 5 penalties. So I would say there could be some
 6 type of discipline.
 7 Q. Are you aware of anybody who has
 8 been disciplined for not following the
 9 President's executive order?
 10 A. I'm not.
 11 Q. And you're aware that Mr. Lyons was
 12 designated to succeed Mr. Brophy as interim
 13 field office director in Boston, correct?
 14 A. I am.
 15 Q. And he assumed that position on
 16 June 1st, correct?
 17 A. I don't know.
 18 Q. You're aware that Mr. Lyons
 19 testified that he would continue Mr. Brophy's
 20 policies that you testified are inconsistent
 21 with the executive order; is that right?
 22 A. I would have to read the lobby
 23 conference again, because that's where I saw
 24 that information. I do know that that was --
 25 I think that, yes, he did assure that he would

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1 R. ADDUCCI
 2 VIDEOGRAPHER: We are going off the
 3 record at 10:58.
 4 (Recess taken at 10:58 a.m. and
 5 reconvening at 11:13 a.m.)
 6 VIDEOGRAPHER: We're back on the
 7 record at 11:13.
 8 (Adducci Exhibit 3, Declaration
 9 of Rebecca J. Adducci, marked for
 10 identification)
 11 BY MS. SEWALL:
 12 Q. Ms. Adducci, the court reporter has
 13 handed you what's been marked as Exhibit 3.
 14 Do you recognize this document?
 15 A. I do.
 16 Q. This is another declaration you
 17 submitted in this litigation?
 18 A. Correct.
 19 Q. And it's dated June 28, 2018?
 20 A. Yes.
 21 Q. And your signature is on the
 22 bottom, correct?
 23 A. Yes.
 24 Q. If you turn to Paragraph 1, toward
 25 the middle, it says, "I have been serving" --

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R. ADDUCCI

Beyond scope of deposition order / deliberative process

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R. ADDUCCI

A. Beyond scope of deposition order / deliberative process

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R. ADDUCCI

Beyond scope of deposition order / deliberative process

MS. LARAKERS: Objection to scope, and to the extent it impedes on the deliberative process.

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R. ADDUCCI

A. Beyond scope of deposition order / deliberative process

[Redacted]

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R. ADDUCCI

Beyond scope of deposition order / deliberative

Q. Are you aware that sometime in 2017 ICE Boston began a practice of arresting, detaining and removing non-citizens who appeared at CIS offices to seek immigration benefits?

A. I know it happened in 2017. I don't know that that's when it began. I would say that that's not been -- that's gone on -- I don't know, because I'm unfamiliar with this AOR to that level of granularity. But I would say that, I mean, it's not uncommon for someone to be arrested at a CIS.

It's not common either, but it has happened everywhere for years.

Q. So --

A. So to say to begin a practice, I guess, I know it occurred in 2017, but I don't know that it began in 2017.

Q. It's a common practice, though, to

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R. ADDUCCI

arrest individuals at CIS offices?

A. No. I said common is -- that was -- I misspoke. I wouldn't say it's common, but it's not unheard of.

Q. It's common to have a policy where people can be arrested at CIS offices?

A. No. There's no policy about arresting people at CIS offices.

Q. There's no -- there's no policy whatsoever about it?

A. I'm not aware of a policy about arresting people at CIS.

Q. Well, in 2017, starting in -- well, I say in 2017, non-citizens who appeared at CIS for I-130 interviews were arrested in Boston, correct?

A. Yes.

Q. Did you engage in a similar practice in Detroit?

A. We -- not very often. I'd say not like that, no. I would say we do get referrals from CIS, but in most instances, we get -- we don't arrest them at CIS.

Q. Why is that?

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1 R. ADDUCCI
 2 MS. LARAKERS: Objection.
 3 A. I would have to check with my
 4 subordinates. I trust that my subordinate
 5 staff knows what they're doing.
 6 I mean, I have assistant field
 7 office -- I have deputy field office directors
 8 and assistant field office directors and
 9 supervisory detention and deportation officers
 10 all that deal with these issues. I've heard
 11 nothing about CIS arrests.
 12 For years, CIS has referred cases.
 13 Q. So you're -- in Detroit, generally,
 14 you did not make arrests at CIS?
 15 MS. LARAKERS: Objection.
 16 A. I don't ever, but my staff may. I
 17 don't think it occurs. I think it would be
 18 very infrequent. I think generally it would
 19 be at another location at a residence or...
 20 Q. And when you were in Detroit, you
 21 didn't tell your staff to make -- to start
 22 making arrests at CIS offices?
 23 MS. LARAKERS: Objection.
 24 A. No.
 25 Q. And you didn't tell them not to

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1 R. ADDUCCI
 2 that's probably about the time he left Boston,
 3 maybe the late -- the end of last -- the end
 4 of '17.
 5 Q. Do you know whether he directed
 6 individuals in Boston to make arrests at CIS
 7 offices?
 8 A. I do not.
 9 Q. Do you know whether he directed
 10 them not to make arrests at CIS offices?
 11 A. I do not.
 12 Q. Have you ever talked to Mr. Cronin
 13 about the practice of making arrests at CIS
 14 offices?
 15 A. No.
 16 Q. Have you ever talked to Mr. Brophy
 17 about the practice of making arrests at CIS
 18 offices?
 19 A. I -- yes, but only to the fact that
 20 it occurred. At one point in -- I think
 21 shortly after Brophy came to Boston, I had an
 22 employee that asked if he could be considered
 23 for a transfer from Detroit to Boston, so I
 24 contacted Tom, and we talked about a multitude
 25 of things.

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1 R. ADDUCCI
 2 make arrests at CIS offices?
 3 MS. LARAKERS: Objection.
 4 A. No.
 5 Q. So in Boston, arrests at CIS
 6 offices became more frequent in 2017, correct?
 7 A. Well, I don't know what happened
 8 here prior to what I've looked at. So I don't
 9 know the answer.
 10 Q. Mr. Cronin was interim FOD in the
 11 period of late 2017 to the beginning of 2018,
 12 correct?
 13 A. I don't think he was interim. I
 14 think he was permanent.
 15 Q. He was the acting FOD?
 16 A. Cronin?
 17 Q. Yeah.
 18 A. No. He was the field office
 19 director.
 20 Q. Just field office director.
 21 A. I don't know his exact tenure. I'm
 22 trying to think if I can remember when he
 23 became my boss. Just like Boston, I have a
 24 round-robin of supervisors. I think he became
 25 my boss around January of this year. So

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1 R. ADDUCCI
 2 I think at that time he might have
 3 mentioned to me -- at some point he did
 4 mention to me something about CIS arrests and
 5 that it's -- it's resulted in a lawsuit, I
 6 think, but it was -- it was vague.
 7 And I would -- you know, I think I
 8 remember him telling me that staff was
 9 arresting CIS at offices, and that it had been
 10 a problem.
 11 Q. Did you say anything in response?
 12 A. I don't remember.
 13 Q. When did this conversation occur?
 14 A. Oh, well, it was after he got here,
 15 and it has been a while. I want to say early
 16 -- I would say sometime in late January or
 17 early February, but I'm guessing. I could
 18 find out if I could look at my e-mails, but I
 19 don't -- it was when my employee inquired as
 20 to whether or not I could help him try to find
 21 a vacant position here.
 22 He's not here yet, so it's taking a
 23 really long time. But I think -- that's why
 24 I'm concerned about when exactly it might have
 25 been.

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1 R. ADDUCCI
 2 Q. So did this conversation happen
 3 over the phone or by e-mail?
 4 A. Over the phone.
 5 Q. Did Mr. Brophy express any opinion
 6 on the practice of arresting people at CIS
 7 offices?
 8 A. I think he thought it -- I think he
 9 mentioned to me that it was probably not the
 10 best use of resources.
 11 Q. Anything else?
 12 A. I don't recall.
 13 Q. Did you agree with him or disagree
 14 with him?
 15 A. Without knowing all the facts, that
 16 might not be where I would prioritize my
 17 resources. But I would have to know the
 18 facts.
 19 Q. As a general matter, is it where
 20 you would prioritize your resources?
 21 A. No.
 22 Q. But arrests at CIS offices are
 23 permissible, correct?
 24 A. Yes.
 25 Q. And they're consistent with the

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1 R. ADDUCCI
 2 Q. Do you know, since you've taken
 3 over as field office director in Boston, have
 4 you talked to anybody about Mr. Brophy's
 5 directive?
 6 MS. LARAKERS: Objection to the
 7 extent it includes attorney-client privilege.
 8 Q. Aside from your attorneys.
 9 A. I think I've probably talked to --
 10 probably Todd Lyons and/or an assistant field
 11 office director in the office, and maybe some
 12 of the management, the supervisors that would
 13 be involved.
 14 I don't know if we've talked --
 15 I've talked about CIS arrests. I just don't
 16 know if I've talked about them as it relates
 17 to Mr. Brophy.
 18 Q. And what have you said about CIS
 19 arrests?
 20 A. I've said that -- I mean, most
 21 individuals saw my deposition, because it was
 22 in the media. So I wanted to clarify that
 23 while no class of aliens is off the table, I
 24 don't want any CIS arrests taking place at
 25 this point without having -- without reviewing

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1 R. ADDUCCI
 2 President's executive order, correct?
 3 A. In the sense that there's no class
 4 of individual that's exempt.
 5 Q. Mr. Cronin left the Boston office,
 6 correct?
 7 A. Yes.
 8 Q. And Mr. Brophy replaced Mr. Cronin?
 9 A. Yes.
 10 Q. And he changed the practice with
 11 respect to arrests at CIS, correct?
 12 A. That's what I -- yes. I would
 13 agree.
 14 Q. He instructed his staff to stop
 15 making arrests at CIS, absent national
 16 security or other public safety issues,
 17 correct?
 18 A. I don't know if he ever instructed
 19 the staff, but that's what he said he was
 20 going to do in the lobby conference. I think
 21 the lobby conference was so close to his
 22 departure. So, you know...
 23 Q. When did you first learn that this
 24 was his practice?
 25 A. When I read the lobby conference.

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1 R. ADDUCCI
 2 them personally, if there's an individual that
 3 they indicated that they were going to target
 4 at a CIS office, and that it needed to come up
 5 through the chain for discussion if that was
 6 going to happen.
 7 Q. Did you -- how did you communicate
 8 that?
 9 A. At a managers' meeting.
 10 Q. Who was in attendance?
 11 A. I don't remember. It would be all
 12 of the -- both BFODs, all AFODs, some on the
 13 phone, and supervisory detention and
 14 deportation officers. But I can't, you know,
 15 again, I don't know the whole staff. So if
 16 somebody was absent or if somebody was on
 17 vacation, they might not have been at that
 18 meeting.
 19 Q. And you never put anything in
 20 writing to tell people not to make arrests at
 21 CIS offices -- sorry, to bring it up through
 22 the chain if they were thinking about making
 23 arrests at CIS offices?
 24 A. No.
 25 Q. Did you tell the people on the call

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1 R. ADDUCCI
 2 that you just referenced to inform their
 3 staff?
 4 A. Yes.
 5 Q. Did anybody push back about your
 6 policy?
 7 A. No.
 8 Q. What did you discuss with Mr. Lyons
 9 about Mr. Brophy's policy?
 10 A. I don't know that I -- I probably
 11 more discussed about the lobby conference and
 12 having to do the declaration, saying that
 13 there were things within the lobby conference
 14 that didn't appear to -- that conflicted with
 15 the executive orders and the implementation
 16 memo.
 17 So I don't think I ever -- I don't
 18 know -- I don't recall ever saying, What did
 19 you and Tom instruct people to do? Because
 20 once the declaration came out and it was in
 21 the media, I wanted to make sure everybody was
 22 clear that it wasn't -- it wasn't open season.
 23 We need to be judicious about our approach and
 24 we need to prioritize our resources, and I
 25 wanted to know because of the sensitivity of

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1 R. ADDUCCI
 2 with final orders is off the table, correct?
 3 A. I'm sorry, can you rephrase that?
 4 Q. Under the executive order and under
 5 the memorandum that you referred to, there are
 6 no categories of people exempt from arrest or
 7 deportation, correct, or detention?
 8 A. That's correct.
 9 Q. And you testified earlier that
 10 there's no location of arrest that's off
 11 limits, correct?
 12 A. Well, I mean, we have a sensitive
 13 locations policy, but it's not 100 percent off
 14 limits. But there's quite a process to
 15 potentially arrest someone at a church or a
 16 school or a hospital. Those all fall under
 17 our sensitive locations policy.
 18 It doesn't completely negate the
 19 ability, but there's a level of review that
 20 has to occur if you are going to make an
 21 arrest there.
 22 Q. Is CIS offices on the list of
 23 sensitive locations?
 24 A. No. Just the three places.
 25 Q. And is the sensitive locations list

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1 R. ADDUCCI
 2 the topic that I had some visibility.
 3 Q. And you said that Mr. Brophy's
 4 policy was, in fact, contrary to the executive
 5 order, right?
 6 A. Well, I don't know that he
 7 specifically had a policy. But his statement
 8 in the interrogatory -- or interrogatory --
 9 his statement in the lobby conference was
 10 somewhat difficult to interpret in certain
 11 parts, so I didn't, you know, there was some
 12 question about whether things might have been
 13 misinterpreted.
 14 So in order to clarify, you know,
 15 my misunderstanding, or potential
 16 misunderstanding, I just wanted to make it
 17 simple and say we would be, you know,
 18 following the guidance of our bosses, which is
 19 the implementation memo from Secretary Kelly,
 20 from then-Secretary Kelly.
 21 So I think that would be more of
 22 the conversation that I would have had with
 23 Todd, with Mr. Lyons.
 24 Q. Under the executive order and in
 25 Mr. Kelly's memorandum, no arrest of citizens

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1 R. ADDUCCI
 2 policy currently in effect?
 3 A. Yes.
 4 Q. And it's not inconsistent with the
 5 executive order?
 6 A. No.
 7 Q. It wasn't superseded by the
 8 executive order?
 9 A. No.
 10 Q. How do you know that?
 11 A. Just from being a field office
 12 director and reading, you know, e-mails or --
 13 I just know the sensitive locations policy is
 14 still in effect. I mean, it's pretty -- it's
 15 discussed.
 16 Q. And CIS offices are not on that
 17 list?
 18 A. That's correct.
 19 Q. So there's no official guidance to
 20 staff about making arrests at CIS offices?
 21 MS. LARAKERS: Objection to the
 22 extent it impedes on attorney-client
 23 privilege.
 24 A. "No official"?
 25 Q. Guidance to staff about making

1 R. ADDUCCI
 2 arrests at CIS offices.
 3 A. No official national guidance. I
 4 don't know if there was official guidance that
 5 -- I guess it just depends on how you define
 6 "official." If it's official as in national,
 7 no. But if we're talking about some guidance
 8 that was ever put in place in Boston, I don't
 9 have access to it, but I'm not aware of it.
 10 Q. Was there guidance that was ever
 11 put in place in Detroit, for example?
 12 MS. LARAKERS: Objection.
 13 A. No.
 14 Q. Do you know if guidance was ever
 15 put in place in any location across the United
 16 States?
 17 MS. LARAKERS: Objection.
 18 A. No.
 19 Q. So, as far as you know, there's
 20 never been any official guidance to staff
 21 about making arrests at CIS offices?
 22 A. As far as I know.
 23 Q. And, actually, CIS makes referrals
 24 to ICE about when people will appear for their
 25 interviews --

1 R. ADDUCCI
 2 MS. LARAKERS: Objection.
 3 MS. SEWALL: I'm not finished with
 4 my question.
 5 Q. CIS makes referrals to ICE about
 6 when people will appear for appointments or
 7 interviews, correct?
 8 A. In Boston. I saw -- apparently in
 9 Boston.
 10 Q. Is that a common practice?
 11 A. Oh, in the rest of the country?
 12 Q. Hmm-hmm.
 13 A. I can't -- I don't know.
 14 Q. Is it your -- was it the practice
 15 in Detroit?
 16 MS. LARAKERS: Objection.
 17 A. Confidential/LE techniques
 24 Q. And so it's --
 25 A. Generally, it's someone coming in

1 R. ADDUCCI
 2 for some kind of an interview.
 3 Q. So it's not a common practice
 4 across the country?
 5 A. I can't speak to the country.
 6 Q. It's the first -- is this is first
 7 time -- since you've come to Boston, is this
 8 is first time you've seen it in place?
 9 MS. LARAKERS: Objection. Form.
 10 "It."
 11 A. I guess I don't know what -- seeing
 12 what in place?
 13 Q. Is this the first time you've seen
 14 CIS making referrals to ICE?
 15 A. No.
 16 Q. When was the other time you've seen
 17 that?
 18 A. They have been making them since we
 19 became ICE. At one point there was a memo
 20 that -- and it could have been superseded at
 21 this juncture, but there were egregious cases
 22 that needed to be referred from CIS to ICE. I
 23 don't know the date of the memo -- well, it
 24 was after '03.
 25 Q. That CIS must refer egregious cases

1 R. ADDUCCI
 2 to ICE?
 3 A. I believe it would have probably
 4 been -- well, I don't know if it was a joint
 5 memo or if it was solely a CIS memo. I've
 6 never worked for CIS, but I know we were -- we
 7 were responsible to be responsive to egregious
 8 cases.
 9 Q. When you came to Boston, was it the
 10 first time you have seen ICE making referrals
 11 to -- I mean, sorry, CIS making referrals to
 12 ICE about individuals who were attending I-130
 13 interviews?
 14 A. Yes.
 15 Q. Have you heard of that practice
 16 taking place anywhere else?
 17 A. No.
 18 Q. So by these referrals from CIS, ICE
 19 knows when people are going to be appearing at
 20 CIS for an I-130 interview, correct?
 21 A. Yes.
 22 Q. And an I-130 interview isn't
 23 actually required in order to -- it's not in
 24 every case going to be required in order to
 25 adjudicate an I-130 application, correct?

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1 R. ADDUCCI
 2 MS. LARAKERS: Objection. Legal
 3 conclusion.
 4 A. I don't work for CIS, so I don't
 5 know.
 6 Q. You don't know one way or the
 7 other?
 8 A. Right.
 9 Q. CIS will work with ICE in Boston,
 10 the Boston field office, to schedule these
 11 I-130 interviews, won't it?
 12 A. I don't know firsthand. I haven't
 13 -- but I -- I think there was some e-mail
 14 traffic that I reviewed at some point that
 15 looked like there might have been some
 16 scheduled -- scheduling coordination.
 17 Q. They scheduled -- they schedule
 18 interviews at a time that will be convenient
 19 for ICE to come in and make arrests, correct?
 20 A. I don't know.
 21 Q. They have scheduling coordination
 22 with ICE?
 23 A. I thought I saw some e-mail traffic
 24 or one e-mail that might have involved some
 25 scheduling coordination.

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1 R. ADDUCCI
 2 agency, and at that point that would be the
 3 true answer. But I have not worked for the
 4 same umbrella since 2003. So I don't know
 5 what, you know, in 15 years there could have
 6 been -- I assume you have to be there if you
 7 have a scheduled appointment and it would be
 8 like a lack of prosecution if you didn't show
 9 up, but I don't -- I don't know for sure.
 10 Q. And CIS schedules those at times
 11 that it would be convenient for ICE to come in
 12 and make arrests, correct?
 13 MS. LARAKERS: Objection.
 14 A. I don't know.
 15 Q. And CIS informs ICE of individuals
 16 who are coming in so that ICE can determine
 17 whether to make an arrest, correct?
 18 A. It has happened.
 19 Q. And CIS brings them in to the
 20 office for one reason or another so that the
 21 individual can continue working towards
 22 obtaining legal status, correct?
 23 MS. LARAKERS: Objection.
 24 A. Again, I don't work for CIS, but, I
 25 mean, that seems to be the general...

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1 R. ADDUCCI
 2 Q. Will CIS ever schedule an interview
 3 that it wouldn't otherwise have scheduled so
 4 that ICE can come and make an arrest of the
 5 individual --
 6 MS. LARAKERS: Objection.
 7 Q. -- appearing for the interview?
 8 A. I have no idea.
 9 Q. Have you ever heard of that taking
 10 place?
 11 A. No.
 12 Q. Has anybody ever talked to you
 13 about that taking place?
 14 A. No.
 15 Q. And if an alien has an I-130
 16 application pending and CIS calls them in for
 17 an interview, they have to go to the interview
 18 if they want to get their I-130 adjudicated,
 19 correct?
 20 MS. LARAKERS: Objection.
 21 A. From my past, under the INS days, I
 22 would say the answer is yes. But there are so
 23 many changes in policies. I don't work for
 24 CIS. I don't know if something has changed.
 25 At one point I worked for the same

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1 R. ADDUCCI
 2 Q. And instead of obtaining legal
 3 status, for some individuals they actually
 4 just get arrested by ICE and detained and
 5 removed?
 6 MS. LARAKERS: Objection to form.
 7 Who is "they"?
 8 A. Okay. Can you just -- you could
 9 say it again the same way, but -- if you don't
 10 mind.
 11 Q. Sure. Instead of obtaining --
 12 instead of appearing at CIS to obtain legal
 13 status for certain non-citizens, they actually
 14 are appearing at CIS to get arrested by ICE
 15 and detained and removed?
 16 MS. LARAKERS: Objection.
 17 A. I might need it reworded somehow.
 18 People are being -- coming in for I-130
 19 interviews.
 20 Q. So take people who are coming in
 21 for I-130 interviews. What's their
 22 expectation when they go in for an I-130
 23 interview?
 24 MS. LARAKERS: Objection.
 25 A. A interview.

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1 R. ADDUCCI
 2 Q. And it's required in order to
 3 adjudicate their I-130 application, correct?
 4 MS. LARAKERS: Objection.
 5 A. Correct.
 6 Q. And that is the first stage in the
 7 provisional waiver process?
 8 MS. LARAKERS: Objection.
 9 A. I don't work for CIS. I really
 10 don't feel comfortable speaking to their
 11 processes.
 12 Q. I'm not asking you to speak to CIS
 13 processes. I'm asking you if you know that
 14 the first step to obtain a provisional waiver
 15 would be to have an I-130 adjudicated?
 16 A. I think it is the first step in an
 17 I-130.
 18 Q. We already talked about how an
 19 I-130 adjudication sometimes requires an
 20 interview at CIS offices.
 21 A. Right.
 22 Q. And it doesn't necessarily require
 23 an interview at CIS offices, but sometimes CIS
 24 could call somebody in for an I-130 interview
 25 to adjudicate their I-130 application,

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1 R. ADDUCCI
 2 A. Correct.
 3 Q. But instead, oftentimes these
 4 individuals are going in and being arrested
 5 and detained for removal --
 6 MS. LARAKERS: Objection. Form.
 7 Q. -- correct?
 8 A. Depending on whether their
 9 interview occurred, their I-130 could still be
 10 approved.
 11 Q. Does that do them any good --
 12 MS. LARAKERS: Objection.
 13 Q. -- to get arrested and detained for
 14 removal?
 15 MS. LARAKERS: Objection.
 16 A. I mean, an I-130 approved is the
 17 first -- is the first step towards an
 18 immediate relative...
 19 Q. Let me ask you this. Do you think
 20 it's fair that the CIS office calls somebody
 21 in for an I-130 interview and ICE arrests them
 22 at the office?
 23 MS. LARAKERS: Objection.
 24 A. I would have to see the individual
 25 case.

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1 R. ADDUCCI
 2 correct?
 3 A. Correct.
 4 Q. And the individual has to appear
 5 for that interview if they want to have their
 6 I-130 application favorably adjudicated?
 7 A. I don't -- I -- it makes sense to
 8 me they would have to appear, but CIS would
 9 have to answer that question.
 10 Q. And so when they appear for this
 11 interview, they're going in thinking that
 12 they're going to adjudicate their I-130
 13 interview and make it on the first step,
 14 possibly if it's approved, to obtain legal
 15 status by the provisional waiver process,
 16 correct?
 17 MS. LARAKERS: Objection.
 18 A. I mean, that -- I don't -- it -- I
 19 don't work for CIS.
 20 Q. Yeah, I'm not asking you about
 21 working for CIS. I'm saying that if somebody
 22 goes in for an I-130 interview, a reasonable
 23 expectation might be that they are going to
 24 have their I-130 application adjudicated; is
 25 that correct?

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1 R. ADDUCCI
 2 Q. Well, you've read the Amended
 3 Complaint in this case, correct?
 4 A. Correct.
 5 Q. Lilian Calderon is one of the named
 6 Plaintiffs, correct?
 7 A. Yes.
 8 Q. She has lived in the United States
 9 under a final order of removal, correct?
 10 A. Correct.
 11 Q. She's married to a U.S. citizen,
 12 correct?
 13 A. Correct.
 14 Q. She has two U.S. citizen children,
 15 correct?
 16 A. I don't recall.
 17 Q. I will represent to you she has two
 18 U.S. citizen children. She does not have a
 19 history of any criminal history, correct?
 20 A. I don't recall.
 21 Q. Okay. If we looked at the
 22 complaint, she doesn't have a history, any
 23 history of criminal history. And she was
 24 arrested following her I-130 interview,
 25 correct?

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1 R. ADDUCCI
 2 A. Correct.
 3 Q. And she was arrested after -- after
 4 the I-130 interview, it was decided that her
 5 marriage was bona fide, correct?
 6 A. I don't know.
 7 Q. Do you think that's fair?
 8 MS. LARAKERS: Objection.
 9 A. I guess, to some degree, what I
 10 think doesn't matter.
 11 Q. It's my question. My question is,
 12 do you think it's fair?
 13 MS. PIEMONTE: She answered the
 14 question.
 15 MS. SEWALL: No, she didn't.
 16 MS. PIEMONTE: Okay. We have a
 17 record.
 18 Q. Do you think it's fair?
 19 A. I think it's within the laws that
 20 ICE enforces.
 21 Q. Do you think it's fair?
 22 MS. LARAKERS: Objection.
 23 A. Yes, I do. I don't think it's fair
 24 that she takes cuts in front of somebody who
 25 is waiting outside to do it legally.

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1 R. ADDUCCI
 2 when the -- I think it was the comment period
 3 was out, and my exposure to it was people
 4 asking questions about it at advocacy and
 5 non-government organizational meetings to the
 6 CIS director.
 7 So he would speak to it, and I knew
 8 that there was going to be an ability for
 9 people to kind of wait to get a waiver to --
 10 I'm not that versed with it.
 11 Q. So in 2016, U.S. CIS promulgated
 12 regulations that allow non-citizens with final
 13 orders of removal who are married to U.S.
 14 citizens to apply for an immigrant visa and an
 15 unlawful presence waiver while staying in the
 16 United States with their family, correct? I
 17 will start again.
 18 Are you aware that in 2016 U.S. CIS
 19 promulgated regulations that allow
 20 non-citizens with final orders of removal who
 21 are married to U.S. citizens to apply for an
 22 immigrant visa and an unlawful presence waiver
 23 while staying in the United States with their
 24 families?
 25 A. I'm aware that there was a comment

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1 R. ADDUCCI
 2 Q. Excuse me? Sorry, I didn't hear
 3 the last part.
 4 A. I think it's fair, yes.
 5 Q. You said, "I don't think it's fair
 6 that she takes cuts in front of somebody who
 7 is waiting outside to do it legally." What
 8 does that mean?
 9 MS. LARAKERS: Objection. That's
 10 not a question.
 11 MS. SEWALL: You have to wait until
 12 I'm finished in answering the question.
 13 A. There are people that don't come to
 14 the United States. They come legally to the
 15 United States. They wait their turn outside
 16 the United States and immigrate legally. I
 17 guess that person would probably think that it
 18 would be unfair that somebody who comes
 19 illegally gets to stay.
 20 Q. Are you familiar with the
 21 regulations that makes somebody with a final
 22 order of removal eligible to pursue the
 23 provisional waiver process?
 24 A. Very vaguely. I think because I
 25 was well into the field office director job

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1 R. ADDUCCI
 2 period for this concept.
 3 Q. Are you aware that the regulation
 4 was adopted?
 5 A. I am now.
 6 Q. It was passed by Congress?
 7 A. Correct.
 8 Q. And that's the provisional waiver
 9 process, right?
 10 A. Right.
 11 Q. And the first step is to obtain an
 12 I-130 application?
 13 A. Okay.
 14 Q. And these regulations specifically
 15 in 2016 made non-citizens with final orders of
 16 removal who are married to U.S. citizens
 17 applicable for the provisional -- they made
 18 them eligible for the provisional waiver
 19 process?
 20 A. Could you say that again?
 21 Q. Did you know that the regulations
 22 in 2016 specifically made non-citizens with
 23 final orders of removal who are married to
 24 U.S. citizens eligible for the provisional
 25 waiver process?

1 R. ADDUCCI
 2 A. No.
 3 Q. Are you aware that they did that to
 4 minimize the hardship that would result to
 5 U.S. citizen families if they were separated
 6 from their spouse?
 7 A. Well, I wasn't aware that they did
 8 that, so I couldn't be aware of that.
 9 Q. So the answer is no?
 10 A. Correct.
 11 Q. But in your view, somebody with a
 12 final order of removal who gets arrested at
 13 CIS offices while pursuing a provisional
 14 waiver process, it's fair, because they came
 15 here illegally?
 16 A. I don't think "fair" is a word I
 17 would use.
 18 Q. You testified that it was fair.
 19 MS. LARAKERS: Objection.
 20 A. I think "fair" is a poor choice of
 21 a word. I don't think it's -- but I said it's
 22 not -- it's not permitted.
 23 Q. Did ICE ever make it known to the
 24 public that ICE may arrest non-citizens with
 25 final orders who are appearing at an I-130

1 R. ADDUCCI
 2 interview?
 3 A. I'm sorry?
 4 Q. Did ICE ever make it known to the
 5 public that ICE may arrest non-citizens with
 6 final orders of removal who are appearing at
 7 an I-130 interview?
 8 A. ICE? Not that I'm aware of, but
 9 that's -- I'm not ICE. I mean, that would be
 10 something that would be a national question.
 11 Q. Are you aware of --
 12 A. No.
 13 Q. -- that ever occurring?
 14 A. No.
 15 Q. Did ICE ever make the public -- did
 16 ICE ever tell the public that CIS may schedule
 17 I-130 interviews at times that are convenient
 18 for ICE officers to make arrests?
 19 MS. LARAKERS: Objection.
 20 A. I don't know.
 21 Q. So some non-citizens with final
 22 orders can go into an I-130 interview and not
 23 be arrested, right?
 24 A. Yes.
 25 Q. And some can go in and be arrested,

1 R. ADDUCCI
 2 right?
 3 A. Yes.
 4 Q. And they have no way of knowing
 5 ahead of time whether appearing for that
 6 interview is going to result in their arrest
 7 and detention and removal, correct?
 8 MS. LARAKERS: Objection.
 9 A. I don't -- I don't -- I don't know.
 10 Q. Would you say that this discourages
 11 participation in the 2016 regulation process?
 12 MS. LARAKERS: Objection.
 13 A. I don't know.
 14 Q. What would you expect, sitting here
 15 today, what would be your expectation?
 16 MS. LARAKERS: Objection as to
 17 form.
 18 A. I don't know that it would
 19 discourage people. I still see -- I mean,
 20 there's an awful lot of applications out
 21 there. I don't know.
 22 Q. You don't know one way or the
 23 other?
 24 A. I don't.
 25 Q. You can't imagine one way or the

1 R. ADDUCCI
 2 other?
 3 A. I guess it depends on the
 4 individual.
 5 Q. So if you were an individual who
 6 was in the country illegally and married to a
 7 U.S. citizen with small U.S. citizen children,
 8 and you knew there was a likelihood that you
 9 could be arrested and detained and deported if
 10 you attended your I-130 interview, would you
 11 go to the I-130 interview?
 12 MS. LARAKERS: Objection.
 13 A. Yes.
 14 Q. You would go?
 15 MS. LARAKERS: Objection.
 16 A. Yes.
 17 Q. And then potentially face months of
 18 separation by being detained and removed from
 19 the country?
 20 MS. LARAKERS: Objection.
 21 A. If the end result was going to be I
 22 would ultimately get my status, I would, yes.
 23 Q. So do you know -- have you read
 24 about the facts around the Petitioner Lilian
 25 Calderon -- I mean, sorry, Lucimar De Souza?

1 R. ADDUCCI
 2 A. Yes.
 3 Q. She was arrested following an I-130
 4 interview, correct?
 5 A. Yes.
 6 Q. And her I-130 was approved at that
 7 interview, correct?
 8 A. I don't know. I don't remember.
 9 Q. And ICE arrested her after the
 10 interview, correct?
 11 A. Correct.
 12 Q. And she was held in detention for
 13 over three months?
 14 A. Correct.
 15 Q. And the judge has held that her
 16 detention was illegal because POCR regulations
 17 were not followed, right?
 18 MS. LARAKERS: Objection.
 19 A. That's my recollection, yes.
 20 Q. She has a 10-year-old son, right?
 21 A. I don't remember the ages -- the
 22 age or ages.
 23 Q. She has a son?
 24 A. I thought she had two children,
 25 but.

1 R. ADDUCCI
 2 Q. She has a son; does that sound
 3 right? She has a 10-year-old son, and she was
 4 separated from him for over three months while
 5 she was detained; did you know that?
 6 A. Yeah -- well, if she was detained,
 7 she would have been separated from her son,
 8 yes.
 9 Q. Did you know that she was separated
 10 from her son for over three months while she
 11 was detained?
 12 A. I mean, I would -- hopefully she
 13 got to see him, but she was detained for over
 14 three months.
 15 Q. And then upon her release because
 16 of this -- she was released because of this
 17 litigation on May 8th, correct?
 18 A. I don't -- that was before I was
 19 here.
 20 Q. You read the --
 21 A. Right. I've read so many cases.
 22 This is not the only case, so I can't --
 23 details to cases I would have to have
 24 reference. I would never be comfortable
 25 saying who had what children without seeing

1 R. ADDUCCI
 2 the actual file or the statements.
 3 Q. Right. My question is --
 4 A. I'd be happy to look at it.
 5 Q. My question is, do you know that
 6 she was -- she was released in May because of
 7 this litigation?
 8 A. Yes.
 9 Q. After she was released, and after
 10 you took your position as acting FOD, she was
 11 ordered to be removed from the country,
 12 correct?
 13 MS. LARAKERS: Objection.
 14 A. My recollection is she was told to
 15 bring tickets and to depart.
 16 Q. And the Court has ordered that none
 17 of the named petitioners in this case be
 18 ordered to -- be removed from Massachusetts
 19 while this case is pending, correct?
 20 A. Correct.
 21 Q. How did that happen?
 22 MS. LARAKERS: Objection. Form.
 23 A. It happened because an officer --
 24 not an officer -- somebody who really wasn't
 25 in a position to make, in my opinion,

1 R. ADDUCCI
 2 instructions to an alien about their case, in
 3 the case management process on the
 4 non-detained docket, gave instructions. It
 5 was an inexperienced person, and as soon as --
 6 I mean, I believe it was my third day in the
 7 office. I was notified what happened, and I
 8 immediately said -- looked into it, and found
 9 out what I didn't think it would be -- what I
 10 don't believe was the appropriate staff to --
 11 officer-alien communication occurred, because
 12 you didn't have experience.
 13 Somebody who is working there doing
 14 something they probably shouldn't have done.
 15 Q. Do you know who was responsible?
 16 MS. LARAKERS: Objection to the
 17 extent it is law enforcement sensitive.
 18 A. It was an enforcement and removal
 19 assistant.
 20 Q. What was his or her name?
 21 A. Confidential/PII
 22
 23 MS. LARAKERS: Can we mark that as
 24 confidential.
 25 MS. SEWALL: The whole transcript

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1 R. ADDUCCI
 2 is going to be --
 3 MS. LARAKERS: Sorry --
 4 MS. SEWALL: I understand we're
 5 marking the whole transcript.
 6 MS. LARAKERS: -- I just want to
 7 mark that part so I can go back.
 8 BY MS. SEWALL:
 9 A. I don't know --
 10 Q. Does Confidential/PII still work at
 11 --
 12 A. -- the individual.
 13 Q. Does Confidential/PII still work in
 14 the Boston field office?
 15 A. I believe so. I don't know him.
 16 Q. He wasn't fired?
 17 A. No.
 18 Q. Was he reprimanded?
 19 A. He was spoken --
 20 MS. LARAKERS: Objection.
 21 Deliberative process.
 22 A. I didn't speak to him. I spoke to
 23 his management and said he needs -- we
 24 shouldn't be having that position doing the
 25 communications with -- it's the deportation

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1 R. ADDUCCI
 2 comes to -- or ERAs should be doing when it
 3 comes to orders of supervision reporting
 4 appointment, but that case management should
 5 be done by the deportation officer.
 6 Q. So that was the instruction that he
 7 was provided after the mistake was made and,
 8 to the best of your knowledge, you think --
 9 A. Yes.
 10 Q. -- that a supervisor told him that?
 11 A. Yes.
 12 Q. Was anything else done?
 13 A. No.
 14 MS. PIEMONTE: And if you could
 15 just wait until she finishes her question
 16 before you answer.
 17 Q. Do you know of any other times that
 18 somebody was -- that an ERA instructed
 19 somebody to leave the -- to show up with
 20 tickets to leave the country?
 21 A. I do not.
 22 Q. But it's not proper for an ERA to
 23 do that?
 24 A. I don't know what the practices in
 25 the Boston field office were in the past, but

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1 R. ADDUCCI
 2 officer's job to do the communication with an
 3 individual that's coming in to report.
 4 Q. Do you know if he has received any
 5 training subsequent to this to fix these kinds
 6 of mistakes?
 7 A. Well, he is not --
 8 MS. LARAKERS: Objection.
 9 A. He was told not to have that type
 10 of communication.
 11 Q. What type of communication?
 12 A. He shouldn't be --
 13 MS. LARAKERS: Objection.
 14 A. He shouldn't be instructing -- I
 15 don't think I specifically said him. I said
 16 ERAs should not be working with aliens coming
 17 in on their orders of supervision to discuss
 18 the way forward, the next steps in the case.
 19 That's the job of a deportation officer. It's
 20 not the job of an enforcement and removal
 21 assistant.
 22 To quantify, you know, everything
 23 someone could do, you could receive documents,
 24 you could, you know, pass documents. It's
 25 hard to say what he should be doing when it

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1 R. ADDUCCI
 2 it wouldn't be permitted in Detroit.
 3 Q. And is it permitted as a general
 4 matter in ICE?
 5 A. I can't speak to that.
 6 Q. Where would you look if you wanted
 7 to find out?
 8 A. I don't know if you could look. I
 9 guess you could look at a position
 10 description, but position descriptions often
 11 have "and other duties as assigned" as a
 12 caveat. So I don't know that there's a
 13 preclusion. I just don't think it's a best
 14 practice.
 15 Q. So ERAs in Boston and elsewhere
 16 don't actually know that they're not supposed
 17 to do that?
 18 MS. LARAKERS: Objection.
 19 A. I can't speak to elsewhere.
 20 Q. What about Boston?
 21 MS. LARAKERS: Objection.
 22 A. They do now. My instructions were
 23 enforcement and removal assistants should not
 24 be instructing or should not be providing case
 25 instruction -- instructions to individuals

1 R. ADDUCCI
 2 reporting on orders of supervision.
 3 Q. And as far as you know, that's the
 4 first time they have heard that, right?
 5 MS. LARAKERS: Objection.
 6 A. I don't know. This was a fairly
 7 new employee to the field office.
 8 Q. What's the training that new
 9 employees receive?
 10 A. I don't know.
 11 Q. You have no understanding of the
 12 training that somebody would receive?
 13 A. Well, no, there is enforcement and
 14 removal assistant training in the academy, but
 15 I don't know if he's received it, because he
 16 was an employee that has a medical issue. He
 17 went down to become a deportation officer, but
 18 because of a medical issue, came back to the
 19 field office prior to graduating from the
 20 academy.
 21 And then rather than -- I don't
 22 know -- I don't know him, but I -- I mean, my
 23 understanding is whatever the medical issue
 24 was -- well, I don't know that. He decided
 25 for whatever reason that he wasn't going to go

1 R. ADDUCCI
 2 back to the academy and try to become a
 3 deportation officer, rather accepted an
 4 enforcement and removal assistant position.
 5 And I think that happened in maybe February or
 6 March -- it was this year, sometime this year.
 7 Q. So an ERA can assume the position
 8 of ERA and the job responsibilities before
 9 they receive any training on the position?
 10 A. People are on duty and have sort of
 11 OJT, but because the ERA academies are sparse.
 12 Q. What's "OJT"?
 13 A. On-the-job training.
 14 Q. And enforcement and removal
 15 assistants have an important job, correct?
 16 A. Yes.
 17 Q. They profoundly can impact people's
 18 lives that they are responsible for?
 19 MS. LARAKERS: Objection.
 20 A. Yeah, I don't know if profoundly
 21 impact people's lives?
 22 Q. Let me put it this way. If this --
 23 A. They're generally --
 24 Q. -- litigation didn't exist --
 25 MS. LARAKERS: She didn't finish

1 R. ADDUCCI
 2 her answer.
 3 Q. Were you finished? Do you want to
 4 add something?
 5 If this litigation didn't exist,
 6 Lucimar De Souza might have been ordered
 7 removed and separated from her family based on
 8 this ERA order?
 9 A. She already was ordered removed.
 10 Q. Sorry. She would have had to
 11 present with papers and left the country?
 12 A. Well, I mean, to some degree, part
 13 of the order of supervision appointment is an
 14 interactive, and I would hope that someone
 15 would inform that there's been a mistake.
 16 Q. In this instance, counsel
 17 intervened to fix the error?
 18 A. Okay.
 19 Q. If Ms. De Souza's counsel had not
 20 intervened, she might have had to buy a ticket
 21 and leave the country?
 22 MS. LARAKERS: Objection to form.
 23 Speculating.
 24 A. And she might have spoken on her
 25 own to her officer.

1 R. ADDUCCI
 2 Q. Do you think that the powers that
 3 tell somebody they have to appear with papers
 4 is an important power?
 5 A. I do. That's why I don't think an
 6 enforcement and removal assistant should be
 7 doing that.
 8 Q. But the enforcement and removal
 9 assistant can execute that power before they
 10 received any training?
 11 A. No. I just said they shouldn't be
 12 doing that.
 13 Q. Right. But, in this instance, they
 14 did.
 15 A. But it was a mistake.
 16 Q. Well, you said that ERAs are not
 17 actually -- you don't know if ERAs are
 18 instructed one way or the other --
 19 Irrelevant discussion of
 20 counsel
 21
 22
 23
 24
 25

R. ADDUCCI

Irrelevant discussion of course!

Q. In this instance, just taking this instance, an ERA assumed the position of ERA without receiving training beforehand, correct?

A. Again, the enforcement and removal assistant, training is -- it's not the same as the training for a deportation officer. It's more of informative training as opposed to graduating from an academy.

So in order to become a deportation officer, you have to graduate in the academy.

R. ADDUCCI

And the enforcement and removal assistant goes to a training, enforcement and removal assistant training.

The majority of enforcement and removal assistants don't go for quite some time, just because the training is fairly infrequent, and it could be, you know, years. So much of it is on-the-job training.

Q. So before they received the ERA training, they can act as an ERA?

A. Yes.

MS. SEWALL: I think this might be a good stopping point if we wanted to break for lunch. It's 12:18. It's up to you guys.

MS. PIEMONTE: That's fine.

VIDEOGRAPHER: We are going off the record at 12:18.

(Luncheon recess taken at 12:18 p.m. and reconvening at 1:19 p.m.)

VIDEOGRAPHER: We are back on the record at 1:19.

BY MS. SEWALL:

Q. Ms. Adducci, could you please look back at Exhibit 1, your June 22nd declaration.

R. ADDUCCI

If you turn to Paragraph 5, the second-to-last page, in the second sentence you say, "As interim FOD, I intend to prioritize enforcement resources consistent with Executive Order No. 13768," and then continuing on, "the memorandum from former Secretary of Homeland Security, John Kelly."

Do you see that?

A. Yes.

Q. Then I'd like to look at the next clause after the comma that says, "No classes or categories of removable aliens are exempt from enforcement, including detention."

Do you see that?

A. Yes.

Q. Will you please explain just what this means in terms of what you intend to enforce as interim FOD?

A. The priorities as listed in the implementation memo from Secretary Kelly.

Q. And the executive order?

A. Right. But the implementation memo is sort of our -- our direction from our leadership.

R. ADDUCCI

Q. And what does that mean as a practical matter in terms of ICE executing arrests at CIS offices?

A. It allows -- it permits them to occur.

Q. And what does it mean as a practical matter in terms of ICE detaining and removing non-citizens with final orders of removal who are the beneficiaries of a pending or approved I-130 application?

A. It means they could be detained and removed.

Q. And how will you effectuate your policy?

A. It's not my policy. It's the Secretary's implementation memo, and they know the memo. They read the memo. They know what -- I mean, practically, we would prioritize criminal aliens in national security cases, as we always have, I believe. The memo kind of speaks for itself, the implementation memo, Secretary Kelly's.

Q. So you'll rely on your subordinates to execute arrests, detentions and removal of

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1 R. ADDUCCI
 2 non-citizens or the beneficiaries of I-130
 3 applications, correct?
 4 A. I rely on my subordinates to
 5 enforce the memo.
 6 Q. And so, you said you'll rely on
 7 their prosecutorial discretion to make those
 8 decisions, right?
 9 A. Well, in the instance as it relates
 10 to CIS arrests, I did say initially I wanted
 11 to be consulted; that it needed to come up the
 12 chain. So I wouldn't be necessarily relying
 13 on them to make that decision.
 14 Q. What about for the detention and
 15 removal of people with I-130s?
 16 A. I would rely on my subordinates.
 17 Q. And you expect them to consider all
 18 factors in executing discretion, right?
 19 A. Yes.
 20 Q. But the executive order and the
 21 memo don't talk about factors to consider in
 22 making these decisions, do they?
 23 A. No.
 24 Q. And that's the only official
 25 guidance that they can act under?

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1 R. ADDUCCI
 2 subordinates in Boston?
 3 Q. Yes.
 4 A. No.
 5 Q. And, in fact, you're the boss,
 6 right?
 7 A. Yes.
 8 Q. And you didn't know that the 2016
 9 regulations had been implemented, right?
 10 A. No. I knew that the provisional
 11 waiver process had been implemented.
 12 Q. But you didn't know that aliens
 13 with final orders of removal were made
 14 specifically eligible for the process?
 15 A. No.
 16 Q. And that's with all of this
 17 litigation going on, correct?
 18 A. Well, I know -- I didn't know prior
 19 to coming here.
 20 Q. Did you know on coming here?
 21 A. To Boston, not here today, for
 22 clarification purposes.
 23 Q. When we talked earlier, you said
 24 you were not aware that they had gone into
 25 effect. Are you changing that testimony?

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1 R. ADDUCCI
 2 A. Correct.
 3 Q. And those each say that everyone is
 4 fair game for enforcement, right?
 5 A. They do say that.
 6 Q. And you said pursuit of a
 7 provisional waiver process is something that
 8 should be considered, right?
 9 A. Yes.
 10 Q. But you don't instruct your
 11 subordinates to consider that, do you?
 12 A. No.
 13 Q. Nobody instructs them to consider
 14 that, correct?
 15 A. I don't know.
 16 Q. You don't know one way or the
 17 other?
 18 A. Correct.
 19 Q. And they can't actually consider a
 20 factor that they don't know about, right?
 21 A. That would be correct, yes.
 22 Q. And do you have any idea if your
 23 subordinates know about how the provisional
 24 waiver process works?
 25 A. And we're referring to the

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1 R. ADDUCCI
 2 A. That the provisional waiver
 3 processes had gone into effect?
 4 Q. That the 2016 regulations had gone
 5 into effect.
 6 A. If I said that, I misspoke. I
 7 definitely knew they went into effect, because
 8 I have been here, and we've...
 9 Q. Okay. So you misspoke if you had
 10 said that?
 11 A. If I had said that, I -- yes.
 12 Since I've been here, since I've been in
 13 Boston, clearly the provisional waiver process
 14 is in effect.
 15 Q. And you know that, based on
 16 reviewing several papers in this litigation,
 17 correct?
 18 A. Yes.
 19 Q. And so you do know that individuals
 20 with final orders of removal were specifically
 21 made eligible for the provisional waiver
 22 process under the 2016 regulations?
 23 A. No.
 24 Q. Okay. So that was my question.
 25 A. Okay.

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1 R. ADDUCCI
 2 Q. So you don't know -- you didn't
 3 know that until today?
 4 A. Yes.
 5 Q. Or if you trust what I said.
 6 A. Yes.
 7 Q. That's a big if.
 8 So your subordinates probably don't
 9 know that?
 10 MS. LARAKERS: Objection.
 11 A. I don't -- I don't know.
 12 Q. And I said this, but they can't
 13 consider a factor that they don't know about,
 14 right?
 15 A. Correct.
 16 Q. Do arrests -- do arrests of
 17 non-citizens count anywhere in your office?
 18 Do they count towards the arresting officer?
 19 Do they count towards the supervisors?
 20 Anybody? Are they tracked? Do they count?
 21 Does that make sense to you, or
 22 shall I rephrase?
 23 A. I think it makes sense. There's no
 24 quotas. People aren't rated based on numbers.
 25 So, no, I don't think there's a comparator --

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1 R. ADDUCCI
 2 know, to determine staffing requirements and
 3 funding requirements, budget requests, funding
 4 requirements for detention space, personnel
 5 distribution.
 6 Q. And do they ever tell an office, to
 7 the best of your knowledge, you need to get
 8 your numbers up?
 9 A. Not -- specific to an office, I
 10 would say no.
 11 Q. What about otherwise?
 12 A. I can remember in many years past
 13 people looking really closely at removal
 14 numbers. That would have been in the time
 15 that Director Morton was in charge of ICE, and
 16 looking at trends or, you know, drops in
 17 removal numbers and asking whys, you know, for
 18 potential explanations.
 19 Q. So there's some incentive to keep
 20 your numbers up?
 21 A. Nobody talks about numbers
 22 specifically needing to be up, but they talk
 23 about trends in rising and falling.
 24 Q. And as a field office director,
 25 would you worry if your numbers became very

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1 R. ADDUCCI
 2 Q. Okay. And are they --
 3 A. -- to, you know, one group of
 4 people arresting more than one or...
 5 Q. And are they tracked at all?
 6 A. Arrests are tracked.
 7 Q. So the number of arrests per office
 8 or the number of arrests per officer is
 9 tracked?
 10 A. Not per officer, but per office.
 11 Q. And you said it's not -- there's no
 12 quotas to meet per office?
 13 A. Correct.
 14 Q. Do any of the -- do any of your
 15 superiors in Washington look at the numbers
 16 that are generated by various offices?
 17 A. Yes.
 18 Q. What do they evaluate when they
 19 look at those numbers?
 20 MS. LARAKERS: Objection.
 21 A. What do they evaluate as in?
 22 Q. I can rephrase. It's not very
 23 clear.
 24 Why do they look at those numbers?
 25 A. I can suppose that there are, you

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1 R. ADDUCCI
 2 low?
 3 A. I would question why -- if there
 4 was a significant trend change, you know, from
 5 one year to the next or from one quarter to
 6 the next, I would question why, whether it was
 7 up or down.
 8 Q. Would you worry about what your
 9 superiors thought?
 10 A. No. As long as I felt like there
 11 was an explanation, you know, as long as
 12 things were being addressed and covered.
 13 Q. As long as you felt like there was
 14 an explanation for why this is happening?
 15 A. Yes.
 16 Q. With CIS working with ICE to
 17 schedule interviews to execute arrests,
 18 arrests become a lot easier to make, right?
 19 A. Yes. Provided -- easier in a
 20 multitude of ways. Potentially the person --
 21 if the person shows up, sometimes they don't.
 22 But there's probably the most -- the thing
 23 that is -- that gives me the most comfort of
 24 someone conducting an arrest would be in a
 25 secure location versus in some -- in an

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1 R. ADDUCCI
 2 at-large type situation, which would be at a
 3 residence or out on the street.
 4 My primary concern would be safety.
 5 So I prefer that any time someone can effect
 6 an arrest, it would be done in the safest
 7 environment for everyone, including the person
 8 being arrested.
 9 Q. And for somebody showing up for an
 10 I-130 interview, ICE knows where they are
 11 going to be and when they are going to be
 12 there, right?
 13 A. It would seem so, yes.
 14 Q. The arrests would generally be
 15 nonviolent, correct?
 16 A. An arrest can go south at any time,
 17 so I -- I don't...
 18 Q. Have you ever heard of an arrest of
 19 somebody at CIS following an I-130 interview
 20 being violent?
 21 A. I don't have any experience hearing
 22 about arrests at CIS, the actual arrest
 23 itself.
 24 Q. ICE Boston was even enable to
 25 arrest six people in one day who attended

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1 R. ADDUCCI
 2 multiple ways, I think, of communication I
 3 think.
 4 Q. Do you know how frequently those
 5 referrals come into ICE? And all of these
 6 questions are in Boston, just to be clear.
 7 A. I do not.
 8 Q. And you don't know how they're
 9 communicated?
 10 A. In my sort of time here, I think
 11 there's multiple -- well, potentially in
 12 person, on the phone or on e-mail.
 13 Q. And they will tell ICE when
 14 somebody is coming in for -- when somebody is
 15 coming in who has a final order of removal,
 16 right?
 17 A. I don't know if they tell us on all
 18 cases that are coming in for a final order of
 19 removal, but they have told us.
 20 Again, I don't know if they are --
 21 I don't know what information they have. I
 22 don't know if they know the person has a final
 23 order of removal, if they suspect the person
 24 isn't somehow, you know, under our docket in
 25 -- I don't know the answer to what information

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1 R. ADDUCCI
 2 I-130 interviews, correct, at CIS offices?
 3 A. I don't know if that's true.
 4 Q. You don't know one way or the
 5 other?
 6 A. Numbers in one specific day, I do
 7 not know.
 8 Q. And U.S. CIS informs ICE in Boston
 9 when a non-citizen appearing for an I-130
 10 interview is subject to a final order of
 11 removal, right?
 12 A. I don't know.
 13 Q. We had talked about referrals. Is
 14 that -- to the best of your knowledge, is that
 15 information in the referral?
 16 A. I don't know if it's in the
 17 referral. If it's not in the referral, I
 18 would assume it's a case that's reviewed, at
 19 which time it would -- I don't know if they
 20 can -- if they know -- if CIS has access to
 21 determine the status of our case.
 22 Q. So CIS sends a referral to ICE,
 23 right?
 24 A. Correct. Or not necessarily sends.
 25 It could be call someone. You know, there's

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1 R. ADDUCCI
 2 they have when they make their referrals.
 3 (Adducci Exhibit 4, E-mail to
 4 Mark Sauter from Todd Masters
 5 dated 7/16/18, with attached
 6 e-mails, marked for
 7 identification)
 8 Q. The court reporter is handing you
 9 what's been marked as Exhibit 4. If you look
 10 at the second e-mail in the chain, you're
 11 copied on this e-mail, right?
 12 A. Yes.
 13 Q. It's from Tina Guarna-Armstrong?
 14 A. Yes.
 15 Q. It's dated July 5, 2018?
 16 A. Okay.
 17 Q. And she says, "I got approximately
 18 25 e-mails since last November that contain
 19 referrals from CIS in Lawrence."
 20 Do you see that?
 21 A. Yes.
 22 Q. Then she goes on to say, "These are
 23 mainly the ones with referrals, but other
 24 e-mails related to these that involve the
 25 scheduling of the activity or other questions

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1 R. ADDUCCI
 2 are not included here."
 3 Do you see that?
 4 A. Yes.
 5 Q. What does "scheduling of the
 6 activity" refer to?
 7 A. I don't know. It's not a very
 8 well-worded question. I would have to ask
 9 Tina what she meant by it, or worded sentence.
 10 (Adducci Exhibit 5, E-mail to
 11 Rebecca Adducci from Todd Lyons
 12 dated 7/17/18, with attachments,
 13 marked for identification)
 14 Q. The court reporter has now handed
 15 you what's been marked Exhibit 5. This is an
 16 e-mail from Todd Lyons to you. Do you see
 17 that at the top? The top e-mail --
 18 A. Yes.
 19 Q. -- dated July 17, 2018?
 20 A. Yes.
 21 Q. And it says on the attachments, it
 22 says, "Copy of CIS Referrals to ERO 7/17 to
 23 7/18 (Consolidated)."
 24 Do you see that?
 25 A. Yes.

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1 R. ADDUCCI
 2 Q. What is this document?
 3 A. This was a document that was
 4 created by the staff in Boston; ERO, sorry.
 5 ICE.
 6 Q. Do you know why it's titled "Copy
 7 of CIS Referrals to ERO"?
 8 A. Because the first column -- well,
 9 the first column is the date -- well, it says
 10 "Date of Referral from CIS," and it's a
 11 compilation of the cases that were referred.
 12 Q. So these all represent cases that
 13 were referred from CIS to ICE?
 14 A. Yes.
 15 Q. It's not numbered, so it's going to
 16 be hard to find. If you go down to January
 17 30, 2018.
 18 A. Okay.
 19 Q. Do you see there's one for
 20 "De Souza Gomes, Lucimar."
 21 A. Yes.
 22 Q. That's one of the named petitioners
 23 in this case, right?
 24 A. Yes.
 25 Q. So her case was referred from CIS

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1 R. ADDUCCI
 2 (Adducci Exhibit 6, Native
 3 version of attachment to Adducci
 4 Exhibit 5, marked for
 5 identification)
 6 Q. This is the attachment that went to
 7 this e-mail. You can't quite see in the Bates
 8 numbers, but this is the native version of the
 9 attachment that was to this e-mail.
 10 Do you recognize this spreadsheet?
 11 A. Yes.
 12 Q. What is it?
 13 A. A list of -- a combined list of the
 14 referrals that occurred. I don't know if it's
 15 -- that occurred between July 21, 2017 and
 16 July 10, 2018, with sort of a status, action
 17 taken, what the person's immigration status
 18 was, status at time of arrest and the current
 19 custody status.
 20 Q. And so is this --
 21 A. Some identifiers at the top, I
 22 guess.
 23 Q. Is this the information that CIS
 24 provides to ICE when making a referral?
 25 A. No.

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1 R. ADDUCCI
 2 -- from U.S. CIS to ICE, correct?
 3 A. Correct.
 4 Q. If you go to January 16, 2018, one
 5 of the names is "Calderon, Lilian." Do you
 6 see that?
 7 A. I'm sorry?
 8 Q. January 16, 2018.
 9 A. Yes, I see it.
 10 Q. Lilian Calderon is one of the
 11 petitioners in this case, correct?
 12 A. Yes.
 13 Q. Her case was referred from CIS to
 14 ICE, right?
 15 A. Right.
 16 Q. After ICE received a referral from
 17 CIS, what is the next step that ICE takes?
 18 A. I don't know.
 19 Q. You don't know? You have no idea?
 20 A. The very next step? I could tell
 21 you what I -- no, I don't know the very next
 22 step. I would assume it's forwarded. But it
 23 depends on where the lead comes from. The
 24 next step could be an immediate -- there are
 25 so many things that could happen, because it

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1 R. ADDUCCI
 2 depends on how we get the referral.
 3 Q. The referral from CIS?
 4 A. Correct.
 5 Q. Is this -- when did you first
 6 become aware that CIS refers cases to ICE in
 7 Boston?
 8 A. I think that was a conversation I
 9 had with Brophy when I called him to tell him
 10 -- I don't know if I knew CIS referred them. I
 11 think he just said CIS arrests occurred. I
 12 think I didn't find out about the actual
 13 process until I arrived here.
 14 Q. Do you know, approximately, when
 15 after you arrived here?
 16 A. Probably immediately, within the
 17 first day or two.
 18 Q. And it's not something you looked
 19 into?
 20 A. I mean, as to how it occurs, I've
 21 asked, and there's multiple different ways
 22 that it -- the referral occurs. What happens
 23 after the referral, I have not looked into.
 24 Q. Who would you ask if you wanted to
 25 know about that?

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1 R. ADDUCCI
 2 Q. And what is it responsible for?
 3 A. The adjudication of applications of
 4 foreign nationals.
 5 Q. And ICE is the agency that's
 6 supposed to execute arrests, right, not CIS?
 7 A. Yes. CIS does not make arrests, to
 8 my knowledge. However, they do make -- they
 9 can make enforcement actions. They can issue
 10 notices to appear.
 11 Q. Have you ever heard of the U.S. CIS
 12 adjudicator's field manual?
 13 A. No.
 14 Q. Have you ever taken any CIS
 15 policies into account when deciding your own
 16 policies on arrests, detention and removal?
 17 A. I can't -- I can't think that I'm
 18 really aware of CIS policies, versed in CIS
 19 policies.
 20 Q. And just to be clear, ICE and CIS
 21 are part of both arms of DHS, right?
 22 A. Two agencies within the department.
 23 Q. They are sister agencies basically?
 24 A. I don't know if I would call --
 25 they are both agencies within the department.

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1 R. ADDUCCI
 2 A. Well, you'd have to ask multiple
 3 people, because there are multiple CIS offices
 4 in the AOR.
 5 Q. Who would you ask in the Boston
 6 office?
 7 A. I would ask Assistant Field Office
 8 Director Guarna-Armstrong, and I would ask one
 9 of the supervisory detention and deportation
 10 officers, because it's -- that's what I would
 11 ask.
 12 Q. Does ICE have any policies on how
 13 to handle arrests coming from referrals from
 14 CIS?
 15 A. Not that I'm aware of.
 16 Q. You're not aware of any required
 17 procedures for handling referrals coming from
 18 CIS?
 19 A. No.
 20 Q. You're familiar with CIS generally,
 21 right?
 22 A. Generally.
 23 Q. What is the agency?
 24 A. Citizenship and Immigration
 25 Services.

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1 R. ADDUCCI
 2 I mean, the Secret Service is an agency within
 3 the department as well.
 4 (Adducci Exhibit 7, "Exhibit A
 5 U.S. CIS Adjudicator's Field
 6 Manual Ch 15," marked for
 7 identification)
 8 Q. The court reporter is handing you
 9 what's been marked as Exhibit 7. Apologies,
 10 but the copy that I have says Exhibit A. You
 11 can sort of disregard that, because that was a
 12 filing in this case. It was filed as an
 13 exhibit in one of the pleadings in this case.
 14 I meant to get a copy without that on it, but
 15 I didn't. But the rest of it is the same.
 16 If you turn to the first page, at
 17 the top it says "U.S. Citizenship and
 18 Immigration Services," correct?
 19 A. Yes.
 20 Q. And then it says, "Adjudicator's
 21 Field Manual Redacted Public Version." Do you
 22 see that?
 23 A. Yes.
 24 Q. Chapter 15, "Interviewing." Do you
 25 see that?

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1 R. ADDUCCI
 2 A. Yes.
 3 Q. And then 15.1, "Interview
 4 Policies." Do you see that?
 5 A. Yes.
 6 Q. And then a header that says, "15.1
 7 Interview Policies," correct?
 8 A. Yes.
 9 Q. And you've never seen this document
 10 before, correct?
 11 A. Never.
 12 Q. If you turn to Page 3 at the
 13 bottom, it says 1 of 8, 2 of 8. If you go to
 14 Page 3, subsection C says "Arrest of an alien
 15 during the interview process."
 16 Do you see that?
 17 A. Yes.
 18 Q. This section, if you look at the
 19 first paragraph under "General," it says, "As
 20 a general rule, any alien who appears for an
 21 interview before a U.S. CIS officer in
 22 connection with an application or petition
 23 seeking benefits under the Act shall not be
 24 arrested during the course of the interview,
 25 even though the alien may be in the United

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1 R. ADDUCCI
 2 seeking benefits under a provision of law
 3 (e.g., NACARA or HRIFA) which specifically
 4 allows an alien under an order of deportation
 5 or removal to seek such benefits."
 6 Do you see that?
 7 A. Yes.
 8 Q. And the provisional waiver
 9 regulations are a provision of law, correct?
 10 A. Yes.
 11 Q. And they specifically allow aliens
 12 with final orders to apply for a provisional
 13 waiver, correct?
 14 A. I'm sorry, they specifically allow?
 15 Q. They specifically allow an alien
 16 with a final order of removal to apply for a
 17 provisional waiver?
 18 A. That's what -- if I believe what
 19 you're saying, yes.
 20 Q. Okay. And we talked about this,
 21 but the first step in that process is to
 22 obtain an I-130, correct?
 23 A. Yes.
 24 Q. And yet ICE is arresting people at
 25 U.S. CIS offices when they show up for an

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1 R. ADDUCCI
 2 States illegally."
 3 Do you see that?
 4 A. Yes.
 5 Q. If you turn to the next page, the
 6 number (2) says, "Exceptions to the General
 7 Rule." Do you see that?
 8 A. Yes.
 9 Q. And if you look to the fifth bullet
 10 point, it says, "An alien who is the subject
 11 of a previously-issued warrant of deportation
 12 or warrant of removal" -- oh, sorry, I should
 13 read the first paragraph first.
 14 "In some cases, an alien's illegal"
 15 -- "an alien's actions or situation might be
 16 so egregious as to justify making an exception
 17 to the general rule that those who appear
 18 voluntarily for an interview should not be
 19 arrested during the course of that interview.
 20 Such actions and situations include, but are
 21 not limited to," and the fifth bullet point
 22 now says, "An alien who is the subject of a
 23 previously-issued warrant of deportation or
 24 warrant of removal." And then says, "UNLESS"
 25 -- capital letters in bold -- "the alien is

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1 R. ADDUCCI
 2 I-130 interview, correct?
 3 A. Correct.
 4 Q. That seems to violate U.S. CIS
 5 regulations, doesn't it?
 6 MS. LARAKERS: Objection.
 7 A. I don't know if this is a
 8 regulation, a policy.
 9 Q. A policy.
 10 A. Okay. But this is a CIS policy.
 11 So this would be for CIS employees.
 12 Q. Right. And it seems to violate
 13 that based on what we've read.
 14 A. But ICE can't violate a CIS policy.
 15 Q. Right. Just my question, though,
 16 if you focus on my question is it seems to
 17 violate that policy.
 18 A. I don't know, because it -- I don't
 19 know what the meaning behind the policy is.
 20 So if -- I don't know.
 21 Q. I guess the real question, though,
 22 is, ICE never takes into account CIS policies
 23 in executing arrests?
 24 A. I didn't even know about this
 25 policy, so we wouldn't have taken this into

1 R. ADDUCCI
 2 account. I would say this would be applicable
 3 to the adjudicator. That's how I read it.
 4 The adjudicator should not be allowing someone
 5 to be arrested during the interview.
 6 I mean, CIS doesn't govern ICE
 7 policies.
 8 Q. I'm not suggesting they do.
 9 A. So I don't know how it's -- ICE
 10 can't violate a CIS policy.
 11 Q. Right. So does ICE take this
 12 policy into account at all when deciding to
 13 execute arrests at CIS?
 14 A. I don't know, because I --
 15 Q. You've never heard --
 16 A. I've never seen the policy.
 17 Q. So the answer is probably no?
 18 A. I can't say for each individual
 19 officer that makes arrests.
 20 Q. And ICE itself doesn't have any
 21 policies about whether people should be
 22 arrested at U.S. CIS, correct?
 23 A. Correct.
 24 Q. And not only does CIS allow arrests
 25 to be executed at its offices, but it actually

1 R. ADDUCCI
 2 facilitates those arrests in Boston, correct?
 3 A. I mean, I'm not the CIS director.
 4 I can't speak to that.
 5 Q. But you know that CIS works with
 6 ICE to facilitate arrests?
 7 A. They refer cases. I don't think
 8 that -- it's not -- it's not -- I wouldn't say
 9 to facilitate. I would say they refer cases
 10 for our consideration.
 11 Q. Well, they don't just refer cases,
 12 right? They will actually schedule interviews
 13 on a day that's convenient for ICE to make
 14 arrests?
 15 A. I saw an e-mail that implied that
 16 happened at least one time.
 17 Q. Okay. And this is a public
 18 document, a public version, this CIS manual,
 19 adjudicator's field manual? It says "Redacted
 20 Public Version"?
 21 A. It says that, yes.
 22 Q. So this is what's open to the
 23 public, this information?
 24 A. Assuming that's accurate. I guess
 25 U.S. CIS has the link down here, so I'm

1 R. ADDUCCI
 2 assuming it's on this link.
 3 Q. Okay. Are you familiar with the
 4 name **Confident**? **Confidential/PII**
 5 A. I believe I've seen that name since
 6 I've been here. That's about my level of
 7 familiarity.
 8 Q. This is somebody who was arrested
 9 at an interview at CIS; is that your
 10 understanding?
 11 A. Can I look at the spreadsheet?
 12 Q. Oh, yeah. You don't remember?
 13 A. I don't remember every specific
 14 case.
 15 Q. Do you have any idea if ICE is
 16 intending to depart **Confident**?
 17 A. Not without referring.
 18 Q. So who would you talk to if you
 19 wanted to find out whether ICE was intending
 20 to deport certain individuals?
 21 A. I think the first thing I would do
 22 is look in our systems and see what, you know,
 23 look at kind of the progress of the case, and
 24 see if I could -- I might not talk to anyone,
 25 depending on the thoroughness of the

1 R. ADDUCCI
 2 documentation within the systems.
 3 Q. Which system is that?
 4 A. Our case management system.
 5 Q. And does that have -- if the
 6 information is filled in, does that have any
 7 indication of whether this is somebody who is
 8 slated to be removed?
 9 A. There's generally sort of a case
 10 summary, case progression, comments that I
 11 would refer to to see what was currently going
 12 on with the case.
 13 And to answer your previous
 14 question, if there was something not clear to
 15 me, I would talk to whoever was responsible
 16 for that. I would go to the -- probably --
 17 more likely than not, I would go to the
 18 assistant field office director. Ideally, it
 19 would go to the deputy, but I tend to go
 20 closer to the source.
 21 Q. So it could be the assistant field
 22 office director or it could be the deputy?
 23 A. Correct. I may ask to see the
 24 file.
 25 Q. Would the case progression comments

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1 R. ADDUCCI
 2 have sort of like a column or a default line
 3 that's devoted to does ICE intend to support
 4 this person basically?
 5 A. The responsibility of ICE, ERO, is
 6 to execute the order of the immigration judge.
 7 So if it's on a docket, the ultimate goal is
 8 that removal.
 9 So I would say it's going to say...
 10 Q. For example, if somebody is on an
 11 order of supervision --
 12 A. Yes.
 13 Q. -- and they are doing regular
 14 check-ins, they have been, you know,
 15 consistently showing up, they are applying for
 16 benefits. In that situation, would ICE --
 17 when would it become clear if ICE was
 18 intending to remove them?
 19 MS. LARAKERS: Objection.
 20 Q. How would you find out, I guess, if
 21 ICE was intending to remove them?
 22 A. Generally, as I discussed before,
 23 on order of supervision appointments, there's
 24 supposed to be this interaction. An order of
 25 supervision is you're working your way through

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1 R. ADDUCCI
 2 supervised release, correct?
 3 A. Yes. But they're on supervised
 4 release to get to the removal.
 5 Q. Right. But you could show up for a
 6 check-in and just check in, or you could show
 7 up for a check-in and then somebody could say
 8 now it's time to leave, correct?
 9 A. It's always time to leave once you
 10 have a final order of removal.
 11 Q. Right. But you're not told you
 12 have to show up at your next -- not every
 13 meeting you are told you have to show up at
 14 your next meeting with papers to leave the
 15 country, right?
 16 A. Not every. But there could be
 17 instances where someone is. I mean, it's a
 18 case-by-case situation.
 19 Q. What kind of notice is given to the
 20 person?
 21 A. The case officer tells the person,
 22 You need to provide tickets for, you know, or,
 23 You need to self-remove. It's a conversation.
 24 Q. And do they get -- is there a
 25 default amount of notice time period that they

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1 R. ADDUCCI
 2 towards removal.
 3 So long as you're doing the
 4 requirements of your order of supervision, for
 5 example, doing what you can to obtain your
 6 travel document, finalizing your affairs, and
 7 ultimately leaving, you can sort of see that
 8 progress.
 9 The person has to provide tickets
 10 or travel document obtained from -- the person
 11 -- individual -- I mean, it's not exactly. It
 12 will say subject has an appointment at the
 13 embassy, or something like that. So you see
 14 sort of a progression.
 15 Q. Okay. Besides, you know -- how are
 16 these individuals given notice if they're on a
 17 regular order of supervision and they are
 18 showing up for their interviews each time,
 19 when are they going to receive notice that
 20 their time is up and they have to be removed?
 21 A. Well, it's -- I mean, once they
 22 have a final order, that's the goal. That's
 23 when they start working towards that execution
 24 of the final order.
 25 Q. But people with final orders are on

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1 R. ADDUCCI
 2 have to give?
 3 A. That would be case by case.
 4 Q. So there's no default time period?
 5 A. No.
 6 (Adducci Exhibit 8, Memo to
 7 Thomas P. Brophy, and others,
 8 from Miguel Vergara dated
 9 5/16/18, marked for
 10 identification)
 11 Q. The court reporter has handed you
 12 what's been marked as Exhibit 8. Do you
 13 recognize this document?
 14 A. Yes.
 15 Q. This is a redacted version of the
 16 audit report ordered by Thomas Brophy,
 17 correct?
 18 A. Yes.
 19 Q. I will just let you know, this is
 20 how the document was produced to us by
 21 Respondents with the redactions in it.
 22 A. Okay.
 23 Q. If you go to the first paragraph,
 24 and it says "Purpose." It says, "The
 25 following After Action Review describes the

1 R. ADDUCCI
 2 findings resulting from the detained docket
 3 review conducted at the Boston Field Office
 4 from March 8 to 17, 2018. In addition to
 5 identifying deficiencies, this report suggests
 6 changes to current" policies "along with
 7 procedures needed to maintain the detained
 8 unit operating efficiently while minimizing
 9 the Field Office's exposure to litigation."
 10 Do you see that?
 11 A. It says "current practices," not
 12 "policies." But, yes.
 13 Q. "Current practices along with
 14 procedures."
 15 And then in the background, it
 16 lists two violations: "Failure to serve ICE
 17 detainees with notifications of File Review
 18 and/or serving the notification less than 30
 19 days prior to conducting post-order custody
 20 reviews." And then "Failure to timely conduct
 21 and/or conduct POCRs for aliens detained for
 22 90 days or longer."
 23 Do you see that?
 24 A. Yes.
 25 Q. Then it says, "Findings and

1 R. ADDUCCI
 2 Recommendations," and there's several bullet
 3 points after that.
 4 A. Yes.
 5 Q. The first is "Lack of unit staff
 6 rotation throughout the field office."
 7 Do you see that?
 8 A. Yes.
 9 Q. Is that still a problem at the
 10 Boston field office?
 11 A. There is not a staff rotation in
 12 the field office. Confidential/
 Deliberative
 Process
 18 So it -- I don't know that I would
 19 agree that that was -- I don't know that I
 20 agree with the recommendation in that instance
 21 100 percent, but I think there's a use for --
 22 there's -- yes, it's still a problem.
 23 Confidential/Deliberative Process

1 R. ADDUCCI
 2 Confidential / Deliberative Process
 22 Q. So it won't be fixed for months
 23 longer?
 24 A. I can't tell you how long it's
 25 going to take. I don't know how long it's

1 R. ADDUCCI
 2 going to take.
 3 Q. And it's not fixed yet?
 4 A. There is not staff rotations.
 5 Q. And in the second bullet point it
 6 says, "Insufficient experienced supervisors
 7 assigned to the detained unit."
 8 Do you see that?
 9 A. Yes.
 10 Q. It says, "The detained unit
 11 currently has one experienced supervisor on
 12 duty. This caused one docket officer to serve
 13 as acting supervisor while overseeing her
 14 docket and assisting with two other dockets as
 15 well."
 16 What does that mean?
 17 A. That means a docket officer was
 18 acting in a supervisory capacity while working
 19 on a docket as well.
 20 Q. And why was that a problem?
 21 A. It just was understaffed. There
 22 were not enough people doing the work for that
 23 -- the volume of work that was in that
 24 division or that section of the office didn't
 25 have enough people to address it.

1 R. ADDUCCI
 2 Q. And has that been -- have measures
 3 been taken to fix that?
 4 A. Yes. This was done before my
 5 arrival. As of now, there's 12 officers and
 6 two supervisory detention and deportation
 7 officers.
 8 Q. Do you still think that this is a
 9 problem?
 10 A. Lack of insufficient staffing? No.
 11 Q. The third bullet point says, "AFOD
 12 performs tasks belonging to first line
 13 supervisors."
 14 Do you see that?
 15 A. Yes.
 16 Q. What is the issue referred to here?
 17 A. I think this was just an AFOD that
 18 had to do the job. It is what it says. I
 19 don't know that there was a specific thing,
 20 but I think it was just somebody who maybe
 21 should have been thinking on a bigger, more
 22 macro level, having to do -- I don't know.
 23 You'd have -- I didn't do this report, and I
 24 wasn't here when some of these fixes were put
 25 into place. But I don't -- I think they

1 R. ADDUCCI
 2 wanted the AFOD to do the AFOD's job and not
 3 the SDDO job.
 4 Q. What did ICE do to fix this
 5 problem?
 6 A. I think with the additional SDDO
 7 and potentially seven, eight additional
 8 deportation officers, he is able to focus on
 9 higher level of management.
 10 Q. Do you know that to be the case?
 11 A. Yes.
 12 Q. Is this something you've looked
 13 into personally?
 14 A. Yes.
 15 Q. Do you think it's still a problem?
 16 A. I do not.
 17 Q. The next bullet point says,
 18 "Detainee population spread among multiple
 19 detention facilities."
 20 Do you see that?
 21 A. Yes.
 22 Q. What's the issue described here?
 23 A. There are schools of thought that
 24 it would be -- it's easier to manage a docket
 25 if all the detainees are in one location.

1 R. ADDUCCI
 2 Some field offices use one large detention
 3 facility. Others that are more spread out and
 4 have multiple states use multiple
 5 intergovernment service agreements.
 6 So this is something that's at a
 7 much higher level than something that can be
 8 done in the field office. It requires, you
 9 know, contracting and all sorts of
 10 headquarters involvement.
 11 It's a concept that a lot of people
 12 wish you could go to, but it's not 100 percent
 13 realistic.
 14 Q. So is ICE doing anything to address
 15 this problem?
 16 A. In this, I don't see this -- well,
 17 actually, I did here something from -- I think
 18 it was from Todd -- that they were looking at
 19 the possibility of -- they would like to do
 20 something to have more centralized detention.
 21 But, again, having done this from
 22 my own experience, it's not as easy as one
 23 thinks.
 24 Q. So it's not a problem that's going
 25 to be solved?

1 R. ADDUCCI
 2 A. It may be solved. I don't know if
 3 it's a problem. Now that there's appropriate
 4 staff, I don't, you know, again there's
 5 different schools of thought. So this is one,
 6 you know, one guy's opinion, if you will. I
 7 don't know that that's a solution.
 8 Q. I don't think it's one guy's
 9 opinion. I think you said it was a tiger
 10 team.
 11 A. Okay. That was a term. But, okay,
 12 it's three individuals' opinion. It could be
 13 one. I don't know whose opinion it was.
 14 Q. It says from these three
 15 individuals here.
 16 A. Okay. I don't know any of those
 17 three individuals, but I would beg to differ
 18 that that is a problem. I have 11 IGSA's in
 19 Michigan and Ohio.
 20 Q. What are "IGSAs"?
 21 A. Intergovernment service agreement,
 22 that's under the bullet.
 23 Q. And you don't think you have a
 24 problem in Detroit?
 25 A. No.

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1 R. ADDUCCI
 2 Q. So you just don't think this is a
 3 problem at all?
 4 A. I don't think this is a problem
 5 that caused the failure to serve the notices
 6 and the failure to conduct the POCR reviews.
 7 Q. But the three individuals who are
 8 specifically brought in to evaluate the office
 9 concluded otherwise, correct?
 10 A. That's true.
 11 Q. The next bullet point says,
 12 "Untimely service or failure to serve Notice
 13 of File Review and Failure to Comply forms
 14 (Form I-229)."
 15 Do you see that?
 16 A. Yes.
 17 Q. What's the issue here?
 18 A. This was the late service of file
 19 custody reviews, and the late service of form
 20 I-229s, which is the failure to comply.
 21 Q. And what have you done to correct
 22 the issue?
 23 A. I told them to serve those
 24 immediately upon intake.
 25 Q. Told who?

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1 R. ADDUCCI
 2 Q. The next bullet point says "Notice
 3 of File Review and Failure to Comply forms not
 4 furnished to the attorney on record."
 5 What's the issue described here?
 6 A. That would be similar to the above,
 7 while that was either not being -- well, it
 8 was untimely service of the Notice of File
 9 Custody Review, and the fact they were not
 10 being served on attorneys.
 11 Q. What have you done to correct this
 12 issue?
 13 A. I told them they need to be served
 14 on attorneys. Every time they serve the
 15 alien, they need to serve the attorney.
 16 Q. Told who?
 17 A. The same meeting, the deportation
 18 officers, up the chain to the deputy field
 19 office director.
 20 Q. Have you done anything else?
 21 A. No.
 22 Q. The next bullet point says, "Basic
 23 case management." What is this issue?
 24 A. This is this case management system
 25 that I referred to earlier, people not using

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1 R. ADDUCCI
 2 A. The staff. I'm sorry.
 3 Q. How did you tell them?
 4 A. Verbally in our managers' meeting,
 5 and then I met with the detained staff and up
 6 the chain, the deputy down to the detained
 7 DOs, and I said there's no reason to wait to
 8 serve notice of file custody reviews.
 9 There's sort of a process in place
 10 that allows for service up to 60 days, and I
 11 said it doesn't hurt to serve it early. It
 12 just has to be served by a certain date. So
 13 just serve everything at the beginning and you
 14 won't run into that issue.
 15 Q. So other than telling the
 16 supervisory staff to serve them --
 17 A. No. The officers were in
 18 attendance as well.
 19 Q. So was it the whole --
 20 A. The detained docket officers.
 21 Q. The detained docket officers.
 22 Other than telling the detained
 23 docket officers to serve them on time or
 24 early, did you do anything else?
 25 A. No.

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1 R. ADDUCCI
 2 the system clear -- clearly. And I -- this
 3 was resolved before I came. So I've done
 4 nothing with this.
 5 Q. I thought you said that the system
 6 is still missing clear case comments, and
 7 things like that? Didn't you say the person
 8 you brought in to review the detained docket
 9 is having issues with this?
 10 MS. LARAKERS: Objection.
 11 A. But that was before I got here. I
 12 mean, that was -- that was comments that were
 13 input before I got here. They're not using --
 14 I'm sorry, I'm not sure if I understand.
 15 Q. So, I mean, this says, "The
 16 following were the main case management
 17 tasks/functions identified as not being
 18 performed or untimely documented in EARM."
 19 What's "EARM"?
 20 A. It's the case management system.
 21 Q. It says, "Case actions and
 22 decisions," "Call-ups missing a clear
 23 narrative as to the reason for the follow-up,"
 24 and then "Unclear case comments (e.g.,
 25 document send to jail liaison officer for

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1 R. ADDUCCI
 2 service), with no indication as to the nature
 3 of the document or the expected return date."
 4 So I guess I just ask, what have
 5 you done to correct this issue?
 6 A. Well, what was done to correct this
 7 issue was the spreadsheets that I talked
 8 about. So it was already done by the time I
 9 got there.
 10 Q. The spreadsheets where you can
 11 visualize?
 12 A. Yes.
 13 Q. Can you just describe them again?
 14 A. I haven't seen one, but it's more
 15 of a visual case. So instead of having case
 16 actions and decisions, that should still be
 17 occurring within the system, they're relying
 18 more on this visual document. They should be
 19 doing it in both locations, but they're
 20 relying on this visual document to aid them in
 21 making sure they're not missing things,
 22 missing case call-ups, missing case actions
 23 and decisions.
 24 Q. How do you know that that's fixing
 25 the problem?

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1 R. ADDUCCI
 2 were finding things that happened quite a
 3 while ago.
 4 I don't know. To give an example,
 5 I can't...
 6 Q. And the person that you brought in
 7 to review the detained docket, what's his
 8 name?
 9 A. Kevin Raycraft.
 10 Q. How do you spell the last name?
 11 A. R-a-y-c-r-a-f-t.
 12 Q. He was having trouble with the EARM
 13 system, correct?
 14 A. No.
 15 Q. Which system was he having trouble
 16 with?
 17 A. He wasn't having trouble with any
 18 system.
 19 Q. You said the electronic system had
 20 incomplete information, so he was having
 21 trouble finishing his report.
 22 A. Oh. That would be EARM. He wasn't
 23 having trouble with the system. He just
 24 didn't know if the system was complete. He
 25 would rather have seen the file.

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1 R. ADDUCCI
 2 A. I haven't seen -- I guess I don't
 3 know that it has completely fixed the problem.
 4 I haven't seen a significant amount of
 5 problems since they started using their
 6 spreadsheets.
 7 Q. When did they start using their
 8 spreadsheets?
 9 A. I don't know. Sometime after this
 10 or during this.
 11 Q. So how do you know that there
 12 hasn't been any significant problems after
 13 they started using the spreadsheets?
 14 A. I didn't say "after they started."
 15 If I did, I -- since I've been here.
 16 Q. Have you seen any problems since
 17 you've been here?
 18 A. Yes, there have been a couple of
 19 cases that we talked about earlier that were
 20 released.
 21 Q. And so those aren't a significant
 22 number that you think in your mind?
 23 A. Again, the errors occurred prior to
 24 the implementation of these things. They were
 25 things that as the cases were reviewed, people

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1 R. ADDUCCI
 2 Q. So the system doesn't provide the
 3 complete information that you would want to
 4 evaluate --
 5 A. Again --
 6 Q. -- the detained docket?
 7 A. -- they were old cases.
 8 Q. But the system doesn't -- didn't
 9 provide him with the information that he
 10 needed to evaluate the detained docket,
 11 correct?
 12 MS. LARAKERS: Objection.
 13 A. I have to see his full report. He
 14 didn't really do a full report, but I'd have
 15 to see -- I mean, I would have to see what he
 16 had to say. I can't -- he indicated in a
 17 couple of instances there were some questions
 18 that he had, and he would rather talk to the
 19 officer and/or see the -- and see the A file.
 20 Q. And you said specifically because
 21 information would be missing?
 22 A. Correct. I don't know if I said
 23 that, but that's why.
 24 Q. If you look to the next bullet
 25 point, it says, "Unverified service/return of

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1 R. ADDUCCI
 2 documents from jail liaison officers."
 3 What's the issue referred to here?
 4 A. That Notice of File Custody Review,
 5 or the 229 was, you know, there were some
 6 issues with not getting them back timely or
 7 not -- maybe not making their way to the
 8 officer's desk.
 9 I didn't spend -- well, I -- that
 10 they would come back to the officers and
 11 potentially sit on an officer's desk and not
 12 make it into EARM comments that the actual
 13 service had occurred.
 14 Q. What have you done to correct this
 15 issue?
 16 A. I think that just comes with not
 17 having this big of a pile, because you have
 18 twelve -- you don't have as many cases that
 19 you're managing.
 20 Q. So you mean you've added additional
 21 staffing to correct the issue?
 22 A. Yes.
 23 Q. Have you done anything else?
 24 A. I've asked -- I went through this
 25 after action report with the AFOD, and asked

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1 R. ADDUCCI
 2 A. I would have to rely on my
 3 subordinates. They have to tell me that they
 4 were seeing issues of concern.
 5 Q. And have you told them to come to
 6 you if there are issues of concern?
 7 A. Yes.
 8 Q. The next bullet point says,
 9 "Failure to timely and/or complete POCRs."
 10 What is that referring to?
 11 A. Basically the 90th day. And the
 12 assistant field office director has mandated
 13 POCRs be on his desk at about day 80, and he
 14 has seen them at day 80 or 81, given a weekend
 15 or something like that.
 16 Q. Which assistant field office
 17 director are you talking about?
 18 A. Alan Greenbaum.
 19 Q. Is it just him?
 20 A. He is the assistant field office
 21 director that reviews the POCRs, yes.
 22 Q. And there's just one in Boston?
 23 A. In Boston, yes.
 24 Q. Do you find that's enough?
 25 A. Yes.

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1 R. ADDUCCI
 2 if we have addressed these issues. Much of it
 3 -- it's difficult, because I can't see the
 4 redacted stuff.
 5 So I think most of what is
 6 recommended was done.
 7 Q. Okay. But specifically, you recall
 8 that you added staffing. Or --
 9 A. I didn't add staffing.
 10 Q. -- Mr. Brophy added staffing, and
 11 that's --
 12 A. Correct.
 13 Q. -- what has been done. So you
 14 specifically have not added anything, but
 15 Mr. Brophy added staffing and that is --
 16 A. I've confirmed with the assistant
 17 field office director and the SDDOs that they
 18 aren't having the challenges they were with
 19 the jail liaison officers getting the
 20 information back. Sometimes they are being
 21 mailed back. Sometimes they are being scanned
 22 back. And they say that the issues have been
 23 resolved.
 24 Q. And how would you know if there
 25 were issues that were cropping up?

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1 R. ADDUCCI
 2 Q. The next bullet point says, "Lack
 3 of clear priorities when targeting at-large
 4 aliens, placing detainers and/or taking
 5 detainees into custody."
 6 What is the issue referred to here?
 7 A. I would assume it has to -- I don't
 8 know what that refers to.
 9 Q. You have no sense whatsoever?
 10 A. I really don't.
 11 Q. Have you reviewed the report
 12 before?
 13 A. I have. I've read a lot of things
 14 since I've been here. I look at 15 cases a
 15 day involving, you know, different issues. I
 16 can't -- I've read a lot of documents. And
 17 I've actually gone over this document. I just
 18 don't remember what this means. "Lack of
 19 clear priorities," I don't know what that has
 20 to do with really anything.
 21 They shouldn't have a lack of clear
 22 priorities. They should know what the -- the
 23 officers should know what the guidance is.
 24 But that's a discussion for management to have
 25 with the chain to make sure the deportation

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1 R. ADDUCCI
 2 officers have an idea of what their priorities
 3 should be.
 4 I really don't know what the
 5 meaning behind that is.
 6 Q. So what is the guidance for
 7 deportation officers?
 8 A. It's the implementation memo from
 9 Secretary Kelly.
 10 Q. So just reading that, they should
 11 have what they need?
 12 A. I mean, there's -- there's musters
 13 and group discussions and the SDDOs work daily
 14 with their teams. In most instances, they
 15 work with them out on the street. I'm not
 16 present for their conversations.
 17 Q. The guidance given to management is
 18 Secretary Kelly's memo, correct?
 19 A. Yes.
 20 Q. And so everybody is operating under
 21 that guidance when making these decisions?
 22 A. Yes.
 23 Q. And there's not any other written
 24 guidance?
 25 A. I have not produced any other

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1 R. ADDUCCI
 2 A. Yes.
 3 Q. And have you done anything else to
 4 address the issue?
 5 A. It was pretty much done. The lack
 6 of ERAs was addressed by adding ERAs. So, no,
 7 I've done nothing.
 8 Q. Do you know if adding two more ERAs
 9 has fixed the issue that's described in the
 10 report?
 11 A. I don't know if it's fixed yet.
 12 I'm sure that they would -- anybody would love
 13 to have more, but we do have limited
 14 resources. So it certainly helped.
 15 Q. If you go to the next bullet, it
 16 says, "Docket officers assigned to multiple
 17 dockets in addition to serving as acting
 18 supervisor."
 19 What was done to correct this
 20 issue?
 21 A. Again, that was -- there's no
 22 acting supervisor now. There's two full-time
 23 supervisors, and then, you know, the dockets
 24 have been significantly reduced by tripling
 25 the staff.

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1 R. ADDUCCI
 2 written guidance.
 3 Q. The next bullet point says, "Lack
 4 of Enforcement and Removal Assistants (ERA)."
 5 What is the issue referred to here?
 6 A. I think there was only one ERA at
 7 the time. I believe there's three now. This
 8 is just staffing, once again.
 9 Q. Have the two new ERAs received the
 10 ERA training?
 11 A. No -- well, I don't know. There
 12 are new ERAs that just entered on duty. So
 13 they would not have gone to the ERA training.
 14 I don't know the specific ERAs that moved into
 15 that unit, if they already had it, if there
 16 was a journeyman or a more senior ERA that
 17 moved into that unit. I don't know if they
 18 had the training or not.
 19 Q. And one of the ERAs is the ERA who
 20 told Ms. De Souza that she had to depart?
 21 A. No. Actually, that was an ERA on
 22 the non-detained docket, because she's not
 23 detained.
 24 Q. So this is only adding ERAs on the
 25 detained docket?

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1 R. ADDUCCI
 2 Q. The next bullet point says "Unit
 3 needs (e.g. staffing, equipment, etc.) are not
 4 being communicated all the way through the
 5 chain of command and therefore not met."
 6 Do you see that?
 7 A. Yes.
 8 Q. What is that referring to?
 9 A. That referred to scanners. I know
 10 the staff would prefer not to have to get up
 11 and go to the joint printers, you know, shared
 12 printers. They would like their own printers
 13 at their desks. Again, there are some
 14 resource issues. Scanners are in significant
 15 need, and that has been addressed.
 16 I think they -- the thing I
 17 remember the most was scanners and printers.
 18 Printers are not something, you know, they're
 19 just going to have to get up. I guess in the
 20 sense this was, you know, some people's wish
 21 lists.
 22 Q. So what it says is "Unit needs are
 23 not being communicated all the way through the
 24 chain of command."
 25 Has there been anything implemented

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1 R. ADDUCCI
 2 to make it so that unit needs will be
 3 communicated all the way through the chain of
 4 command?
 5 A. Just discussions.
 6 Q. Just discussions?
 7 A. You need to talk to your staff. I
 8 mean, you know, hopefully this after action
 9 report had some impact if people are feeling
 10 this. I don't know. I can't -- nothing else
 11 has been done, other than getting the
 12 equipment that they asked for.
 13 Q. And that next bullet point says,
 14 "Lack of essential equipment needed for the
 15 job (... scanners, color printers)."
 16 So is that the same thing?
 17 A. I think so, yes. Well, staffing
 18 they talk about in the first bullet as well,
 19 or the previous bullet, and that obviously was
 20 addressed.
 21 Q. The next bullet on the next page
 22 says, "Lack of data quality."
 23 What does that refer to?
 24 A. Again, that's EARM comments and
 25 call-ups and using the system as it's

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1 R. ADDUCCI
 2 Q. In the report that he's going to
 3 give you?
 4 A. I don't know what he's going to
 5 give me. I didn't have him do a formal report
 6 like this. He was just working with the
 7 officers, you know, as he would review a case.
 8 Q. But you said he did do a report?
 9 A. I said he gave information -- he
 10 was going to give information to -- report
 11 information to the assistant field office
 12 director. I don't think he did a formal
 13 report.
 14 Q. I thought you said he did a report
 15 and he put -- he gave it to you, but you
 16 haven't had time to review it because --
 17 A. No, I don't have it. He gave -- I
 18 told -- he told me he was going to provide
 19 anything that he had left, anything that he
 20 had uncovered to Alan.
 21 Q. To who?
 22 A. To Alan Greenbaum, to the AFOD,
 23 over the detained docket.
 24 Q. He's going to do it verbally?
 25 A. I'm not sure how he did it. I

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1 R. ADDUCCI
 2 designed.
 3 Q. You said "using the system as it's
 4 designed."
 5 A. To utilize the case call-ups.
 6 Again, they kind of -- these spreadsheets are
 7 almost, in a sense, a substitution for the
 8 process, because the spreadsheets were
 9 something that people did way back when, and
 10 the data -- or the system sort of allows for
 11 the elimination of the spreadsheets, but
 12 people, I guess, aren't comfortable yet using
 13 the system to the extent that it needed to be,
 14 and some of the officers were brand, brand
 15 new, and it takes -- it takes a little bit of
 16 finesse to work the process.
 17 I don't use the system. I can only
 18 read it. I don't put anything into the
 19 system, nor have I ever. So I don't have a
 20 lot of firsthand knowledge on the system
 21 inputting.
 22 Q. What have you done to correct this
 23 issue?
 24 A. That's really my assistant field
 25 office director's, or Kevin's, reviews.

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1 R. ADDUCCI
 2 wasn't there.
 3 Q. Right. But you said he finished it
 4 late last night and you haven't had time to
 5 review it because you're here today.
 6 MS. LARAKERS: Objection.
 7 A. He finished reviewing the dockets
 8 yesterday.
 9 Q. Hmm-hmm.
 10 A. And I haven't had a chance, an
 11 opportunity, to discuss what his findings were
 12 with him, nor will I. I will be discussing
 13 them with Alan.
 14 Q. Okay. The next bullet says, "Lack
 15 of docket training throughout the year."
 16 What does that mean?
 17 A. I don't know, because I've never
 18 heard of that. They don't do docket training
 19 in my field office. Throughout the year, it's
 20 kind of -- again, it's an OJT if you don't --
 21 if you have all new people. I don't know what
 22 that means.
 23 Q. You don't know what "Lack of docket
 24 training throughout the year" means?
 25 A. I mean, it means someone is not

1 R. ADDUCCI

2 getting trained throughout the -- I know what
3 lack of docket training throughout the year
4 is, but I don't know what docket training
5 throughout the year is.

6 Q. My question is, what is the issue
7 described here?

8 A. I don't know.

9 Q. So you don't know what has been
10 done to fix it?

11 A. I have not heard of docket training
12 throughout the year before.

13 Q. And you haven't done anything to
14 fix this issue?

15 A. No.

16 Q. The next bullet point says "Lack of
17 examples/tools to assist officers in
18 organizing and prioritizing their work."

19 What does that refer to?

20 A. I believe this refers to those
21 spreadsheets.

22 Q. Do you know?

23 A. Oh, no. I think this actually
24 refers to those go-bys that I referred to
25 earlier, sort of the checklists.

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2 Q. Which haven't been finished yet?

3 A. Some work has been done by the
4 local office, and then Kevin worked on some
5 things from Detroit to carry forward here.
6 Those documents, I think, were being reviewed
7 for usefulness.

8 Q. Who are they being reviewed by?

9 A. I believe the attorneys right now.

10 Q. The next bullet point says,
11 "Unawareness of the cases entering custody
12 daily."

13 What does that refer to?

14 A. People aren't apparently aware of
15 who -- there wasn't a mechanism in place to
16 access who was coming into custody, no formal
17 -- or they weren't aware of cases entering
18 detention.

19 Q. And who is "they"?

20 A. The deportation officers on the
21 detained docket.

22 Q. What have you done to fix this
23 issue?

24 A. I did nothing. Again, most of
25 these issues had already been addressed by the

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2 time I got here, because, again, they did this
3 in March. So Tom and Todd and James had
4 addressed most of these points.

5 This one I just know from being
6 there, is -- there's a daily report that comes
7 out. I get it via e-mail. I think it might
8 be on the shared drive. I don't know if it
9 goes out. It's accessible so people are
10 reviewing the daily intake reports.

11 Q. What's in the daily intake reports?

12 A. People that have come into custody
13 and people that have been released from
14 custody.

15 Q. And how does this help the
16 deportation officers?

17 A. Well, it makes them aware of the
18 cases entering custody daily.

19 Q. The next bullet point says "Absence
20 of a mentoring/training program for new
21 officers."

22 Do you see that?

23 A. Yes.

24 Q. What's this referring to?

25 A. I think it refers to the -- it

1 R. ADDUCCI

2 refers to a lack of a training program for new
3 officers coming into the office.

4 Q. And what's been done to fix the
5 issue?

6 A. Well, there are informal mentoring
7 and training going on. Again, this is an
8 issue that involves some union considerations,
9 if you start developing post-academy training
10 programs. So that's usually done on a more
11 national level.

12 So anything that you do in this
13 sort of arena you have to do informally.

14 Q. And how do you do it informally?

15 A. Well, by providing newer staff with
16 seasoned people to give them guidance and
17 advice and be available for questions.

18 Q. Is this something you've worked to
19 implement since you've started?

20 A. I didn't implement it myself. It
21 was already in the works. But two very
22 seasoned officers who had previously worked in
23 the Boston office came back to the Boston
24 office from -- one, I believe, came back from
25 headquarters, and one came from another work

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 2 assignment. I can't recall. Somewhere in
 3 Vermont, I believe. Both very experienced
 4 detained docket officers. That was already in
 5 the works, though. I didn't do that. That
 6 was done before I got here.
 7 They didn't arrive until after I
 8 got here, but it was in the works.
 9 Q. And how do you know that new
 10 officers are getting the mentoring or informal
 11 training that they need?
 12 A. Just from the day-to-day
 13 conversations. I don't have a formal process
 14 set up to say that people are getting --
 15 again, it's sort of an informal mentoring
 16 training. So I can't -- other than having
 17 confidence that my staff is telling me the
 18 truth, and that this is occurring, and people
 19 are starting to feel comfortable asking people
 20 for help, that's how I have to -- that's what
 21 I have to rely upon.
 22 Q. The next bullet point says
 23 "National File Tracking System is not
 24 utilized."
 25 What does that refer to?

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1 R. ADDUCCI
 2 Q. The next bullet says "Detained duty
 3 officer." Do you know what that refers to?
 4 A. Yes. Just having someone available
 5 for -- it's just a duty. Somebody who's
 6 available for random issues as it relates to
 7 the detained docket.
 8 Q. What sort of random issues?
 9 A. Taking something out to jail. I
 10 don't know how they utilize the detained duty
 11 officer. I don't have -- I don't think we
 12 have one in Detroit, and I'm not sure what the
 13 benefit is, because -- so I -- I don't know
 14 what the meaning behind this bullet was.
 15 Q. The next bullet says, "Two-person
 16 docket officer teams."
 17 What does that refer to?
 18 A. The ability to have some coverage
 19 when someone is gone. So instead of having
 20 one person over one docket, you might combine,
 21 in a sense, you would have double the amount
 22 of cases on one docket and both officers
 23 covering that docket.
 24 Q. And what have you done to fix this
 25 issue?

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1 R. ADDUCCI
 2 A. It's a file tracking system that's
 3 owned by CIS. I think it's owned by CIS.
 4 Just to see where a file is.
 5 Q. Do you mean an alien file?
 6 A. Yes.
 7 Q. And --
 8 A. If it moves from one desk to
 9 another desk, or one location to another
 10 location.
 11 Q. It says it's not being utilized,
 12 right?
 13 A. It does say that.
 14 Q. So what's the issue being
 15 described?
 16 A. I would assume that somebody -- I
 17 don't know. I would assume that somebody is
 18 just sending a file without wanding it in or
 19 typing it into the system to say it's moving
 20 from one location to another. I don't use the
 21 NFTS myself. I haven't used it in many, many
 22 years.
 23 Q. Have you done anything to fix this
 24 issue?
 25 A. No.

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1 R. ADDUCCI
 2 A. I've done nothing. I know they
 3 worked on -- until they had the 12 officers,
 4 until they got situated with the 12 officers,
 5 which I believe was final last week or the
 6 week before, speaking to the two SDDOs, their
 7 intent was to implement some type of docket
 8 team concept so that there was coverage if
 9 some people were traveling or out on leave.
 10 Q. So you think that this is something
 11 people might still be intending to implement,
 12 but you're not sure?
 13 A. I think it's -- I think it's
 14 partially implemented, but I would have to
 15 double-check with the SDDOs, because it would
 16 have just been able to have been implemented
 17 last week.
 18 MS. SEWALL: Go off the record for
 19 a couple minutes.
 20 VIDEOGRAPHER: We are going off the
 21 record at 2:46.
 22 (Recess taken at 2:46 p.m. and
 23 reconvening at 2:59 p.m.)
 24 VIDEOGRAPHER: We are back on the
 25 record at 2:59.

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1 R. ADDUCCI
 2 BY MS. SEWALL:
 3 Q. Ms. Adducci, since you became
 4 interim FOD in Boston, how many non-citizens
 5 subject to final orders of removal has the ICE
 6 Boston field office arrested at or immediately
 7 following an I-130 interview?
 8 A. Zero, I hope.
 9 Q. Do you know?
 10 A. I -- yeah, I believe -- yes.
 11 Q. Do you anticipate -- sorry. Are
 12 there any individuals arrested at or following
 13 their attendance at I-130 interviews that are
 14 currently in custody?
 15 A. No.
 16 Q. Since you became interim FOD in
 17 Boston, have any non-citizens arrested at or
 18 following their attendance at I-130 interviews
 19 been removed?
 20 A. I'm sorry, will you ask that one
 21 again?
 22 Q. Sure. Since you became interim FOD
 23 in Boston, have any non-citizens arrested at
 24 or following their attendance at I-130
 25 interviews been removed?

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1 R. ADDUCCI
 2 could be a missed case or two. I feel like
 3 it's relatively comprehensive, but I would not
 4 be able to swear it was entirely
 5 comprehensive.
 6 Q. So people could be getting arrested
 7 at or following an I-130 interview and it
 8 wouldn't get documented in the system,
 9 correct?
 10 MS. LARAKERS: Objection.
 11 A. It would get documented in a record
 12 of arrest. But there's no way to pull that
 13 information without going through every arrest
 14 and looking at every single arrest that
 15 occurred in office, regardless of where it
 16 occurred. You'd have to look at every single
 17 record of apprehended alien for whatever
 18 timeframe, and then see where the encounter
 19 took place.
 20 Q. So this spreadsheet pulls from a
 21 database where that information might not have
 22 been inputted into; is that what you're
 23 saying?
 24 MS. LARAKERS: Objection.
 25 A. This spreadsheet is based on

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1 R. ADDUCCI
 2 A. I don't think so, but I don't know.
 3 Q. How would you find out?
 4 A. I would have to go back and look at
 5 this whole spreadsheet and make sure -- I know
 6 -- I'm pretty sure no.
 7 Again, I don't know if the
 8 spreadsheet is all inclusive, because there's
 9 no mechanism for tracking people arrested at
 10 I-130 interviews. It's all based on gathering
 11 information from multiple different sources
 12 and individuals.
 13 Q. And you don't think that's been
 14 done?
 15 A. I think it has been done. I just
 16 don't know -- I think this is the best it's
 17 going to get, because this is everything
 18 everybody said they had for records from this
 19 time period.
 20 But, again, to -- if there was some
 21 one-off conversation in Hartford or at a
 22 co-located office where somebody didn't
 23 document it or didn't have any e-mails or
 24 didn't recall it, having had happened over a
 25 year ago, or upwards of a year ago, there

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1 R. ADDUCCI
 2 individual people reporting what they got from
 3 CIS, and recollections of officers and
 4 supervisory detention and deportation
 5 officers.
 6 There's no way to put in location
 7 of arrest and pull out individuals.
 8 Q. And you said it's documented file
 9 by file, the location of arrest would be
 10 documented in each file?
 11 A. It would be -- the place of
 12 encounter is documented on the arrest report.
 13 So when any person is arrested, a document is
 14 created. And in that document, the record of
 15 the arrest, it shows where the person was
 16 encountered.
 17 Q. So this spreadsheet doesn't go
 18 through each report and find the location of
 19 arrest; it relies on people, arrest officers
 20 reporting where the arrest has taken place?
 21 A. Yes.
 22 Q. And you don't know the method by
 23 which those officers determined where the
 24 arrest took place?
 25 A. I think it was memory, reviewing

1 R. ADDUCCI
 2 e-mails, and that would pretty much be the
 3 only way.
 4 Q. Do you anticipate that the ICE
 5 Boston field office will remove non-citizens
 6 who have been arrested at or following their
 7 attendance at I-130 interviews in the future?
 8 MS. LARAKERS: Objection.
 9 A. I don't know. It could happen. I
 10 don't anticipate it, but I wouldn't say it
 11 won't.
 12 Q. You wouldn't prohibit it?
 13 A. Correct.
 14 Q. Are there any individuals arrested
 15 at or following their attendance at I-130
 16 interviews currently in custody and scheduled
 17 for removal?
 18 A. I can't say that with 100 percent
 19 clarity. I don't think so, but I -- without
 20 knowing, I'd have to go through, you know, 700
 21 cases in custody and see where they were
 22 encountered.
 23 Q. And to find that information out,
 24 would you have to go through every case file?
 25 A. Yeah, every report of arrest, which

1 R. ADDUCCI
 2 is in that documented system, or in the case
 3 file.
 4 Q. And the documented arrest is in the
 5 EARM system?
 6 A. It is in the narrative part of an
 7 apprehension. So it's not tracked. It's just
 8 a...
 9 Q. Are there any individuals arrested
 10 at or following their attendance at I-130
 11 interviews that are not in custody but are
 12 currently scheduled for removal?
 13 A. Any? There may be any, yes. There
 14 could be some. I don't know.
 15 Q. And have you given any instruction
 16 to deportation officers that they should
 17 particularly account for the fact that a
 18 non-citizen with a final order of removal was
 19 arrested at an I-130 interview or immediately
 20 after in deciding whether to remove somebody?
 21 A. Can you...
 22 Q. I will read it again. It's a long
 23 one.
 24 Have you given any instruction to
 25 deportation officers that they should

1 R. ADDUCCI
 2 particularly account for the fact that a
 3 non-citizen with a final order of removal was
 4 arrested at an I-130 interview or immediately
 5 after in deciding whether to remove somebody?
 6 A. No.
 7 MS. SEWALL: I have no further
 8 questions. Do you guys have anything?
 9 MS. LARAKERS: No.
 10 VIDEOGRAPHER: This concludes
 11 today's deposition. We are off the record at
 12 3:07.
 13 (Time Noted: 3:07 p.m.)
 14
 15
 16 -----
 17 REBECCA J. ADDUCCI
 18 Subscribed and sworn to before me
 19 this day of 2018.
 20
 21 -----
 22
 23
 24
 25

1 CERTIFICATE
 2 Commonwealth of Massachusetts)
 3) ss:
 4 County of Suffolk)
 5
 6 I, Michael D. O'Connor, a Notary
 7 Public within and for the Commonwealth of
 8 Massachusetts, do hereby certify:
 9 That REBECCA J. ADDUCCI, the witness
 10 whose deposition is hereinbefore set forth, was
 11 duly sworn before me and that such deposition is
 12 a true record of the testimony given by such
 13 witness.
 14 I certify that I am not related to
 15 any of the parties to this action by blood or
 16 marriage; and that I am in no way interested in
 17 the outcome of this matter.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand this 26th day of July 2018.
 20
 21 _____
 22 Michael D. O'Connor, RMR, CRR, CRC
 23
 24
 25

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1	I N D E X	1	NAME OF CASE:
2	WITNESS: EXAMINATION BY PAGE	2	DATE OF DEPOSITION:
3	REBECCA J. ADDUCCI	3	NAME OF WITNESS:
4	Ms. Sewall 7	4	Reason Codes:
5	----- E X H I B I T S -----	5	1. To clarify the record.
6	REBECCA J. ADDUCCI EXHIBIT PAGE	6	2. To conform to the facts.
7	Exhibit 1 Notice of Substituted Party Under	7	3. To correct transcription errors.
8	Rule 25(d) 25	8	Page _____ Line _____ Reason _____
9	Exhibit 2 Order 52	9	From _____ to _____
10	Exhibit 3 Declaration of Rebecca J.	10	Page _____ Line _____ Reason _____
11	Adducci 73	11	From _____ to _____
12	Exhibit 4 E-mail to Mark Sauter from Todd	12	Page _____ Line _____ Reason _____
13	Masters, dated 7/16/18, with	13	From _____ to _____
14	attached e-mails 145	14	Page _____ Line _____ Reason _____
15	Exhibit 5 E-mail to Rebecca Adducci from	15	From _____ to _____
16	Todd Lyons, dated 7/17/18, with	16	Page _____ Line _____ Reason _____
17	attachments 146	17	From _____ to _____
18	Exhibit 6 Native version of attachment to	18	Page _____ Line _____ Reason _____
19	Adducci Exhibit 5 147	19	From _____ to _____
20	Exhibit 7 "Exhibit A U.S. CIS Adjudicator's	20	Page _____ Line _____ Reason _____
21	Field Manual Ch 15" 153	21	From _____ to _____
22	Exhibit 8 Memo to Thomas P. Brophy, and	22	Page _____ Line _____ Reason _____
23	others, from Miguel Vergara, dated	23	From _____ to _____
24	5/16/18 165	24	
25		25	_____

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EXHIBIT B
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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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LILIAN PAHOLA CALDERON JIMENEZ and
LUIS GORDILLO, et al.
Plaintiff-Petitioners,
vs. Civil Action No.
KIRSTJEN M. NIELSEN, et al., 1:18-cv-10225-MLW
Defendants-Respondents

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CONFIDENTIAL
VIDEOTAPED DEPOSITION of TODD M. LYONS
Boston, Massachusetts
Friday, July 27, 2018
9:37 a.m.

Reported By: Michael D. O'Connor, RMR, CRR,
CRC
Job No.: 145300

CONFIDENTIAL

Page 2

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5
6 Friday, July 27, 2018
7 9:37 a.m.
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9
10 VIDEOTAPED DEPOSITION of TODD M.
11 LYONS, held at the Offices of WilmerHale,
12
13 60 State Street, Boston, Massachusetts, before
14 Michael D. O'Connor, Registered Merit
15 Reporter, Registered Realtime Captioner,
16 Certified Realtime Reporter and Notary Public
17 in and for the Commonwealth of Massachusetts.
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24
25

Page 3

1
2 APPEARANCES:
3
4 ON BEHALF OF PETITIONERS:
5 WILMERHALE
6
7 60 State Street
8 Boston, Massachusetts 02109
9 BY: MICHAELA SEWALL, ESQ.
10 STEPHEN PROVAZZA, ESQ.
11 COLLEEN McCULLOUGH, ESQ.
12 - and -
13 KATHLEEN GILLESPIE, ESQ.
14 6 White Pine Lane
15 Lexington, Massachusetts 02421
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Page 4

1
2 APPEARANCES, Continued:
3
4 ON BEHALF OF RESPONDENTS:
5 U.S. DEPARTMENT OF JUSTICE
6 450 Fifth Street, N.W.
7 Washington, D.C. 20001
8 BY: MARY LARAKERS, ESQ.
9 WILLIAM WEILAND, ESQ.
10 - and -
11 U.S. DEPARTMENT OF JUSTICE
12 John Joseph Moakley U.S. Courthouse
13 One Courthouse Way
14 Boston, Massachusetts 02210
15 BY: THOMAS KANWIT, ESQ.
16 - and -
17 U.S. IMMIGRATION CUSTOMS & ENFORCEMENT
18 15 New Sudbury Street
19 Boston, Massachusetts 02203
20 BY: JO ARDINGER, ESQ.
21 MARK SAUTER, ESQ.
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23
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Page 5

1
2 APPEARANCES, Continued:
3
4 ALSO PRESENT: Crystal Strawbridge, Videographer
5 Emma Goold, ACLU.
6 James Barnette, Wilmer Hale
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Page 6

1 T. LYONS
 2 PROCEEDINGS
 3
 4 MS. LARAKERS: All objections,
 5 except as to form, are reserved until the time
 6 of trial. All motions, including motions to
 7 strike, are also reserved. And the deponent
 8 will have 30 days to read and sign the
 9 deposition transcript with waiver of the
 10 notary and filing. Those are the stipulations
 11 that we have agreed to.
 12 In addition, as per yesterday, we
 13 would like to mark the entire transcript today
 14 as confidential.
 15 MS. SEWALL: Did you mark that on
 16 the record yesterday?
 17 MS. LARAKERS: Yeah. I think we
 18 had the discussion on the record. Yesterday's
 19 transcript was also marked as confidential.
 20 VIDEOGRAPHER: This is the start of
 21 tape labeled number one of the videotaped
 22 deposition of Todd Lyons in the matter of
 23 Lilian Pahola Calderon Jimenez and Luis
 24 Gordillo, et al. versus Kirstjen M. Nielsen,
 25 et al., in the United States District Court,

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1 T. LYONS
 2 from ICE, Chief Capital Office, along with my
 3 colleague Mark Sauter.
 4 VIDEOGRAPHER: Will the court
 5 reporter please swear in the witness.
 6
 7 TODD M. LYONS
 8
 9 having been satisfactorily identified by the
 10 production of his Government identification,
 11 and duly sworn by the Notary Public, was
 12 examined and testified as follows:
 13
 14 EXAMINATION
 15 BY MS. McCULLOUGH:
 16 Q. Good morning.
 17 A. Good morning.
 18 Q. Got ahead of myself. Please state
 19 and spell your name for the record.
 20 A. My complete name is Todd Michael
 21 Lyons, L-y-o-n-s.
 22 Q. And where do you live?
 23 A. I live in ██████, Massachusetts.
 24 Q. Do you understand that you're
 25 testifying under oath today and that your

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1 T. LYONS
 2 District of Massachusetts, civil action number
 3 1:18-CV-10225-MLW.
 4 This deposition is being held at 60
 5 State Street, Boston, Massachusetts on July
 6 27, 2018, at approximately 9:37 a.m.
 7 My name is Crystal Strawbridge from
 8 TSG Reporting and I'm the legal video
 9 specialist. The court reporter is Michael
 10 O'Connor in association with TSG Reporting.
 11 Will counsel please introduce
 12 yourselves.
 13 MS. McCULLOUGH: My name is Colleen
 14 McCullough with Wilmer Hale, along with my
 15 colleague Michaela Sewall, also with Wilmer
 16 Hale on behalf of Petitioners, and my
 17 colleague Kathleen Gillespie.
 18 MS. LARAKERS: My name is Mary
 19 Larakers on behalf of the United States with
 20 the Office of Immigration Litigation District
 21 Court section, along with my colleague William
 22 Weiland.
 23 MR. KANWIT: I'm Thomas Kanwit from
 24 the U.S. Attorney's Office here in Boston.
 25 MS. ARDINGER: Jo Ellen Ardinger

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1 T. LYONS
 2 answers are subject to the penalty of perjury?
 3 A. Yes.
 4 Q. You will give your truthful
 5 testimony today, right?
 6 A. Yes.
 7 Q. Is there any reason why you would
 8 not be able to recall events and testify
 9 accurately today?
 10 A. No.
 11 Q. I will be asking you a number of
 12 questions. If you do not understand a
 13 question that I ask you, let me know, so I can
 14 change it and make it clearer.
 15 Do you understand that?
 16 A. Yes.
 17 Q. If you need a break at any time,
 18 just tell me or your attorney, and we will try
 19 to take it. If a question is pending or you
 20 are in the middle of your answer, we'll get
 21 the answer to the question and then take a
 22 break.
 23 Do you understand that?
 24 A. Yes.
 25 Q. If you realize at any time during

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1 T. LYONS
 2 the deposition that your answer to a previous
 3 question was not accurate or complete, please
 4 let me know so that we can get that corrected
 5 on the record today.
 6 A. Yes.
 7 Q. Have you ever been involved in
 8 litigation before?
 9 A. Yes.
 10 Q. What cases?
 11 A. Prior to coming to work for
 12 Immigration and Customs Enforcement, I was a
 13 civilian law enforcement officer in Tampa,
 14 Florida.
 15 Q. Were you personally involved in
 16 litigation?
 17 A. Yes.
 18 Q. Did you testify?
 19 A. Not in court proceedings, no. Only
 20 in deposition.
 21 Q. About how many depositions have you
 22 taken?
 23 A. Approximately four.
 24 Q. Okay. And when was the most
 25 recent?

Page 12

1 T. LYONS
 2 A. No.
 3 Q. Have you reviewed any documents
 4 from this litigation?
 5 A. Just my own declaration that I did
 6 for the case.
 7 Q. Did you review your testimony from
 8 the hearing?
 9 A. No.
 10 Q. Have you ever reviewed any other
 11 filings in this case?
 12 A. No.
 13 Q. Have you seen any of the judge's
 14 orders in this case?
 15 A. I saw the judge's order for my
 16 deposition.
 17 Q. Have you seen the judge's
 18 protective order?
 19 A. I'm not sure which one you're --
 20 I've seen most of the judge's orders. I'm not
 21 specific on which one you're referring to?
 22 Q. You have seen the judge's orders?
 23 A. Yes.
 24 Q. Okay. Have you seen any media
 25 coverage of this litigation?

Page 11

1 T. LYONS
 2 A. 2008.
 3 Q. And were there ever findings in
 4 those cases against you or your office?
 5 A. No.
 6 Q. What were the issues in those
 7 cases?
 8 A. It was a use of force complaint.
 9 Q. That's the most recent one?
 10 A. Yes. It was the only one.
 11 Q. You said there were four?
 12 A. Depositions in regards to that
 13 case.
 14 Q. Oh, all for the same case?
 15 A. Yes.
 16 Q. Okay. And what areas were covered
 17 in your deposition testimony for that case?
 18 A. As far as what?
 19 Q. What were you asked about? What
 20 was the general subject?
 21 MS. LARAKERS: Objection.
 22 A. Circumstances of the arrest and the
 23 force used in the arrest.
 24 Q. Okay. Were you the arresting
 25 officer?

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1 T. LYONS
 2 A. No.
 3 Q. None at all?
 4 A. Specific to?
 5 Q. Regarding any of the petitioners in
 6 this case?
 7 A. I saw the original media coverage
 8 on the Calderon arrest back in January,
 9 February, first week of February.
 10 Q. Have you seen any media coverage of
 11 Ms. De Souza's case?
 12 A. I don't recall. We receive daily
 13 ICE public affairs about any type of media,
 14 but I can't recall specifically.
 15 Q. You didn't know whether Ms.
 16 De Souza was in any of those alerts?
 17 A. Could have been. I just don't
 18 recall.
 19 Q. Have any of those gone out since
 20 the May hearing?
 21 A. There was a specific "Globe"
 22 article, I believe, or a WBUR report.
 23 Q. What was that about?
 24 A. It was about our previous acting
 25 field office director, Tom Brophy's testimony,

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1 T. LYONS
 2 in front of the Judge Wolf on the stand.
 3 Q. And you read that article?
 4 A. Yes.
 5 Q. Is that the only article you've
 6 read about this case?
 7 A. Most recent, yes. That's the
 8 biggest one I remember from before.
 9 Q. What's your understanding of the
 10 dispute in this litigation?
 11 A. As far as the arrest at the Citizen
 12 & Immigration Service offices?
 13 Q. Regarding all aspects of this
 14 litigation.
 15 A. Well, it's my understanding as far
 16 as the arrest of individuals that were
 17 arrested at ICE -- I'm sorry, Citizen &
 18 Immigration Services, CIS offices, around the
 19 New England area from the time of January of
 20 2018 until now, along with detention issues in
 21 some of those cases.
 22 Q. What do you know about the
 23 petitioners in this case?
 24 A. Do you mind just expanding? As far
 25 as what? As far as their status? Each

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1 T. LYONS
 2 counsel of the order for my deposition.
 3 Q. And when was that?
 4 A. Last week. Approximately Monday of
 5 last week, just as far as scheduling, because
 6 I'm on vacation this week.
 7 Q. From that date to today, have you
 8 talked with anyone other than your counsel
 9 about your deposition?
 10 A. No.
 11 Q. Have you spoken with friends about
 12 it?
 13 A. No.
 14 Q. Have you spoken with your
 15 colleagues about it?
 16 A. No.
 17 Q. Have you abided by the Court's
 18 current sequestration order?
 19 A. Yes.
 20 Q. And you said your work already.
 21 But could you just say again where you work
 22 currently?
 23 A. I'm currently assigned to the
 24 Boston field office, which is physically
 25 located in Burlington, Massachusetts.

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1 T. LYONS
 2 individual one, I can't give you specifics.
 3 Q. Do you know that Ms. Lilian
 4 Calderon is one of the petitioners in this
 5 case?
 6 A. Yes.
 7 Q. Do you know what claims she's
 8 bringing?
 9 A. Claims as what?
 10 Q. Do you know why she's bringing this
 11 litigation?
 12 MS. LARAKERS: Objection.
 13 A. Because she was arrested at the CIS
 14 office in Providence, Rhode Island, I believe.
 15 Q. And what's your understanding of
 16 why you're testifying here today?
 17 MS. LARAKERS: Objection.
 18 A. I was the -- well, I am the deputy
 19 field office director for the Immigration &
 20 Customs Enforcement removal operations, Boston
 21 field office, which covers those offices where
 22 the arrests at the CIS offices were made.
 23 Q. When did you first learn that you
 24 were going to give a deposition in this case?
 25 A. When I was notified by chief

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1 T. LYONS
 2 Q. Okay. And you refer to that as the
 3 Boston field office, regardless of its
 4 location --
 5 A. Yes.
 6 Q. -- in Burlington?
 7 And I think you said your job title
 8 is deputy field office director?
 9 A. Yes. I'm the deputy field office
 10 director over law enforcement operations.
 11 Q. And when did you start working
 12 there?
 13 A. September 19th of 2017.
 14 Q. What was your position immediately
 15 before your current position?
 16 A. I was the acting deputy field
 17 office director for north Texas and Oklahoma.
 18 Q. How long did you have that
 19 position?
 20 A. I was in that position for six
 21 months.
 22 Q. Was that a temporary position?
 23 A. Yes.
 24 Q. What was your position before that?
 25 A. Assistant field office director for

Page 18

1 T. LYONS
 2 the Dallas field office.
 3 Q. When you were assistant field
 4 office director in Dallas, was there an acting
 5 deputy field office director?
 6 A. Yes. There was two vacancies at
 7 the time. So the assistant field office
 8 directors rotated through the deputy field
 9 office director position.
 10 Q. Is that common at ICE offices?
 11 A. When senior management positions
 12 aren't filled rapidly because of the extensive
 13 process, the next line of supervision usually
 14 steps in.
 15 Q. And you served as interim or acting
 16 field office director -- acting field office
 17 director in Boston, correct?
 18 A. Yes.
 19 Q. And you testified at the May
 20 hearing in this case on May 23rd that you
 21 expected to hold that position beginning on
 22 June 1st, correct?
 23 MS. LARAKERS: Objection.
 24 A. Yes.
 25 Q. When you stated that at the

Page 20

1 T. LYONS
 2 A. It can vary. It can be one day
 3 while the field office director is out on
 4 leave, whether that be annually or sick leave.
 5 It can be up to a month to four months,
 6 depending upon the rotation schedule.
 7 Q. And how long did you hold that
 8 position in Boston?
 9 A. Four days. One day I was out on
 10 leave.
 11 Q. Okay. Why did you hold that
 12 position for just four days?
 13 MS. LARAKERS: Objection.
 14 A. Because they brought in a senior
 15 field office director to come in to mentor
 16 management, as well as handle federal
 17 litigation.
 18 Q. Were you told why they brought in a
 19 senior field office director?
 20 MS. LARAKERS: Objection.
 21 A. Yes.
 22 Q. Were there any other reasons that
 23 they brought in a senior field office
 24 director?
 25 MS. LARAKERS: Objection.

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1 T. LYONS
 2 hearing, how long did you expect to hold that
 3 position?
 4 A. The expected time could be anywhere
 5 from two weeks up to eight months.
 6 Q. How long did you think you would
 7 hold that position?
 8 MS. LARAKERS: Objection.
 9 A. I thought I would at least hold it
 10 until they found someone hired -- qualified
 11 field office director, until they hired a new
 12 candidate for the position.
 13 Q. Were they looking for candidates
 14 for that position --
 15 MS. LARAKERS: Objection.
 16 Q. -- in May?
 17 MS. LARAKERS: Objection.
 18 A. Yes. There's always an open
 19 rotating vacancy, not specifically for the
 20 Boston office, but for field office directors
 21 nationwide.
 22 Q. How long does a person typically
 23 hold the position of acting field office
 24 director?
 25 MS. LARAKERS: Objection.

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1 T. LYONS
 2 A. That was the only reason why I was
 3 told.
 4 Q. When you said to handle federal
 5 litigation, are you referring to this case?
 6 A. Yes.
 7 Q. Are there any other cases you're
 8 referring to?
 9 A. To my knowledge --
 10 MS. LARAKERS: Objection.
 11 A. -- no.
 12 Q. When were you informed about the
 13 end date of your service as acting FOD?
 14 MS. LARAKERS: Objection.
 15 Q. Do you mind if I refer to it as
 16 FOD, the term used?
 17 A. That's fine. I didn't want to have
 18 to say it and explain what it was.
 19 No, I was notified on May 31st of
 20 the succession plan for the office.
 21 Q. Were you terminated from that
 22 position?
 23 MS. LARAKERS: Objection.
 24 A. No.
 25 Q. Was your tenure as acting FOD

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1 T. LYONS
 2 shorter than you expected because of any
 3 policies you implemented?
 4 MS. LARAKERS: Objection.
 5 A. No.
 6 Q. Was it shorter than you expected
 7 because of any policies you planned to
 8 implement?
 9 MS. LARAKERS: Objection.
 10 A. No.
 11 Q. Ms. Adducci has that position now,
 12 correct?
 13 A. Yes. She's currently the interim
 14 field office director. Interim, because she's
 15 the director in Detroit.
 16 Q. When were you told that Ms. Adducci
 17 would assume that position?
 18 MS. LARAKERS: Objection.
 19 A. May 31st.
 20 Q. Were you told why Ms. Adducci would
 21 assume that position?
 22 MS. LARAKERS: Objection.
 23 A. Yes.
 24 Q. Were those for the reasons you
 25 stated?

Page 24

1 T. LYONS
 2 A. On the system that we apply to, USA
 3 jobs, it's just an open continuous vacancy
 4 that they can pull candidates from a list that
 5 apply.
 6 Q. And it has been open for one year?
 7 A. No, not our position. Our
 8 position, the permanent position of the field
 9 office director, was vacated in January of
 10 2018.
 11 Q. Was that when Mr. Cronin left?
 12 A. Yes.
 13 Q. And the position would be for one
 14 year?
 15 A. No. The job announcement where
 16 they could -- the pool of candidates could be
 17 selected from.
 18 MR. KANWIT: Could we have a
 19 moment?
 20 MS. McCULLOUGH: Sure.
 21 (Government counsel confer off the
 22 record)
 23 Q. So I believe we were asking about
 24 the position of acting FOD in Boston.
 25 You said that there was a job

Page 23

1 T. LYONS
 2 A. Yes.
 3 Q. Do you anticipate being acting FOD
 4 in Boston again?
 5 A. There has been discussion of me
 6 taking over as the acting FOD once Ms. Adducci
 7 returns to Detroit.
 8 Q. When would that be?
 9 A. I believe her detail ends August
 10 19th.
 11 Q. How likely is it that you will
 12 become acting FOD on August 19th?
 13 MS. LARAKERS: Objection.
 14 A. I can't really speculate to what
 15 ICE, Immigration & Customs Enforcement
 16 headquarters, would decide.
 17 Q. Do you know if they're looking for
 18 somebody else for that position?
 19 MS. LARAKERS: Objection.
 20 A. Our field office director permanent
 21 position is vacant. Like I said, there's a
 22 one-year open vacancy for any open FODs within
 23 the U.S.
 24 Q. What do you mean there's a one-year
 25 open vacancy?

Page 25

1 T. LYONS
 2 announcement where they could -- the pool of
 3 candidates could be selected from?
 4 A. Yes.
 5 Q. Are you in that pool of candidates?
 6 A. No.
 7 Q. Why not?
 8 MS. LARAKERS: Objection.
 9 A. At the time, I didn't apply.
 10 Q. Have you applied since?
 11 MS. LARAKERS: Objection.
 12 A. No.
 13 Q. Why not?
 14 MS. LARAKERS: Objection.
 15 A. Because it's a decision that I need
 16 to discuss with my family if I want to pursue
 17 that route or not.
 18 Q. When you were told that Ms. Adducci
 19 would be coming to Boston to serve as the
 20 interim FOD, were you surprised?
 21 MS. LARAKERS: Objection.
 22 A. No.
 23 Q. Were you disappointed?
 24 MS. LARAKERS: Objection.
 25 A. No.

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1 T. LYONS
 2 Q. Why do you think Ms. Adducci
 3 replaced you?
 4 MS. LARAKERS: Objection.
 5 A. I believe just for the reasons that
 6 our executive associate director stated, that
 7 they wanted a more seasoned field office
 8 director.
 9 Q. Are there any other reasons?
 10 MS. LARAKERS: Objection.
 11 A. No.
 12 Q. You stated that they wanted
 13 somebody to help handle the litigation,
 14 correct?
 15 MS. LARAKERS: Objection.
 16 A. Yes. They wanted a more senior
 17 field office director with experience in all
 18 aspects of enforcement and removal operations
 19 to be able to mentor senior staff.
 20 Q. Do you know when Boston ERO will
 21 have a permanent field office director?
 22 A. No.
 23 Q. Do you have any idea?
 24 A. No.
 25 Q. Is it possible that you would

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1 T. LYONS
 2 stated the answer to the question, so we
 3 wouldn't really like this to go forward.
 4 He specifically stated in his order
 5 that anything with regard to the replacement
 6 of him as acting FOD is not relevant to the
 7 preliminary injunction, and that's the reason
 8 why we think it's outside the scope.
 9 If you have one or two more
 10 questions, certainly go forward. I just don't
 11 want this to go on for much longer.
 12 MS. McCULLOUGH: This is the last
 13 question.
 14 MS. LARAKERS: Okay. Good.
 15 Q. I can restate the question.
 16 A. Sure.
 17 Q. Actually, I will just read it. Do
 18 you think that your replacement as acting FOD
 19 had anything to do with your testimony in May?
 20 MS. LARAKERS: Objection.
 21 A. No, I don't think so.
 22 Q. You oversee operations in the
 23 Boston area of responsibility, correct?
 24 A. Yes. I oversee law enforcement
 25 operations.

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1 T. LYONS
 2 become the permanent FOD in Boston?
 3 A. Yes, it's possible.
 4 Q. Even though you're not in the pool
 5 of candidates?
 6 A. Yes.
 7 Q. How would they make that decision?
 8 MS. LARAKERS: Objection.
 9 A. I would have to apply.
 10 Q. Do you think that your replacement
 11 as acting FOD had anything to do with your
 12 testimony in May?
 13 MS. LARAKERS: Objection. Can we
 14 talk? We can excuse him for a minute if you'd
 15 like. I just don't want to talk on the record
 16 or have him here if we could have a
 17 discussion.
 18 MS. SEWALL: Are you instructing
 19 him not to answer the question?
 20 MS. LARAKERS: No. We believe it's
 21 way beyond the scope of the discovery order.
 22 We obviously let it go on for a little while
 23 yesterday and we'll let it go on for a little
 24 while today. But you've asked him the same
 25 question a couple times now, and we think he

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1 T. LYONS
 2 Q. What is the Boston area of
 3 responsibility?
 4 A. It includes all New England states,
 5 Massachusetts, New Hampshire, Vermont, Rhode
 6 Island and Connecticut, as well as Maine.
 7 Q. Do you report to anyone?
 8 A. I report to the field office
 9 director.
 10 Q. Ms. Adducci currently?
 11 A. Yes.
 12 Q. Does anybody report to you?
 13 A. Yes. I have three assistant field
 14 office directors that report to me.
 15 Q. What are their names?
 16 A. The first one is Todd Thurlo,
 17 T-h-u-r-l-o. The second is Ms. Tina, and I'll
 18 spell it, G-u-a-r-n-a hyphen Armstrong. And
 19 Anthony Ciulla, and it's C-i-u-l-l-a.
 20 Q. What are their job
 21 responsibilities?
 22 A. They are assistant field office
 23 directors.
 24 Q. What do those jobs entail?
 25 A. Mr. Thurlo is the assistant field

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1 T. LYONS
 2 office director for the northern states, as
 3 well as congressional affairs.
 4 Ms. Armstrong is the assistant
 5 field office director over at-large
 6 operations.
 7 Q. What does that mean?
 8 A. That entails the fugitive
 9 operations program, the secure communities
 10 operations.
 11 And Mr. Ciulla is the assistant
 12 field office director over the criminal alien
 13 program, as well as the non-detained unit.
 14 Q. And what are your responsibilities?
 15 A. I oversee law enforcement
 16 operations for all six -- well, primarily for
 17 Massachusetts and the northern states, as well
 18 as congressional affairs.
 19 Q. What does that mean?
 20 A. Dealing with local to include state
 21 senators and representatives, as well as U.S.
 22 congressional staff.
 23 Q. Communicating with them?
 24 A. Yes.
 25 Q. And you communicate with them about

1 T. LYONS
 2 ICE operations in New England?
 3 A. Yes. Specifically answering any
 4 type of questions they have for their
 5 constituents.
 6 Q. You transferred to the Boston ERO
 7 in September of 2017, correct?
 8 A. Yes.
 9 Q. And Christopher Cronin was the FOD
 10 at that time, correct?
 11 A. Yes.
 12 Q. What was ERO Boston's policy with
 13 respect to making arrests at CIS offices in
 14 September 2017?
 15 MS. LARAKERS: Objection.
 16 A. ERO Boston, there is no specific
 17 policy for making arrests at CIS. There is no
 18 specific policy within ERO for making arrests
 19 at CIS.
 20 ERO Boston would take enforcement
 21 action on cases that were referred by CIS if
 22 there was -- to see if there was some type of
 23 enforcement scope, which ERO would act on.
 24 Is it okay if I say ERO and not ICE
 25 instead of spelling it out all the time?

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1 T. LYONS
 2 Q. You mean the same thing by both?
 3 A. Yeah. I just don't want to confuse
 4 all the components.
 5 Q. And you said there was no
 6 enforcement policy?
 7 A. No, no. I said there was no
 8 policy. There's no policy for making arrests
 9 specifically at CIS.
 10 Q. In September of 2017?
 11 A. Yes.
 12 Q. You said ERO Boston would take
 13 enforcement action on cases that were referred
 14 by CIS?
 15 A. Yes.
 16 Q. What do you mean by "take
 17 enforcement action"?
 18 MR. KANWIT: Are we talking about
 19 irrelevant discussion between counsel
 20
 21
 22
 23
 24
 25

1 T. LYONS
 2 Irrelevant discussion of
 3 counsel
 4
 5
 6
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 9
 10
 11
 12
 13
 14
 15
 16 BY MS. McCULLOUGH:
 17 Q. What was ERO Boston's policy with
 18 respect to making arrests at CIS offices in
 19 September of 2017?
 20 A. ERO Boston didn't have a specific
 21 policy as far as making arrests at CIS. ERO
 22 Boston followed the executive order -- I
 23 believe it's 13756 -- along with General
 24 Kelly's implementation letter for the
 25 executive order, which outlines specific

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1 T. LYONS
 2 priorities of non-document -- people that were
 3 subject to arrest under the executive order.
 4 One of those categories under
 5 Subsection (f) fell -- the way the statute is
 6 written, aliens that are subject to a final
 7 order or previously deported were subject to
 8 arrest under the executive order.
 9 That's the written policy that ICE
 10 Boston followed.
 11 Q. Is your interpretation of that
 12 policy that anybody with a final order is
 13 subject to arrest?
 14 A. Yes.
 15 Q. Is your interpretation of that
 16 policy that no exemptions are permitted,
 17 regardless of the location of the arrest?
 18 A. Each case is reviewed case by case
 19 based on the circumstances. ICE does have a
 20 specific set of sensitive locations where
 21 arrests are not made.
 22 Q. CIS offices are not one of those
 23 locations, correct?
 24 A. No.
 25 Q. Did Mr. Cronin give instructions

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1 T. LYONS
 2 arrest people with final orders of removal at
 3 CIS offices?
 4 A. Mr. Cronin gave us the ability to
 5 make arrests of anyone subject to a final
 6 order.
 7 Q. He never mentioned CIS offices to
 8 you?
 9 A. If it fell within the scope of the
 10 executive order, we had ERO Boston officers
 11 were authorized to make that arrest.
 12 Q. Did he ever say to you anything
 13 about making an arrest at a CIS office?
 14 A. No.
 15 Q. Do you know if the Boston ERO has
 16 always made arrests at CIS offices?
 17 MS. LARAKERS: Objection.
 18 A. I can't speak to what it did prior
 19 to when I got here.
 20 Q. When you got there, they were
 21 making arrests at CIS offices?
 22 A. Yes.
 23 Q. Did anybody at the Boston ERO give
 24 you -- talk to you about arrests at CIS
 25 offices?

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1 T. LYONS
 2 about arrests at CIS?
 3 A. Mr. Cronin had us focus primarily
 4 on implementation of the executive order based
 5 upon criminality, if someone had a valid final
 6 order issued by a federal immigration judge.
 7 Q. What else did he say about how to
 8 implement the executive order?
 9 A. What do you mean by what did he
 10 say?
 11 Q. Did he say anything about CIS
 12 offices, arrests at CIS offices?
 13 A. No. CIS referred cases to ERO
 14 about cases which had final orders and were
 15 subject to arrest under the executive order.
 16 Q. And then was it ICE -- ICE then
 17 made a decision about what to do with those
 18 referrals, correct?
 19 A. Yes.
 20 Q. Did Mr. Cronin instruct you to do
 21 anything in response to those referrals?
 22 A. We looked at each case, case by
 23 case, as far as if there was going to be some
 24 type of enforcement action.
 25 Q. Did Mr. Cronin instruct you to

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1 T. LYONS
 2 A. Specifically in what capacity do
 3 you mean? It's kind of open-ended question.
 4 That's why I'm just wondering what you
 5 specifically kind of want.
 6 Q. When you arrived in September of
 7 2017, did anyone at the Boston office tell you
 8 anything about ICE's practice of making
 9 arrests at CIS offices?
 10 A. My assistant field office director
 11 for enforcement at the time advised me how
 12 often and how they received referrals from
 13 CIS.
 14 Q. Did he explain to you how they
 15 respond to those referrals?
 16 A. Yes. She explained how each case
 17 -- how she vet the cases.
 18 Q. Was Mr. Cronin aware of this
 19 process?
 20 A. Yes.
 21 Q. And did he approve of this process?
 22 MS. LARAKERS: Objection.
 23 A. Yes.
 24 Q. Was it the practice in Boston, the
 25 Boston ERO, to arrest people with final orders

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1 T. LYONS
 2 of removal at CIS offices, regardless of
 3 whether they had a criminal record?
 4 A. Could you repeat the question?
 5 Q. Was it the practice of the Boston
 6 ERO to arrest people with final orders of
 7 removal at CIS offices, regardless of whether
 8 they had a criminal record?
 9 A. Yes. At the time if the subject
 10 fell within the scope of the executive order,
 11 specifically Subsection (f) like I referred
 12 to.
 13 Q. Was it the practice to arrest
 14 people with final orders at CIS offices,
 15 regardless of whether there was -- they were
 16 considered dangerous?
 17 A. Yes. If the subject had a valid
 18 unexecuted final order or was deported by an
 19 immigration judge or had reentered the United
 20 States after being formally removed by an
 21 immigration judge, then yes.
 22 (Lyons Exhibit 1, E-Mail to Todd
 23 Lyons from Confidential/PII, dated 5/24/18, with
 24 attached e-mails, marked for identification)
 25 Q. Mr. Lyons, do you recognize the

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1 T. LYONS
 2 administration's executive order, which is
 3 known as the Prior Enforcement Program, PEP.
 4 Q. And generally, what did that
 5 involve?
 6 MS. LARAKERS: Objection.
 7 A. It had a limited scope as far as
 8 cases that ICE took enforcement action on.
 9 Q. Were there specific criteria given
 10 for making enforcement decisions?
 11 MS. LARAKERS: Objection. Form.
 12 A. There was basis of criminality,
 13 criminal history, and there was an entry date
 14 or a final order date, which I'm not familiar
 15 with off the top of my head.
 16 Q. And this ended -- did this policy
 17 end when the executive order went into effect?
 18 A. Yes.
 19 Q. During your time at Boston ERO in
 20 the end of 2017, did ICE ever decline to
 21 arrest a person appearing at a CIS office for
 22 an interview because that person was eligible
 23 for provisional waivers?
 24 A. We were never notified of what
 25 exactly the person had applied for or the

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1 T. LYONS
 2 document?
 3 MS. LARAKERS: What exhibit?
 4 MS. McCULLOUGH: I'm sorry. This
 5 document has been marked as Exhibit 1.
 6 MS. LARAKERS: Okay.
 7 Q. Mr. Lyons, do you recognize the
 8 document you have been handed marked as
 9 Exhibit 1?
 10 A. Yes.
 11 Q. What is this document?
 12 A. It's an e-mail that I received from
 13 SDDO Confidential/PII.
 14 Q. And when did you receive this
 15 e-mail?
 16 A. May 24, 2018.
 17 Q. CONFIDEN says in this e-mail,
 18 "This is the earliest organized effort that I
 19 had any involvement with since the end of the
 20 enforcement priorities policy," correct?
 21 A. Yes.
 22 Q. What is the enforcement priorities
 23 policy that he's referring to?
 24 MS. LARAKERS: Objection.
 25 A. He's referring to the previous

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1 T. LYONS
 2 status of what their interview was.
 3 We made the decision to decline an
 4 arrest or not take enforcement action based
 5 upon numerous different, I guess you could
 6 say, options.
 7 But as far as what they were
 8 applying for, no, that wasn't one of the
 9 options or one of the considerations, I should
 10 say.
 11 (Lyons Exhibit 2, E-Mail to Vance
 12 Ely from Thomas Brophy, dated 2/13/18, with
 13 attached e-mails, marked for identification)
 14 Q. Mr. Lyons, you have been handed
 15 what's been marked as Exhibit 2.
 16 A. Yes.
 17 Q. Do you recognize this e-mail or
 18 this document?
 19 A. Yes.
 20 Q. What is it?
 21 A. It's an e-mail from myself to the
 22 supervisors in the Rhode Island office.
 23 Q. And if you look at the second
 24 e-mail that you were sent on February 13,
 25 2018. Do you see that? Sorry, it's the

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1 T. LYONS
 2 second e-mail on the first page of the
 3 document I handed you.
 4 A. From Vance Ely?
 5 Q. Yes.
 6 A. Yes.
 7 Q. And Mr. Ely says, "Yes, there were
 8 two cases targeted for arrest at U.S. CIS on
 9 1/17/2018; Lilian Calderon," and he gives her
 10 A number, "and Confidential/PII," and he
 11 gives his A number. "The cases/subjects were
 12 unrelated. However, during the officer's
 13 initial encounter with Confidential/PII, it
 14 appeared he was DACA pending/eligible and no
 15 enforcement action was taken, allowing
 16 officers the opportunity to conduct further
 17 investigation into his case."
 18 Did I read that correctly?
 19 A. Yes.
 20 Q. Did ICE officers decline to take
 21 enforcement action against Mr.
 22 [REDACTED] because of his eligibility
 23 for DACA?
 24 A. Yes.
 25 Q. But ICE officers did not decline to

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1 T. LYONS
 2 A. I can't give you a definite answer,
 3 because I would have to see the A file and see
 4 what the circumstances of the case were.
 5 Q. Do you know of any instances where
 6 ICE declined to arrest somebody because they
 7 became aware that their I-130 was likely to be
 8 approved?
 9 A. Off the top of my head, I don't
 10 recall.
 11 Q. Were you or was anyone -- sorry.
 12 Did you ever give anyone instructions about
 13 arresting someone at CIS if their I-130 was
 14 likely to be approved?
 15 A. No.
 16 Q. Were instructions like that given
 17 in your office at any time?
 18 A. I don't believe so. Like I said,
 19 each case was dealt with on a case-by-case
 20 basis through the supervisor and the assistant
 21 field office director and with guidance from
 22 chief counsel.
 23 Q. So ICE officers would arrest people
 24 even if their I-130s were likely to be
 25 approved?

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1 T. LYONS
 2 take enforcement action against Ms. Calderon,
 3 correct?
 4 A. Yes. She was arrested.
 5 Q. Are you aware that Ms. Calderon was
 6 applying for provisional waivers?
 7 A. No.
 8 Q. You were aware Ms. Calderon was
 9 coming for an I-130 interview, correct?
 10 A. Yes. I was notified of her arrest
 11 after. I don't cover Rhode Island. That's
 12 Deputy Rutherford.
 13 Q. Individuals were arrested -- strike
 14 that.
 15 Referral -- CIS referred cases to
 16 ICE of individuals who were potentially going
 17 to be interviewed for I-130 interviews,
 18 correct?
 19 A. Yes.
 20 Q. And that's at the end of 2017 and
 21 beginning of 2018, correct?
 22 A. Yes.
 23 Q. Did ICE ever decline to arrest
 24 somebody because their I-130 application was
 25 likely to be approved?

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1 T. LYONS
 2 MS. LARAKERS: Objection.
 3 A. Yes. But I can't think of a
 4 specific case to refer you to.
 5 Q. And ICE arrested people whose
 6 I-130s had, in fact, been approved, correct?
 7 A. I'm not sure as far as -- are you
 8 talking about a specific case in general? I'm
 9 not sure which ones had specifically approved?
 10 Q. I'm asking if it ever happened
 11 while you were --
 12 A. It could have happened, yes.
 13 Q. -- in Boston.
 14 Did ICE receive any information
 15 from CIS regarding whether a person was
 16 eligible for provisional waivers?
 17 A. No. To the best of my knowledge,
 18 no.
 19 Q. So CIS referrals tell ICE when a
 20 non-citizen subject to a final order of
 21 removal will appear for an I-130 interview,
 22 correct?
 23 A. Yes.
 24 Q. In fact, CIS referrals include a
 25 full list of pending I-130 interviews where

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1 T. LYONS
2 the beneficiary is subject to a final order of
3 removal, correct?
4 MS. LARAKERS: Objection.
5 A. Yes.
6 Q. ICE tells CIS which non-citizens it
7 wants to arrest, correct?
8 A. Yes.
9 Q. And CIS would then schedule
10 interviews for -- would then schedule those
11 interviews at a time convenient for ICE to
12 come in and arrest those individuals, correct?
13 A. Yes.
14 Q. CIS even tells ICE when an
15 individual arrives for his or her interview,
16 correct?
17 A. Yes.
18 Q. And ICE updates CIS about the
19 progress -- excuse me. CIS updates ICE about
20 the progress of the interview, correct?
21 A. I'm not sure on that. What do you
22 mean by that one?
23 Q. Would CIS tell ICE officers when
24 they thought the interview was likely to
25 conclude?

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1 T. LYONS
2 A. I've never been out on a CIS arrest
3 here in the Boston office, so I can't say if
4 they do or not.
5 Q. And ICE will arrest individuals
6 immediately following their interview,
7 correct?
8 A. Yes.
9 Q. And ICE would arrest those
10 individuals regardless of the outcome of that
11 interview, correct?
12 A. Yes.
13 Q. In other words, whether the I-130
14 application was approved or not would not
15 impact the decision to arrest, correct?
16 A. The decision to arrest would take
17 several different factors, including officers
18 discussing the case with the adjudication
19 officer.
20 Q. Would that decision have been made
21 before the CIS interview?
22 A. It could have been. It could have
23 been, depending upon the discussion that the
24 field team supervisor had with the
25 adjudications officer or the supervisor of

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1 T. LYONS
2 that office; the CIS office specifically.
3 Q. Would ICE officers discuss the
4 outcome of the interview with the CIS officer
5 upon arrival at CIS?
6 A. They could, yes.
7 Q. Do you know of any instances where
8 they did?
9 A. No, I do not.
10 (Lyons Exhibit 3, E-Mail to James L.
11 Rutherford from CONF [REDACTED] dated 1/30/18,
12 with attached e-mails, marked for
13 identification)
14 Q. Mr. Lyons, do you recognize the
15 document that has just been handed to you
16 marked as Exhibit 3?
17 A. Yes.
18 Q. And what is this document?
19 A. It's another e-mail from Supervisor
20 CONF [REDACTED]
21 Q. When was it sent?
22 A. It is sent January 30th.
23 Q. 2018?
24 A. Yes.
25 Q. And who is CONF [REDACTED]?

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1 T. LYONS
2 A. He's a supervisory deportation
3 officer on one of our fugitive operations
4 units.
5 Q. What are his responsibilities?
6 A. He oversees a team of six
7 deportation officers that are assigned a
8 specific geographic area within -- in this
9 case, the State of Massachusetts, where they
10 conduct at-large arrests.
11 Q. What's an at-large arrest?
12 A. Meaning that it's someone that's
13 not already in law enforcement custody,
14 whether it be state or local sheriff's office.
15 Q. What's an arrest that's not an
16 at-large arrest?
17 A. Someone that's been arrested, say,
18 by the Boston Police Department, who has
19 either an outstanding final order, been
20 previously removed from the United States and
21 has already been arrested for another crime
22 within the Commonwealth, and at that point is
23 turned over to immigration and customs.
24 Q. Does CONF [REDACTED] report to you?
25 A. He reports to Ms. Tina Armstrong,

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1 T. LYONS
 2 and she reports to me.
 3 Q. Does he perform his job well?
 4 A. Yes.
 5 (Lyons Exhibit 4, E-Mail to Todd M.
 6 Lyons from **CONF**, dated 1/30/18, with
 7 attached e-mails, marked for identification)
 8 Q. Mr. Lyons, you've just been handed
 9 what is been marked as Exhibit 4. Do you
 10 recognize this document?
 11 A. Yes.
 12 Q. What is it?
 13 A. It's another e-mail from **CONF**
 14 **CONF** to myself and Deputy Rutherford and
 15 Director Cronin.
 16 Q. Do you see the attachment at the
 17 back of that document?
 18 A. The one that's highlighted?
 19 Q. Yes.
 20 A. Yes.
 21 Q. Do you recognize this?
 22 A. Yes.
 23 Q. Did ICE Boston send this chart to a
 24 CIS office?
 25 A. I'm not sure on this specific one.

1 T. LYONS
 2 because I've seen several, but this is one
 3 that we would send back to CIS.
 4 Q. And this shows which individuals
 5 ICE sought to arrest, correct?
 6 A. Arrest and not arrest.
 7 Q. And this shows that ICE sought to
 8 arrest most of the individuals applying for
 9 I-130s in January, correct?
 10 MS. LARAKERS: Objection.
 11 A. Yes.
 12 Q. This shows that ICE sought to
 13 arrest individuals coming in for interviews
 14 who had no criminal record, correct?
 15 A. They had no criminal record, but
 16 they did have a final order of removal.
 17 Q. Do you know how many of these
 18 people ICE arrested?
 19 A. No.
 20 Q. Do you have any idea?
 21 A. I would be speculating if I gave
 22 you a number. I can't give you...
 23 Q. Do you think it was more than half
 24 of the people marked will arrest barring
 25 significant medical or childcare issues?

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1 T. LYONS
 2 MS. LARAKERS: Objection.
 3 A. No. Again, I would just be
 4 guessing if I gave you a number.
 5 Q. Do you think it was more than a
 6 quarter of those people?
 7 MS. LARAKERS: Objection.
 8 A. I'm not sure.
 9 Q. CIS schedule interviews in
 10 conjunction with ICE, correct?
 11 A. Yes.
 12 Q. And this allowed, at least in one
 13 instance, six arrests to be executed on one
 14 day, correct?
 15 A. That sounds right. I'm not sure if
 16 it was one day, but I know definitely it was
 17 at least within a week's span. But
 18 specifically one day, I'm not sure if it was
 19 one day.
 20 Q. Do you recall the day that Ms.
 21 Calderon was arrested multiple others were
 22 arrested?
 23 A. That sounds right, yes.
 24 Q. Who at ICE works with CIS to
 25 schedule interviews?

1 T. LYONS
 2 A. **CONF**
 3 **CONF**
 4 **CONF**
 5 Q. Who are those at ICE?
 6 A. **CONF**
 7 **CONF**
 8 **CONF**
 9 Q. Do you know who they work with at
 10 CIS to schedule the interviews?
 11 A. I'm sorry, I don't.
 12 Q. Have you ever communicated with
 13 individuals at CIS about these interviews?
 14 A. No, ma'am.
 15 Q. Does CIS schedule interviews it
 16 would not otherwise schedule to facilitate an
 17 arrest by ICE?
 18 MS. LARAKERS: Objection.
 19 A. I'm not sure what you mean.
 20 Q. Are you aware that interviews are
 21 not required for an I-130 to be approved?
 22 A. No, I'm not familiar with the CIS
 23 side of the operations.
 24 Q. You don't know if interviews are
 25 required or not required --

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1 T. LYONS
 2 A. No. I've never been trained as an
 3 adjudicator, so I don't know.
 4 Q. Do you know what an I-130 is?
 5 A. Yes.
 6 Q. What is it?
 7 A. It's a petition for a relative.
 8 Q. Is the person applying for
 9 immigration benefits for their relative?
 10 A. Yes.
 11 Q. Sometimes CIS will approve --
 12 strike that.
 13 CIS spreads out interviews so that
 14 ICE officers have the capacity to make all the
 15 arrests they are interested in making,
 16 correct?
 17 MS. LARAKERS: Objection.
 18 A. They have that ability, yes.
 19 Q. And they did that, correct?
 20 MS. LARAKERS: Objection.
 21 A. If our supervisors coordinate it
 22 with the supervisor of that specific ICE
 23 office, then yes.
 24 Q. Are you aware that it was difficult
 25 for ICE to make many arrests on a single day?

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1 T. LYONS
 2 Q. And this says -- CONF [REDACTED] says in
 3 the second paragraph, "As far as scheduling
 4 goes, I would prefer not to do them all at one
 5 time as it is not only a strain on our ability
 6 to transport and process several arrests at
 7 once, but it also has the potential to be a
 8 trigger for negative media interest, as we
 9 have seen in the past. If you have the
 10 ability to schedule one or two at a time and
 11 spread them apart, that would work best for
 12 us."
 13 Did I read that correctly?
 14 A. Yes.
 15 Q. Did ICE try to avoid media
 16 attention in making these arrests?
 17 A. Yes.
 18 Q. Was this kind of coordination with
 19 CIS common in the end of 2017 and beginning of
 20 2018?
 21 A. Yes. The field supervisors would
 22 coordinate with whoever their point of contact
 23 is, which was usually someone at the
 24 supervisory level at CIS.
 25 Q. Does ICE still get referrals from

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1 T. LYONS
 2 A. Yes.
 3 Q. And so it was to ICE's advantage or
 4 it facilitated ICE's arrest for CIS to spread
 5 those interviews out over multiple days?
 6 A. Well, ICE has extremely limited
 7 resources. So yes.
 8 Q. Does CIS typically accommodate
 9 ICE's requests for an interviews schedule?
 10 MS. LARAKERS: Objection.
 11 A. I believe so.
 12 Q. Are you familiar with CONF [REDACTED]
 13 [REDACTED]
 14 A. No, I'm not. Sorry.
 15 Q. Can you turn back to Exhibit 1,
 16 please.
 17 A. Okay.
 18 Q. And the second e-mail on the first
 19 page, beginning the -- the paragraph that
 20 begins, "As far as scheduling goes." Do you
 21 see that paragraph?
 22 A. On the second page?
 23 Q. The first page. The second
 24 paragraph on the first page.
 25 A. Okay.

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1 T. LYONS
 2 CIS?
 3 A. Yes.
 4 Q. These come monthly?
 5 A. I'm not sure if monthly, but at
 6 least every couple of weeks.
 7 Q. And --
 8 A. Some come in one, two at a time.
 9 Others will come in in a batch.
 10 Q. Will CIS send ICE a spreadsheet of
 11 individuals with final orders who may be
 12 scheduled for I-130 interviews?
 13 A. If it's a large number, yes. It's
 14 usually a spreadsheet, yes. But I've also
 15 seen it done with one or two names on it.
 16 Q. Does CIS send ICE the name of every
 17 person with a final order who is coming in for
 18 an I-130 interview?
 19 MS. LARAKERS: Objection.
 20 A. To that, I don't know.
 21 Q. Do you know if they try to send
 22 them for every person?
 23 MS. LARAKERS: Objection.
 24 A. I don't know.
 25 Q. Do you know, approximately, how

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1 T. LYONS
 2 many referrals ICE receives from CIS every
 3 month?
 4 A. No.
 5 Q. Does CIS inform the person who has
 6 been scheduled for an I-130 interview that CIS
 7 has referred them to ICE?
 8 MS. LARAKERS: Objection.
 9 A. I'm not sure what CIS tells them.
 10 Q. Do you have any idea?
 11 A. No.
 12 Q. Do you think they know that they
 13 have been referred to ICE?
 14 MS. LARAKERS: Objection.
 15 A. I don't know.
 16 Q. Do you think they would come to
 17 their interview if they knew they had been
 18 referred to ICE?
 19 MS. LARAKERS: Objection.
 20 A. No.
 21 Q. Do you think they would not come?
 22 MS. LARAKERS: Objection.
 23 A. No.
 24 Q. Given that people do come to their
 25 interviews, do you think they don't know they

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1 T. LYONS
 2 I don't think they would show up.
 3 Q. Does CIS conduct these interviews
 4 to help them adjudicate I-130 applications?
 5 MS. LARAKERS: Objection.
 6 A. I guess what do you mean? Do you
 7 mean like the validity of an application?
 8 Q. Yes.
 9 A. Yes.
 10 Q. By deterring people from coming to
 11 these interviews, is ICE inhibiting CIS's
 12 ability to do its job?
 13 MS. LARAKERS: Objection.
 14 A. No, because I think if someone is
 15 trying to apply for a benefit, and who has not
 16 already been ordered by an immigration judge
 17 or federal judge, in most cases, with a prior
 18 deportation order, they will still come.
 19 Q. But with respect to people who have
 20 final orders?
 21 A. Most people with final orders would
 22 more likely not show up, because they have
 23 already been ordered and either evaded
 24 immigration enforcement or evaded a judge's
 25 order already.

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1 T. LYONS
 2 have been referred to ICE?
 3 MS. LARAKERS: Objection.
 4 A. I would be speculating, but yes.
 5 Q. Do you think CIS and ICE together
 6 are tricking these people?
 7 MS. LARAKERS: Objection.
 8 A. No.
 9 Q. These people think they're coming
 10 in for an interview that will help them pursue
 11 immigration benefits, correct?
 12 A. Yes.
 13 Q. And even if that interview is
 14 successful, they are arrested and potentially
 15 detained, correct?
 16 MS. LARAKERS: Objection.
 17 A. They could be, yes.
 18 Q. Do you think if people knew that
 19 this was ICE's practice, they would continue
 20 to come for these interviews?
 21 MS. LARAKERS: Objection.
 22 A. I can't speak to what they would do
 23 or not. But the subjects know they do have a
 24 final order of removal. If they know that
 25 they were supposed to leave the United States,

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1 T. LYONS
 2 Q. Does that mean that people with
 3 final orders are practically not able to apply
 4 for these benefits?
 5 MS. LARAKERS: Objection.
 6 A. They can apply, sure.
 7 Q. But they will be arrested?
 8 MS. LARAKERS: Objection.
 9 A. Like I said, each case is looked at
 10 case by case. So...
 11 Q. But the majority of cases, as we
 12 discussed, ICE seeks to arrest, barring
 13 significant medical or childcare issues,
 14 correct?
 15 MS. LARAKERS: Objection.
 16 A. Yes. Because final orders, like I
 17 said previously, it's, you know, priority
 18 under the executive order.
 19 Q. So people who are applying for
 20 benefits who have final orders have no reason
 21 to show up to their interviews?
 22 A. Well, they are subject to arrest.
 23 MS. LARAKERS: Objection.
 24 A. I'm not sure if they were advised
 25 either by an attorney to show up or they got

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1 T. LYONS
 2 bad information.
 3 Q. You think they should not show up?
 4 MS. LARAKERS: Objection.
 5 A. It's really not my place to say if
 6 they should show up or not.
 7 Q. If you were them, would you show
 8 up?
 9 MS. LARAKERS: Objection.
 10 A. I can't speak to what they would do
 11 or not do.
 12 Q. What would you do?
 13 MS. LARAKERS: Objection.
 14 A. I'm not in that position. I'd just
 15 be speculating on what someone else would do.
 16 Q. But you agree that if they knew
 17 that this was the policy, many fewer people
 18 would come to I-130 interviews who have final
 19 orders of removal?
 20 MS. LARAKERS: Objection.
 21 A. I believe so, because they're
 22 subject to that final order of removal.
 23 Q. What do you know about provisional
 24 waivers?
 25 A. In what capacity, ma'am?

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1 T. LYONS
 2 should say immigration benefits, application.
 3 Q. Are you aware of a change that was
 4 made to the waiver process in 2016 with
 5 respect to people with final orders of
 6 removal?
 7 A. Yeah, well that was the provisional
 8 waiver which allowed them to remain in the
 9 U.S. while speaking counselor process in lieu
 10 of returning to their home nation.
 11 Q. Do you know the purpose of that
 12 change?
 13 A. The specific purpose, no. But I
 14 would say that it would be to shorten the
 15 time, if you will.
 16 Q. Do you believe or are you aware
 17 this increased the number of people applying
 18 for provisional waivers?
 19 A. I don't know anything about the CIS
 20 statistics, if you will, about the increase or
 21 decrease in applications. But I would
 22 speculate that, yes, it would increase.
 23 Q. Are you familiar with the
 24 petitioners in this litigation at all?
 25 A. Yes.

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1 T. LYONS
 2 Q. Do you know what they are?
 3 A. Yes. Do you mean at the time
 4 people are applying in lieu of leaving the
 5 United States to adjust their status?
 6 Specifically, people in the past
 7 used to -- when they used to leave to counsel
 8 a process, as they call it, would return to
 9 their home country to apply and go through the
 10 counselor process interview outside of the
 11 U.S., whereas the provisional waiver allows
 12 them to remain in the U.S. while they go
 13 through that same process.
 14 Q. And that allows them to shorten the
 15 amount of time they are abroad before
 16 re-entering the United States, correct?
 17 A. Yes.
 18 Q. And what are the forms a person has
 19 to file in applying for provisional waivers?
 20 A. Off the top of my head, I'm not
 21 sure.
 22 Q. Are you aware that the I-130 is the
 23 first step in that process?
 24 A. Yes, the I-130s is the first step
 25 in most immigration proceedings -- well, I

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1 T. LYONS
 2 Q. You're aware that they are all
 3 pursuing provisional waivers?
 4 A. Yes.
 5 Q. You're aware that they all have
 6 final orders of removal?
 7 A. Yes.
 8 Q. You're aware that they are all
 9 married to U.S. citizens?
 10 A. I know specifically about Calderon,
 11 Ms. Calderon in that case. But I'm not too
 12 familiar on the other ones, no, ma'am.
 13 Q. You're aware the provisional waiver
 14 process is extended to people, among others,
 15 who are married to U.S. citizens?
 16 A. Yes.
 17 Q. Are you aware that many of these
 18 couples have U.S. citizen children?
 19 A. Yes.
 20 Q. Are you aware that two of the
 21 petitioners in this case appeared for I-130
 22 interviews?
 23 A. Yes.
 24 Q. Are you aware that CIS decided that
 25 they had bona fide marriages?

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T. LYONS

A. Off the top of my head, no. Without the case file in front of me, I would just be speculating. I'm not into the files as much as that.

Q. Are you aware that ICE arrested and detained them at CIS offices immediately following their interviews?

MS. LARAKERS: Objection.

A. Which ones, ma'am?

Q. Both Confidential/ and Confidential/ .

A. Yes.

Q. Are you aware that the named petitioners in this case have not been removed from the United States?

A. Do you mean that they are still in the U.S.?

Q. Yes.

A. Yes, ma'am.

Q. Do you know why?

A. They have stays in place, ma'am, stays of deportation to pursue their provisional waivers.

Q. If those stays were not in place, would they be subject to removal under the

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T. LYONS

executive order?

A. Under the executive order, yes, they are subject to removal.

Q. So the provisional waiver process, you're aware, was extended specifically to people with final orders of removal, correct?

A. Yes.

Q. And the benefits that it confers of a shorter family separation time are specifically made available to people with final orders of removal?

A. Yes.

Q. But when people with final orders of removal who are married to U.S. citizens apply for -- excuse me, take the first step in applying for provisional waivers by attending their I-130 interview, they are likely to be arrested by ICE, correct?

MS. LARAKERS: Objection.

A. They could be on a case-by-case basis, yes.

Q. And they could be removed?

MS. LARAKERS: Objection.

A. Yes.

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T. LYONS

Q. And then they would have to seek waivers from outside the United States?

A. Yes.

Q. They would not receive any of the benefits of the provisional waiver process, correct?

MS. LARAKERS: Objection.

A. If they are already removed, no.

Q. So ICE is effectively eliminating the benefits of the 2016 provisional waiver process by arresting and removing people of these I-130 interviews, correct?

MS. LARAKERS: Objection.

A. Were arrested subject to a final order that have eluded an immigration judge. We've arrested individuals that have eluded a judge's order sometimes several years. We don't know what they are applying for at the time.

Q. They may be applying for provisional waivers, correct?

A. They could be, yes.

Q. And provisional waivers are specifically available to people who, as you

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T. LYONS

say, have been eluding a judge's order?

A. Yes.

Q. So these people are not able to receive the benefits that they are legally entitled to, correct?

MS. LARAKERS: Objection.

A. Yes. If they apply for them, they are.

Q. If they are arrested and removed, as we just discussed, they don't receive the benefits of the provisional waiver process, correct?

A. If their attorney of record is applying for them still, and CIS said there's a bona fide case as far as the merits of their application, they won't be removed.

Q. I believe we just looked at a list of individuals who were applying for I-130s --

A. Yes.

Q. -- most of whom ICE had expressed an interest in removing, correct?

MS. LARAKERS: Objection.

A. Yes.

Q. And you agreed that ICE had removed

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1 T. LYONS
 2 individuals whose I-130s had been approved,
 3 correct?
 4 A. Yes.
 5 Q. So even if their I-130s are
 6 approved, ICE may still remove them, correct?
 7 A. Yes.
 8 Q. And those people are denied the
 9 benefits of the provisional waiver process,
 10 correct?
 11 MS. LARAKERS: Objection.
 12 A. I don't know if CIS denied their
 13 provisional waiver or not.
 14 Q. ICE has eliminated their ability to
 15 receive the benefits of the provisional waiver
 16 process by removing them, correct?
 17 MS. LARAKERS: Objection.
 18 A. Not if they applied before removal.
 19 Q. Provisional waivers prevent
 20 prolonged family separation, correct?
 21 A. Yes.
 22 Q. So unlike waivers, they allow an
 23 individual to be separated from their family
 24 abroad for a short period of time?
 25 A. Yes.

1 T. LYONS
 2 Q. So when a person is removed by ICE,
 3 that person is not able to receive the
 4 benefits of the provisional waivers, correct?
 5 A. A person is not just removed
 6 overnight from ICE.
 7 Q. How long could it take?
 8 A. It's case by case.
 9 Q. You agree that petitioners in this
 10 case might be removed if it were not for the
 11 stay entered by the judge, correct?
 12 MS. LARAKERS: Objection.
 13 A. Yes.
 14 Q. And are you aware that they have
 15 not all completed the provisional waiver
 16 process?
 17 A. Yes.
 18 Q. So they would have to wait abroad
 19 while those waivers are adjudicated, correct?
 20 MS. LARAKERS: Objection.
 21 A. The stay was granted, so they could
 22 adjudicate the provisional waiver.
 23 Q. For individuals not protected by
 24 the stay, they would have to wait -- if they
 25 were removed, they would have to wait abroad

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1 T. LYONS
 2 where their waivers are adjudicated, correct?
 3 MS. LARAKERS: Objection.
 4 A. I can't speak to the case not
 5 knowing it, but yes.
 6 Q. So those individuals would not
 7 receive the benefits of the provisional waiver
 8 process, correct?
 9 A. No.
 10 Q. No, that's correct?
 11 A. No, they wouldn't. Sorry about
 12 that. Before you do the next exhibit, would
 13 you mind if I use the men's room?
 14 Q. Sure. Do you want to take a break?
 15 We'll go off the record.
 16 VIDEOGRAPHER: We are going off the
 17 record at 10:54.
 18 (Recess taken at 10:54 a.m. and
 19 reconvening at 11:16 a.m.)
 20 VIDEOGRAPHER: We are back on the
 21 record at 11:16.

22 Irrelevant comment of counsel
 ■
 ■
 ■

1 T. LYONS
 2 Irrelevant comment of counsel
 ■
 ■
 ■
 7 MS. McCULLOUGH: Okay. Could you
 8 mark that as Exhibit 5.
 9 (Lyons Exhibit 5, E-Mail to Tina
 10 Guama-Armstrong from Todd M. Lyons, dated
 11 7/16/18, marked for identification)
 12 Q. Mr. Lyons, you have just been
 13 handed what has been marked as Exhibit 5.
 14 A. Yes.
 15 Q. Do you recognize this document?
 16 A. Yes.
 17 Q. What is it?
 18 A. It is a spreadsheet, it's a
 19 consolidation of all CIS referrals that
 20 supervisors and the assistant field office
 21 directors had from July of 2017 to now.
 22 Q. And how was this document made?
 23 A. I had one of the assistant field
 24 office directors create it based upon my
 25 instructions. It's the third e-mail when you

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T. LYONS

flip to that page -- I'm sorry, the page you were just -- based upon the bullets right there for discovery in the litigation.

Q. What information did Tina, Steve and Vance use to create the spreadsheet?

MS. LARAKERS: Objection.

A. What do you mean information? Do you mean sources, how they got it?

Q. Yes.

MS. LARAKERS: Objection.

A. They would have built the spreadsheet based upon ERO systems checks, records within a subject's alien file or the A file, e-mails, traffic from CIS to ERO supervisors.

Q. To identify the initial identification of the names to put in the spreadsheet, was that done by referencing e-mails from CIS?

A. I believe so, yes, because there's no other way that we track CIS referrals. There's no ERO centric system that talks to the CIS system. It would have to come from e-mail-based referrals.

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T. LYONS

Q. Is there any other way to track whether a person has been arrested at an I-130 interview?

A. No. There would be a way based upon site location in the ERO system. But that's the only other way if you search by that.

Q. Could you search by that using key word search?

MS. LARAKERS: Objection.

A. You can either search by a site location or you could search by a number or a name.

Q. In the database that tracks --

A. It's not necessarily a database that tracks. It's what we use to process.

Q. So that -- that's a system?

A. Yes.

Q. Is that the EARM system?

A. EARM.

Q. Does that system contain information about the location of arrest?

A. It would have a site code, which has a location of arrest.

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T. LYONS

Q. Would it have information of whether the person was arrested at an I-130 interview?

A. No. The site code is a dropdown. So it's limited to -- it would just have a location. For instance, Boston, Massachusetts, Suffolk County, Superior Court, Chelsea, Mass. It's specific to that. It's not...

Q. Do you know if ICE made -- strike that.

Do you know that ICE did not make any arrests of individuals other than individuals referred to them through CIS, arrests of individuals at I-130 interviews?

A. Well, yes, the only way ICE or ERO would even know about any type of benefit interview would be from a referral from CIS.

Q. Were all referrals done by e-mail?

A. To the best of my knowledge, yes.

Q. They were never done by phone?

A. I'm not sure.

Q. Is it possible that this spreadsheet omits individuals arrested at

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T. LYONS

I-130 interviews?

A. It's possible, but I don't believe so.

MS. McCULLOUGH: Can you mark this as Exhibit 6.

(Lyons Exhibit 6, E-Mail to Alan Greenbaum, and others, from Tina Guarna-Armstrong, dated 7/18/18, with attachments, marked for identification)

Q. Mr. Lyons, you have been handed what has been marked as Exhibit 6. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's an e-mail from AFOD Armstrong to, it looks like, the rest of the AFODs, as well as any of the field supervisors that have contacts with CIS, instructing them on where she created a folder on our shared drive so that the employees could put any e-mails regarding the case.

Q. Regarding the case as listed in the attached spreadsheet?

A. I'm sorry, yes.

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1 T. LYONS
 2 Q. And was this spreadsheet created
 3 based on the spreadsheet in Exhibit 5?
 4 A. Sorry, it's harder when it's
 5 broken.
 6 Q. Sorry. If you go to the very back
 7 of the spreadsheet, it should be a more
 8 readable version of the attachment.
 9 Do you see that?
 10 A. Yes.
 11 Q. It's a legal-sized --
 12 A. Yes.
 13 Q. Okay.
 14 A. Yes, I believe it was pulled from
 15 the same spreadsheet.
 16 Q. From the spreadsheet in Exhibit 5?
 17 A. Yes.
 18 Q. And what is this spreadsheet? What
 19 is it?
 20 A. Do you mind if I take this apart?
 21 Q. Sure.
 22 A. This one shows arrests that began
 23 -- the date of referrals were October 17th was
 24 the earliest, and it shows arrests in 2018.
 25 Q. And these were individuals arrested

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1 T. LYONS
 2 abbreviation OSUP, they're out on an order of
 3 supervision, except for the one, where you see
 4 it says released by a judge at a detention
 5 hearing, the prosecution case. That subject
 6 is out on their own recognizance based on the
 7 magistrate.
 8 Q. If you look at the column titled
 9 "Immigration Status"?
 10 A. Yes.
 11 Q. What does "WD" stand for?
 12 A. It's a warrant of removal.
 13 Q. Is that just a final order of
 14 removal?
 15 A. Yes. It's a warrant of
 16 deportation.
 17 Q. Okay.
 18 A. Again, it's one of those acronyms
 19 that have multiple uses that people use.
 20 Q. There are a lot of those.
 21 Does ICE intend to remove any of
 22 these individuals?
 23 A. Do you mind if I take a quick look?
 24 Q. Please do.
 25 A. The ones that are currently on

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1 T. LYONS
 2 at I-130 interviews, correct?
 3 A. Well, they were arrested at CIS or
 4 outside of a CIS office. Sixth tab over has
 5 the location of the arrest.
 6 Q. Do you know if these individuals
 7 were arrested at or immediately after CIS --
 8 I-130 interviews?
 9 A. I'm not sure of the arrest time. I
 10 mean, to answer your question, not if it was
 11 before or after or during.
 12 Q. Sure. But they were at CIS for
 13 I-130 interviews, correct?
 14 A. They were there for some type of
 15 interview, for a benefit.
 16 Q. Some of these people have been
 17 removed, correct? If you look at the second
 18 to last column or the last column.
 19 A. Yes.
 20 Q. And some of these people are --
 21 none of these people are in detention?
 22 A. No. None of them are in custody.
 23 Q. Do you know if they're released on
 24 orders of supervision?
 25 A. Yeah, what it says is that

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1 T. LYONS
 2 orders of supervision, it could be for
 3 multiple reasons, which could -- there could
 4 be a stay in effect, which allows them to
 5 either make a timely departure on their own or
 6 seek some type of benefit. You can tell the
 7 orange one, there is a pending motion to
 8 reopen where MTR is in the orange.
 9 Q. If you look at the person in the
 10 third row, **CONF** do you know if there are
 11 plans to remove this person?
 12 A. Without the file in front of me, I
 13 do not know.
 14 Q. What would you look at in the file
 15 to see if there are plans to remove the
 16 person?
 17 A. There's several different things
 18 you can look at. Look to see if there's a
 19 stay. Look to see if there's a valid travel
 20 document.
 21 The chances of obtaining a travel
 22 document, if there's a current passport, if
 23 there's any pending litigation, like a motion
 24 to reopen, or if the subject was released on
 25 an order of supervision pending the final

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T. LYONS

1 outcome of any type of immigration benefit.

2 Q. If one of these individuals does
3 not have a stay and has provided valid travel
4 documents, and is applying for provisional
5 waivers, is there any reason ICE would not
6 remove them?

7 A. So you're asking if all of the
8 other factors were in place with regard to the
9 provisional if we remove them?

10 Q. Would ICE refrain from removing --
11 strike that.

12 ICE would not refrain from removing
13 any of these individuals simply because they
14 are applying for provisional waivers, correct?

15 A. No, ma'am. ERO is only tasked with
16 the execution of the final orders. As far as
17 the CIS adjudicating them and how long it
18 takes them to adjudicate, I can't speak to
19 that.

20 Q. From looking at this, are you
21 familiar with the situation for any of these
22 individuals with respect to whether they are
23 likely to be removed in the near future?

24 A. No, ma'am. That's not my purview.
25

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T. LYONS

1 That's for the case management operational
2 side.

3 Q. Do you have any reason to think
4 that any of them would not be removed in the
5 near future?

6 MS. LARAKERS: Objection.

7 A. Again, there's multiple reasons
8 where someone may not be removed.

9 Q. Are there any reasons that you know
10 of with respect to any of these individuals?

11 A. I believe there are several that
12 have an active stay in place, and that would
13 -- we wouldn't remove someone that has a stay
14 of removal.

15 MS. McCULLOUGH: Mark that as
16 Exhibit 7.

17 (Lyons Exhibit 7, Adjudicator's
18 Field Manual, marked for identification)

19 Q. You have been handed what has been
20 marked as Exhibit 7. Have you ever seen this
21 document?

22 A. Never.

23 Q. Do you know what it is?

24 A. I only know now from reading the
25

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T. LYONS

1 top of it there, it's the adjudicator's field
2 manual.

3 Q. Are you familiar with CIS's
4 policies regarding arrests at interviews?

5 A. No, ma'am.

6 Q. Have you ever investigated what
7 CIS's policies are regarding arrests at
8 interviews?

9 A. No, ma'am.

10 Q. Can you read -- excuse me.

11 The top of this document, Section
12 15.1 says "Interview Policies," correct?

13 A. Yes.

14 Q. If you turn to Page 3 under "Arrest
15 of an Alien During the Interview Process," and
16 then under "General," it says, "As a general
17 rule, any alien who appears for an interview
18 before a U.S. CIS officer in connection with
19 an application or petition seeking benefits
20 under the Act shall not be arrested during the
21 course of the interview, even though the alien
22 may be in the United States illegally."

23 Did I read that correctly?

24 A. Yes.
25

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T. LYONS

1 Q. Would you turn to the next page.
2 Do you see the title "Exceptions to the
3 General Rule"?

4 A. Yes.

5 Q. And do you see the paragraph below
6 that says, "In some cases, an illegal alien's
7 actions or situation may be so egregious as to
8 justify making an exception to the general
9 rule that those who appear voluntarily for an
10 interview should not be arrested during the
11 course of that interview. Such actions and
12 situations include, but are not limited to,"
13 and then under bullet point 5, "An alien who
14 is the subject of a previously-issued warrant
15 of deportation or warrant of removal, UNLESS,"
16 in all bold or caps, "the alien is seeking
17 benefits under a provision of law (e.g.,
18 NACARA or HRIFA) which specifically allows an
19 alien under an order of deportation or removal
20 to seek such benefits."

21 A. Yes.

22 Q. Did I read that correctly?

23 A. Yes.

24 Q. At least some of the people coming
25

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1 T. LYONS
 2 to CIS for I-130 interviews are seeking
 3 benefits under the provisional waiver process,
 4 correct?
 5 MS. LARAKERS: Objection.
 6 A. Yes.
 7 Q. So at least some of the people
 8 coming to CIS for I-130 interviews are seeking
 9 benefits under a provision of law which
 10 specifically allows an alien under an order of
 11 deportation or removal to seek such benefits,
 12 correct?
 13 MS. LARAKERS: Objection.
 14 A. I don't know which ones were
 15 seeking any type of provision of law.
 16 Q. You're aware that the provisional
 17 waiver process is made specifically available
 18 to people with final orders of removal,
 19 correct?
 20 A. Yes.
 21 Q. So at least some of the people
 22 coming to I-130 interviews seeking provisional
 23 waiver benefits are there seeking a benefit
 24 for which an alien under an order of
 25 deportation or removal is specifically allowed

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1 T. LYONS
 2 spreadsheet, the referral in the e-mails that
 3 you have, it show that they were showing up
 4 for an I-130 interview. Never, if they were
 5 applying for a provisional, a U-Visa, WAVA.
 6 Q. So certain people who appear for
 7 I-130 interviews are applying for provisional
 8 waivers, correct?
 9 A. They could be.
 10 Q. Some of them are, right?
 11 A. Yes. I don't know which ones are.
 12 Q. Some of them are?
 13 A. Right. My offices don't know which
 14 ones they are when they go there.
 15 Q. And with respect to those who are
 16 applying for provisional waivers, those
 17 individuals are seeking benefits under a
 18 provision of law which specifically allows an
 19 alien under an order of deportation or removal
 20 to seek such benefits, correct?
 21 MS. LARAKERS: Objection.
 22 A. Yes.
 23 Q. So those individuals shall not be
 24 arrested during the course of the interview,
 25 even though they may be in the United States

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1 T. LYONS
 2 to seek, correct?
 3 MS. LARAKERS: Objection.
 4 A. They could be, but I don't know
 5 what benefit they're seeking.
 6 Q. If they are seeking the provisional
 7 waiver?
 8 MS. LARAKERS: Objection.
 9 Q. Benefits of the provisional waiver?
 10 MS. LARAKERS: Objection.
 11 A. They could be, yes. But I don't
 12 know what benefits they are seeking.
 13 Q. So if they are seeking benefits of
 14 the provisional waiver process?
 15 A. Yes.
 16 Q. And they come in for an I-130
 17 interview --
 18 MS. LARAKERS: Objection.
 19 Q. -- they are seeking a benefit
 20 under a provision of law which specifically
 21 allows an alien under an order of deportation
 22 or removal to seek such benefits, correct?
 23 MS. LARAKERS: Objection.
 24 A. Again, you'd have to speak to CIS
 25 to that. As you can tell from the one

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1 T. LYONS
 2 illegally, correct?
 3 MS. LARAKERS: Objection.
 4 A. Yes. But I think -- again, I'm not
 5 -- don't mean to be confrontational, but you
 6 would need to address that to CIS
 7 adjudicators. That's their policy.
 8 Q. So ICE does not take this policy
 9 into account when it makes its own policies?
 10 A. I can't speak for what a CIS policy
 11 is.
 12 Q. Does ICE -- you are not aware of
 13 this policy?
 14 A. No, ma'am.
 15 Q. And no one at ICE -- are you aware
 16 of discussion of this policy at ICE?
 17 A. No, ma'am.
 18 Q. And when ICE makes arrests of
 19 individuals, is it violating this policy?
 20 MS. LARAKERS: Objection.
 21 A. It's not a violation of my policy.
 22 You would have to direct that to the
 23 supervisor of an adjudication office that sent
 24 that referral.
 25 Q. From what you've seen in this

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1 T. LYONS
 2 document --
 3 A. It's not a --
 4 MS. LARAKERS: Objection.
 5 Q. From what you've seen in this
 6 document, is ICE making arrests of people
 7 seeking provisional waivers at I-130
 8 interviews violating U.S. CIS's policy?
 9 MS. LARAKERS: Objection.
 10 A. No, because it's not my -- well,
 11 ERO's policy.
 12 Q. But it's CIS's policy?
 13 A. CIS, if that is, then CIS is
 14 violating their own policy.
 15 Q. Is ICE violating their policy?
 16 MS. LARAKERS: Objection.
 17 A. We don't fall under their policies.
 18 Q. ICE doesn't account for this policy
 19 when making arrests?
 20 A. No, ma'am.
 21 Q. You had concerns about Mr. Cronin's
 22 policy of arresting noncriminal interviewees
 23 at CIS offices, correct?
 24 MS. LARAKERS: Objection.
 25 A. Can I clarify your question?

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1 T. LYONS
 2 A. Yes, I did make the chilling effect
 3 comment in the testimony.
 4 Q. And you believed -- you were
 5 concerned at the time that these arrests would
 6 have a chilling effect on individuals seeking
 7 benefits at CIS?
 8 A. I believe it had a chilling effect
 9 not only on any individual seeking it, but
 10 also as other federal agencies and law
 11 enforcement partners.
 12 Q. And you stand by your testimony in
 13 May with regard to your concerns about Mr.
 14 Cronin's policy?
 15 MS. LARAKERS: Objection.
 16 A. Yes.
 17 Q. And you thought these effects were
 18 undesirable, correct?
 19 MS. LARAKERS: Objection.
 20 A. Yes.
 21 Q. Did you communicate -- excuse me.
 22 You communicated with other ICE
 23 officials about the appropriate response --
 24 strike that.
 25 You were aware of press coverage of

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1 T. LYONS
 2 Q. Yes.
 3 A. In regards to my testimony in front
 4 of Judge Wolf?
 5 Q. Yes.
 6 A. My concern was a resource issue.
 7 It wasn't the arrest itself.
 8 Q. Did you ever discuss concerns with
 9 Mr. Brophy?
 10 A. Mr. Brophy and I did discuss the
 11 best utilization of resources.
 12 Q. Was one of your concerns media
 13 attention?
 14 A. Yes.
 15 Q. Were you concerned that it made ICE
 16 look bad to make these arrests?
 17 MS. LARAKERS: Objection.
 18 A. I don't want to say made us look
 19 bad. Unfortunately, a lot of our enforcement
 20 practices are never seen in a positive light.
 21 I just didn't want any more undue attention.
 22 Q. Were you concerned that these
 23 arrests deterred people from showing up for
 24 their interviews?
 25 MS. LARAKERS: Objection.

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1 T. LYONS
 2 Ms. Calderon's arrest, correct?
 3 A. Yes.
 4 Q. And you communicated with other ICE
 5 officials about the appropriate response to
 6 inquiries about ICE's policy after Ms.
 7 Calderon's arrest, correct?
 8 MS. LARAKERS: Objection to the
 9 extent that it invades on the deliberative
 10 process. You can answer as long as it
 11 doesn't.
 12 A. I would have just spoken with our
 13 public affairs officer.
 14 Q. Ms. Calderon was arrested at an
 15 I-130 interview at CIS, correct?
 16 A. Yes.
 17 Q. Are you aware that she was applying
 18 for a provisional waiver through her U.S.
 19 citizen husband?
 20 A. No, I'm not. Well, I was not.
 21 Q. Are you aware that she has a U.S.
 22 citizen husband?
 23 A. Yes.
 24 Q. Are you aware that she has two
 25 children who are under the age of five?

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1 T. LYONS
 2 A. Yes.
 3 Q. Are you aware that she has no
 4 criminal history?
 5 A. Yes.
 6 Q. Are you aware that she was detained
 7 for approximately one month after her arrest?
 8 A. Yes.
 9 (Lyons Exhibit 8, E-Mail to Todd M.
 10 Lyons from **CONF** dated 1/30/18, with
 11 attached e-mails, marked for identification)
 12 Q. I believe you have been handed
 13 what's been marked as Exhibit 8. Do you
 14 recognize this document?
 15 A. Yes.
 16 Q. What is it?
 17 A. It's an e-mail traffic from the
 18 public affairs officer.
 19 Q. Is it about Ms. Lilian Calderon?
 20 A. The last name Calderon isn't in the
 21 title of the e-mail, but yes.
 22 Q. And in this e-mail, **Confident**
 23 proposes a response to press inquiries about
 24 Ms. Calderon's arrest, correct?
 25 A. Yes.

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1 T. LYONS
 2 Q. ICE never told the public that ICE
 3 would be arresting people at CIS interviews,
 4 correct?
 5 MS. LARAKERS: Objection.
 6 A. No.
 7 Q. ICE never issued a press release on
 8 its policy with respect to arresting or --
 9 excuse me -- with respect to its practice of
 10 arresting people at CIS interviews?
 11 MS. LARAKERS: Objection.
 12 A. Do you mean prior to us ever doing
 13 anything like that; is that what you mean? Or
 14 after?
 15 Q. At any point -- are you aware of
 16 any press release issued by ICE regarding its
 17 practices of arresting people at CIS
 18 interviews at the end of 2017 and the
 19 beginning of 2018?
 20 MS. LARAKERS: Objection.
 21 A. Do you mean like before an arrest
 22 or after or just any in general?
 23 Q. A press release regarding the
 24 general practice.
 25 A. I believe if there was an media

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1 T. LYONS
 2 Q. He says -- so on the last page that
 3 I handed you, the e-mail from **Confidentia**
 4 **█** to you -- **/PII**
 5 A. Yes.
 6 Q. -- and the last unitalicized
 7 paragraph, he says, "As ICE Deputy Director
 8 Thomas Homan has made clear, ICE does not
 9 exempt classes or categories of removable
 10 aliens from potential enforcement. All of
 11 those in violation of the immigration laws may
 12 be subject to immigration arrest, detention
 13 and, if found removable by final order,
 14 removal from the United States."
 15 Is that right?
 16 A. Yes.
 17 Q. You agree with him in this
 18 statement, correct?
 19 A. Yes.
 20 Q. And you believe this is dictated by
 21 the executive order?
 22 A. Yes.
 23 Q. You didn't express concerns about
 24 the circumstances of Ms. Calderon's arrest?
 25 A. No.

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1 T. LYONS
 2 inquiry after an arrest, there would have been
 3 one, yes, but not like a pre-emptive...
 4 Q. Did ICE ever state to the media
 5 that its practice was to make arrests at CIS
 6 offices?
 7 MS. LARAKERS: Objection.
 8 A. I don't believe so.
 9 Q. In fact, ICE tried to hide that
 10 fact from the public, correct?
 11 MS. LARAKERS: Objection.
 12 A. I don't know. I don't think that's
 13 correct. It's an operational issue.
 14 Q. Is it an operational issue that ICE
 15 did not want the public to know about?
 16 MS. LARAKERS: Objection.
 17 A. It's an operational issue because
 18 it's a law enforcement arrest, and we don't --
 19 I'm trying to think of the correct word --
 20 premeditatively announce where we're going to
 21 do arrests at.
 22 Q. You also didn't announce your
 23 general policy regarding arrests, correct?
 24 MS. LARAKERS: Objection.
 25 A. There is no policy on arrests.

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1 T. LYONS
2 It's the executive order.
3 Q. You didn't announce --
4 A. Well, actually, the executive order
5 was announced.
6 Q. You didn't announce that it was
7 your practice to arrest people at CIS offices,
8 correct?
9 MS. LARAKERS: Objection.
10 A. No.
11 Q. If the public knew about CIS's
12 arrests or ICE's arrests at CIS offices, this
13 would be unpopular, wouldn't it?
14 MS. LARAKERS: Objection.
15 A. It could be.
16 Q. CIS tried to hide from the media
17 that it was making these arrests, didn't it --
18 excuse me, ICE tried to hide from the media?
19 MS. LARAKERS: Objection.
20 A. No.
21 (Lyons Exhibit 9, E-Mail to John
22 Mohan, and others from Vance Ely, dated
23 1/24/18, with attached e-mails, marked for
24 identification)
25 Q. You have been handed what's been

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1 T. LYONS
2 marked as Exhibit 9. Do you recognize this
3 document?
4 A. Yes.
5 Q. What is it?
6 A. It's e-mail traffic between the
7 public affairs officer and assistant director
8 -- assistant field office director, I'm sorry,
9 Vance Ely, and Deputy Field Office Director
10 James Rutherford.
11 Q. Who is Vance Ely?
12 A. He's an assistant field office
13 director for the Rhode Island suboffice.
14 Q. Who is John Mohan? Am I
15 pronouncing that correctly?
16 A. Mohan. He's a public affairs
17 officer for ERO Boston.
18 Q. And you're copied on these e-mails,
19 correct?
20 A. Yes. It's standard practice to
21 copy both deputies.
22 Q. And these e-mails were sent January
23 24, 2018, correct?
24 A. Yes.
25 Q. If you could turn to the third page

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1 T. LYONS
2 of this document. Do you see an e-mail from
3 Vance Ely to John Mohan and others?
4 A. I'm sorry, when you said third, are
5 you counting -- like each side?
6 Q. Yes. Counting each side. The
7 bottom of the third page.
8 A. Okay.
9 Q. Do you see that e-mail?
10 A. Is it the one that starts "Any
11 interest in saying"?"
12 Q. Yes.
13 A. Yes.
14 Q. And you're copied on this e-mail,
15 correct?
16 A. Yes.
17 Q. And this e-mail thread is a
18 discussion about responses to the media
19 regarding arrests -- an arrest at CIS,
20 correct?
21 A. Yes.
22 Q. Vance Ely says in this e-mail, "Any
23 interest in saying that the ICE took action
24 based upon a investigative referral was from
25 U.S. CIS Johnston, RI."

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1 T. LYONS
2 Is that right?
3 A. Yes.
4 Q. Then in response in the subsequent
5 e-mail, John Mohan responds, "I didn't mention
6 anything about how she was referred for the
7 reasons that we don't need to defend a
8 referral from CIS and because media likely
9 already know how it came about and will spin
10 it in a twisted way anyway, so defending it is
11 a moot point."
12 Did I read that correctly?
13 A. Yes.
14 Q. Then he says, "This one only one
15 media inquiry on it; if they get back to us I
16 will make sure they know this was a completely
17 legitimate referral from a partner federal
18 agency that has authority to refer cases that
19 require investigation to us."
20 A. Yes.
21 Q. Do you see anything in this e-mail
22 chain in which Mr. Mohan gets back to this
23 media inquiry and updates them about the
24 circumstances of the arrest?
25 MS. LARAKERS: Objection.

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1 T. LYONS
 2 A. No, I don't think.
 3 Q. Are you aware of any time when John
 4 Mohan explained to the media about the
 5 referral process between CIS and ICE?
 6 MS. LARAKERS: Objection.
 7 A. I can't speak to what John spoke
 8 to...
 9 Q. Are you aware of him doing that?
 10 MS. LARAKERS: Objection.
 11 A. I'm not.
 12 Q. As far as you are aware, does the
 13 public know about ICE's referral -- CIS's
 14 referral process to ICE?
 15 MS. LARAKERS: Objection.
 16 A. To my knowledge, no.
 17 Q. Mr. Mohan even says that if he
 18 chose -- even says that he chose not to make
 19 this revelation, and it would be unpopular if
 20 he did so, correct?
 21 MS. LARAKERS: Objection.
 22 A. Where do you see that, ma'am?
 23 Q. He said, "I didn't mention anything
 24 about how she was referred."
 25 A. I'm sorry, going back and reading

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1 T. LYONS
 2 something positive to you?
 3 MS. LARAKERS: Objection.
 4 A. No.
 5 Q. So he's concerned about negative
 6 media attention, correct?
 7 MS. LARAKERS: Objection.
 8 A. Again, I can't answer what John was
 9 thinking.
 10 Q. Based on these words in this
 11 e-mail, do you think he was concerned about
 12 negative media attention?
 13 MS. LARAKERS: Objection.
 14 A. I'm not sure.
 15 Q. What do you think he meant by
 16 "media likely already know how it came about
 17 and will spin it in a twisted way anyway"?
 18 MS. LARAKERS: Objection.
 19 A. I'm not sure.
 20 Q. You have no idea?
 21 A. I'm just not sure what he meant.
 22 Q. You received this e-mail on January
 23 24th, correct?
 24 A. Yes.
 25 Q. Did you ask him what he meant?

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1 T. LYONS
 2 it. Could you just repeat your question?
 3 Q. Sure. He says that he
 4 intentionally did not tell the media about the
 5 fact that she was referred to ICE through CIS,
 6 correct?
 7 MS. LARAKERS: Objection.
 8 A. Yes.
 9 Q. And he states that making that
 10 revelation to the media would be unpopular,
 11 correct?
 12 MS. LARAKERS: Objection.
 13 A. He doesn't say unpopular. He said
 14 "will spin in a twisted way anyway."
 15 Q. Does that convey to you that he
 16 thinks it would be unpopular?
 17 MS. LARAKERS: Objection.
 18 A. I don't know if John meant
 19 unpopular or not.
 20 Q. It would be conveyed negatively,
 21 correct?
 22 MS. LARAKERS: Objection.
 23 A. Again, I'm not sure what John meant
 24 by "twisted."
 25 Q. Is "twisted" a word that conveys

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1 T. LYONS
 2 A. No.
 3 Q. You submitted a declaration in this
 4 case on February 2, 2018, correct?
 5 A. Yes.
 6 Q. And in that declaration, you stated
 7 that there were five individuals arrested at
 8 Massachusetts or Rhode Island CIS offices in
 9 January 2018, in addition to Ms. Calderon,
 10 correct? Do you remember that?
 11 A. Vaguely. Do you have a copy of
 12 mine so I can refresh?
 13 Q. Yes.
 14 (Lyons Exhibit 10, Affidavit From
 15 ICE Representative, marked for identification)
 16 Q. You have been handed what has been
 17 marked as Exhibit 10. Do you recognize this?
 18 A. Yes.
 19 Q. And what is it?
 20 A. It's my declaration that I prepared
 21 in answering the questions regarding Ms.
 22 Calderon's case.
 23 Q. Can you turn to Paragraph 12.
 24 A. Yes.
 25 Q. Okay. And you state here that, "In

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<p style="text-align: right;">Page 106</p> <p>1 T. LYONS 2 response to the Court's question at Paragraph 3 1(i) regarding 'whether any individuals other 4 than Calderon and de Oliveira were arrested 5 while taking steps to seek permanent residency 6 at a Massachusetts or Rhode Island CIS office 7 in January 2018', the answer is yes, that an 8 additional five aliens subject to final orders 9 of removal were so apprehended during January 10 2018." 11 Is that correct? 12 A. Yes. 13 Q. And you made that statement under 14 oath, correct? 15 A. Yes. 16 Q. Was that statement correct? 17 A. That was the information that I was 18 given by the assistant field office directors 19 at the time. I was answering the questions 20 for Judge Wolf in order to meet the timeline 21 on this. This would have actually been 22 handled by DFOD James Rutherford or Assistant 23 Field Office Director Brophy, but both of them 24 were on leave, and I had to reach out to the 25 supervisors and assistant field office</p>	<p style="text-align: right;">Page 107</p> <p>1 T. LYONS 2 directors to give me the answers to the 3 questions. 4 So based on the information that I 5 had, I answered the questions as truthfully as 6 I can. 7 Q. Do you now know that more 8 individuals than seven were arrested at CIS 9 offices in Massachusetts or Rhode Island in 10 January 2018? 11 A. Yes. I believe it's on the one 12 spreadsheet, the exhibit you gave me. It 13 broke down. 14 Q. And that showed that 16 people were 15 arrested at CIS offices in Boston's field 16 office's jurisdiction in 2018, correct? 17 MS. LARAKERS: Objection. 18 A. I have to pull it out and count. 19 Q. Sure. That was marked as Exhibit 20 6. 21 A. Ma'am, this one? 22 Q. I believe so. Yes, I believe 23 that's right. Yes, how many individuals are 24 on this spreadsheet? 25 MR. KANWIT: Can you identify the</p>
<p style="text-align: right;">Page 108</p> <p>1 T. LYONS 2 spreadsheet? 3 MS. McCULLOUGH: It was marked as 4 Exhibit 6. 5 A. 14, unless I counted wrong. 6 Q. I count 17 individuals on this 7 list. 8 A. Well, you said for January, right? 9 Q. Yes. So you took out the February? 10 A. Sorry. Yeah. 11 Q. Well, one of them doesn't have a 12 date, correct, of the referral? 13 A. Of the referral, no. I wasn't 14 counting the referrals. I was actually 15 counting Tab 7. 16 Q. Okay. 17 A. So I was just strictly -- I thought 18 you asked for arrests, right? 19 Q. Yes. So 14 individuals arrested in 20 January 2018, correct? 21 A. Yes. 14. 22 Q. Apologies that there aren't numbers 23 on this spreadsheet. 24 A. I had to use the pen. If not, I 25 was...</p>	<p style="text-align: right;">Page 109</p> <p>1 T. LYONS 2 Q. When you were asked under the 3 judge's order, and the question that you 4 responded to in your declaration, was with 5 respect to arrests in Massachusetts and Rhode 6 Island, correct? 7 A. Yes. 8 Q. And this includes arrests in 9 Connecticut, correct? 10 A. Yes. 11 Q. Do you know how many individuals 12 were arrested in Connecticut in January of 13 2018 at CIS offices? 14 A. No, I don't believe it's broken 15 down. I believe it was just when I asked -- 16 when the question was asked, I think I 17 specifically asked the Boston and the Rhode 18 Island assistant field office director, since 19 that's where Ms. Calderon was arrested. 20 Q. Do you now know that there are 21 additional individuals -- excuse me. 22 Do you now know that the number you 23 provided in your declaration was lower than 24 the actual number? 25 MS. LARAKERS: Objection.</p>

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1 T. LYONS
 2 A. Yes.
 3 Q. When did you learn that?
 4 MS. LARAKERS: Objection.
 5 A. After we started to compile the
 6 list.
 7 Q. Around what date?
 8 MS. LARAKERS: Objection.
 9 A. Do you mind if I go back and get
 10 it? It was around July 15th.
 11 Q. Did you notify the judge that the
 12 number that you submitted in the declaration
 13 in February was incorrect?
 14 MS. LARAKERS: Objection.
 15 A. No.
 16 Q. Mr. Brophy became interim FOD in
 17 February of 2018, correct?
 18 A. Yes.
 19 Q. And under his direction, ICE ceased
 20 making arrests at CIS offices for individuals
 21 with no criminal history, correct?
 22 A. Yes.
 23 Q. He directed that arrests of
 24 non-citizens with final removal orders
 25 appearing at CIS offices should occur only if

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1 T. LYONS
 2 A. It was after Valentine's Day. I
 3 want to say approximately February 17th.
 4 Q. How do you remember that date?
 5 A. I remember the timeframe when Tom,
 6 the acting assistant field office director,
 7 discussed it with the senior management staff.
 8 Q. Did he discuss it in light of
 9 arrests made on Valentine's Day?
 10 A. I'm not sure.
 11 Q. Were you asked for approval to make
 12 any arrests of individuals who did not pose a
 13 public safety threat after you gave that
 14 directive?
 15 A. Yes. Recently I was asked for one.
 16 Q. Did you approve it?
 17 A. No.
 18 Q. When were you asked that?
 19 A. Last -- two Thursdays ago, I want
 20 to say. I don't want to say an exact day
 21 without a calendar in front of me.
 22 Q. Two Thursdays ago?
 23 A. Yes.
 24 Q. Okay. Mr. Brophy left his position
 25 as acting FOD at the end of May 2018, correct?

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1 T. LYONS
 2 the non-citizen presented a threat to national
 3 security or public safety, correct?
 4 A. Yes.
 5 Q. At the May hearing you testified
 6 you believed you wrote down Mr. Brophy's
 7 directive in your notepad. Do you recall
 8 that?
 9 MS. LARAKERS: Objection.
 10 A. Yes.
 11 Q. Have you seen that notepad between
 12 the May hearing and today?
 13 A. Yes.
 14 Q. Did you look for any notes on Mr.
 15 Brophy's directive?
 16 A. Yes.
 17 Q. Did you find any?
 18 A. No.
 19 Q. Under Mr. Brophy you required your
 20 team to get approval from you to arrest
 21 someone who had no criminal history and did
 22 not pose a public safety threat, correct?
 23 A. Yes.
 24 Q. When did you give that directive to
 25 your team?

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1 T. LYONS
 2 A. Yes. May 31st was his last day.
 3 Q. And you assumed the position on
 4 June 1st, correct?
 5 A. Yes.
 6 Q. What was your policy when you were
 7 acting FOD with respect to arrests at CIS
 8 offices?
 9 A. My policy was still in line with
 10 Director Brophy's, in that barring any public
 11 safety or national security threat, we weren't
 12 making any arrests at CIS.
 13 Q. Did you communicate this to the
 14 people who work for you?
 15 A. Yes.
 16 Q. Did you write it down?
 17 A. No.
 18 Q. Is that Ms. Adducci's policy as
 19 well?
 20 A. Ms. Adducci's policy is in line
 21 with the executive order that no section or
 22 subsection of undocumented individual is not
 23 subject to arrest or detention.
 24 Q. What's Ms. Adducci's policy with
 25 respect to arrests at CIS offices?

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1 T. LYONS
 2 A. It's in line with Mr. Brophy's, in
 3 that arrests will only take place if there's a
 4 significant public safety threat or national
 5 security implication.
 6 Q. Has she communicated that to you?
 7 A. Yes.
 8 Q. Did she communicate that by e-mail?
 9 A. No. In our senior staff meeting.
 10 Q. In person?
 11 A. Yes.
 12 Q. Have you had conversations with
 13 anyone besides your attorneys about ICE making
 14 arrests at CIS offices besides that meeting
 15 you mentioned?
 16 A. As far as Ms. Adducci's direction?
 17 Q. As far as any issue regarding or
 18 any aspect.
 19 MS. LARAKERS: Objection. Go
 20 ahead.
 21 A. No. I notified my people in my
 22 chain of command as far as the FODs' direction
 23 in regard to those, whereas anyone in an
 24 instance for a referral comes in, it was the
 25 same as Mr. Brophy's before, where it would

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1 T. LYONS
 2 concurrence or the approval of such an arrest
 3 at that office at the field office director
 4 level.
 5 Q. Are there any differences between
 6 Ms. Adducci's policies about making arrests
 7 generally and Mr. Brophy's?
 8 MS. LARAKERS: Objection.
 9 A. I don't believe so. I still
 10 believe Ms. Adducci's focus is still on public
 11 safety.
 12 Q. Did you review Ms. Adducci's
 13 declaration that she submitted in this case?
 14 A. No.
 15 Q. Are you aware that she stated that
 16 she believed Mr. Brophy's policy regarding --
 17 Mr. Brophy's policy which he expressed at the
 18 May lobby conference after the hearing was
 19 contrary to the executive order?
 20 MS. LARAKERS: Objection.
 21 A. That was discussed in meetings with
 22 counsel.
 23 Q. You were present at the lobby
 24 conference, correct?
 25 A. Yes.

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1 T. LYONS
 2 come through me, through the FOD, for
 3 approval.
 4 Q. Have any arrests at CIS offices
 5 been planned since Ms. Adducci assumed her
 6 position?
 7 A. No.
 8 Q. Has this litigation had any impact
 9 on ICE's arrest policy at CIS offices?
 10 A. No, because we don't have a policy.
 11 Q. Has this litigation had any impact
 12 on ICE's practice of making arrests at CIS
 13 offices?
 14 A. No, because I believe it's still in
 15 line with Mr. Brophy's intention as far as
 16 focusing on public safety and national
 17 security threats.
 18 Q. Is there any difference between Ms.
 19 Adducci's policy with respect to making
 20 arrests at CIS offices and Mr. Brophy's
 21 policy?
 22 A. I don't believe so.
 23 Q. Or practice?
 24 A. I don't believe so. I believe the
 25 practice is still the same as having the

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1 T. LYONS
 2 Q. What was your understanding of the
 3 policy that Mr. Brophy expressed at that
 4 conference?
 5 A. That only arrests would take place
 6 at a specific CIS office would be one where
 7 the individual had a criminal history or
 8 public safety threat or a national security
 9 link.
 10 Q. Do you have any understanding about
 11 any policy he expressed with respect to
 12 detaining individuals pursuing provisional
 13 waivers?
 14 MS. LARAKERS: Objection.
 15 A. Can you be more specific? I mean,
 16 he -- without the lobby conference notes in
 17 front of me, I think FOD Brophy expressed that
 18 each case would be case by case.
 19 Q. Does ICE track the number of
 20 arrests made by each ERO?
 21 A. What do you mean?
 22 Q. Does it record them?
 23 A. Which? Every arrest is documented.
 24 So you could look statistically as to how many
 25 arrests an office does.

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<p style="text-align: right;">Page 118</p> <p>1 T. LYONS</p> <p>2 Q. Are you aware that ICE does that?</p> <p>3 A. Yes.</p> <p>4 Q. And are they -- do they track</p> <p>5 arrests per officer?</p> <p>6 A. Per officer? It could be tracked</p> <p>7 per officer, but it's mostly tracked per</p> <p>8 office.</p> <p>9 Q. Are they tracked monthly, tallied</p> <p>10 monthly?</p> <p>11 A. Quarterly is the most.</p> <p>12 Q. Has the Boston field office ever</p> <p>13 been compared to other offices based on the</p> <p>14 number of arrests?</p> <p>15 MS. LARAKERS: Objection.</p> <p>16 A. Each office is -- when those</p> <p>17 numbers are reported, are reported</p> <p>18 specifically for all offices.</p> <p>19 So, I mean, if you looked Detroit</p> <p>20 or Chicago compared to Boston, you could see</p> <p>21 it on the list.</p> <p>22 Q. Are those numbers sent to the ICE</p> <p>23 offices?</p> <p>24 MS. LARAKERS: Objection.</p> <p>25 A. Yes. Senior managers receive those</p>	<p style="text-align: right;">Page 119</p> <p>1 T. LYONS</p> <p>2 periodically. The exact number of how many we</p> <p>3 get each year or quarter, just really depends.</p> <p>4 Q. Are there any arrest quotas?</p> <p>5 A. No.</p> <p>6 Q. Do you know of anybody -- do you</p> <p>7 know if ICE offices are evaluated based on the</p> <p>8 number of arrests?</p> <p>9 MS. LARAKERS: Objection.</p> <p>10 A. As far as what? I mean, like a</p> <p>11 quantitative scale type?</p> <p>12 Q. Are individual officers, for</p> <p>13 example, the individual FOD in an office, is</p> <p>14 their performance evaluated based on the</p> <p>15 number of arrests affected by that office?</p> <p>16 MS. LARAKERS: Objection.</p> <p>17 A. I've never seen specifically a</p> <p>18 FOD's performance work plan, just because it's</p> <p>19 outside of, I hate to say my pay scale or my</p> <p>20 pay scale, where the GS grades 1 through 15</p> <p>21 were field office directors, a senior</p> <p>22 executive service, which is outside of our</p> <p>23 skill.</p> <p>24 Q. You don't know if they are</p> <p>25 evaluated based on the --</p>
<p style="text-align: right;">Page 120</p> <p>1 T. LYONS</p> <p>2 A. I've never seen a FOD. They call</p> <p>3 them PWP. They are yearly evaluations. So</p> <p>4 I'm not sure what they are graded on.</p> <p>5 Q. Have you ever heard that they are</p> <p>6 evaluated based on the number of arrests?</p> <p>7 MS. LARAKERS: Objection.</p> <p>8 A. I would assume -- yes, I would</p> <p>9 assume they are graded on arrests.</p> <p>10 Q. You have heard that?</p> <p>11 MS. LARAKERS: Objection.</p> <p>12 A. Yes.</p> <p>13 Q. And does the number of arrests that</p> <p>14 they make affect their eligibility for</p> <p>15 promotions?</p> <p>16 MS. LARAKERS: Objection.</p> <p>17 A. No. Because each ERO field office</p> <p>18 is different than the next one. What I mean</p> <p>19 by that is, just circumstances, as far as, at</p> <p>20 least, for like -- that I can speak to best</p> <p>21 for me, is the enforcement side. It really</p> <p>22 depends on the environment you work in.</p> <p>23 Q. Mr. Cronin, under Mr. Cronin's</p> <p>24 leadership, the Boston ERO made a number of</p> <p>25 arrests at CIS offices, correct?</p>	<p style="text-align: right;">Page 121</p> <p>1 T. LYONS</p> <p>2 MS. LARAKERS: Objection.</p> <p>3 A. Yes. There were arrests made</p> <p>4 there, yes.</p> <p>5 Q. And Mr. Cronin was promoted in</p> <p>6 January of 2018, correct?</p> <p>7 MS. LARAKERS: Objection.</p> <p>8 A. I'm not sure if that's considered a</p> <p>9 promotion, but he did take a new position.</p> <p>10 Same pay grade. So I'm not sure if that's</p> <p>11 considered a promotion.</p> <p>12 Q. Does he have supervisory authority</p> <p>13 over Ms. Adducci?</p> <p>14 A. I'm not sure if she's actually in</p> <p>15 his chain of command. But the field office</p> <p>16 directors do report to the deputy assistant</p> <p>17 directors of field operations, which Mr.</p> <p>18 Cronin is one of them. They are broken up</p> <p>19 east and west, so I'm not sure which ones fall</p> <p>20 under.</p> <p>21 Q. If they are in the same chain of</p> <p>22 command, would he have supervisory authority</p> <p>23 over her?</p> <p>24 A. Yes.</p> <p>25 Q. So is that a promotion?</p>

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1 T. LYONS
 2 MS. LARAKERS: Objection.
 3 A. When I think of promotion, I think
 4 of something to gain by it -- not gain, but
 5 new title, more money, whereas it was a
 6 lateral move.
 7 Q. He's not being paid more in that
 8 position?
 9 A. No.
 10 Q. Are arresting officers or number of
 11 arrests tracked per officer, per arresting
 12 officer?
 13 A. You can do that, yes.
 14 Q. Is that done?
 15 A. Yes.
 16 Q. Are officers' numbers compared to
 17 each other?
 18 A. No. They are used for their
 19 performance work plans, PWPs, evaluations.
 20 Q. Are officers eligible for
 21 promotions or does it increase their ability
 22 to obtain promotions if they have more
 23 arrests?
 24 A. No.
 25 Q. Does the number of arrests affect

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1 T. LYONS
 2 aspects of fugitive operations involves what's
 3 known as our violent criminal alien section,
 4 which works with the U.S. Attorney's Office
 5 for prosecuting cases.
 6 Those officers, they don't actually
 7 make street arrests. So you couldn't use that
 8 as comparative to someone's evaluation as far
 9 as promotion, because we have a union, and
 10 that wouldn't be a quantitative scale to judge
 11 someone by.
 12 Q. Apart from comparing them to other
 13 individuals, just on their own, if they are
 14 being evaluated, does the person evaluating
 15 them consider the number of arrests that they
 16 made?
 17 A. Yes. It could come into play, yes.
 18 Q. Is your performance as deputy FOD
 19 evaluated in any manner based on the number of
 20 arrests or removals that your office makes?
 21 A. No. My performance work plan last
 22 year didn't include any quantitative goals
 23 like that as far as statistics, like increase
 24 X or, you know, I had none of those in my
 25 performance plan for last year.

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1 T. LYONS
 2 their performance evaluation?
 3 A. No.
 4 Q. They include it, but it has no
 5 effect?
 6 A. No, because most of the ERO
 7 officers do more than arrest. It depends upon
 8 what their job is at the time.
 9 For instance, you can have someone
 10 that works for me that's a fugitive operations
 11 officer, which is actually out making arrest,
 12 or you can have someone from the case
 13 management division, which is a docket
 14 officer, which monitors cases and is not in
 15 the field and doesn't arrest anyone.
 16 So you can't compare the two or use
 17 that -- use the arrest number for promotion.
 18 Q. For somebody who is, I believe you
 19 said, a fugitive arresting --
 20 A. Fugitive operations officer.
 21 Q. -- fugitive operations officer, is
 22 that person evaluated, in part, on the number
 23 of arrests that they make or the people
 24 beneath them make?
 25 A. No. Because again, still some

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1 T. LYONS
 2 Q. Did it include any evaluation of
 3 your past performance based on those metrics?
 4 A. No. My previous work plans were
 5 based specifically on what I did in Dallas,
 6 not based on what I was doing up here.
 7 Q. Did it note the number of arrests
 8 you made in Dallas or that were made under
 9 you?
 10 MS. LARAKERS: Objection.
 11 A. No. It showed increase -- I can
 12 tell you specifically in my performance plan
 13 from Dallas, it showed an increase in
 14 prosecution cases, because that was a section
 15 that I was over in Dallas.
 16 Q. But it didn't state anything about
 17 arrests, number of arrests?
 18 MS. LARAKERS: Objection.
 19 A. Without it in front of me, no. I
 20 can't tell you.
 21 Q. You don't know?
 22 A. No.
 23 Q. You said your performance plan
 24 included quantitative goals?
 25 A. I said it didn't include any

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1 T. LYONS
 2 quantitative like I had to increase this by so
 3 much percentage. I didn't have any of those
 4 in my performance plan this year.
 5 Q. Are individuals ever given
 6 quantitative goals in your office?
 7 MS. LARAKERS: Objection.
 8 A. No. They're given quantitative
 9 goals more as in what direction we want to
 10 take the office operationally, but not as far
 11 as like, I think you had referred to it, like
 12 for promotion or things like that, no.
 13 It's mostly used in the same kind
 14 of tool as the civilian police -- larger
 15 agencies, like New York City and those, when
 16 they use -- I'm not sure of the acronym it's
 17 called for. It's COMSTAT, where you evaluate
 18 trends, increase in crimes, things like that.
 19 Q. Something like that is done in the
 20 ICE office?
 21 MS. LARAKERS: Objection.
 22 A. Yes.
 23 Q. And that does not include number of
 24 arrests?
 25 MS. LARAKERS: Objection.

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1 T. LYONS
 2 We also use the risk classification
 3 assessment, too.
 4 Q. Does someone's -- what information
 5 is entered into the RCA or the risk
 6 classification assessment tool?
 7 A. Everything -- there are multiple
 8 factors that can be entered into from equities
 9 in the U.S. to criminal history to factors of
 10 flight risk.
 11 Would you mind if I use the men's
 12 room?
 13 Q. Sure. We can take a break.
 14 VIDEOGRAPHER: We are going off the
 15 record at 12:22.
 16 (Luncheon recess taken at 12:22
 17 p.m. and reconvening at 1:09 p.m.)
 18 VIDEOGRAPHER: We are back on the
 19 record at 1:09.
 20 BY MS. McCULLOUGH:
 21 Q. Did you want to clarify previous
 22 testimony?
 23 A. Yeah, one clarification, when were
 24 talking at lunch, in the very beginning, when
 25 the court reporter was asking me, I thought

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1 T. LYONS
 2 A. Yes, it does.
 3 Q. It does include?
 4 A. Right.
 5 Q. If CIS schedules interviews at
 6 convenient times for ICE, that makes it easier
 7 for ICE to make arrests, correct?
 8 A. Easier how? Easier for the officer
 9 to get there or easier --
 10 Q. Easier to make the arrest happen.
 11 A. Yes.
 12 Q. And I believe we mentioned before
 13 at one point there were multiple people
 14 arrested in one day at the CIS office,
 15 correct?
 16 A. Yes.
 17 Q. How does ICE decide to detain
 18 people after arresting them?
 19 A. Each case is looked at specifically
 20 individually. There's numerous factors that
 21 are taken into account, whether it be
 22 subject's criminal history, any threat to
 23 national security or public safety, flight
 24 risk. Each case is taken on the totality of
 25 the case.

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1 T. LYONS
 2 you asked place of birth, not where I live.
 3 So my actual mailing address is [REDACTED]
 4 Massachusetts.
 5 Q. Okay.
 6 A. Not Boston.
 7 Q. I have no follow-up questions on
 8 that.
 9 A. That was an easy one.
 10 Q. So are you familiar with the RCA?
 11 A. Yes.
 12 Q. Have you ever completed one for a
 13 detainee?
 14 A. When I was a line deportation
 15 officer before I was a line officer, I would
 16 do it in my capacity as a regular deportation
 17 officer.
 18 Q. What information is entered into
 19 the RCA?
 20 A. Everything from the aspects of the
 21 arrest to biographical information, like I
 22 said previously, equities in the U.S.,
 23 criminal history, flight risk, final order
 24 status.
 25 Q. And the RCA gives a recommendation

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1 T. LYONS
 2 on whether to detain or release a person?
 3 A. Yes.
 4 Q. Does the RCA ever recommend
 5 releasing someone?
 6 A. Yes.
 7 Q. When you enter information into the
 8 RCA, are you checking boxes?
 9 A. You have the ability to have a
 10 dropdown as well as provide information. When
 11 you provide information, it's more of a
 12 clarification to the dropdowns.
 13 Q. Does the system itself spit out a
 14 recommendation?
 15 A. Yes, it does, after the initial
 16 officer assessment, and then the supervisor
 17 goes in for the first verification of the
 18 information, it does offer a recommendation as
 19 far as release, detention, bond.
 20 Q. So for the information that's
 21 entered in written form, not the information
 22 that, for example, involves checking a box, is
 23 the evaluation of that information done by an
 24 officer at ICE?
 25 A. That is inputted. It would be

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1 T. LYONS
 2 Q. Who decides whether to follow the
 3 RCA's recommendation?
 4 A. Well, the field supervisor, the
 5 SDDO, supervisory detention deportation
 6 officer, makes the decisions to concur or deny
 7 the recommendations of the RCA.
 8 Q. Would the fact of an I-130
 9 application is pending or approved ever be
 10 enough for someone reviewing the RCA's
 11 recommendation --
 12 A. The I-130 alone?
 13 MS. LARAKERS: Objection.
 14 Q. Yes.
 15 MS. McCULLOUGH: Can I finish my
 16 question?
 17 MS. LARAKERS: Yes. Don't answer
 18 until she finishes.
 19 Q. So would the fact of a -- I'll
 20 start from the beginning.
 21 Would the fact that the person who
 22 has been arrested has a pending or approved
 23 I-130 application ever be enough for the
 24 reviewing officer to recommend to release
 25 somebody who had otherwise been recommended to

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1 T. LYONS
 2 inputted by a field officer. But what's
 3 written will be reviewed by a supervisory
 4 deportation officer.
 5 Q. So the RCA is a place where
 6 information is put together; is that right?
 7 A. Yes.
 8 Q. It's actually a human being who is
 9 giving the recommendation to release or
 10 detain?
 11 A. No. It's a human being that
 12 concurs with the -- concur or denies with the
 13 recommendation of the system.
 14 Q. So when the system makes a
 15 recommendation to release or detain, that
 16 system can't take into account written notes,
 17 right?
 18 A. No. It's taking into account what
 19 the officer does on the dropdowns.
 20 Q. Is one of the dropdowns whether a
 21 person has a final order of removal?
 22 A. Yes.
 23 Q. Is one of the dropdowns whether a
 24 person has applied for an I-130?
 25 A. No.

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1 T. LYONS
 2 be detained?
 3 MS. LARAKERS: Objection.
 4 A. No. The supervisor will look at
 5 everything in the totality of the case. I-130
 6 alone won't be a specific reason to either
 7 concur or deny.
 8 Q. So it would not be a reason to
 9 override the RCA's recommendation to detain?
 10 MS. LARAKERS: Objection.
 11 A. No.
 12 Q. When ICE detains a person, one of
 13 the purposes of that detention is to
 14 effectuate their removal, correct?
 15 A. Yes.
 16 Q. And when ICE releases a person on
 17 an order of supervision, one of the purposes
 18 of continuing to supervise that person is to
 19 facilitate effectuating their removal,
 20 correct?
 21 A. Yes, that's one of the factors.
 22 Q. The executive order doesn't make
 23 any exception for people who are pursuing
 24 provisional waivers, correct?
 25 A. No. An executive order that I

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1 T. LYONS
 2 quoted earlier, when we talked about kind of
 3 the priorities of arrest, there's no
 4 specification as to if anyone is applying for
 5 a benefit or not.
 6 Q. You're aware that Ms. Adducci
 7 testified in this case yesterday, correct?
 8 A. Yes.
 9 Q. Are you aware that she testified
 10 that absent a danger to public safety --
 11 excuse me -- that she testified that Mr.
 12 Brophy's policy, that absent a danger to
 13 public safety, the Boston field office would
 14 no longer make arrests of persons pursuing
 15 I-130s and presenting themselves at U.S. CIS
 16 was contrary to the executive order?
 17 MS. LARAKERS: Objection.
 18 A. I don't know what she testified to
 19 yesterday.
 20 Q. Has she conveyed to you that she
 21 thinks that that policy is contrary to the
 22 executive order?
 23 MS. LARAKERS: Objection.
 24 A. Which policy? Tom Brophy's?
 25 Q. Yes.

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1 T. LYONS
 2 MS. LARAKERS: Objection.
 3 A. Yes.
 4 Q. And that he ordered an audit of
 5 that process?
 6 A. Yes.
 7 Q. Have you reviewed that audit, the
 8 report generated by that audit?
 9 A. As far as Exhibit 11?
 10 Q. Yes. Do you recognize Exhibit 11?
 11 A. Yes.
 12 Q. And what is it?
 13 A. It's the after action review of the
 14 Boston detained unit.
 15 Q. Have you reviewed the
 16 recommendations in this report?
 17 A. I don't want to say briefly, but I
 18 reviewed them, but not as in depth as Deputy
 19 Rutherford would have. But I'm familiar with
 20 the report.
 21 Q. Have you been charged with
 22 implementing any of the recommendations?
 23 A. No, ma'am.
 24 Q. If you could turn to Page 4. There
 25 are page numbers in the top right corner.

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1 T. LYONS
 2 A. Yes.
 3 Q. How does ICE decide to remove
 4 someone?
 5 MS. LARAKERS: Objection.
 6 A. Can I just ask for clarification on
 7 that as far as -- what do you mean? How we --
 8 Q. Is ICE Boston's goal to remove
 9 anyone who has a final order of removal,
 10 regardless of whether they are pursuing
 11 provisional waivers?
 12 MS. LARAKERS: Objection.
 13 A. Well, the mission for enforcement
 14 of removal operations is to effect the final
 15 order.
 16 (Lyons Exhibit 11, Memo to Thomas
 17 Brophy and others from Miguel Vergara, dated
 18 5/16/18, marked for identification)
 19 Q. Are you aware that Mr. Brophy --
 20 MS. LARAKERS: I'm sorry, what
 21 exhibit is it?
 22 Q. You have been handed what's been
 23 marked as Exhibit 11. Are you aware that Mr.
 24 Brophy noticed violations of the POCR process
 25 when he was acting FOD in Boston?

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1 T. LYONS
 2 A. Yes, ma'am.
 3 Q. Do you see at the very bottom of
 4 the page where it says, "Lack of clear
 5 priorities when targeting at-large aliens,
 6 placing detainees and/or taking detainees into
 7 custody"?
 8 A. Yes, ma'am.
 9 Q. What does that refer to?
 10 A. That refers to Mr. Brophy's
 11 directive, the one that he implemented when he
 12 first took over as the acting field office
 13 director.
 14 Q. What directive is that?
 15 A. That we focus the priority of
 16 targeting at-large aliens of those which pose
 17 a public safety threat or national security
 18 risk.
 19 Q. This report is critical of that
 20 objective?
 21 A. No. It concurred with Mr. Brophy's
 22 assessment.
 23 Q. This report was created on May 16,
 24 2018, correct?
 25 A. Yes.

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T. LYONS

Q. Mr. Brophy had been acting FOD for a few months at that point, correct?

A. Yes.

Q. And this report found a lack of clear priorities when targeting at-large aliens, placing detainees and/or taking detainees into custody, correct?

A. Yes.

Q. So did this report find that under Mr. Brophy, the Boston ERO did not have clear priorities?

A. No. It found it prior to Mr. Brophy's arrival.

Q. Did they investigate the operations of the Boston field office prior to his arrival?

A. When you say "investigate," as far as what?

Q. Did they review the performance of the Boston field office before Mr. Brophy's arrival?

A. The team specifically focused on the detained unit, which is, as I stated earlier, like case management. However, they

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T. LYONS

were also looking at subjects we already had in custody that were noncriminal. When I say noncriminal, I meant they had a noncriminal history, other than their final order of deportation. And their recommendation agreed with Tom's assessment to utilize bed space for targets -- subjects that pose a public safety threat.

Q. And Ms. Adducci -- Ms. Adducci has conveyed to you that she believes this is contrary to the executive order, correct?

MS. LARAKERS: Objection.

A. Yes.

Q. How does this affect compliance with the POCR regulations?

A. Both are opposite. I mean, they're both -- neither one of them weigh on each other.

The POCR violations happen after someone is in custody. It has the -- the POCR violations have nothing to do with the subject at the time of arrest.

Q. I wanted to just ask you a couple of questions about something I asked you about

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T. LYONS

at the beginning of this deposition.

You had mentioned that you were involved in litigation?

A. Yes, ma'am.

Q. And that you had been deposed four times?

A. Approximately.

Q. Were you a party to that case?

A. Yes.

Irrelevant discussion between counsel

[Redacted text block]

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T. LYONS

Irrelevant discussion between counsel [Redacted text block]

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Page 142

1 T. LYONS
 2 Irrelevant discussion between
 counsel
 [Redacted text]

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1 T. LYONS
 2 Irrelevant
 discussion
 between
 counsel
 [Redacted text]
 13 MS. McCULLOUGH: We would like a
 14 moment to confer about any further questions
 15 we may have for the witness.
 16 VIDEOGRAPHER: We are going off the
 17 record at 1:31.
 18 (Recess taken at 1:31 p.m. and
 19 reconvening at 1:35 p.m.)
 20 VIDEOGRAPHER: We are back on the
 21 record at 1:35.
 22 MS. McCULLOUGH: We have no further
 23 questions for you.
 24 MS. LARAKERS: Oh, okay.
 25 MS. McCULLOUGH: Do you have any

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1 T. LYONS
 2 questions for the witness?
 3 MS. LARAKERS: No, we don't.
 4 VIDEOGRAPHER: This concludes
 5 today's deposition. We are off the record at
 6 1:35.
 7 (Time Noted: 1:35 p.m.)
 8
 9
 10 _____
 11 TODD M. LYONS
 12 Subscribed and sworn to before me
 13 this day of 2018.
 14 _____
 15
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 23
 24
 25

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1 CERTIFICATE
 2 Commonwealth of Massachusetts)
 3) ss:
 4 County of Suffolk)
 5
 6 I, Michael D. O'Connor, a Notary
 7 Public within and for the Commonwealth of
 8 Massachusetts, do hereby certify:
 9 That TODD M. LYONS, the witness whose
 10 deposition is hereinbefore set forth, was duly
 11 sworn before me and that such deposition is a
 12 true record of the testimony given by such
 13 witness.
 14 I certify that I am not related to
 15 any of the parties to this action by blood or
 16 marriage; and that I am in no way interested in
 17 the outcome of this matter.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand this 27th day of July 2018.
 20
 21
 22 _____
 23 Michael D. O'Connor, RMR, CRR, CRC
 24
 25

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1 I N D E X

2 WITNESS: EXAMINATION BY PAGE

3 TODD M. LYONS Ms. McCullough 8

4

5 ----- E X H I B I T S -----

6 E DEFINE NAME EXHIBIT PAGE

7 Exhibit 1 E-Mail to Todd Lyons from

8 **CONF** dated 5/24/18,

9 with attached e-mails, Bates

10 GOV003046 - GOV003048 38

11 Exhibit 2 E-Mail to Vance Ely from

12 Thomas Brophy, dated 2/13/18,

13 with attached e-mails, Bates

14 GOV002561 - GOV002565 41

15 Exhibit 3 E-Mail to James L. Rutherford

16 from **CONF**, dated

17 1/30/18, with attached e-mails,

18 Bates GOV001641 - GOV001644 48

19 Exhibit 4 E-Mail to Todd M. Lyons from

20 **CONF** dated 1/30/18,

21 with attached e-mails, Bates

22 GOV001645 - Bates GOV001651 50

23

24

25

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1 ----- E X H I B I T S (Cont'd) -----

2 E DEFINE NAME EXHIBIT PAGE

3 Exhibit 5 E-Mail to Tina Guarna-Armstrong

4 from Todd M. Lyons, dated

5 7/16/18, Bates GOV001996 -

6 GOV002021 73

7 Exhibit 6 E-Mail to **Confidential/**, and

8 others, from Tina Guarna-

9 Armstrong, dated 7/18/18, with

10 attachments, Bates GOV002125 -

11 GOV002135 77

12 Exhibit 7 Adjudicator's Field Manual 83

13 Exhibit 8 E-Mail to Todd M. Lyons from

14 **CONF** dated 1/30/18,

15 with attached e-mails, Bates

16 GOV002235 - GOV002237 94

17 Exhibit 9 E-Mail to John Mohan, and

18 others from Vance Ely, dated

19 1/24/18, with attached

20 e-mails, Bates

21 GOV002330 - GOV002336 98

22 Exhibit 10 Affidavit From ICE

23 Representative 105

24

25

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1 ----- E X H I B I T S (Cont'd) -----

2 E DEFINE NAME EXHIBIT PAGE

3 Exhibit 11 Memo to Thomas Brophy and

4 others from Miguel Vergara,

5 dated 5/16/18 135

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1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Case Name: Lilian Pahola Calderon Jimenez, et

3 al. vs. Kirstjen M. Nielsen, et al.

4 Dep. Date: July 27, 2018

5 Deponent: TODD M. LYONS

6 CORRECTIONS:

7 Pg. Ln. Now Reads Should Read Reason

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18

19 _____

20 Signature of Deponent

21 SUBSCRIBED AND SWORN BEFORE ME

22 THIS ____ DAY OF _____, 2018

23

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

----- x
LILIAN PAHOLA CALDERON JIMENEZ and
LUIS GORDILLO, et al.
Plaintiff-Petitioners,
vs. Civil Action No.
KIRSTJEN M. NIELSEN, et al., 1:18-cv-10225-MLW
Defendants-Respondents

----- x

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VIDEOTAPED DEPOSITION of THOMAS P. BROPHY
Boston, Massachusetts
Monday, July 30, 2018
11:05 a.m.

Reported By: Michael D. O'Connor, RMR, CRR,
CRC
Job No.: 145301

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4
5
6 Monday, July 30, 2018
7 11:05 a.m.
8
9
10 VIDEOTAPED DEPOSITION of THOMAS
11 P. BROPHY, held at the Offices of WilmerHale,
12
13 60 State Street, Boston, Massachusetts,
14 before Michael D. O'Connor, Registered Merit
15 Reporter, Registered Realtime Captioner,
16 Certified Realtime Reporter and Notary Public
17 in and for the Commonwealth of Massachusetts.
18
19
20
21
22
23
24
25

Page 3

1
2 APPEARANCES:
3
4 ON BEHALF OF PETITIONERS:
5 WILMERHALE
6
7 60 State Street
8 Boston, Massachusetts 02109
9 BY: STEPHEN PROVAZZA, ESQ.
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15 Lexington, Massachusetts 02421
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Page 4

1
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7 Washington, D.C. 20001
8 BY: MARY LARAKERS, ESQ.
9 WILLIAM WEILAND, ESQ.
10 - and -
11 U.S. DEPARTMENT OF JUSTICE/CIVIL DIVISION
12 John Joseph Moakley U.S. Courthouse
13 One Courthouse Way, Suite 9200
14 Boston, Massachusetts 02210
15 BY: MICHAEL SADY, ESQ.
16 - and -
17 U.S. IMMIGRATION CUSTOMS & ENFORCEMENT
18 15 New Sudbury Street
19 Boston, Massachusetts 02203
20 BY: JO ARDINGER, ESQ.
21 MARK SAUTER, ESQ.
22
23
24
25

Page 5

1
2 APPEARANCES, Continued:
3
4 ALSO PRESENT: Crystal Strawbridge, Videographer
5 James Barnette, Wilmer Hale
6 Katherine Jones, U.S. DOJ
7 Adriana Lafaille, ACLU
8 Veronica Saltzman, ACLU
9 Asma Jaber, ACLU
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Page 6

1 T. BROPHY
 2 P R O C E E D I N G S
 3
 4 VIDEOGRAPHER: This is the start of
 5 tape labeled number one of the videotaped
 6 deposition of Thomas Brophy in the matter of
 7 Lillian Pahola Calderon Jimenez and Luis
 8 Gordillo, et al. versus Kirstjen M. Nielsen,
 9 et al., in the United States District Court,
 10 District of Massachusetts, civil action number
 11 1:18-CV-10225-MLW.
 12 This deposition is being held at 60
 13 State Street, Boston, Massachusetts on July
 14 30, 2018 at approximately 11:05 a.m.
 15 My name is Crystal Strawbridge from
 16 TSG Reporting, Inc. and I'm the legal video
 17 specialist. The court reporter is Michael
 18 O'Connor in association with TSG Reporting.
 19 Will counsel please introduce
 20 yourself.
 21 MR. PROVAZZA: My name is Stephen
 22 Provazza with Wilmer Hale for the Petitioners.
 23 MR. COX: Jonathan Cox from Wilmer
 24 Hale on behalf of the Petitioners.
 25 MS. McCULLOUGH: Colleen McCullough

Page 8

1 T. BROPHY
 2 THOMAS P. BROPHY
 3
 4 having been satisfactorily identified by the
 5 production of his driver's license, and duly
 6 sworn by the Notary Public, was examined and
 7 testified as follows:
 8
 9 MS. LARAKERS: So we're operating
 10 under the following stipulations today.
 11 First, all objections, except as to form, are
 12 reserved until the time of trial.
 13 Second, all motions, including
 14 motions to strike, are also reserved.
 15 And third, the deponent will have
 16 30 days to read and sign the deposition
 17 transcript with waiver of the notary and
 18 filing.
 19 Last, I'd like to mark the entire
 20 transcript today as confidential.
 21 MR. PROVAZZA: Agreed.
 22
 23 EXAMINATION
 24 BY MR. PROVAZZA:
 25 Q. Good morning.

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1 T. BROPHY
 2 with Wilmer Hale on behalf of the Petitioners.
 3 MS. LAFAILLE: Adriana Lafaille
 4 with ACLU Massachusetts on behalf of the
 5 Petitioners.
 6 MS. GILLESPIE: Kathleen Gillespie
 7 on behalf of the Petitioners.
 8 MS. LARAKERS: My name is Mary
 9 Larakers for the United States with the Office
 10 of Immigration Litigation District Court
 11 section.
 12 MR. SADY: Michael Sady, U.S.
 13 Attorney's Office in Boston.
 14 MS. ARDINGER: Jo Ellen Ardinger,
 15 ICE chief counsel.
 16 MR. WEILAND: Will Weiland from the
 17 Department of Justice Office of Immigration
 18 Litigation and District Court section on
 19 behalf of the United States.
 20 MR. SAUTER: Mark Sauter from ICE
 21 chief counsel office.
 22 VIDEOGRAPHER: Will the court
 23 reporter please swear in the witness.
 24
 25

Page 9

1 T. BROPHY
 2 A. Good morning.
 3 Q. Could you please state and spell
 4 your name for the record.
 5 A. Sure. Thomas P. Brophy,
 6 T-h-o-m-a-s, P., Brophy, B-r-o-p-h-y.
 7 Q. And where do you currently live?
 8 A. [REDACTED] New York.
 9 Q. Do you understand that you are
 10 testifying under oath today?
 11 A. I do.
 12 Q. And that your answers are subject
 13 to the penalty of perjury?
 14 A. Yes.
 15 Q. So I'll be asking you a number of
 16 questions today. If you don't understand a
 17 question that I ask, let me know, and I can
 18 change the question to make it clearer.
 19 Do you understand?
 20 A. Yes.
 21 Q. If you need a break at any time,
 22 just tell me or your attorney, and we'll try
 23 to take it. If a question is pending or you
 24 are in the middle of your answer, we will get
 25 the answer to that question and then take a

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1 T. BROPHY
 2 break.
 3 A. Okay.
 4 Q. If you realize at any time during
 5 the deposition that your answer to a previous
 6 question was not accurate or complete, please
 7 let me know so that we can get it correct on
 8 the record.
 9 Do you understand?
 10 A. Sure.
 11 Q. Is there any reason why you would
 12 not be able to recall events and testify
 13 accurately today?
 14 A. No.
 15 Q. Okay. So you previously testified
 16 that you began working with ICE in New England
 17 on February 5, 2018, correct?
 18 A. Correct.
 19 Q. And your job title was acting field
 20 office director?
 21 A. Yes.
 22 Q. What does it mean to be an acting
 23 field office director?
 24 A. I'm not the permanent field office
 25 director. I was asked to come in for a period

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1 T. BROPHY
 2 of time to fill that position temporarily.
 3 Q. If I refer to the field office
 4 director position as a FOD, do you understand
 5 that?
 6 A. Yes, I do.
 7 Q. How did you come to work as acting
 8 FOD in Boston?
 9 A. I was asked by management at
 10 headquarters if I would come to Boston to act
 11 as the FOD for 120 days.
 12 Q. Who asked you?
 13 A. Nathalie Asher.
 14 Q. And what was her position?
 15 A. She is the deputy executive
 16 associate director.
 17 Q. Was there anyone else?
 18 A. No.
 19 Q. Did she ask you by phone?
 20 A. Yes.
 21 Q. When, approximately, did she ask
 22 you?
 23 A. Sometime in January. I don't know
 24 the specific date.
 25 Q. Did she explain why she wanted you

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1 T. BROPHY
 2 to take that position?
 3 A. Just that they needed somebody to
 4 come in and act for a period of 120 days to
 5 kind of watch the field office while they
 6 transitioned to a permanent position.
 7 Q. And why did you accept that
 8 position?
 9 MS. LARAKERS: Objection.
 10 Q. You can answer.
 11 MS. LARAKERS: Yes.
 12 A. Well, when you're asked to go on a
 13 detail, I don't have any objection as to why I
 14 wouldn't. So I was fine.
 15 Q. What were your responsibilities as
 16 the acting FOD?
 17 A. To oversee the day-to-day
 18 operations of the field office, to -- yeah,
 19 really just oversee the day-to-day operations.
 20 Q. Did you report to anyone?
 21 A. Not directly, no. But I did have
 22 regular communication with headquarters and,
 23 you know, chief counsel's office.
 24 Q. Who did you have regular
 25 communications with at headquarters?

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1 T. BROPHY
 2 A. I spoke with [REDACTED] and
 3 another gentleman by the name of [REDACTED].
 4 Q. Who is David Jennings?
 5 A. He is an assistant director over
 6 field operations. And Corey Price is an
 7 assistant director for enforcement.
 8 Q. Did anyone report to you directly
 9 when you were acting FOD?
 10 A. Yes. The deputy field office
 11 directors, Mr. Lyons and Mr. Rutherford.
 12 Q. Anyone else?
 13 A. Directly, no.
 14 Q. So is there a default amount of
 15 time that someone usually serves as an acting
 16 FOD?
 17 A. The most, I think, they can have
 18 you detailed is eight months.
 19 Q. And why did you leave your position
 20 as acting FOD in Boston?
 21 A. My 120 days was up at the end of
 22 May.
 23 Q. And when was your last day?
 24 A. May 31st.
 25 Q. And Mr. Lyons replaced you as

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1 T. BROPHY
 2 acting FOD, correct?
 3 A. Yes.
 4 Q. And where do you currently work?
 5 A. In Buffalo, New York.
 6 Q. Have you ever been involved in
 7 litigation before?
 8 A. Yes.
 9 Q. What were those cases?
 10 A. As an officer, I was involved in a
 11 case regarding somebody we had in detention in
 12 a drug -- federal drug matter.
 13 Q. Were you a party in that case?
 14 A. Not in the drug investigation, no.
 15 Q. Were you deposed in that case?
 16 A. No.
 17 Q. Sorry, there was two different
 18 cases? Is it one case or two different cases?
 19 A. No, yeah.
 20 Q. Sorry; one or two?
 21 A. One.
 22 Q. Have you ever testified at trial
 23 before?
 24 A. In that case.
 25 Q. That's the only time you've ever

Page 16

1 T. BROPHY
 2 Q. That was the only time you met with
 3 counsel to prepare for this deposition?
 4 A. Yes.
 5 Q. For how many hours?
 6 A. Two, two and a half hours.
 7 Q. Have you abided by the Court's
 8 current sequestration order?
 9 A. Yes.
 10 Q. Do you know Christopher Cronin?
 11 A. Yes.
 12 Q. How do you know him?
 13 A. I met him when he was an instructor
 14 at one of our academies in Georgia some years
 15 back.
 16 Q. When was that?
 17 A. I think 2006.
 18 Q. Did you have any interaction with
 19 him after that?
 20 A. On occasion, not directly. Just
 21 more of a friendly, not in a work capacity.
 22 Q. How often would you communicate
 23 with him?
 24 A. Maybe once, twice a year.
 25 Q. Do you know if he still works for

Page 15

1 T. BROPHY
 2 testified?
 3 A. In criminal court, yes.
 4 Q. In civil court?
 5 A. Immigration court once, yes.
 6 Q. What was that case?
 7 A. It was a removal hearing.
 8 Q. Okay. When did you first learn
 9 that you were going to give a deposition in
 10 this case?
 11 A. I don't remember the exact date. A
 12 few weeks ago.
 13 Q. Okay. From that date to today,
 14 have you talked to anyone, other than your
 15 counsel, about your deposition?
 16 A. No.
 17 Q. What did you do to prepare for
 18 today's deposition?
 19 A. I reviewed a couple declarations
 20 that I submitted.
 21 Q. You didn't look at any other
 22 documents except for those declarations?
 23 A. Correct.
 24 Q. Did you meet with counsel?
 25 A. This morning.

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1 T. BROPHY
 2 ICE?
 3 A. Yes.
 4 Q. And do you know his current title?
 5 A. I believe he's a deputy assistant
 6 director with field operations.
 7 Q. Are you familiar with his work at
 8 ICE at all?
 9 A. Like what he's doing right now?
 10 Q. Any work he's done at ICE.
 11 A. I remember him as an instructor.
 12 Q. Do you have an opinion of him as an
 13 instructor?
 14 A. He was very good.
 15 Q. Have you heard anything about his
 16 performance as FOD in Boston?
 17 A. No.
 18 Q. Have you ever talked with anyone
 19 about his reputation?
 20 A. No.
 21 Q. Have you ever spoken to Mr. Cronin
 22 about this case?
 23 A. Only to tell him that there was a
 24 sequestration order and that I couldn't
 25 discuss it.

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1 T. BROPHY
 2 Q. When was that?
 3 A. In May.
 4 Q. Was that by phone or e-mail?
 5 A. Phone.
 6 Q. Do you know Rebecca Adducci?
 7 A. Yes.
 8 Q. How do you know her?
 9 A. She's a field office director from
 10 Detroit, Michigan.
 11 Q. When is the first time you met Ms.
 12 Adducci?
 13 A. I don't know the exact date or
 14 year, but probably within the last three to
 15 four years.
 16 Q. In what context?
 17 A. I was a -- I went there one time to
 18 conduct interviews, and she was the field
 19 office director. Then for a short period of
 20 time in Buffalo I was the acting field office
 21 director when a FOD retired, so I had some
 22 limited interaction with her.
 23 Q. When you said you went there to
 24 conduct interviews, where did you go?
 25 A. Detroit, Michigan. I'm sorry.

1 T. BROPHY
 2 Q. So are you familiar with her work
 3 at ICE?
 4 A. Not personally.
 5 Q. Have you heard about her work at
 6 ICE?
 7 A. No.
 8 Q. Do you have any opinion about the
 9 quality of her work?
 10 A. I think she's a very well-respected
 11 field office director. She has a very good
 12 reputation. She's somebody, when I was acting
 13 in Buffalo, I actually sought guidance from
 14 her before.
 15 Q. Did you speak to Ms. Adducci about
 16 this case?
 17 A. No.
 18 Q. And you know Todd Lyons, correct?
 19 A. Yes, sir.
 20 Q. You worked with him in Boston?
 21 A. Yes.
 22 Q. Do you have an opinion about the
 23 quality of his work?
 24 A. Todd was a very good deputy field
 25 office director.

Page 20

Page 21

1 T. BROPHY
 2 Q. Are you familiar with Mr. Lyons'
 3 reputation at ICE?
 4 A. No.
 5 Q. Have you ever heard anything about
 6 Mr. Lyons from anyone in Washington
 7 headquarters?
 8 A. No.
 9 Q. And you worked with James
 10 Rutherford, correct?
 11 A. Yes.
 12 Q. You worked with him extensively
 13 while you were in Boston?
 14 A. Yeah. I worked with both of the
 15 deputies.
 16 Q. Do you have an opinion about the
 17 quality of his work?
 18 A. Do I have an opinion?
 19 Q. Yes.
 20 A. Yeah, I think he was doing the best
 21 he could with the situation at hand.
 22 Q. Do you know if he has a reputation
 23 at ICE?
 24 A. Not that I'm aware of.
 25 [REDACTED]

1 T. BROPHY
 2 Confidential/Privacy Sensitive
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 Q. Mr. Lyons was designated to succeed
 21 you as interim FOD in the Boston office,
 22 correct?
 23 A. Yes.
 24 Q. And he assumed the position of
 25 acting FOD on June 1, 2018, right?

1 T. BROPHY
2 A. I believe so, yes.
3 Q. And Rebecca Adducci replaced him as
4 acting FOD on June 7, 2018, correct?
5 A. I don't know the exact date, but
6 yes.
7 Q. So Mr. Lyons served as acting FOD
8 for less than a week, correct?
9 A. Correct.
10 Q. Why was his tenure so brief?
11 MS. LARAKERS: Objection.
12 A. I don't know specifically.
13 Q. Do you think it was related at all
14 to Beyond the scope of deposition order

[REDACTED]

[REDACTED]

1 T. BROPHY
2 come in and temporarily fill the position that
3 [REDACTED]

[REDACTED]

3 [REDACTED]
4 Q. Okay. So you're familiar with the
5 petitioners in this litigation, correct?
6 A. Yes, more or less, yes.
7 Q. Are you aware that they are married
8 couples?
9 A. I believe some of them are, yeah.
10 I don't know if everybody, but yes, I know
11 some of them are.
12 Q. Do you know how many petitioners
13 there are in this case?
14 A. Not offhand.
15 Q. So do you know that each petitioner
16 is part of a couple where one spouse is a U.S.
17 citizen and one is a non-citizen with a final
18 order of removal?
19 A. Okay.
20 Q. So you're not aware of that today?
21 A. Yes, the cases that I do know of,
22 yeah.
23 Q. Are you aware that any of these
24 couples have U.S. citizen children?
25 A. They may.
Q. Are you aware that in 2016 U.S. CIS

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1 T. BROPHY
 2 promulgated regulations that allowed
 3 non-citizens with final orders of removal who
 4 are married to U.S. citizens to apply for
 5 provisional waivers?
 6 A. Yes.
 7 Q. And if I refer to that as
 8 provisional waivers, you'll understand what
 9 I'm saying?
 10 A. Yes.
 11 Q. And do you understand that the
 12 petitioners in this litigation are pursuing
 13 provisional waivers?
 14 A. Yes, the cases that I'm familiar
 15 with, yes.
 16 Q. Do you know how petitioners would
 17 benefit from a provisional waiver application?
 18 A. Well, each case is kind of
 19 specific. I'm guessing that a provisional
 20 waiver would permit them the pathway towards
 21 lawful permanent residency.
 22 Q. Do you know specifically what
 23 benefit they would gain from applying?
 24 MS. LARAKERS: Objection.
 25 A. Specifically, no.

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1 T. BROPHY
 2 what an I-130 is for.
 3 Q. Do you know the names of the other
 4 forms individuals fill out in the provisional
 5 waiver process?
 6 A. Well, if they are applying for
 7 lawful permanent residency, after I-130, I
 8 believe that it would be the I-485. And there
 9 might also be an I-212 and possibly a 601.
 10 Q. Do you know how an individual would
 11 benefit from an I-212?
 12 A. That would be a waiver of
 13 removability.
 14 Q. And what about a -- did you refer
 15 to it as a 601?
 16 A. Yeah. And I'm not very familiar
 17 with that, I apologize, what a 601 does.
 18 Q. Does ICE track which individuals
 19 are participating in the provisional waiver
 20 process?
 21 A. No.
 22 Q. Does it have the ability to track
 23 that?
 24 A. No, we don't.
 25 Q. How would they find this

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1 T. BROPHY
 2 Q. Are you aware that the first step
 3 in this process is to file a Form I-130?
 4 A. Yes.
 5 Q. And that's called a Petition For
 6 Alien Relative, right?
 7 A. I believe so.
 8 Q. If I refer to that as an I-130
 9 application, will you understand what I'm
 10 saying?
 11 A. Yes.
 12 Q. Are you aware that in adjudicating
 13 an I-130 application, U.S. CIS might require
 14 the couple to appear for an interview at CIS
 15 offices?
 16 A. I'm sorry, can you repeat that?
 17 Q. Are you aware that when CIS is
 18 adjudicating the I-130 application, they may
 19 require the applicant and their spouse to
 20 appear at CIS offices for an interview?
 21 A. Yes.
 22 Q. And that that interview is to
 23 determine whether the couple have a bona fide
 24 marriage, right?
 25 A. Yes, that's my understanding of

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1 T. BROPHY
 2 information out?
 3 A. It would -- if it's in the alien
 4 file, perhaps.
 5 Q. Were you aware of the provisional
 6 waiver process before this litigation?
 7 A. I understood that there was a
 8 process, but I had never been familiar with
 9 it, no.
 10 Q. Are you aware that the regulations
 11 specifically made non-citizens with final
 12 orders of removal eligible for the provisional
 13 waiver process in order to minimize family
 14 separation?
 15 A. Yes.
 16 Q. And that this was also to prevent
 17 undue hardship to U.S. citizen family members?
 18 MS. LARAKERS: Objection.
 19 A. Yeah, I don't know if that was the
 20 rationale behind it or not. I don't know.
 21 Q. How did you learn about the
 22 provisional waiver process?
 23 A. Really from being involved in cases
 24 where, you know, people have been arrested
 25 that were going through the process.

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1 T. BROPHY
 2 Q. Do you remember when the first time
 3 you became aware of it was?
 4 A. No, I don't recall.
 5 Q. Was this in Buffalo or Boston?
 6 A. Buffalo.
 7 Q. How many cases?
 8 MS. LARAKERS: Objection.
 9 A. I have no idea.
 10 Q. Did ICE ever conduct any training
 11 on the provisional waiver process?
 12 A. No.
 13 Q. Are you aware that two of the
 14 petitioners in this case appeared for I-130
 15 interviews?
 16 A. Yes.
 17 Q. Are you aware that CIS determined
 18 both of them had bona fide marriages?
 19 A. I was not aware.
 20 Q. Are you aware that ICE arrested and
 21 detained them at CIS offices immediately
 22 following their interviews?
 23 A. That's my understanding.
 24 Q. What is an immigration benefit?
 25 MS. LARAKERS: Objection.

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1 T. BROPHY
 2 Q. And an I-130 application is an
 3 immigration benefit?
 4 A. Yeah.
 5 Q. In 2017, ICE began a practice of
 6 arresting non-citizens with final orders of
 7 removal who appeared at CIS offices to seek
 8 immigration benefits, correct?
 9 MS. LARAKERS: Objection.
 10 A. I'm not aware of an ICE policy or
 11 direction.
 12 MR. SADY: I thought this was
 13 limited to 2018. The Court order is very
 14 specific in that regard. We're spending a lot
 15 of time on a lot of information that is wholly
 16 unrelated to the order. We have been giving
 17 you a lot of leeway here. Now to ask him
 18 about 2017 when it's very, very specific it's
 19 2018.
 20 MR. PROVAZZA: So the language of
 21 the judge's order refers to the pending
 22 motions before the Court, and Mr. Brophy's
 23 policy and Ms. Adducci's change in that
 24 policy.
 25 All of these questions are directly

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1 T. BROPHY
 2 Q. You can answer.
 3 A. I would guess it would be a
 4 favorable adjudication of an application.
 5 Q. Is that your understanding or is
 6 that ICE policy?
 7 A. It's not a policy. It's my
 8 understanding.
 9 Q. How did you get that understanding?
 10 MS. LARAKERS: Objection.
 11 A. Just my experience.
 12 Q. And what do you mean by a
 13 "favorable adjudication"?
 14 A. It means the application wasn't
 15 denied.
 16 Q. And can you define what you mean by
 17 "application"?
 18 A. It could be -- well, there's a lot
 19 of applications. It could be an application
 20 for an employment authorization card, it would
 21 be the I-130, I-485.
 22 Q. Do you believe that the provisional
 23 waiver process is an immigration benefit?
 24 A. Yeah, I would categorize it as
 25 that.

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1 T. BROPHY
 2 relevant to the pending motions and his
 3 understanding of the policy before he arrived,
 4 his change and Ms. Adducci's change.
 5 Everything I've asked so far is
 6 directly relevant to the Court's order.
 7 MR. SADY: I don't think so.
 8 MR. PROVAZZA: Are you instructing
 9 the witness not to answer any questions?
 10 MR. SADY: No, I'm not instructing.
 11 I'm just asking you to get on focus.
 12 MR. PROVAZZA: I believe these are
 13 very focused questions and are directly on
 14 point.
 15 MS. LARAKERS: I think we can limit
 16 it to the months leading up to starting about
 17 in September of 2017. But when you ask him
 18 specifically what the ICE policy is in 2017,
 19 please, you know, be aware that he was not
 20 there in 2017.
 21 So to the extent you ask him what
 22 ICE Boston is, he may not know.
 23 MR. PROVAZZA: Sure. I can limit
 24 my questions to September of 2017.
 25 MS. LARAKERS: Going forward.

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1 T. BROPHY
 2 MR. PROVAZZA: Forward.
 3 Q. Do you understand that in September
 4 of 2017 forward, ICE Boston had a policy of
 5 arresting non-citizens with final orders of
 6 removal who appeared at CIS offices to seek
 7 immigration benefits?
 8 A. I'm not aware of a policy that
 9 directed that.
 10 Q. So ICE Boston's targeting of
 11 individuals at I-130 interviews at CIS offices
 12 is not a policy -- was not a policy?
 13 A. As far as I know, no, it was never
 14 a policy.
 15 Q. What would you describe it as?
 16 A. Enforcing the immigration law. I
 17 believe that those cases all fall within the
 18 executive orders.
 19 Q. Do you believe that the executive
 20 order required ICE to arrest people at those
 21 interviews?
 22 A. I believe it directed the people
 23 who are subject to a final order for national
 24 security or public interest -- I mean, public
 25 risk, if you would, should be focused upon.

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1 T. BROPHY
 2 A. No. It was brought to my
 3 attention, but I thought it was a poor
 4 utilization of our enforcement assets.
 5 In Boston, one thing that I quickly
 6 found was that there was a lot of public
 7 safety risk, people committing crimes, and to
 8 focus on -- I wanted to focus our enforcement
 9 efforts there rather than going after people
 10 at CIS offices that didn't pose a public
 11 safety risk.
 12 Q. So was Ms. Calderon's case what
 13 brought that practice of targeting individuals
 14 at CIS to your attention?
 15 A. I believe it was, yes.
 16 Q. And you also saw several media
 17 reports about Ms. Calderon's arrest around
 18 that time, correct?
 19 A. Yeah, I believe it was.
 20 Q. And did Mr. Lyons and Mr.
 21 Rutherford brief you on that arrest practice?
 22 A. I asked them about it, yeah.
 23 Q. What did they tell you?
 24 A. That, you know, they would go to
 25 CIS and arrest people there that were, you

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1 T. BROPHY
 2 Q. So if I refer to this as an arrest
 3 practice, would you understand what I'm
 4 talking about?
 5 A. I guess, yeah.
 6 Q. So this practice was instituted in
 7 Boston by your predecessor, Mr. Cronin,
 8 correct?
 9 A. That's my understanding.
 10 Q. And you testified in May that you
 11 became aware of Mr. Cronin's policy around
 12 February 12th or 13th, right?
 13 A. That sounds right.
 14 Q. Has your recollection changed at
 15 all since then?
 16 A. No.
 17 Q. This was after Ms. Calderon filed
 18 her habeas petition, correct?
 19 A. I believe so.
 20 Q. And you found out about Ms.
 21 Calderon's arrest and Mr. Cronin's practice
 22 around the same time, right?
 23 A. Yes.
 24 Q. Was her arrest what brought this to
 25 your attention?

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1 T. BROPHY
 2 know, after their interview or whatnot.
 3 Q. Did you ask questions about it?
 4 A. I told them I didn't think that was
 5 a smart utilization of our enforcement
 6 efforts.
 7 Q. Do you know of any written
 8 documentation for this arrest practice?
 9 A. No. I've never seen anything.
 10 Q. Did you ever talk to Mr. Cronin
 11 about it?
 12 A. No.
 13 Q. Did you ever talk to anyone you
 14 report to, that you report to, at ICE about
 15 this practice?
 16 A. I don't recall if I had that in a
 17 conversation with somebody or not.
 18 Q. You don't remember talking to
 19 anyone at ICE --
 20 A. Headquarters?
 21 Q. -- headquarters around February
 22 12th or 13th?
 23 A. No.
 24 Q. Or around February 16th?
 25 A. No. That was a decision I made on

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1 T. BROPHY
 2 my own.
 3 Q. And from February 16th until the
 4 end of your tenure at ICE Boston, you don't
 5 recall talking to anyone at ICE headquarters
 6 about --
 7 A. Not specifically if that topic came
 8 up. I'm sorry.
 9 Q. Did this practice exist in ICE
 10 Buffalo before you arrived in Boston?
 11 MS. LARAKERS: Objection.
 12 A. I'm sorry, could you say that
 13 again?
 14 Q. Did this policy exist in ICE
 15 Buffalo before you arrived in Boston?
 16 A. There's no policy, you know. It
 17 would have been --
 18 Q. Did this practice exist in ICE
 19 Buffalo?
 20 A. Yes. We had made arrests at CIS
 21 offices in ICE Buffalo in the past.
 22 Q. In what circumstances would ICE
 23 Buffalo make arrests at CIS offices?
 24 MS. LARAKERS: Objection. That is
 25 not -- that is outside the scope. This is

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1 T. BROPHY
 2 have made arrests at CIS offices in Buffalo.
 3 Q. In what circumstances --
 4 A. I can't recall the specifics of the
 5 cases.
 6 Q. Do you know if that practice still
 7 goes on now in Buffalo?
 8 A. I'm not familiar with any recent
 9 cases, no.
 10 Q. And just to point something out, I
 11 think you and I are speaking over a little bit
 12 of each other on the record. So when I'm
 13 asking a question, wait for me to finish --
 14 A. I apologize.
 15 Q. -- and I will make sure I don't
 16 interrupt your answer. So I'm worried we're
 17 speaking over each other a little bit.
 18 And you mentioned that this
 19 practice that went on in ICE Buffalo of
 20 arresting individuals at CIS was consistent
 21 with the executive order, correct? What
 22 executive order are you referring to there?
 23 A. (No response).
 24 Q. When you stated that targeting
 25 individuals for arrests at I-130 interviews

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1 T. BROPHY
 2 related to the preliminary injunctions in ICE
 3 Boston. You can certainly ask him what ICE
 4 Boston does. But what ICE Buffalo does is not
 5 even within the jurisdiction of this court and
 6 not relevant to your question.
 7 MR. PROVAZZA: I believe that that
 8 question is directly relevant to his
 9 understanding of what was going on in Boston
 10 and his decisions as acting Boston FOD.
 11 If you're going to instruct him not
 12 to respond, you can do that, and we would
 13 reserve the right to ask this question at a
 14 later time and challenge that objection.
 15 MS. LARAKERS: He can respond. But
 16 that's well outside the scope. I just wanted
 17 to preserve my objection. Go ahead.
 18 A. Could you repeat it?
 19 Q. Was there a policy in Buffalo ICE
 20 to target individuals for arrest at I-130
 21 interviews?
 22 A. First of all, there's no policy,
 23 period, regarding targeting people at CIS.
 24 It's in furtherance of the law and it falls
 25 within the executive orders. In the past we

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1 T. BROPHY
 2 fall within the executive order, what
 3 executive order were you referring to?
 4 A. I don't recall the number of the
 5 executive order, but I can summarize the
 6 executive order that delineated our
 7 enforcement posture focusing on national
 8 security, public safety risks, subjects of
 9 final orders of removal for the interior
 10 enforcement of immigration.
 11 Q. Is that executive order 13768?
 12 A. Without seeing it, I can't say if
 13 that is the exact number or not.
 14 Q. Are you aware that two of the
 15 petitioners in this case appeared for I-130
 16 interviews in January of 2018?
 17 A. I wasn't aware of the exact date or
 18 timeframe, but I knew that they appeared for
 19 interviews at CIS.
 20 Q. And Lilian Calderon is one of those
 21 individuals?
 22 A. Yes.
 23 Q. When did you first become aware of
 24 Ms. Calderon's arrest?
 25 A. I don't recall the exact date, but

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T. BROPHY

1
2 in early February, around the time that I gave
3 my direction that we're going to focus our
4 efforts.

5 Q. Was anyone else arrested at CIS
6 that day?

7 A. I have no idea.

8 MR. PROVAZZA: I'm going to mark
9 this as Exhibit 1.

10 (Brophy Exhibit 1, E-Mail to Ely
11 Vance, and others, from Thomas P. Brophy,
12 dated 2/13/18, with attached e-mails, marked
13 for identification)

14 Q. So if you could look at the bottom
15 e-mail on the first page from Mr. Lyons.

16 A. Okay.

17 Q. Do you see the question, "On the
18 day of the arrest, were there any other
19 scheduled arrests at that CIS office?"

20 A. Okay.

21 Q. Do you see that question?

22 A. Yes. First bullet.

23 Q. And do you see Mr. Vance's response
24 at the next in time e-mail?

25 A. Yes, I do see his response.

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T. BROPHY

1
2 Q. Are you familiar with -- I'm sorry
3 if I mispronounce this -- Mr.
4 **Confidential/PII** s case?

5 A. No.

6 Q. Did you know at this time that he
7 wasn't arrested because he was eligible for
8 DACA?

9 A. I'm sorry?

10 Q. Did you know at this time that he
11 wasn't arrested because he was eligible for
12 DACA?

13 A. I believe that's what it says in
14 the e-mail.

15 Q. And you generally read your
16 e-mails, correct?

17 A. Generally.

18 Q. And you responded to this one with
19 a "Thanks Vance"?

20 A. Yes.

21 Q. So at this time you knew that Mr.
22 **Confidential/PII** wasn't arrested because he
23 was eligible for DACA, correct?

24 A. Yes.

25 Q. But Ms. Calderon was arrested,

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T. BROPHY

1
2 despite her eligibility for provisional
3 waivers, correct?

4 A. Yes.

5 Q. When you received this e-mail, were
6 you aware that Ms. Calderon was eligible for
7 provisional waivers?

8 A. Just because she's eligible for the
9 waiver doesn't preclude us from arresting her.

10 Q. Were you aware at this time that
11 she was eligible for provisional waivers?

12 A. I don't recall if I was aware of
13 the nuances of her case to that extent.

14 Q. Are you aware that Lucimar De Souza
15 is the second petitioner in this case that was
16 arrested in January?

17 A. Yeah, I do recognize that name.

18 Q. When did you become aware of Ms.
19 De Souza?

20 A. I don't recall.

21 Q. Are you aware that she was arrested
22 along with Ms. Calderon after their I-130s
23 were approved and their marriages were found
24 bona fide?

25 MS. LARAKERS: Objection.

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T. BROPHY

1
2 A. I don't recall it if I knew that
3 they happened at the same time or not.

4 Q. Do you recall that when Ms. Lucimar
5 De Souza was arrested, her I-130 petition had
6 been approved?

7 A. I don't know if I was aware of
8 that.

9 Q. Are you familiar with CIS?

10 A. Yes.

11 Q. Do you work with them regularly?

12 A. Not regularly. On occasion.

13 Q. How often is on occasion?

14 A. Quarterly.

15 Q. And what kind of interactions do
16 you have with them?

17 A. It could be anything, depending on
18 -- it could be a case. It could be -- we
19 could be attending a meeting together. It
20 could be a lot of different interactions.

21 Q. What do you view as their
22 relationship to ICE?

23 A. They are part of DHS.

24 Q. So you knew that CIS informs ICE
25 when individuals will appear for I-130

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1 T. BROPHY
2 interviews, correct?
3 A. Yeah, that's my understanding.
4 Q. And that CIS would tell ICE when
5 non-citizens appearing for their interview
6 were subject to final orders of removal,
7 right?
8 A. I don't know if they told us that
9 or if we found that out through our own due
10 diligence.
11 Q. Do you know what kind of
12 information CIS would send to ICE?
13 MS. LARAKERS: Objection.
14 A. I've never -- I've never -- no, I
15 don't. I don't know how they communicate it.
16 Q. Did you ever talk to Mr. Rutherford
17 or Mr. Lyons about it?
18 A. About how they communicated?
19 Q. What kind of information ICE -- CIS
20 provided to ICE?
21 MS. LARAKERS: Objection.
22 A. Not specifically, no.
23 Q. Do you know who at ICE would
24 receive information from CIS?
25 MS. LARAKERS: Objection.

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1 T. BROPHY
2 A. Yes.
3 Q. Who would they go to for approval?
4 A. Their first line supervisors.
5 Q. And was that in every instance?
6 A. I don't know specifically if it was
7 every instance, but that's the normal course
8 of action.
9 Q. How did you find out that
10 information?
11 A. For ERO, any planned enforcement
12 action is supposed to have a supervisor review
13 or approval, if you would.
14 Q. Do you know if that supervisory
15 approval ever took place for arrests at CIS?
16 A. I do not know.
17 Q. And you agree that the decision to
18 arrest an individual at a CIS interview was
19 not impacted by the approval of their I-130?
20 A. I'm sorry, can you say that again?
21 Q. Sure. The decision to arrest
22 someone at their CIS interview was not
23 impacted by the approval of their I-130?
24 A. Correct.
25 Q. So at a certain point you asked CIS

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1 T. BROPHY
2 A. I'm sorry?
3 Q. Who at ICE Boston would receive
4 information from CIS?
5 A. I don't know who that information
6 came to.
7 Q. So you're aware that CIS would
8 provide ICE Boston with the names of
9 non-citizens appearing for interviews at CIS
10 with final orders of removal?
11 A. Yes, I'm aware of that.
12 Q. And then ICE would use that
13 information to plan arrests?
14 A. I believe that's what they were
15 doing, yes.
16 Q. Do you know who at ICE would plan
17 the arrests?
18 A. No, not specifically. It could
19 have been any one of the deportation officers,
20 staff members, that were assigned to that
21 enforcement side of the house.
22 Q. Do you know if that required any
23 supervisory approval?
24 A. To what extent, sir?
25 Q. To plan an arrest at CIS.

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1 T. BROPHY
2 to stop sending ICE information regarding
3 I-130 interviews, unless there was a national
4 security or public safety risk, correct?
5 A. Correct.
6 Q. When did you do that?
7 A. I'm struggling to remember the
8 exact timeframe. It would have been around
9 the same time that I gave my direction to the
10 staff. So mid-February.
11 Q. Do you think it would have been
12 before or after you gave your direction?
13 A. I don't know if it was before or
14 after.
15 Q. Do you know who you spoke to at
16 CIS?
17 A. Mr. Reardon, Dennis Reardon.
18 Q. Who is that?
19 A. Director of CIS here in Boston.
20 Q. Does he oversee multiple portions
21 of CIS in Boston? Sorry.
22 What is his responsibility as head
23 of CIS in Boston?
24 A. I'm not 100 percent certain,
25 although he's the director and has oversight

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<p style="text-align: right;">Page 50</p> <p>1 T. BROPHY 2 of the day-to-day operations for his area of 3 responsibility. 4 Q. Does he oversee CIS's office in 5 Lawrence? 6 A. Massachusetts? 7 Q. Yes. 8 A. I would assume so. 9 Q. Do you remember what you 10 specifically said to him? 11 A. Specifically, no. 12 Q. Generally, do you remember what you 13 said to him? 14 A. I would have to guess. 15 Q. Go ahead. 16 A. Probably something along the lines, 17 unless they are a national security risk or 18 public safety concern, don't forward us that 19 information. We're not going to be making 20 those arrests unless they are a national 21 security or public safety concern. 22 Q. Did he say anything in response? 23 A. I don't recall. Probably said 24 okay. 25 Q. How did you communicate that to</p>	<p style="text-align: right;">Page 51</p> <p>1 T. BROPHY 2 him? 3 A. I believe I called him. 4 Q. Was there anyone else on the phone? 5 A. I have no idea. 6 Q. Was there anyone in your office 7 when you made that directive? 8 A. I don't recall. 9 Q. After you asked -- sorry, is it Mr. 10 Reardon? 11 A. Reardon. 12 Q. After you asked Mr. Reardon, did 13 you ever follow up to see if that request was 14 being followed? 15 A. No. 16 Q. And, in fact, CIS didn't follow 17 that instruction, correct? 18 A. I have no idea if they did or they 19 didn't. 20 MR. PROVAZZA: Do you mind if we 21 take a short break? 22 MS. LARAKERS: Sure. 23 VIDEOGRAPHER: We are going off the 24 record at 11:46. 25 (Recess taken at 11:46 a.m. and</p>
<p style="text-align: right;">Page 52</p> <p>1 T. BROPHY 2 reconvening at 11:54 a.m.) 3 VIDEOGRAPHER: We are back on the 4 record at 11:54. 5 BY MR. PROVAZZA: 6 Q. Mr. Brophy, are you aware that the 7 U.S. CIS manual says that arrests won't occur 8 at CIS interviews? 9 A. No, I'm not aware of that. 10 Q. Have you reviewed the filings in 11 this case? 12 A. No. 13 Q. Are you aware that it's against CIS 14 policy for arrests to occur during interviews 15 where a non-citizen subject to a final order 16 of removal is seeking benefits under a 17 provision of law that specifically allows a 18 non-citizen to seek such benefits? 19 MS. LARAKERS: Objection. 20 Q. You can answer. 21 A. I'm not aware of any CIS policies. 22 They are CIS's, not ICE's. 23 Q. So ICE hasn't accounted for CIS 24 policies when executing these arrests? 25 MS. LARAKERS: Objection.</p>	<p style="text-align: right;">Page 53</p> <p>1 T. BROPHY 2 A. Like I said, I'm not aware of CIS 3 policies. 4 Q. Do you know whether ICE agents 5 making those arrests took those policies into 6 consideration? 7 MS. LARAKERS: Objection. 8 A. I've never seen the policies. So, 9 no. 10 Q. CIS scheduled interviews to help 11 facilitate those ICE arrests, correct? 12 A. I don't know if that was the 13 purpose of the scheduling of the interview or 14 not. 15 Q. So CIS would schedule I-130 16 interviews of non-citizens with final orders 17 to facilitate their arrests, correct? 18 A. I'm not aware if that was the 19 reason why they scheduled the interview or if 20 it was because of the application that they 21 were filing. 22 Q. Are you aware that CIS would 23 schedule the interview at certain times of day 24 to facilitate the arrest? 25 A. Like I said, I'm not aware. I've</p>

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1 T. BROPHY
 2 never had any communication with CIS to
 3 schedule or not schedule interviews.
 4 Q. ICE never told the public that they
 5 may arrest non-citizens with final orders of
 6 removal at CIS interviews, correct?
 7 A. Correct. I don't know if we would.
 8 Q. And there was no discussion of this
 9 at any public conference, correct?
 10 MS. LARAKERS: Objection.
 11 A. Not that I'm aware of.
 12 Q. And ICE never told the public that
 13 CIS provided referrals to ICE, correct?
 14 MS. LARAKERS: Objection.
 15 A. Not that I'm aware of.
 16 Q. So ICE hid this fact from the
 17 public, correct?
 18 MS. LARAKERS: Objection.
 19 A. No, I wouldn't say they hid it. I
 20 don't know that's something we would normally
 21 discuss and broadcast anyway. That's a law
 22 enforcement tool. I don't know if we would do
 23 that.
 24 Q. Who is John Mohan?
 25 A. Oh, he is the public affairs

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1 T. BROPHY
 2 states "female Guatemalan detainee at Suffolk
 3 (Calderon, wife of an individual who was in an
 4 application process with U.S. CIS, arrested in
 5 Rhode Island)"?
 6 A. I see that.
 7 Q. So is this when you first became
 8 aware of ICE's targeting individuals for
 9 arrest at CIS?
 10 A. It very well could be. I don't
 11 remember if this was the exact way I found out
 12 or not. But timeframe wise, it could be.
 13 Q. Do you think you read this e-mail?
 14 A. Yeah.
 15 Q. If you had read that sentence,
 16 would that indicate to you that ICE was
 17 arresting people at CIS?
 18 A. Yeah. It says it right there.
 19 Q. Reading this e-mail, do you think
 20 your statement at your May 22nd testimony that
 21 you discovered this CIS arrest practice on
 22 February 12th or 13th was wrong?
 23 MS. LARAKERS: Objection.
 24 A. I don't know if this is wrong or
 25 not. I might not have recalled this e-mail at

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1 T. BROPHY
 2 officer for ICE.
 3 Q. In Boston or in D.C.?
 4 A. Sorry. Boston.
 5 Q. What's his role generally?
 6 A. He interacts with stakeholders and
 7 media requests.
 8 (Brophy Exhibit 2, E-Mail to Thomas
 9 P. Brophy from John Mohan, dated 2/7/2018,
 10 with attached e-mails, marked for
 11 identification)
 12 Q. You have been handed a document
 13 marked as Exhibit 2. The top line e-mail is
 14 from John Mohan on February 7, 2018, correct?
 15 A. I'm sorry, the top line is February
 16 7, 2018?
 17 Q. February 7th, correct. Can you go
 18 to the first in time e-mail, second page.
 19 A. Okay.
 20 Q. You were a recipient of this
 21 e-mail, correct?
 22 A. Yes. I'm on here.
 23 Q. Do you see the first paragraph?
 24 A. Yes.
 25 Q. Do you see the bolded sentence that

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1 T. BROPHY
 2 the time I stated that.
 3 Q. But you received this e-mail?
 4 A. Yeah. I'm on it.
 5 Q. And you approved this language in
 6 the -- let me rephrase that.
 7 Do you see the bottom three
 8 paragraphs of this e-mail, this first in time
 9 e-mail?
 10 A. The first. Okay. Yeah, I see them
 11 here.
 12 Q. Was this ICE's official statement
 13 about Ms. Calderon's arrest?
 14 A. I don't know if this was what was
 15 pushed out to the media or not, but it would
 16 appear that would be the draft version of it,
 17 yes.
 18 Q. And you approved this language?
 19 A. Yes.
 20 Q. Who is OPA leadership; OPA?
 21 A. Office of Public Affairs.
 22 Q. Where are they?
 23 A. Washington, D.C. headquarters.
 24 Q. So in that statement, in the third
 25 paragraph of the bottom of the page, the third

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1 T. BROPHY
 2 paragraph of the statement at the bottom of
 3 the page, it says, ICE does not exempt classes
 4 or categories of removable aliens from
 5 potential enforcement. "All of those in
 6 violation of the immigration laws may be
 7 subject to immigration arrest, detention and,
 8 if found removable by final order, removal
 9 from the United States."
 10 Is that right?
 11 A. Yeah. Can I read it?
 12 Q. Sure. Take your time.
 13 A. It says, "While ICE does focus its
 14 enforcement resources on individuals who pose
 15 a threat to national security, public safety
 16 and border security, no classes or categories
 17 of removable aliens are exempt."
 18 Yes, okay.
 19 Q. So no class is exempted from
 20 enforcement, correct?
 21 A. Yes.
 22 Q. And this is dictated by executive
 23 order No. 13768, correct?
 24 A. Yes. That was part of the
 25 executive orders.

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1 T. BROPHY
 2 I-130 applicants would want to know?
 3 MS. LARAKERS: Objection.
 4 A. I have no idea. I would think if I
 5 was subject to a final order of removal,
 6 knowing that I was in violation of the law,
 7 that I could run that risk that ICE could
 8 arrest me at any point.
 9 Q. Did you participate in the March 2,
 10 2018 AILA conference in Boston?
 11 A. Yeah, I believe I was in
 12 attendance.
 13 Q. What is AILA?
 14 A. AILA. I forget exactly what the
 15 acronym means. I apologize. It's basically
 16 immigration attorneys.
 17 Q. What was the conference for?
 18 A. I don't recall the specifics.
 19 Sometimes they ask questions for each
 20 component that's there in attendance from DHS
 21 about practices and enforcement.
 22 Q. Why were you invited to
 23 participate?
 24 A. Because I was the acting field
 25 office director for ERO.

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1 T. BROPHY
 2 Q. And as part of the statement, you
 3 didn't tell the public that ICE received
 4 referrals from CIS, correct?
 5 A. That's what I said, yes, correct.
 6 Q. And you didn't tell them that based
 7 on that information, ICE arrests individuals
 8 appearing at I-130 interviews who are subject
 9 to final orders?
 10 A. I'm sorry, can you repeat that?
 11 Q. So you didn't tell them that based
 12 on these referrals from CIS, you didn't tell
 13 the public based on these referrals from CIS,
 14 that ICE arrests individuals appearing for
 15 I-130 interviews who are subject to final
 16 orders?
 17 MS. LARAKERS: Objection.
 18 A. Once again, I don't know why a law
 19 enforcement agency would discuss its practices
 20 with the public. So, no, we did not.
 21 Q. Did you ever instruct anyone that
 22 this information should be made public?
 23 MS. LARAKERS: Objection.
 24 A. No.
 25 Q. Do you think this is something that

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1 T. BROPHY
 2 Q. So were you on a panel presentation
 3 during the conference?
 4 A. Yes.
 5 Q. What was the topic of the panel?
 6 A. I don't recall exactly.
 7 Q. Do you know who else participated?
 8 A. Yeah. There was somebody from CBP,
 9 Customs and Border Protection, Office of Field
 10 Operations, Homeland Security investigations,
 11 CIS, myself. I think that's it.
 12 Q. Was Mr. Reardon there?
 13 A. Yes.
 14 Q. And issue of arrests at I-130
 15 interviews came up at that panel, right?
 16 A. It could have, yes.
 17 Q. Do you remember it coming up?
 18 A. Not specifically.
 19 Q. Do you remember arrests at CIS
 20 coming up during that panel?
 21 A. I don't recall if that was a
 22 question that I had or not.
 23 Q. Well, you stated that although ICE
 24 does make arrests at I-130 interviews, they
 25 weren't required to do that, correct?

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1 T. BROPHY
 2 MS. LARAKERS: Objection.
 3 A. I don't recall if that's
 4 specifically what I said or not. I don't
 5 remember.
 6 Q. Generally was that what you said?
 7 MS. LARAKERS: Objection.
 8 A. I don't recall. It's possible.
 9 Q. Do you recall addressing the issue
 10 of CIS interviews at all?
 11 A. Obviously it was brought up. I
 12 don't recall each question that was discussed,
 13 but obviously it was.
 14 Q. Do you recall being asked about
 15 ICE's CIS arrest practice?
 16 A. I don't know if I was specifically
 17 asked that question or how it came about.
 18 Q. You said earlier this was a
 19 conference for immigration attorneys, right?
 20 A. Hmm-hmm.
 21 Q. And their clients might be deciding
 22 whether to attend I-130 interviews, right?
 23 MS. LARAKERS: Objection.
 24 A. I have no idea. It could.
 25 Q. By the time of this conference, you

1 T. BROPHY
 2 had already issued your directive stopping
 3 arrests at CIS, except for national security
 4 and public safety, correct?
 5 A. Yes.
 6 Q. But you didn't mention it at the
 7 panel at all?
 8 A. I guess I didn't.
 9 Q. And Mr. Reardon spoke as part of
 10 this panel, correct?
 11 A. I recall he did, yes.
 12 Q. And he explained that CIS still
 13 provided ICE with lists of individuals with
 14 final orders of removal attending interviews
 15 at CIS?
 16 A. He may have. I don't recall
 17 specifically what he said.
 18 Q. Did you pay attention to other
 19 people's remarks during that panel?
 20 A. Yeah, but it was -- how long ago
 21 was it? March. Yeah, I don't recall
 22 specifically what was said at a conference in
 23 March now.
 24 Q. Do you think if he had said that,
 25 you would have followed up with him about what

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1 T. BROPHY
 2 he was talking about?
 3 A. Possibly.
 4 Q. Did you follow up with him?
 5 A. I don't -- I don't know.
 6 Q. He also explicitly stated that CIS
 7 did not work with ICE to schedule I-130
 8 interviews, right?
 9 MS. LARAKERS: Objection.
 10 A. I don't recall what Mr. Reardon
 11 said or didn't say.
 12 Q. Would you have remembered if he had
 13 said that?
 14 A. I don't know.
 15 Q. Would you have corrected him if he
 16 had said that?
 17 A. I don't think it would be my place
 18 to correct it.
 19 Q. How many individuals were arrested
 20 at CIS while you were acting FOD?
 21 A. I don't recall any being arrested
 22 after I gave my direction.
 23 Q. Do you remember anyone arrested
 24 before you gave your direction?
 25 A. No, other than when I found out

1 T. BROPHY
 2 about the practice that people had been, no.
 3 Q. Would you have remembered if you
 4 had seen that information?
 5 A. I'm sorry?
 6 MS. LARAKERS: Objection.
 7 Q. Would you have remembered if you
 8 had seen that people were arrested prior to
 9 your directive during your tenure?
 10 A. I don't know if I understand your
 11 question.
 12 (Brophy Exhibit 3, Spreadsheet of
 13 names, marked for identification)
 14 Q. You have been handed Exhibit 3. Do
 15 you recognize this document?
 16 A. No.
 17 Q. Can you read it?
 18 A. Yeah, kind of. The print is kind
 19 of small.
 20 Q. Do you see the bottom two lines on
 21 this?
 22 A. Okay.
 23 Q. Do you see the name Confidential/
PII?
 24 [REDACTED]?
 25 A. I do.

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1 T. BROPHY
 2 Q. Do you recognize those names?
 3 A. I do not.
 4 Q. So if I represented to you that
 5 this was a list of CIS arrests produced by ICE
 6 in this litigation, would you have any reason
 7 to doubt me -- doubt that?
 8 A. No.
 9 Q. Are you surprised to hear that two
 10 individuals were arrested on February 14th?
 11 A. No, not surprised.
 12 Q. Why not?
 13 A. I gave my direction, I believe,
 14 after that.
 15 Q. Are you surprised that you haven't
 16 heard about these arrests before?
 17 A. I wasn't apprised of every single
 18 arrest that was made as the acting field
 19 office director. No, it does not surprise me.
 20 MR. PROVAZZA: I think now is a
 21 good time to break for lunch.
 22 MS. LARAKERS: Okay.
 23 MR. PROVAZZA: Is that okay with
 24 you?
 25 MS. LARAKERS: Sure.

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1 T. BROPHY
 2 A. Like I said before, the poor
 3 utilization of our enforcement assets, as well
 4 as, you know, every day that I was really
 5 struck at how many people here in this AOR --
 6 I shouldn't say people -- municipalities or
 7 local governments or courts don't honor
 8 immigration detainers, and the large amount of
 9 people that are committing crimes, violent
 10 crimes or drug-related crimes in the
 11 community, they wouldn't honor our detainers.
 12 And to pull our assets from doing
 13 that work to go to CIS to go and arrest
 14 somebody who's not a threat to public safety
 15 didn't make sense to me. That's kind of why.
 16 Q. Is there any other reason?
 17 A. I probably would have considered,
 18 too, you know, habeas actions that were coming
 19 in and stuff like that, too, as well. It
 20 could have been a lot of factors.
 21 But the biggest thing that comes
 22 out to me is it's not a smart utilization of
 23 my enforcement assets at the time.
 24 Q. Would media attention be part of
 25 that mix of information you considered?

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1 T. BROPHY
 2 VIDEOGRAPHER: We are going off the
 3 record at 12:10.
 4 (Luncheon recess taken at 12:10
 5 p.m. and reconvening at 1:05 p.m.)
 6 VIDEOGRAPHER: We are back on the
 7 record at 1:05.
 8 BY MR. PROVAZZA:
 9 Q. So, Mr. Brophy, during your May
 10 22nd testimony, you told Judge Wolf that you
 11 advised your supervisory staff that that
 12 practice, referring to the arrest practice
 13 under Mr. Cronin, was no longer going to
 14 continue, and we are going to focus our
 15 efforts on threats to the public safety, that
 16 we weren't going to go to CIS any longer to
 17 arrest people unless there was a direct threat
 18 to national security and public safety; is
 19 that correct?
 20 A. Yes. That's how I recall it.
 21 Q. You also stated, I even informed
 22 the director of CIS of my changing that
 23 practice, correct?
 24 A. Correct.
 25 Q. What prompted that change?

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1 T. BROPHY
 2 A. No. I look at the case, the cases
 3 themselves. One thing I noticed quickly, you
 4 know, media is what it is. I try not to pay
 5 attention to it.
 6 (Brophy Exhibit 4, Letter to
 7 Honorable Kirstjen M. Nielsen from Sheldon
 8 Whitehouse, James R. Langevin, David N.
 9 Cicilline, dated 2/9/18, marked for
 10 identification)
 11 Q. You have been handed what's been
 12 marked for identification as Exhibit 4.
 13 A. Okay.
 14 Q. Do you recognize this letter?
 15 A. No.
 16 Q. Take a look at the letter, the
 17 first and second page, and then I'll ask you
 18 the same question, do you recognize this
 19 letter.
 20 A. Okay.
 21 Q. So do you remember receiving this
 22 letter?
 23 A. It looks vaguely familiar, yeah.
 24 Q. If you had received a letter from a
 25 senator and two congressmen, would you

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1 T. BROPHY
 2 remember that?
 3 A. I received a lot of correspondence
 4 from congressional and in state senators.
 5 Q. For what reason?
 6 A. All different cases and different
 7 topics. I was actually surprised at the
 8 volume. I was not used to it, in comparison
 9 to what I experienced in Buffalo.
 10 Q. Was it your practice to read these
 11 letters?
 12 A. Yeah, normally I would read it and
 13 it would be assigned to somebody to respond in
 14 conjunction with seeing this is congressional,
 15 with our Congressional Affairs Office.
 16 Q. If you look at the last paragraph
 17 on the first page, it says, "After marrying
 18 her U.S. citizen husband, Ms. Calderon's
 19 latest attempt to gain legal status, through
 20 an I-130 petition, looked promising. We
 21 understand that her Form I-130 had been
 22 approved and she was in the process of having
 23 her marriage verified by U.S. CIS when she was
 24 suddenly detained by ICE officers."
 25 If you had read that, would you be

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1 T. BROPHY
 2 this first page of your letter?
 3 A. Yes.
 4 Q. So it says, "ICE has exercised
 5 considerable discretion in this case in the
 6 form of allowing Ms. Calderon Jimenez to
 7 remain out of ICE custody for the
 8 aforementioned 90-day period."
 9 Do you see that?
 10 A. Yes.
 11 Q. That refers to the 90-day stay she
 12 was granted?
 13 A. Okay.
 14 Q. Next sentence is, "This is ample
 15 time to settle her affairs and prepare for
 16 orderly departure, as previously stated having
 17 been ordered removed by the BIA on September
 18 25, 2002."
 19 Do you see that?
 20 A. Yes.
 21 Q. How did you come up with a
 22 three-month stay?
 23 A. I don't know if I granted it, if it
 24 was me or my predecessor. I don't know if I
 25 granted that stay of 90 days. Oh, okay. I'm

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1 T. BROPHY
 2 aware that she was targeted at a CIS
 3 interview?
 4 A. Yeah, I believe it says that.
 5 (Brophy Exhibit 5, Letter to
 6 Honorable Senator Sheldon Whitehouse from
 7 Thomas Brophy, dated 2/14/18, marked for
 8 identification)
 9 Q. You have been handed what's been
 10 marked as Exhibit 5. This is a letter dated
 11 February 14, 2018 with your signature on the
 12 second page. Take your time to review it.
 13 A. Okay. Thank you.
 14 Q. Let me know when you're done.
 15 A. Okay.
 16 Q. Do you recognize this letter?
 17 A. In reading it, yes.
 18 Q. And that's your signature on the
 19 second page?
 20 A. Yes.
 21 Q. And this letter was in response to
 22 Senator Whitehouse's February 9th inquiry,
 23 correct?
 24 A. Yes, that's what it says.
 25 Q. Do you see the last paragraph on

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1 T. BROPHY
 2 sorry, I did.
 3 How did I come up with the 90 days?
 4 Q. Hmm-hmm.
 5 MS. LARAKERS: Objection. To the
 6 extent that this impedes on deliberative
 7 process in this specific case, perhaps you
 8 could ask generally what someone looks at with
 9 regard to requests for stays of removal. But
 10 with regard to each specific case, it's a
 11 deliberative process.
 12 MR. PROVAZZA: I will ask a
 13 different question.
 14 Q. If you would turn to the next page,
 15 and look at the first paragraph. You state,
 16 "After reviewing all available facts in the
 17 case, I have determined that ICE will offer no
 18 further prosecutorial discretion in this case
 19 and that Ms. Calderon Jimenez must comply with
 20 her obligation under law."
 21 What did you mean by her obligation
 22 under law?
 23 A. In reference to the issuance of the
 24 order of removal.
 25 Q. So what was her obligation?

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1 T. BROPHY
 2 A. That she must comply with the
 3 removal process.
 4 Q. And going back to the paragraph
 5 previous to that, what did you mean by "settle
 6 her affairs"?"
 7 A. To prepare whatever she needed on
 8 her private life to be removed.
 9 Q. Do you think -- strike that.
 10 At this time you knew that it took
 11 more than three months to complete the
 12 provisional waiver process, correct?
 13 A. I'm not aware how long it takes.
 14 Q. Did you think she could have
 15 completed the provisional waiver process in
 16 that 90-day removal period?
 17 A. I don't know. I was more concerned
 18 about affecting the order.
 19 Q. I'm sorry, I misspoke. Do you
 20 think she could have completed the provisional
 21 waiver process during the 90-day stay you had
 22 granted her?
 23 A. I don't know how long that process
 24 takes.
 25 Q. Do you think this was the right

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1 T. BROPHY
 2 A. I don't personalize it. I look at
 3 it objectively. I look at the merits of the
 4 case. That was my decision. I thought that
 5 was the right decision.
 6 Q. So as --
 7 A. I thought I was giving her
 8 discretion in the form of 90 days to prepare
 9 herself. Some people don't get that. So I
 10 do.
 11 Q. So you think it was fair that --
 12 A. I think 90 days was a discretionary
 13 time to prepare herself with that stay was the
 14 right decision at the time.
 15 Q. Just to clarify one other question.
 16 I asked earlier why you granted a 90-day stay,
 17 and your counsel objected that's a
 18 deliberative process.
 19 MR. PROVAZZA: Are you instructing
 20 him not to answer that question because it's
 21 protected by the deliberative process
 22 privilege?
 23 MS. LARAKERS: Yes. And I suggest
 24 you could ask factors generally when
 25 adjudicating a stay, and I think he was asked

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1 T. BROPHY
 2 decision?
 3 A. At the time?
 4 Q. At the time.
 5 A. Yes.
 6 Q. Do you think it is now?
 7 A. I don't know what the case -- what
 8 her status is right now. Had she been granted
 9 a stay longer than that? I think at the time,
 10 based on the discussions that I had with the
 11 case and with counsel and my staff, yeah, I
 12 do.
 13 Q. And do you think that was a fair
 14 decision?
 15 MS. LARAKERS: Objection.
 16 A. I don't look at it whether it's
 17 fair or not. Whether it looks like -- whether
 18 it's correct under the law, somebody who is
 19 the subject of a final order to be removed.
 20 Q. I'm asking your opinion whether you
 21 think it's fair that Ms. Calderon was only
 22 given 90 days to depart the country, despite
 23 the fact she wouldn't complete her provisional
 24 waivers by then?
 25 MS. LARAKERS: Objection.

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1 T. BROPHY
 2 that in the May 22nd/23rd hearing.
 3 MR. PROVAZZA: Okay. Understood.
 4 Q. Do you think it was the right
 5 decision to give Ms. Calderon only 90 days to
 6 depart the United States?
 7 A. I think it was appropriate.
 8 Q. So going back to your February 16th
 9 directive, why did you limit that directive
 10 only to arrests at CIS?
 11 A. I don't understand.
 12 Q. So you limited your directive to
 13 forbidding arrests at CIS, except for national
 14 security and public safety concerns, for
 15 individuals attending I-130 interviews,
 16 correct?
 17 A. Correct.
 18 Q. Why didn't you extend that policy
 19 outside of CIS grounds?
 20 MS. LARAKERS: Objection.
 21 A. I don't know if I'm following you
 22 as to why I would expand that anywhere else.
 23 That was the topic that was brought up. That
 24 was the topic that was discussed, was the CIS
 25 arrest.

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Those people making those applications, we have their address information. We can send them notification to come to the office, report in. We can control their cases under a docket that didn't mean detaining them.

There's other ways we can handle those cases instead of dispatching enforcement assets to go and make a physical arrest at that location, which I said before, I thought was a misuse of my staff.

Q. Does that same logic apply to anyone in the provisional waiver process, whether they are at their home address or they're at the grocery store?

A. If they are going through the application process for the waiver, they would be covered, right, because -- are you saying instead of waiting for the day that they go for their interview and then arrest them at their home; is that -- I'm having trouble following, and I apologize.

Q. I'll restate my question.

Your directive forbid ICE officers

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T. BROPHY

from arresting individuals that are not public safety concerns or national security concerns at CIS?

A. Right.

Q. The policy behind that was because your resources were better spent making arrests elsewhere?

A. The direction I gave, not policy, but yes.

Q. Doesn't that same logic apply to making arrests at a provisional waiver applicant's house?

A. I don't -- that issue was never presented to me, that concern or issue.

Q. So under your directive, an ICE agent can still use the information they got from CIS to target an individual for an arrest at their home?

A. Theoretically, I guess so. But I wanted my enforcement assets to be focusing on public safety and national security risks predominantly. That's what they were there for.

We could send them a notice to say

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T. BROPHY

please show up at the office, put you on an order of supervision, like I said, so we could track that case on a different docket from a non-detained setting. There's nothing with that either, rather than going and making the physical arrest at the CIS office.

Q. So if an ICE officer saw from CIS that there was going to be an arrest on a Tuesday, and the ICE officer went and waited at that individual's home to wait for them to return from the interview, they could arrest them and not violate your directive?

A. I guess.

Q. Do you know if that ever happened?

A. I have no idea.

Q. One way or the other?

A. If it happened or if it didn't?

Q. Yes.

A. I have no idea.

Q. So after your directive was implemented, what did ICE do with the names of the individuals they had received from CIS?

A. I have no idea. I never saw the list. I don't even know how it was

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T. BROPHY

communicated to the office. So I don't know what they did with it, if they maybe looked at the list to see if people had crimes that would constitute public safety concerns or national security issues. I don't know what they did with vetting of that list.

Q. But your policy didn't prevent them from then targeting those individuals after their CIS interview?

A. The public safety and national security cases?

Q. Let me rephrase that. Your directive did not prevent ICE officers from arresting individuals who weren't national security or public safety concerns after their CIS interview, correct?

A. No.

Q. So during your testimony on May 22nd, you said that ICE might follow up with those individuals in a different way?

A. Yes.

Q. What did you mean by that?

A. Like I said before, we can send them a notice saying come to the office. We

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T. BROPHY

can place them on an order of supervision. We can track their cases from a non-detained setting rather than from a detained setting.

We have other programs, like an alternative to detention program, which is GPS ankle monitoring, stuff like that. So we have other ways to monitor those cases rather than the physical custody in a detained setting. That's what I was referring to.

Q. But it's still possible ICE officers were arresting individuals from the lists that CIS would send?

A. I'm not aware that that happened.

Q. Are you aware that it didn't happen?

A. No.

Q. Mr. Lyons became interim FOD on June 1, 2018, right?

A. Yes.

Q. Did he continue your arrest directive?

A. I believe so.

Q. How did you first become aware of his intention to continue that directive?

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T. BROPHY

A. We discussed it, and I believe it was a question asked -- I don't know if it was in -- called chambers or whatever. We met in the judge's chambers, and I believe the judge asked him that, and he said, yes, he was going to continue my directive.

Q. And that was the first time you heard him say that one way or the other?

A. That I recall, yeah, yeah.

Q. Do you know if there's any documentation created after that date reflecting that decision?

A. I didn't put any directive out in writing or e-mail, no. I don't know if Mr. Lyons did.

Q. Did you see any e-mails reflecting that decision from Mr. Lyons?

A. Not that I recall, no.

Q. Did you ever discuss it with him again after that May 23rd lobby conference?

A. We may have discussed it, other than he was going to continue the practice. I know he agreed with it, too. When he was the deputy, he was over at the enforcement side of

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the house, and he thought that the assets were better suited responding to public safety and national security issues.

Q. Have you ever communicated with anyone else at ICE about Mr. Lyons' decision?

A. I'm sorry?

Q. Have you ever communicated with anyone else at ICE about Mr. Lyons' decision?

A. No.

Q. Ms. Adducci became interim FOD on June 7, 2018, correct?

A. I guess so, yeah. I don't know exactly.

Q. Do you know that she became --

A. I know she came in, but I don't know the exact date.

Q. Do you know what her arrest policy is?

A. No.

Q. Did you ever discuss what she would do with your directive with her?

A. No.

Q. Do you know who will succeed Ms. Adducci as FOD in Boston?

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T. BROPHY

A. I don't know. I presume it would be Mr. Lyons.

Q. Have you seen Ms. Adducci's declaration in this case?

A. I have not read it.

Q. So are ICE arrests counted in any way?

A. Counted? Well, they are entered into our system.

Q. What does that system track?

A. It's our case management system. So when you make an arrest and you process somebody, it capitalizes all the information that forwards it on to like a case management system.

Q. Who runs that case management system?

A. The individual case officers have access to their cases that are assigned in that system.

Q. Do the supervisors also have access?

A. Yes.

Q. Does it feed into anything at ICE

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1 T. BROPHY
 2 national?
 3 A. Yeah. That information is
 4 national.
 5 Q. Are removals counted in that
 6 system?
 7 A. Yes.
 8 Q. And does that system track
 9 aggregate data on those two?
 10 A. I'm not sure.
 11 Q. Do you know if arrests are tracked
 12 on an officer-by-officer basis by officer?
 13 A. No. The system does not track
 14 officer like individual statistics, no.
 15 Q. When an officer enters that data
 16 into the system, is their name identified with
 17 it in any way?
 18 A. Yeah, their name would be in the
 19 system, because they're the one processing
 20 that information.
 21 Q. So do you know if ICE can pull data
 22 that says officer X made Y number of arrests
 23 in a given month?
 24 A. I don't know if they can boil it
 25 down to the individual person or not. I have

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1 T. BROPHY
 2 Q. Have you ever heard of a
 3 performance work plan?
 4 A. Yes. That's the rating system for
 5 employees.
 6 Q. How does that work?
 7 A. How does the performance rating
 8 program -- there's performance measures, goals
 9 that employees are given, and they get rated
 10 by the supervisors on how they're doing
 11 throughout the rating period.
 12 Q. What are some examples of the types
 13 of things they would be given as goals?
 14 A. Oh, gee, it could be from report
 15 writing, it could be from submitting your
 16 documentation, whether it be your time and
 17 attendance, your vehicle sheets, in a timely
 18 fashion. It could be that your case call-ups
 19 in the system aren't ever past due, that
 20 you're timely in keeping your cases up to
 21 date; stuff like that.
 22 Q. Would it ever give a number of a
 23 certain number of arrests as a goal?
 24 A. No. Like a quota? No.
 25 Q. Not a quota. A target?

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1 T. BROPHY
 2 no idea.
 3 Q. Do you know if ICE tracks arrests
 4 or removals on an office-by-office basis?
 5 A. Yes.
 6 Q. How?
 7 A. I don't know how, you know, but
 8 periodically we'll see reports, snapshot
 9 comparisons between the fiscal year now and
 10 the previous that would show that information.
 11 But how they pull it or where they pull it
 12 from, I don't know.
 13 Q. So what kind of reports would you
 14 receive that would show that information?
 15 A. It would be just like an Excel or a
 16 PDF version of a report that headquarters
 17 produces.
 18 Q. How often would you see something
 19 like that?
 20 A. Quarterly.
 21 Q. Would it compare office to office,
 22 like, let's say, Buffalo to Boston?
 23 A. It doesn't compare, but it would
 24 show, you know, what the figures are for each
 25 office, yes.

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1 T. BROPHY
 2 A. No.
 3 Q. What about removals?
 4 A. No.
 5 Q. Would any of those statistics show
 6 up in anyone's performance work plan?
 7 A. No. We don't use those.
 8 Q. So after someone is given their
 9 goals, what happens next?
 10 A. Well, it depends on where they are
 11 assigned, you know, what kind of docket they
 12 are assigned to. They would be assigned their
 13 cases and they would be tracked and make sure
 14 that they are working the cases properly.
 15 Q. Who would track that?
 16 A. The supervisor.
 17 Q. And at the end of a given amount of
 18 time, would they receive a performance review?
 19 MS. LARAKERS: Objection. I know
 20 you asked your ultimate question about whether
 21 they were tracked. This is well outside the
 22 scope now. We're getting into the minutia of
 23 how an employee is -- and it's outside the
 24 arrest record.
 25 You can certainly ask about the

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1 T. BROPHY
2 arrest record and whether that tracks, but
3 outside of that, that's not relevant to what
4 the judge ordered.

5 MR. PROVAZZA: Are you asking the
6 witness not to -- are you ordering the witness
7 not to respond to my questions?

8 MS. LARAKERS: No. I'm saying it's
9 way beyond the scope.

10 MR. PROVAZZA: Your concern is
11 noted.

12 Q. Are individuals at every level of
13 ICE ERO given a performance work plan?

14 A. Yes.

15 Q. So a supervisor?

16 A. Hmm-hmm.

17 Q. Were you given a performance work
18 plan?

19 A. Yes.

20 Q. Would that performance work plan
21 ever involve a certain number of arrests or
22 certain number of removals?

23 A. No.

24 Q. Did you ever see any data about the
25 number of arrests or removals under your

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1 T. BROPHY
2 tenure as acting FOD in Boston?

3 A. I don't recall if I saw one of
4 those quarterly reports. It may have come
5 out.

6 Why? I don't understand.

7 MR. SADY: That's a good question.
8 I'm wondering, too.

9 Q. Well, as the examiner, I'm asking
10 questions.

11 A. I apologize.

12 Q. If your counsel has clarifying
13 questions later, they can ask you.

14 A. Okay. I apologize. Sorry, sir.

15 Q. That's okay.

16 So is the performance of a FOD
17 measured in any way by the numbers of arrests
18 or removals during their tenure?

19 A. I don't know what the FOD's PWP's --
20 I'm sorry, performance work plans look like.
21 I don't know. But we don't have like removal
22 quotas or arrest quotas or anything like that.
23 So I don't know exactly what a real FOD, you
24 know, in an acting position, my performance
25 work plan never changed.

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1 T. BROPHY
2 Q. Did you ever get any feedback
3 during your time in Buffalo or in Boston about
4 the number of arrests or removals that you
5 were responsible for?

6 A. Feedback in what way, sir?

7 Q. Any feedback.

8 A. Yeah, you know, if we're doing a
9 good job and removing people and making good
10 arrests, then yeah, there would probably be
11 feedback on that.

12 Q. What would qualify as good work on
13 removals?

14 A. That we're being consistent and
15 moving people timely and in accordance to the
16 law.

17 Q. Would removing more individuals
18 with final orders than less mean that you were
19 doing good work?

20 A. You could only remove people with a
21 final order. So it's really case by case
22 specific, and a lot of it is dictated by what
23 nation people are from, too. Some nations
24 more readily accept the people back. Other
25 people, it takes a long time to get travel

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1 T. BROPHY
2 documents and make arrangements.

3 Q. What's an example of a nation
4 that's easy to get people back?

5 MS. LARAKERS: Yeah, he's not going
6 to answer. We're way beyond the scope here.

7 MR. PROVAZZA: I think these are
8 extremely relevant questions to Ms. Adducci's
9 decision to alter Mr. Brophy's directive. If
10 the number of arrests have something to do
11 with why she made her decision, that's
12 extremely relevant to this case.

13 MS. LARAKERS: Well, ask that
14 question, then.

15 MR. PROVAZZA: I'm exploring the
16 background on that now. So if you're telling
17 him not to respond, please tell him not to
18 respond.

19 MS. LARAKERS: You explored the
20 background on that extensively. You're not
21 asking -- you're asking him -- that's not the
22 question you're asking.

23 MR. PROVAZZA: Counsel, I'm going
24 to ask that you please limit your speaking
25 objections. If you're going to ask your

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1 T. BROPHY
 2 witness not to respond to my questions, please
 3 do that. We will take that up if you do that.
 4 Otherwise, I'd like you to limit your
 5 objections and stop the speaking objections
 6 and leading the witness.
 7 MR. SADY: You can't tell us we
 8 have to limit our objections. I've never
 9 heard of that.
 10 MR. PROVAZZA: Sorry, I didn't mean
 11 to say limit your objections. I meant to say
 12 limit your speaking objections.
 13 MS. LARAKERS: We can certainly
 14 stop the time of the deposition. I certainly
 15 don't want to waste any of your time. You can
 16 have your full four hours if you want to stop
 17 the clock.
 18 These objections aren't improper.
 19 I would just like you to ask the question
 20 that's relevant and not this long lead up of
 21 background questions that aren't relevant.
 22 There are one or two questions in
 23 this line of questioning that have been
 24 relevant, and I've let you explore the
 25 background quite a bit, but please ask the

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1 T. BROPHY
 2 A. Yeah, I don't know if it was a
 3 promotion or -- his series and grade, if you
 4 would, didn't change. It's just a different
 5 position.
 6 Q. So if an individual is subject to
 7 an order of supervision, they are usually
 8 required to check in regularly with ICE,
 9 correct?
 10 A. Correct.
 11 Q. Who at ICE would conduct those
 12 meetings?
 13 A. The case officer, deportation
 14 officer.
 15 Q. Is there a difference between those
 16 two?
 17 A. No. I'm sorry. Case officer and
 18 the deportation officer is the title.
 19 Q. Continue. Sorry.
 20 A. I'm sorry. Yeah, a deportation
 21 officer or maybe support staff.
 22 Q. You worked as a deportation
 23 officer?
 24 A. Yes, sir.
 25 Q. When was that?

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1 T. BROPHY
 2 relevant question and get on with that. As
 3 long as you do that, we're not going to have
 4 any other objection.
 5 MR. PROVAZZA: Your concern is
 6 noted.
 7 Q. What is an example of a country
 8 that's easier to remove someone to?
 9 A. CONF
 10 Q. Isn't it true that arresting
 11 someone at CIS is generally easier to execute
 12 than another arrest?
 13 A. Easier in what way? I'm sorry.
 14 Q. How would you define easier?
 15 A. I don't know if it's -- from one
 16 aspect, I guess, it's a safer way of doing it,
 17 because people -- kind of like courthouses,
 18 too. They go through security. They are
 19 screened. It's somewhat of a controlled
 20 environment in respect to trying to make that
 21 arrest on the street, at somebody's home. If
 22 it's safer, and if that's what you mean by
 23 easier, then I guess.
 24 Q. You said earlier that Mr. Cronin
 25 was promoted in 2018, correct?

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1 T. BROPHY
 2 A. I started as a deportation officer
 3 May 14th -- no, September 30th of '97.
 4 Q. What kind of training do
 5 deportation officers receive?
 6 A. I went to a 16-week academy, and
 7 then firearms law, defensive tactics, driving;
 8 a lot of training.
 9 Q. Do you know if that's still the
 10 type of training deportation officers receive
 11 today?
 12 A. I believe so.
 13 Q. Have you heard of an enforcement
 14 and removal assistant position?
 15 A. Yes. That's one of our support
 16 staff.
 17 Q. What do they generally do?
 18 A. The best way to describe it,
 19 they're like a clerical support position to
 20 the deportation officers. They have access to
 21 the case management systems. They take bonds.
 22 They can receive correspondence. They can do
 23 a myriad of things to assist deportation
 24 officer staff.
 25 Q. Would they ever conduct check-ins

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1 T. BROPHY
 2 with individuals on orders of supervision?
 3 A. They could, yeah.
 4 Q. There's nothing that forbids them
 5 from doing that?
 6 A. Not that I'm aware of.
 7 Q. Do they receive any training to
 8 conduct those interviews?
 9 A. I don't know what their training...
 10 Q. So when an individual checks in
 11 with ICE at an order of supervision interview,
 12 they can be ordered to -- excuse me, not
 13 ordered -- they could be asked to purchase a
 14 ticket to depart the country?
 15 A. I'm sorry, could you repeat that,
 16 sir?
 17 Q. Yes. If an individual checks in
 18 under an order of supervision with ICE, they
 19 could be asked to purchase a ticket to depart
 20 the country?
 21 A. Yes, they could be asked that.
 22 Q. And who would usually ask them
 23 that?
 24 A. The case officer, deportation
 25 officer.

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1 T. BROPHY
 2 Q. Is that your understanding of it
 3 sitting here today?
 4 A. That all final orders?
 5 I think it didn't exempt any class
 6 of person to include subjects of final orders,
 7 public safety risks, national security risks,
 8 people that have previously been removed from
 9 the United States and unlawfully came back.
 10 Q. So the executive order does not
 11 make any exception for people pursuing
 12 provisional waivers?
 13 MS. LARAKERS: Objection.
 14 A. Correct.
 15 (Brophy Exhibit 6, Memo to Thomas P.
 16 Brophy, and others, from Miguel Vergara, date
 17 5/16/18, marked for identification)
 18 Q. You have been handed a document
 19 marked as Exhibit 6. Do you recognize this
 20 document?
 21 A. Yes.
 22 Q. Have you reviewed this document
 23 before?
 24 A. Yes.
 25 Q. Who is Miguel Vergara?

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1 T. BROPHY
 2 Q. Would that require any kind of
 3 supervisory approval before the deportation
 4 officer makes that request?
 5 A. No. That's part of the progression
 6 of the case that the case officer, the
 7 deportation officer, if you would, those are
 8 the steps they are supposed to take once it's
 9 post order, if you would, to try and move that
 10 case forward to the timely removal.
 11 Q. Executive order 13768 requires ICE
 12 to remove all individuals with final orders of
 13 removal, correct?
 14 MS. LARAKERS: Objection.
 15 A. I don't know if that's the specific
 16 language in it or not, but yes. Yes, there's
 17 a section there about people with final
 18 orders.
 19 Q. So you agree that executive order
 20 13768 requires ICE to remove all individuals
 21 with final orders of removal?
 22 MS. LARAKERS: Objection.
 23 A. I would have to review it to say
 24 that that specific language is in there. So I
 25 would have to review it.

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1 T. BROPHY
 2 A. He's an assistant field office
 3 director from Dallas, Texas.
 4 Q. Did you order this review?
 5 A. Yes.
 6 Q. Why did you order this review?
 7 A. I was concerned about the state of
 8 the detained docket, and I wanted to have some
 9 subject matter experts come in and review it
 10 for me to give me some possible areas to
 11 consider via an after action report.
 12 Q. Did you participate in the review
 13 at all?
 14 A. Did I -- no.
 15 Q. Were you a subject of the review?
 16 A. No.
 17 Q. Did anyone talk to you about the
 18 review?
 19 A. The people conducting it.
 20 Q. Did they interview you for it?
 21 A. No.
 22 Q. Did you give them any direction
 23 about how it should be carried out?
 24 A. I asked them to review the detained
 25 docket.

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1 T. BROPHY
 2 Q. Other than that directive, there
 3 was no other communication with them about how
 4 the review should be done?
 5 A. No.
 6 Q. Did this review look at Boston
 7 EROs' arrest decisions?
 8 A. No. I was more focused on the
 9 detained docket operations.
 10 Q. Did it look at deportation
 11 decisions?
 12 MS. LARAKERS: Objection.
 13 A. To what respect, deportation
 14 decisions? Like who to remove, who not to
 15 remove?
 16 I don't understand the question. I
 17 apologize.
 18 Q. To your understanding, what
 19 deportation decisions did these auditors, I
 20 will refer to them as auditors, look at?
 21 MS. LARAKERS: Objection.
 22 A. They looked at how the detained
 23 docket was operating. I don't know if that...
 24 Q. And that might incorporate some
 25 removal decisions?

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1 T. BROPHY
 2 it is, one-year, two-year assignments in
 3 different docket areas to promote a more
 4 well-rounded employee.
 5 Q. Do you see the next bullet point,
 6 "Insufficient experienced supervisors assigned
 7 to the detained unit"?
 8 A. I see it.
 9 Q. Do you agree with that statement?
 10 A. There was a -- yes, to an extent.
 11 There was a brand new supervisor assigned to
 12 that unit, and he was brand new when he got
 13 there, and there was one other supervisor that
 14 had been working on the detained docket much
 15 longer.
 16 Q. Did you do anything to address this
 17 issue?
 18 A. No. We kept him in place, and
 19 hopefully with working with the other detained
 20 supervisor, he would learn the nuances of that
 21 docket.
 22 Q. Could you turn to the third page.
 23 A. I'm sorry, third page?
 24 Q. Yes. The first bullet here "AFOD."
 25 What does that stand for?

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1 T. BROPHY
 2 MS. LARAKERS: Objection.
 3 A. It could.
 4 Q. So if you look at Page 2 under the
 5 heading "Findings & Recommendations," the
 6 first bullet here is, "Lack of unit/staff
 7 rotation throughout the field office."
 8 Do you see that?
 9 A. Yes, sir.
 10 Q. Do you agree with that finding?
 11 A. Yeah.
 12 Q. Did you do anything to address that
 13 finding?
 14 A. Well, I did increase the staffing.
 15 I tripled it between case officers and support
 16 staff that was on there when I first came in.
 17 But what this is talking about is
 18 the lack of unit/staff rotations throughout
 19 the entire field office, and there's not much
 20 we can do with this, because we would have to
 21 negotiate with the local union on how that
 22 could be implemented in the field office.
 23 Q. And what does the rotation
 24 throughout the field office refer to?
 25 A. Rotating people, whatever timeframe

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1 T. BROPHY
 2 A. Assistant field office director.
 3 Q. And who are those individuals?
 4 A. They are second line supervisors.
 5 So the first line supervisor's direct report.
 6 They directly report to the assistant field
 7 office directors.
 8 They normally have programmatic
 9 oversight, like an AFOD is how we refer to
 10 them, over enforcement removals or over
 11 smaller offices. It could be run by an AFOD.
 12 Q. Who do AFODs report to?
 13 A. The deputies.
 14 Q. How many AFODs are there?
 15 A. In Boston? Six, I believe.
 16 Q. And do you agree with this finding?
 17 A. Yeah, I guess at times that the
 18 AFOD had to step in to support the
 19 supervisors.
 20 Q. Did you do anything about that?
 21 A. Did I do anything about it? No.
 22 That would have been passed down to the
 23 deputies to look at and see if there was
 24 anything that could remedy that or assist that
 25 AFOD.

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1 T. BROPHY
 2 Q. Would you mind turning to Page 4,
 3 please. So here it says "Basic case
 4 management."
 5 What does that refer to?
 6 A. That would be the day-to-day
 7 practice of the deportation officer, case
 8 officer's, if you would, input in the system,
 9 which is named here EARM. That's what that
 10 would be.
 11 Q. Do you agree that there was unclear
 12 case comments?
 13 A. Yeah, I do.
 14 Q. Do you generally agree with this
 15 finding?
 16 A. I do. That's why we had training,
 17 too.
 18 Q. What kind of training?
 19 A. We had headquarters, people come in
 20 from the removal management unit and
 21 headquarters of OPLA, our attorneys, to come
 22 in to provide case management training.
 23 Q. And when was that?
 24 A. That was in April.
 25 Q. That was what you discussed during

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1 T. BROPHY
 2 Q. So what are the other units within
 3 Boston ERO?
 4 A. There's the fugitive operations
 5 unit, there's the criminal alien program,
 6 secure communities, there's the non-detained
 7 docket, there's the alternatives to detention
 8 dockets.
 9 Q. Do you agree that any of those
 10 units had insufficiently experienced
 11 supervisors?
 12 A. Not offhand, no.
 13 Q. What's the unit that conducts the
 14 order of supervision interactions I was
 15 talking about earlier?
 16 A. That would be the non-detained
 17 docket.
 18 Q. Do you believe that that supervisor
 19 was insufficiently experienced?
 20 A. No, no. She was -- I don't
 21 remember her name, but I know she was a
 22 seasoned supervisor.
 23 Q. I'm sorry, could you turn back to
 24 Page 4.
 25 The last bullet point here, "Lack

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1 T. BROPHY
 2 your May 22nd and 23rd testimony?
 3 A. May have been.
 4 Q. So that was before you received
 5 this report?
 6 A. Hmm-hmm.
 7 Q. Turn to Page 5. Here it says "Lack
 8 of Enforcement and Removal Assistants."
 9 What was that problem?
 10 A. Having trouble filling those
 11 vacancies.
 12 Q. Was that addressed?
 13 A. Yeah. There were some selections
 14 made. I don't know if all the positions had
 15 been filled or not.
 16 Q. Do you believe all of these issues
 17 we've just discussed contributed to the POCR
 18 violations?
 19 A. I believe that they did.
 20 Q. Do you agree that there was a lack
 21 of experienced supervisors assigned to other
 22 units within ERO?
 23 MS. LARAKERS: Objection.
 24 A. I don't know what other units
 25 you're referring to.

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1 T. BROPHY
 2 of clear priorities when targeting at-large
 3 aliens, placing detainees and/or taking
 4 detainees into custody?"
 5 Do you see that?
 6 A. Yes.
 7 Q. What did that mean?
 8 A. I'm not 100 percent certain. If I
 9 had to guess, we had competing priorities or
 10 being pulled in different directions.
 11 We had cases every day where
 12 municipalities weren't honoring our detainees,
 13 so we had to send enforcement assets to go and
 14 sit at courthouses to try and encounter those
 15 people after their initial appearance or
 16 arraignment, as well as cases that we had
 17 already existing on our dockets that would be
 18 good, viable targets for enforcement actions
 19 in the field for arrests, possibly
 20 prosecution.
 21 In placing detainees, placing
 22 detainees in an area that doesn't honor them
 23 is problematic, right, because they won't
 24 honor them, then we have to be available to
 25 try and -- if they get released from that

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<p style="text-align: right;">Page 110</p> <p>1 T. BROPHY 2 municipality, try and go get them before they 3 get back on the street and possibly reoffend. 4 So really, that's kind of what I 5 feel that means. 6 Q. So targeting at-large aliens would 7 mean going out and arresting individuals? 8 A. Yes. 9 Q. Do you agree that there's a lack of 10 clear priorities for targeting individuals for 11 arrest? 12 A. No, I don't agree it's a lack of 13 priorities. I think it's -- we don't have 14 enough staff to handle the flow of work here. 15 Q. So there's a lack of supervision? 16 A. No. It's assets. It's numbers of 17 officers. I don't think we have the number -- 18 the correct number of officers to handle the 19 workflow, because, like I said, it's daily, 20 and it's not one or two. 21 It's quite often, you know, talking 22 10, 12 a night where detainers weren't honored 23 and people have to go out and try to find 24 these people who committed offenses in our 25 community.</p>	<p style="text-align: right;">Page 111</p> <p>1 T. BROPHY 2 So it's more of an asset -- lack of 3 assets to match the workflow. 4 Q. Did you raise that disagreement 5 with this statement with the people that 6 conducted the audit? 7 MS. LARAKERS: Objection. 8 A. I don't recall. 9 MS. LARAKERS: Don't answer that. 10 The discussions that go on with the 11 recommendations is also part of the 12 deliberative process with regard to the 13 recommendation. 14 Q. What did you understand taking 15 detainees into custody to me? 16 A. Simply that. Taking them into 17 custody. 18 Q. Same thing as subjecting someone to 19 detention? 20 A. Yeah. 21 Q. Did you agree with the lack of 22 clear priorities when subjecting individuals 23 to detention? 24 A. No. I don't know if that's how I 25 interpreted it the way it's written.</p>
<p style="text-align: right;">Page 112</p> <p>1 T. BROPHY 2 I think the lack of priorities were 3 targeting at-large aliens. I think that's 4 what that lack of priorities was referencing, 5 is the targeting. 6 We were being pulled in so many 7 different directions that a lot of the cases 8 that we had already existing on our docket we 9 couldn't get to because of these new 10 emergencies, if you would, popped up every 11 night, every day. 12 Q. So did you do anything in response 13 to this finding? 14 A. I would have deferred it to the 15 deputies to follow up on. 16 Q. Is this the only item in this audit 17 that you disagreed with? 18 A. I don't recall. I would have to 19 review it in entirety now than try to reflect 20 on what I did or didn't -- 21 Q. Do you recall sitting here if you 22 disagreed with any of the findings of this 23 audit? 24 A. Not offhand. 25 MR. PROVAZZA: Do you mind if we</p>	<p style="text-align: right;">Page 113</p> <p>1 T. BROPHY 2 take a break? 3 MS. LARAKERS: Sure. 4 VIDEOGRAPHER: We are going off the 5 record at 1:55. 6 (Recess taken at 1:55 p.m. and 7 reconvening at 2:09 p.m.) 8 VIDEOGRAPHER: We are back on the 9 record at 2:09. 10 BY MR. PROVAZZA: 11 Q. A few more questions on the May 12 16th audit report. 13 If you would turn to Page 4, and 14 you look at the second bullet point. 15 "Unverified service/return of documents from 16 jail liaison officers." 17 Did you agree with that finding? 18 A. Yeah. I believe that's what they 19 found. 20 Q. Did you do anything to follow up on 21 it? 22 A. Other than to reinforce the 23 importance of it, with the supervisors, to 24 ensure that it was being corrected. 25 Q. Who were the supervisors that you</p>

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<p style="text-align: right;">Page 114</p> <p>1 T. BROPHY</p> <p>2 --</p> <p>3 A. I would pass it to the DFODs, to</p> <p>4 the AFODs, to the first line supervisors.</p> <p>5 Q. So you would communicate just to</p> <p>6 the DFODs?</p> <p>7 A. Yes.</p> <p>8 Q. The next bullet point, "Failure to</p> <p>9 timely and/or complete POCRs."</p> <p>10 Did you agree with that finding?</p> <p>11 A. Yes.</p> <p>12 Q. Did you do anything about it?</p> <p>13 A. Yeah, we did. We took corrective</p> <p>14 action.</p> <p>15 Judge Wolf made it obvious that he</p> <p>16 thought the corrective action for somebody</p> <p>17 whose POCR policies weren't followed were to</p> <p>18 release.</p> <p>19 So we did, we had to release some</p> <p>20 people whose POCRs weren't timely adhered to.</p> <p>21 Q. And you communicated that to your</p> <p>22 DFODs?</p> <p>23 A. Yeah.</p> <p>24 Q. Could you turn back to Page 3. If</p> <p>25 you look at the final bullet point here,</p>	<p style="text-align: right;">Page 115</p> <p>1 T. BROPHY</p> <p>2 "Notice of File Review and Failure to Comply</p> <p>3 forms not furnished to the attorney on</p> <p>4 record."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Did you agree with that finding?</p> <p>8 A. Yes.</p> <p>9 Q. Did you do anything about it?</p> <p>10 A. Yeah. I informed the supervisors</p> <p>11 that we had to notify and provide copies to</p> <p>12 the attorneys on record.</p> <p>13 Q. Again, the DFODs?</p> <p>14 A. Yes. Through the chain of command.</p> <p>15 Q. So you agree that this case is an</p> <p>16 important matter?</p> <p>17 A. Yes.</p> <p>18 Q. And that it was in the news</p> <p>19 throughout its time?</p> <p>20 MS. LARAKERS: Objection.</p> <p>21 Q. Since this case was filed, it has</p> <p>22 been in the news, correct?</p> <p>23 A. Yeah, I believe it has gotten a lot</p> <p>24 of media coverage.</p> <p>25 Q. And immigration attorneys would</p>
<p style="text-align: right;">Page 116</p> <p>1 T. BROPHY</p> <p>2 have thought this was important?</p> <p>3 MS. LARAKERS: Objection.</p> <p>4 A. I don't know if they would have</p> <p>5 thought it was important. Who do you mean by</p> <p>6 immigration attorneys? Service employees?</p> <p>7 Q. The immigration attorneys -- the</p> <p>8 immigration bar in Boston that is assisting</p> <p>9 people seeking status in the United States or</p> <p>10 representing immigrants would have thought</p> <p>11 this case was important?</p> <p>12 MS. LARAKERS: Objection.</p> <p>13 A. I guess they could have.</p> <p>14 Q. Could you repeat your answer?</p> <p>15 A. I guess they could have.</p> <p>16 Q. Do you think it was important if</p> <p>17 you were an immigration attorney?</p> <p>18 A. I guess so.</p> <p>19 Q. Did you ever speak with immigration</p> <p>20 attorneys during this litigation?</p> <p>21 A. I may have. I don't recall.</p> <p>22 Q. You spoke at a panel in front of</p> <p>23 hundreds of immigration attorneys, correct?</p> <p>24 A. Yeah. I thought you meant like we</p> <p>25 are now, one-on-one conversation regarding a</p>	<p style="text-align: right;">Page 117</p> <p>1 T. BROPHY</p> <p>2 case or something like that, no.</p> <p>3 Q. So you don't recall any one-on-one</p> <p>4 interactions with immigration attorneys?</p> <p>5 A. I may have. Yeah, I may have.</p> <p>6 Q. Do you recall any other type of</p> <p>7 panel discussions with multiple immigration</p> <p>8 attorneys?</p> <p>9 A. Like the AILA conference?</p> <p>10 Q. Yes.</p> <p>11 A. Yes.</p> <p>12 Q. There were others?</p> <p>13 A. There was another AILA conference.</p> <p>14 There was two.</p> <p>15 Q. When was that?</p> <p>16 A. I forget the exact date and time,</p> <p>17 but it was after the one you asked me about</p> <p>18 previously.</p> <p>19 Q. But while you were still working at</p> <p>20 ICE Boston?</p> <p>21 A. Yes.</p> <p>22 Q. Did arrests at CIS come up during</p> <p>23 that conference?</p> <p>24 A. It may have. I don't recall.</p> <p>25 Q. Provisional waiver applicants?</p>

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1 T. BROPHY
 2 A. It may have. I don't recall.
 3 Q. Did you ever have any other
 4 conversations with groups of immigration
 5 attorneys?
 6 A. No, not that I recall.
 7 Q. So to confirm your testimony
 8 earlier, you spoke with Mr. Reardon about
 9 stopping CIS from sending lists of I-130
 10 interviews to ICE, right?
 11 A. Yes.
 12 Q. But you never followed up on that
 13 request?
 14 A. Correct.
 15 Q. You never spoke to anyone else at
 16 CIS?
 17 A. No.
 18 Q. Never spoke to anyone else internal
 19 at ICE about that request?
 20 A. Other than my staff?
 21 Q. Including your staff.
 22 A. To the DFODs, when I gave them that
 23 direction.
 24 Q. Did you do anything else to follow
 25 up and check whether this directive had been

1 T. BROPHY
 2 followed?
 3 A. No.
 4 Q. If you had learned that that
 5 directive hadn't been followed, what would you
 6 have done?
 7 MS. LARAKERS: Objection.
 8 A. I don't know. I would have
 9 addressed it and found out why it happened
 10 when I asked questions.
 11 MR. PROVAZZA: We have nothing else
 12 for today.
 13 As we discussed, I think we are
 14 holding the depositions open, I believe, or
 15 did we hold the other two open or not?
 16 MR. WEILAND: You did not.
 17 MS. LARAKERS: You did not.
 18 MR. PROVAZZA: I don't foresee us
 19 having to hold this one open either.
 20 MS. LARAKERS: Okay.
 21 MR. PROVAZZA: That's all for
 22 today.
 23 MS. LARAKERS: Thank you.
 24 VIDEOGRAPHER: This concludes
 25 today's deposition. We are off the record at

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1 T. BROPHY
 2 2:14.
 3 (Time Noted: 2:14 p.m.)
 4
 5
 6 -----
 7 THOMAS P. BROPHY
 8 Subscribed and sworn to before me
 9 this day of 2018.
 10
 11 -----

1 CERTIFICATE
 2 Commonwealth of Massachusetts)
 3) ss:
 4 County of Suffolk)
 5
 6 I, Michael D. O'Connor, a Notary
 7 Public within and for the Commonwealth of
 8 Massachusetts, do hereby certify:
 9 That THOMAS P. BROPHY, the witness
 10 whose deposition is hereinbefore set forth, was
 11 duly sworn before me and that such deposition is
 12 a true record of the testimony given by such
 13 witness.
 14 I certify that I am not related to
 15 any of the parties to this action by blood or
 16 marriage; and that I am in no way interested in
 17 the outcome of this matter.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand this 30th day of July, 2018.
 20
 21
 22 Michael D. O'Connor, RMR, CRR, CRC
 23
 24
 25

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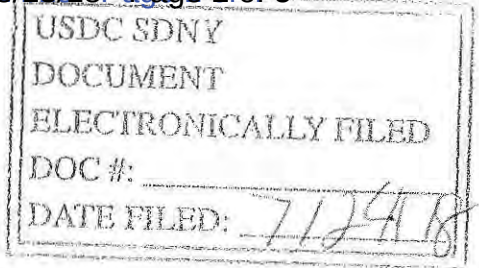
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	7th (1)			

EXHIBIT D



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Pablo Antonio VILLAVICENCIO CALDERON, :

Petitioner, :

v. :

18 Civ. 5222 (PAC)

Jefferson B. SESSIONS III, in his official capacity :
as the Attorney General of the United States; :
Kirstjen NIELSEN, in her official capacity as :
Secretary of Homeland Security; Thomas DECKER, :
in his official capacity as New York Field Office :
Director for U.S. Immigration and Customs :
Enforcement; and the U.S. DEPARTMENT OF :
HOMELAND SECURITY, :

ORDER

Respondents. :
-----X

HONORABLE PAUL A. CROTTY, United States District Judge:

This action is about an undocumented immigrant who has been detained by Immigration and Customs Enforcement (“ICE”) pending deportation. Petitioner, Pablo Antonio Villavicencio Calderon, unlawfully entered the United States in 2008. Subsequently, at an immigration proceeding in March 2010, he agreed to voluntarily depart the country by July 15, 2010. But Petitioner overstayed his welcome. Petitioner has continued to reside in this country, and as a result, the order of voluntary departure has been converted into a final order of removal.

Although he stayed in the United States unlawfully and is currently subject to a final order of removal, he has otherwise been a model citizen. Petitioner married Ms. Sandra Milena Carmona Chica, a United States citizen. He now has two children, both of whom are United States citizens. He has no criminal history. He has paid his taxes. And he has worked diligently to provide for his family.

Petitioner seeks to continue contributing to his family and community, and to that end, he commenced the process of regularizing his immigration status to become a lawful permanent resident. Specifically, he commenced the process of obtaining a provisional waiver of grounds of inadmissibility, which is an initial step toward immigration status adjustment. In February 2018, Ms. Carmona Chica filed, on Petitioner's behalf, with the U.S. Citizenship and Immigration Services ("USCIS"), a petition for alien relative ("Form I-130"), requesting that the Government recognize Petitioner as Ms. Carmona Chica's spouse. USCIS is currently processing the I-130 petition, and has scheduled an interview for Petitioner. Once Form I-130 is approved, Petitioner plans to apply for permission to reapply for admission into the United States ("Form I-212") and, subsequently, for a provisional unlawful presence waiver ("Form I-601A"), as outlined in regulations promulgated by the Department of Homeland Security. *See Expansion of Provisional Unlawful Presence Waivers of Inadmissibility; Final Rule*, 81 Fed. Reg. 50244, 50245 (July 29, 2016); *Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives; Final Rule*, 78 Fed. Reg. 535, 536 (Jan. 3, 2013).

The prospect of regularizing his immigration status was set back when, on June 1, 2018, while making a pizza delivery at Fort Hamilton in Bay Ridge, Brooklyn, base security found that Petitioner had an outstanding warrant of deportation. He was held by base security until he was turned over to ICE, and since then, he has been detained by ICE at the Hudson County Correctional Facility in Kearny, New Jersey. ICE seeks to remove Petitioner to his country of origin, Ecuador.

On June 9, 2018, Petitioner filed this petition for a writ of habeas corpus under 28 U.S.C. §2241, requesting the Court to order Jefferson B. Sessions III, Kirstjen Nielsen, Thomas Decker, and the U.S. Department of Homeland Security ("Respondents") to: (1) release him from

custody; (2) enjoin Respondents from removing him from the New York City area; and (3) stay his removal from the United States pending resolution of this petition. ECF 1. That same day, pending consideration of the petition, Judge Nathan, sitting in part I, enjoined Respondents from transferring Petitioner from the New York City area and from transferring the Petitioner from the jurisdiction of the New York Field Office of the Office of Enforcement and Removal operations. ECF 6. This Court picked up where Judge Nathan had left off. On July 24, 2018, the Court heard oral argument from both parties and considered their submissions.

A formal opinion will be published, but the petition for a writ of habeas corpus is now **GRANTED**. Venue is proper in the Southern District of New York because, when a facility detains a petitioner pursuant to a service agreement with a governmental agency, proper respondents to a habeas petition are, as here, the governmental agency and its supervisory officials (*i.e.*, legal custodians). The Court also has jurisdiction to review the limited question of whether Petitioner has a right to complete the process of obtaining a provisional waiver of grounds of inadmissibility before his removal, and the jurisdiction is not stripped by 8 U.S.C. §1252. Moreover, the Court holds that he indeed does have a right to complete the process of obtaining a provisional waiver, and that the Government's deportation of Petitioner would contravene that right, in violation of the Administrative Procedure Act ("APA") and the Fifth Amendment.

Accordingly, the Court **ORDERS** Respondents to stay removal of Petitioner from the United States until Petitioner exhausts his right to complete the process of obtaining a provisional waiver of grounds of inadmissibility. Specifically, the Court orders Respondents to stay removal of Petitioner until the occurrence of any one of the following events:

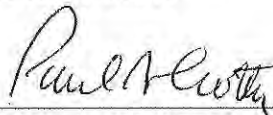
- (1) Denial of Petition for Alien Relative on his behalf ("Form I-130");

- (2) Denial of his Application for Permission to Reapply for Admission (“Form I-212”);
- (3) Denial of his Application for Provisional Unlawful Presence Waiver (“Form I-601A”); *or*
- (4) Approval of Forms I-130, I-212, *and* I-601A.

The Court further **ORDERS** Respondents to immediately release Petitioner from custody because removal is no longer reasonably foreseeable.

Dated: New York, New York
July 24, 2018

SO ORDERED



PAUL A. CROTTY
United States District Judge

EXHIBIT E
REDACTED

Message

From: Guarna-Armstrong, Tina **Confidential/PII**
Confidential/PII

Sent: 7/18/2018 2:20:04 PM

To: **Confidential/PII** **Confidential/PII**
Confidential/PII

CC:

Subject: Calderon Discovery Emails

Attachments: 2018 ERO Arrests at CIS.xlsx; Blank FOIA Search Form.pdf

All,

As discussed in this morning's supervisory meeting, we are looking for any emails related to arrest, custody determinations or PCR decisions for the sixteen cases on the attached spreadsheet. This request should go out to all employees who may have responsive information related to this discovery. If employees are working outside of the office today, they should return to the office and complete a search, saving responsive material no later than 3:00 pm today. This tasking should take priority above all others for today.

I recommend that each search be documented on the attached blank FOIA search form and saved to the BDR Global O: drive within the OOC-ERO Share Folder located in the Wolf Litigation folder. Each employee should create their own file within the Wolf Litigation folder to save responsive material. The file should be named "Employee Last Name_Calderon Discovery Emails". For example, my file would be titled "Guarna-Armstrong_Calderon Discovery Emails". The completed search form should be saved, as well. To limit the number of items returned in the search, **Confidential/PII** suggested that we put quotation marks around the terms entered in to the Outlook search box.

Please forward to any employee who you think may have responsive documents and ask that this tasking be completed no later than 3:00 pm today.

Thanks,

Tina Guarna-Armstrong
Assistant Field Office Director
Boston Field Office
Desk: **Confidential/PII**
Mobile: **Confidential/PII**

CONFIDENTIAL

GOV002125

ICE - 0002125

Date of Referral	Name	A-number
October 7, 2017	Confidential/PII	Confidential/PII
October 9, 2017	[REDACTED]	[REDACTED]
October 10, 2017	[REDACTED]	[REDACTED]
October 28, 2017	[REDACTED]	[REDACTED]
December 11, 2017	[REDACTED]	[REDACTED]
January 9, 2018	[REDACTED]	[REDACTED]
January 10, 2018	[REDACTED]	[REDACTED]
January 16, 2018	[REDACTED]	[REDACTED]
January 30, 2018	[REDACTED]	[REDACTED]
January 30, 2018	[REDACTED]	[REDACTED]
January 30, 2018	[REDACTED]	[REDACTED]
January 30, 2018	[REDACTED]	[REDACTED]
January 30, 2018	[REDACTED]	[REDACTED]
February 14, 2018	[REDACTED]	[REDACTED]
February 14, 2018	[REDACTED]	[REDACTED]

Country of Birth	A-FILE LOCATION
El Salvador	HAVE THE A-FILE
Dominican Republic	T-FILE IN LAW
China	HAVE THE A-FILE
Brazil	AAO
El Salvador	BOS-LIG
Turkey	NRC (transit?)
El Salvador	BOS-LI
Guatemala	NSC
Brazil	BOS-REC
Tanzania	BOS-0063 SUP DRAWER
Guatemala	HAVE THE A-FILE
Brazil	HAVE THE A-FILE
Brazil	HAVE THE A-FILE
Brazil	HAVE THE A-FILE
Ecuador	HAR ERO file room
India	NRC

Location of Arrest (CIS Office, Residence, Traffic Stop)
CIS Office
CIS Office
CIS Office
CIS Office
CIS Office Lawrence
Lobby of Federal Building
CIS Office Lawrence
CIS Office
JFK Fed Bldg, Outside of CIS
JFK Fed Bldg, Outside of CIS
JFK FED BLD, Outside of CIS
JFK Fed Bldg, Outside of CIS
JFK Fed Bldg, Outside of CIS
Outside CIS office - Hartford, CT
Lobby of Federal Building
outside CIS office

Action Taken and Date
Arrest 1/23/18
Arrest 1/18/18
Arrest 1/30/18
Arrest 1/9/18
Arrested 1/23/18
Arrested 1/9/2018
Arrested 1/11/18
Arrest, 1/17/2018
Arrested 1/30/18
Arrested 1/30/18
Arrested 1/31/18
Arrested 1/31/18
Arrested 1/31/18
Arrested 2/1/2018
Arrested 2/14/2018. Released same day on OSUP-ATD
Arrested 02/14/18

Criminal/Non-Criminal Status
Non-criminal with pending criminal cases
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-Criminal
Non-criminal
Non-criminal
Criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
non-criminal

Immigration Status (WD, ER, Re-entry, etc.)
WD
WD
WD
WD
MTR granted- case re-opened
WD
WD
WD
WD
WD
WD
WD
WD
WD
Re-entry but CIS processing I-130
WD
Final order

Custody Status at Time of Arrest (Detained, OREC, OSUP, Bond)
Detained
Detained
OSUP
Detained
Detained
Detained
Detained
Detained
Detained
Detained
Detained
Detained
Detained
Detained
OSUP-ATD
Detained

Current Custody Status (Detained, OREC, OSUP, Bond)	Removed (Y/N)
OSUP	N
Removed	Y
OSUP	N
ATD-GPS	N
Bond	N
Removed on 1/31/2018	Y
Bond	N
OSUP	N
ATD	N
ATD	Scheduled self-deport 6/28/18
Prosecuted for 1326, released by Judge Dein at Detention Hearing	Y
Removed	N
Bond	N
OSUP - Stay	N
OSUP-ATD (MTR granted by IJ--Auto Stay in effect)	N
osup	n

Case No. _____

Directions for Conducting a Search for Records Requested Under FOIA

In responding to this request for information made pursuant to the Freedom of Information Act, 5 USC 552, you must undertake a search that is *reasonably calculated to uncover all relevant documents* described in the request. You must search in all places where responsive records may be found.

“Records” include: paper records, electronic records, email correspondence, pictures, DVDs, video tapes, audio tapes, microfiche, or any other material recorded in any manner.

Please complete the following and return to the FOIA regardless of whether you locate any responsive records:

Name: _____

Position/Title: _____

Date search for records commenced: _____ Date search records ended: _____

Time spent conducting your search: _____

Databases

Did you search any Systems of Records (i.e., DACS, TECS, aCRIME, A-file, GSA, COSI, GEMS, etc.)? _____

Which Systems of Records did you search? _____

What search terms did you use?

Why did you choose those terms? (i.e., name of case, name of operation, name of alien, etc.) _____

Paper Files

Did you search any paper files? _____

Were the paper files your personal files? _____

Were the paper files your office’s central file system? _____

How are your paper files organized and maintained? (i.e., file cabinet, bookshelf, alphabetical by Alien name, operation name, etc.) _____

How did you conduct your search? (i.e., manual hand search) _____

Desktop/Laptop Computer

Did you search your computer (i.e., Desktop, hard drive, share drive)? _____

How did you search your computer (i.e., manual review of each folder individually, use Search engine in the Start Menu, or some other electronic search command)?

What search terms did you use?

Why did you choose those terms? (i.e., name of case, name of operation, name of alien, etc.) _____

Email (Outlook)

Did you search Outlook? _____

How did you search Outlook? (i.e., manual review of every email in sent, deleted, incoming, outgoing, archived folders, use the find function in the tools function; "Find" function in the Tools pull-down menu)

What search terms did you use?

Why did you choose those terms? (i.e., name of case, name of operation, name of alien, commonly used acronym or nickname, etc.)

Other records

Did you search any other records not listed above? (i.e., video, audio, microfiche, etc.)

Where did you search? _____

How did you search? _____

What search terms, if any, did you use?

Why did you choose those terms? (i.e., name of case, name of operation, name of alien, commonly used acronym or nickname, etc.)

Sensitivity

Are any of the records you have located sensitive? (i.e., classified¹, LES, Attorney-Client Privilege)

Why? (i.e., operation ongoing, confidential informant information, techniques and procedures, etc.)

Other offices

Other offices or persons you believe may have responsive records: _____

I certify that I have searched all locations reasonably calculated to locate records that are responsive to this request.

Name

Date

¹ With respect to records that are classified under criteria established by Executive Order, notify the FOIA office of the existence of such documents. The processing of these documents will be handled on a case-by-case basis.

EXHIBIT F
REDACTED

Message

From: Graham, Andrew [Confidential/PII]
on behalf of: Graham, Andrew
Sent: 1/30/2018 3:40:37 PM
To: Rutherford, James L [Confidential/PII]; Lyons, Todd M
Subject: RE: Media Inquiry: [Confidential/PII]

Also, FYSA, the Suffolk team arrested two at CIS in Boston this morning and the Essex team arrested one at Lawrence CIS.

Andy

From: Rutherford, James L
Sent: Tuesday, January 30, 2018 10:10 AM
To: Graham, Andrew; Lyons, Todd M
Subject: RE: Media Inquiry: [Confidential/PII]

Thanks Andy.

Regards,

James L. Rutherford
Deputy Field Office Director
ICE/ERO – Boston Field Office
[Confidential/PII] Desk

"A leader is one who knows the way, goes the way, and shows the way." – John C. Maxwell

From: Graham, Andrew
Sent: Tuesday, January 30, 2018 10:06 AM
To: Lyons, Todd M; Rutherford, James L
Subject: RE: Media Inquiry: [Confidential/PII]

James/Todd:

Just to help you guys answer any questions on this CIS arrest topic, here is a brief overview of how we handle these cases.

- CIS typically sends us a list of pending I-130s that they need to adjudicate where the beneficiary is subject to a final order of removal, a re-entry, or an egregious criminal alien.
- When we receive the list of potential arrest targets, we vet each one for criminality, medical issues, likelihood of receiving an immigration benefit, likelihood of removal, and any other significant factor that would influence our decision to take the subject into custody.
- After vetting the cases, we reply to CIS with a list of which aliens we have interest in arresting.
- CIS schedules the interviews and spreads them out over a period of time so as not to overburden our ability to handle the workload.
- When the alien arrives for his/her interview, CIS notifies us that the subject has arrived and we send two officers from the Fugitive unit to the CIS office for the arrest.
- CIS completes the interview while our officers are enroute.
- At the completion of the interview, the DOs question the alien to determine if any other prosecutorial discretion issues exist and then take them into custody, if appropriate.

Some additional information that should be noted:

- The alien's attorneys are often present and aware of their clients' outstanding removal orders and that they are typically ineligible to adjust status.
- CIS is our sister agency and has an internal policy that allows them to notify ICE when removable aliens are encountered.

In my opinion, it makes sense for us to arrest aliens with final removal orders as they represent the end of the line in the removal process. They are typically the easiest to remove, they have the shortest average length of stay, and at the end of the day we are in the removal business and it's our job to locate and arrest them.

Andy

Andrew P. Graham
(a)AFOD – Field Enforcement
DHS/ICE/ERO-Boston Field Office
Confidential/PII

From: Lyons, Todd M
Sent: Tuesday, January 30, 2018 8:55 AM
To: Rutherford, Confidential/PII Confidential/PII John; Graham, Andrew
Subject: FW: Media Inquiry: Confidential/PII

Guys

See below – the subject had an active deportation order which was acted upon. We did not target this subject because he was illegally. He was ordered by an immigration judge to be removed from the US. for sure – this type of story will keep away those who may be truly trying to adjust (that have an actual path to a benefit). This subject's attorney should have never advised him to attend this meeting. He has no path unless he leaves the country

Below is the PAO synopsis from the officer.

Thanks

Todd Michael Lyons
Deputy Field Office Director
ICE – Enforcement and Removal Operations
Department of Homeland Security
Boston Field Office
Confidential/PII Desk
Mobile

From: Graham, Andrew
Sent: Tuesday, January 30, 2018 8:50 AM
To: Lyons, Todd M
Subject: FW: Media Inquiry: Confidential/PII

Sent with BlackBerry Work
(www.blackberry.com)

Media inquiry – MATEUS DE OLIVEIRA, Fabiano – Brazil

- Correct name of alien (as known to ICE): Confidential/PII
- Known aliases- None
- Confidential/PII
- DOB : Confidential/PII
- COB: Brazil
- COC: Brazil
- Date of last entry: January 28, 2005
- Manner of last entry to US: Without Inspection
- Prior immigration encounters: Entered Without Inspection. Subject was arrested by the United States Border Patrol on January 28, 2005 and served a Warrant of Arrest and Notice to Appear under 212a6Ai, Alien Present Without Admission or Parole, under the INA.
- Current immigration status: Inadmissible. ICE Fugitive. Subject was ordered removed from the United States in absentia by a Baltimore Immigration Judge on March 15, 2005. Subject is the beneficiary of an approved I-130, Petition for an Alien Relative, filed with the service on January 4, 2017 and approved on January 9, 2018. No other pending applications for a benefit under the INA.
- Criminal History: No known criminal history
- Level of criminality for pending charges & convictions; felony or misdemeanor: n/a
- If subject is an LPR, provide the # of CIMTs and the timeframe associated n/a
- I-213 arrest narrative (*cut & paste into the PAO email response*) or a brief description of the current/most recent encounter:

I-213 Narrative

Narrative 1 : Created Date: 01/09/2018 10:51 AM

- ARREST:

On January 9, 2018 I along with Deportation Officer Confidential/PII and Deportation Officer Confidential/PII went to the Citizenship and Immigration Services Office in Lawrence, MA and arrested ICE fugitive Confidential/PII A98 Confidential/PII was at the office for an I-130 interview.

At approximately 8:45 AM we met with Confidential/PII in the CIS office. I identified us as ICE Officers and informed him of his outstanding warrant. We placed Confidential/PII into custody without incident. DO Pitts transported Confidential/PII to the ICE office in Burlington, MA to be booked into ICE custody.

ALIENAGE:

Subject is a native, national and citizen of Brazil. Subject stated that both of his parents are citizens of Brazil who never entered the United States.

ENTRY DATA:

Complete entry information is located on the initial event I-213.

IMMIGRATION HISTORY:

01/28/2005- Subject made illegal entry into the U.S. at Hidalgo, TX as EWI.

01/29/2005- Subject was served NTA for violation of Section 212(a)(6)(A)(i) of the Act.

03/15/2005- IJ issued Removal Order in Absentia to Brazil.

01/09/2018- I-130 approved.

CRIMINAL RECORD:

None located.

GANG/TERRORIST AFFILIATION:

None claimed/none found.

CONSENT TO ENTER AND SEARCH:

Not applicable.

CREDIBLE/REASONABLE FEAR:

None claimed/none found.

MILITARY SERVICE:

No.

CHILD CARE/CUSTODY ISSUES:

Subject has one USC child who is in the care his mother

Confidential/FII

MEDICAL HISTORY:

Subject claims to be in good health.

- You must state "Yes" or "No" to information indicating they are a Victim/Witness. If yes, provide specifics: No
- You must state "Yes" or "No" to information indicating they have pending applications for relief; particularly U, T, VAWA. If yes, provide specifics: No
- Any oddities in the case, such as if the subject is a high visibility/public interest matter for ICE or federal/state/local law enforcement: Media interest.

EXHIBIT G

REDACTED

ERO Response

[Redacted]

AR-11 Newest Filing Date AR-11 Address

[Redacted]

I-130 filed on:

[Redacted]

Beneficiary's Address

[Redacted]

Beneficiary's Name

[Redacted]

A - Number

Confidential/PII [Redacted]

EXHIBIT H

REDACTED

To: Lyons, Todd M. **Confidential/PII**
From: Graham, Andrew **Case 1:18-cv-10225-MLW** Document 137-10 Filed 08/13/18 Page 2 of 4
Sent: Thur 5/24/2018 4:29:01 PM
Subject: FW: stand alone I-130 Visa petitions pending at USCIS LAW Field office
[Copy of I-130-Ordered Removed - Current AR-11 Address.xlsx](#)

Todd,

This is the earliest organized effort that I had any involvement with since the end of the enforcement priorities policy.

Andy

From: Graham, Andrew
Sent: Monday, October 23, 2017 1:22 PM
To: **Confidential/PII**
Cc: Guarna-Armstrong, Tina **Confidential/PII**
Subject: RE: stand alone I-130 Visa petitions pending at USCIS LAW Field office

Hi Mirella,

I have reviewed each of the cases for criminality and updated the spreadsheet with a column titled "ERO Response" which indicates our level of interest in each case. The cases with criminal convictions have the highest priority, followed by the cases with a criminal nexus, and then the non-criminal final orders after that. Those cases highlighted in yellow are of no enforcement interest at this time. The others appear to be actionable barring any significant mitigating factors such as serious health problems, childcare issues, etc...

As far as scheduling goes, I would prefer not to do them all at one time as it is not only a strain on our ability to transport and process several arrests at once, but it also has the potential to be a trigger for negative media interest, as we have seen in the past. If you have the ability to schedule one or two at a time and spread them apart, that would work best for us. Also, I have copied AFOD Guarna-Armstrong; Tina is overseeing the Field Enforcement Division as of today.

Please keep me posted.

Andy

Andrew P. Graham
SDDO-Fugitive Operations
DHS/ICE/ERO-Boston Field Office
Confidential/PII

From: **Confidential/PII**
Sent: Wednesday, October 18, 2017 2:23 PM
To: Graham, Andrew; **Confidential/PII**
Cc: **Confidential/PII**
Subject: FW: stand alone I-130 Visa petitions pending at USCIS LAW Field office
Importance: High

Hi sorry to bug you both again with this...

Confidential/PII was up in our office today and my Field office Director printed this spreadsheet and handed it to him. **Confidential/PII** had said he would speak to you about this.

We need to know if any interest exist in any of these cases. As we will need to plan out the scheduling. If no interest exist the issue of scheduling them all in one day will not be an issue for us... but if we know that you might be interested in any of them we will spread out the scheduling. Please let us know that way we can proceed with interview scheduling.

Confidential

GOV003046

These cases are all 204g and will need interview of the I-130 visa petitions as proof of clear and convincing evidence of the

relationship is needed. Our plan would be we conduct the interview and determine if relationship is established hand over the A file. If you prefer that my FOD reach out to someone else in your office, I can have her do that. I would need a name of someone she needs to reach out to? Should we be reaching out to Tina Guarna- Armstrong or Alan Greenbaum instead...? Please let us know. Thanks so much!

Confidential/PII | Acting Section Chief | DHS | USCIS | Lawrence Field Office | 2 Mill Street , Lawrence MA ,01840 | Office phone
Confidential/PII | Mobile phone **Confidential/PII** | Fax **Confidential/PII** |

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From: **Confidential/PII**
Sent: Wednesday, October 11, 2017 2:27 PM
To: **Confidential/PII**
Subject: RE: stand alone I-130 Visa petitions pending at USCIS LAW Field office

Hi **Confidential/PII** I added the 3 additional I-130's to the spreadsheet and charged them to the Ordered Removed shelf. Is there a way for me to tell if they are "expedited" or will you just write that on the yellow/orange cover sheet? Please find the spreadsheet attached.

Thanks,
Tom

From: **Confidential/PII**
Sent: Friday, October 06, 2017 11:38 AM
To: **Confidential/PII**
Subject: FW: stand alone I-130 Visa petitions pending at USCIS LAW Field office

What is this one with the Missouri address can I look at it ? Is it an expedite again that I missed...?

From: Tiberi, Mirella
Sent: Friday, October 06, 2017 11:34 AM
To: Graham, Andrew; Wells, **Confidential/PII**
Cc: Smith, Kristen
Subject: stand alone I-130 Visa petitions pending at USCIS LAW Field office

Good morning attached is a list of stand- alone I-130 pending visa petitions at the USCIS Field office in Lawrence that appear to have final orders of removal. My FOD asked that I reach out to you with this information and if need be coordinate the interview scheduling so they are not all scheduled at once.

If you could let us know if any are of interest that would be most appreciated.

Thank you

Mirella Tiberi | Acting Section Chief | DHS | USCIS | Lawrence Field Office | 2 Mill Street , Lawrence MA ,01840 | Office phone
Confidential/PII | **Confidential/PII** | **GOV003047**

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EXHIBIT I

REDACTED

To: Guarna-Armstrong, Tina Confidential/PII
Cc: Confidential/PII Document 137-11 Filed 08/13/18 Page 2 of 5
From: Confidential/
Sent: Tue 12/5/2017 8:04:06 AM
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

They are here Tina. It appears we will be approving the I-130. I just spoke to officer she has not started interview believes the case is approvable.

From: Guarna-Armstrong, Tina
Sent: Tuesday, December 05, 2017 7:44:43 AM
To: Confidential/PII
Cc: Confidential/
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Good morning Joe,

If not already there, two ERO officers should be arriving shortly.

Thanks,

Tina Guarna-Armstrong
Assistant Field Office Director
Boston Field Office

From: Confidential/PII
Date: Tuesday, Dec 05, 2017, 7:12 AM
To: Confidential/PII Guarna-Armstrong, Tina Confidential/PII
Cc: Smith, Kristen Confidential/PII
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Good Morning Tina,

Confidential/PII has appeared for his interview.

Joe

Confidential/PII
Supervisory Immigration Service Officer
US Citizenship and Immigration Services
Lawrence Field Office
2 Mill Street
Lawrence, MA 01840

Phone: Confidential/PII

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From: Confidential/
Sent: Tuesday, December 05, 2017 6:46 AM
To: Guarna-Armstrong, Tina
Cc: Confidential/PII
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Confidential

GOV003033

Hi Tina I am not in office yet. SISO fore who is copied on this email is in office. His office number is [redacted] we do not know if they will show, remember last Friday the did not show... we will email you if they show... so no r

From: Guarna-Armstrong, Tina
Sent: Tuesday, December 05, 2017 6:42:43 AM
To: Tiberi, Mirella
Cc: [redacted]
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Good morning Mirella,

Thanks for the reminder. We are hoping to have two officers at your office but are getting a late start. Would it be possible to delay the interview by about fifteen minutes?

Thanks,

Tina Guarna-Armstrong
Assistant Field Office Director
Boston Field Office

From: [redacted]
Date: Tuesday, Dec 05, 2017, 6:03 AM
To: Guarna-Armstrong, Tina [redacted]
Cc: [redacted]
Subject: FW: Ordered Removed - ERO Interest - Scheduled Cases

Good morning Tina, we have one scheduled at 715 am today-that was originally of interest. [redacted]

From: [redacted]
Sent: Wednesday, November 22, 2017 7:42:14 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Hi Kristen and Mirella,

Below are the ERO interest I-130s that have already been scheduled and notices mailed.

[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

Confidential

GOV003034

[redacted]	[redacted]	[redacted]	[redacted]
------------	------------	------------	------------

We also have the 2 ERO interest I-130s below scheduled for today.

Confidential/PII				

I will update the bundle calendar and remove the I-130s scheduled for the days that we pulled notices for. I will return these files to the ordered remove – to be scheduled shelf.

Please let me know if there is anything else that I can do.

Thank you,
Christie

From: Confidential/PII
Sent: Wednesday, November 22, 2017 7:07 AM
To: Confidential/
Cc: Confidential/PII
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Sorry, Mirella, I was not in the office when you called. I just listened to your voice message and Jim told me to pull the notices as soon as I came in this morning. I pulled all of the notices below except for the two cases scheduled on 12/5 and 12/8, notices went out yesterday for those two.

From: Confidential/
Sent: Tuesday, November 21, 2017 7:08 PM
To: Confidential/PII
Subject: FW: Ordered Removed - ERO Interest - Scheduled Cases

Left you a voicemail

From: Confidential/
Sent: Tuesday, November 21, 2017 7:03:06 PM
To: Confidential/PII
Subject: RE: Ordered Removed - ERO Interest - Scheduled Cases

Are you still in the office?

From: Confidential/
Sent: Tuesday, November 21, 2017 5:52:36 PM
To: Confidential/PII
Cc: Confidential/PII
Subject: Ordered Removed - ERO Interest - Scheduled Cases

Hi Confidential/PII

I scheduled 6 more I-130 "of interest" cases on ERO's list. Below please find the 6 scheduled cases and the dates and times of the interviews. Also, attached please find the ERO excel sheet marked with the dates that the "of interest" cases have been scheduled for.

Confidential/PII	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]			

Please let me know if you need any additional information.

Thank you,

Confidential

Confidential/PII

Immigration Services Assistant
U.S. Citizenship & Immigration Services
Lawrence Field Office
2 Mill Street, Lawrence, MA 01840

Confidential/PII

Confidential/PII



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EXHIBIT J
REDACTED

Message

From: Lyons, Todd M. Confidential/PII
Confidential/PII
Sent: 7/16/2018 10:45:33 PM
To: Guarna-Armstrong, Tina Confidential/PII
Confidential/PII
Subject: FW: URGENT - CIS Enforcement Actions
Attachments: CIS Referrals to ERO 7-17 to 7-18 (Consolidated).xlsx

Here you go

Todd M. Lyons
Deputy Field Office Director
DHS ICE-ERO
Boston Field Office
Confidential/PII

Sent with BlackBerry Work
(www.blackberry.com)

From: Guarna-Armstrong, Tina Confidential/PII
Date: Wednesday, Jul 11, 2018, 12:52 PM
To: Masters, Todd A Confidential/PII
Cc: Lyons, Todd M Confidential/PII; Rutherford, James L Confidential/PII; Downey, Keith M Confidential/PII
Subject: FW: URGENT - CIS Enforcement Actions

Good afternoon Todd,

In accordance with the instructions of DFOD Lyons, I am forwarding a spreadsheet containing information related to CIS case referrals to ERO from July 2017 to date. I consolidated the spreadsheet. If you have any questions, please let me know.

Thanks,

Tina Guarna-Armstrong
Assistant Field Office Director
Boston Field Office
Desk: Confidential/PII
Mobile: Confidential/PII

From: Lyons, Todd M
Sent: Thursday, July 5, 2018 1:30 PM
To: Guarna-Armstrong, Tina Confidential/PII; Wells, Stephen w Confidential/PII
Confidential/PII Confidential/PII
Cc: Confidential/PII; Rutherford, James L Confidential/PII
Confidential/PII; Graham, Andrew Confidential/PII
Subject: URGENT - CIS Enforcement Actions
Importance: High

All

CONFIDENTIAL

GOV001996

ICE - 0001996

By noon on July 11, 2018 – I need one combined excel spreadsheet with **every** CIS referral which was sent to ERO Boston for Lawrence (Tina), Boston (Steve) and Providence (Vance). This is for federal discovery and has been requested by Judge Wolf

The following information needs to be on the combined sheet in separate columns:

- The A# and Name of each subject (along with Country of Birth)
- The location of the CIS office
- Location of Arrest or Enforcement Action (CIS Office, Residence, Traffic Stop)
- The date of the referral
- Any action taken and/or not taken
- Either crim or non-crim
- Immigration status – WD, 1326, ER, etc
- What the custody status is or was (either still in detention or OREC/OSUP/Bond)
- If the subject was removed from the US

Again I need this by Wed 7/11/18. Please work together and come up with one final product to be presented. Tina – since you are local and in close proximity, can you please take the lead on the final product.

I cannot stress enough to all of you that this must be an accurate document. There is no room or any errors or any guesses on cases. We need a complete, accurate, and transparent excel sheet.

Todd Michael Lyons
Deputy Field Office Director
ICE – Enforcement and Removal Operations
Department of Homeland Security
Boston Field Office
Confidential/PII Desk
Mobile

Date of Referral	Name	A-number
July 21, 2017	Confidential/PII	
July 13, 2017		
July 31, 2017		
July 31, 2017		
August 4, 2017		
August 25, 2017		
August 28, 2017		
September 26, 2017		
October 2, 2017		
October 6, 2017		
October 7, 2017		
October 8, 2017		
October 9, 2017		
October 10, 2017		
October 11, 2017		
October 12, 2017		
October 14, 2017		
October 15, 2017		
October 16, 2017		
October 17, 2017		
October 18, 2017		
October 19, 2017		
October 20, 2017		
October 21, 2017		
October 22, 2017		
October 23, 2017	Confidential/PII	
October 24, 2017		
October 25, 2017		
October 26, 2017		
October 27, 2017		
October 28, 2017		
October 29, 2017		
October 30, 2017		
October 31, 2017		
November 8, 2017		
November 13, 2017		
November 13, 2017		
November 13, 2017		
November 20, 2017		
November 22, 2017		
November 22, 2017		
December 5, 2017		
December 5, 2017		
December 5, 2017		
December 5, 2017		
December 5, 2017		

December 7, 2017	Confidential/PII	
December 7, 2017		
December 11, 2017		
December 11, 2017		
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January 30, 2018		
January 30, 2018		
January 30, 2018		
February 12, 2018		
February 21, 2018		
February 21, 2018	Confidential/PII	
February 21, 2018		
February 21, 2018		
February 21, 2018		
February 28, 2018		
March 1, 2018		
March 1, 2018		
April 9, 2018		
May 10, 2018		
May 21, 2018		
May 31, 2018		

June 6, 2018	Confidential/PII		Confidential/PII	
June 6, 2018				
June 12, 2018				
June 12, 2018				
June 18, 2018				
June 22, 2018				
June 22, 2018				
June 22, 2018				
June 25, 2018				
June 27, 2018				
July 2, 2018				
July 6, 2018				
July 10, 2018				

Country of Birth	CIS Location
Jamaica	Confidential/PII
Liberia	Johnston, RI
Dominican Republic	Johnston, RI
Cape Verde	Johnston, RI
Guatemala	Boston, MA
Dominican Republic	Boston, MA
Guatemala	Confidential/PII
Ghana	Lawrence, MA
Dominican Republic	Johnston, RI
Brazil	Lawrence, MA
El Salvador	Lawrence, MA
Colombia	Lawrence, MA
Dominican Republic	Lawrence, MA
China	Lawrence, MA
Uganda	Lawrence, MA
Uganda	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Kenya	Lawrence, MA
Cambodia	Lawrence, MA
Brazil	Lawrence, MA
El Salvador	Lawrence, MA
El Salvador	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
El Salvador	Lawrence, MA
Brazil	Lawrence, MA
Dominican Republic	Lawrence, MA
Dominican Republic	Lawrence, MA
Ivory Coast	Lawrence, MA
Brazil	Lawrence, MA
El Salvador	Lawrence, MA
Dominican Republic	Lawrence, MA
Cambodia	Lawrence, MA
Dominican Republic	Johnston, RI
Guatemala	Confidential/PII
Germany	Lawrence, MA
Guatemala	Johnston, RI
El Salvador	Lawrence, MA
El Salvador	Lawrence, MA
Uganda	Lawrence, MA
El Salvador	Lawrence, MA
Kenya	Lawrence, MA
Colombia	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA

Brazil	Lawrence, MA
Brazil	Lawrence, MA
El Salvador	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Dominican Republic	Lawrence, MA
Mexico	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
Brazil	Lawrence, MA
China	Lawrence, MA
El Salvador	Lawrence, MA
Brazil	Lawrence, MA
El Salvador	Johnston, RI
Guatemala	Johnston, RI
Mexico	Johnston, RI
Liberia	Johnston, RI
Brazil	Boston, MA
Guatemala	Boston, MA
Mexico	Boston, MA
Brazil	Boston, MA
El Salvador	Boston, MA
Tanzania	Boston, MA
Dominican Republic	Boston, MA
El Salvador	Boston, MA
Guatemala	Boston, MA
Brazil	Boston, MA
Brazil	Boston, MA
Brazil	Boston, MA
Brazil	Boston, MA
Mexico	Confidential/PII
Guatemala	
Mexico	
Guatemala	
Guatemala	
Morocco	Johnston, RI
Brazil	Johnston, RI
Guatemala	Johnston, RI
Guatemala	Confidential/PII
Russia	Johnston, RI
Democratic Republic of Congo	Johnston, RI
Brazil	Confidential/PII

El Salvador	Confidential/PII
Liberia	Johnston, RI
Dominican Republic	Johnston, RI
Dominican Republic	Johnston, RI
Brazil	Boston, MA
United Kingdom & Nigeria	Johnston, RI
United Kingdom	Johnston, RI
United Kingdom	Johnston, RI
El Salvador	Boston, MA
Brazil	Lawrence, MA
China	Boston, MA
Brazil	Confidential/PII
Vietnam	Boston, MA

Location of Arrest (CIS Office, Residence, Traffic Stop)
Place of employment
CIS Office
N/A
N/A
N/A
N/A
NA
N/A
N/A
N/A
CIS Office
CIS Office
CIS Office
CIS Office
CIS Office
N/A
N/A
N/A
N/A
N/A
CIS Office
N/A
CIS Office
CIS Office
N/A
N/A
N/A
N/A
N/A
N/A
N/A
CIS Office
N/A
N/A
N/A
Residence
NA
CIS Office
ERO Office, subject called-in.
CIS Office
CIS Office Lawrence
CIS Office Lawrence
NA
NA
CIS Office Lawrence
CIS Office Lawrence
CIS Office Lawrence

NA
CIS Office Lawrence
CIS Office Lawrence
NA
NA
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NA
NA
NA
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NA
NA
NA
NA
NA
CIS Office Lawrence
CIS Office Lawrence
CIS Office Lawrence
NA
NA
CIS Office
CIS Office
NA
N/A
N/A
N/A
JFK Fed Bldg, Outside of CIS
N/A
JFK Fed Bldg, Outside of CIS
N/A
N/A
JFK FED BLD, Outside of CIS
JFK Fed Bldg, Outside of CIS
JFK Fed Bldg, Outside of CIS
N/A
N/A
NA
NA
NA
NA
NA
Residence
N/A
ERO Office, subject called-in.
NA
N/A
N/A
NA

NA
NA
N/A
NA
N/A
N/A
N/A
N/A
N/A
NA
N/A
NA
N/A

Action Taken and Date
Arrested 1/24/18
Arrest, 07/31/2017
None
None by ERO. LES [REDACTED]
None
None
None: Confidential/PII [REDACTED]
None
None
Fugitive Operation Worksheet prepared 3/30/18
Arrest 1/23/18
Arrest 12/5/17
Arrest 1/18/18
Arrest 1/30/18
Arrest 11/22/17
None
None
None
None
None
Arrest 12/8/17
None
Arrest 11/22/17
Arrest 12/21/17
None
None
None
None
None
None
None
Arrest 1/9/18
None
None
None
Arrest, 11/16/2017
Arrested 4/20/18
Arrest 11/13/17
Arrested 4/27/18, I-871 issued
Arrest 11/20/17
Arrested 11/22/17
Arrested 11/22/17
None
None PFR pending
Arrested 12/5/17
Arrested 12/8/17
Arrested 12/8/17

None-No show
Arrested 12/21/17
Arrested 1/23/18
No action taken at CIS interview but later arrested 1/8/18 in Seabrook, NH
None
None
None
None
None
None
None
None
None
None
Arrested 1/9/18
Arrested 1/30/18
Arrested 1/11/18
None
Reported to ERO, 1/17/2018
Arrest, 1/17/2018
OSUP, 1/17/2018
None
None
None
None
Arrested 1/30/18
None
Arrested 1/30/18
None
None
Arrested 1/31/18
Arrested 1/31/18
Arrested 1/31/18
None
None
None-Confidential/PII
Confidential/PII
None-Confidential/PII
CIS issued NTA 4/3/18-no ICE action
None-Confidential/PII
Arrest, 2/8/2018
No further action
Arrested 6/6/18, I-871 issued.
CIS issued NTA 4/13/18-no ICE action
No Action/unable to obtain Travel document
No action-Confidential/PII
None-Confidential/PII

None- Confidential/PII
None
None
None
None
None
None
None
None
None
None
None
None-Alien no show for interview
None
None- Confidential/PII
None

Criminal/Non-Criminal Status
Criminal
Criminal
Criminal
Non-Criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Possible criminal alien
Non-criminal
Non-criminal with pending criminal cases
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-Criminal
Non-criminal
Non-criminal
Non-Criminal
Non-criminal
Criminal
Non-criminal
Non-criminal
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Non-criminal
Non-criminal
Non-criminal
Criminal
Non-criminal
Non-criminal
Non-criminal
Criminal
Non crim
Non-Criminal
Non-criminal
Criminal
Pending Murder 1
Non-criminal

Non-criminal
Criminal
Criminal
Criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Non-criminal
Criminal
Non-criminal
Non-criminal
Criminal

Immigration Status (WD, ER, Re-entry, etc.)
Confidential/PII [REDACTED] Confidential/PII [REDACTED]
WD
LPR
Overstay, I-485 pending.
WD
WD
Confidential/PII [REDACTED]
WD
LPR
WD
WD
WD
WD
WD
WD
WD
WD
In proceedings-relief granted 6/19/18
WD
WD
WD
WD
WD
Admin closed by IJ on 10/21/16
WD
WD
Re-entry
Admin closed by IJ 6/7/17
WD
In proceedings-next hearing 7/18/18
Re-entry
WD
WD
WD
WD
WD
WD
NTA
In proceedings-re-entry
WD
WD, re-entry
WD
WD
VD
WD
WD
MTR granted- case re-opened
MTR granted- case re-opened
WD

Re-entry
MTR granted- case re-opened
MTR granted- case re-opened
WD
WD
Re-entry
WD
WD
Re-entry
WD
WD
WD
WD
WD
WD
WD
WD
WD
WD
Expedited Removal
WD
WD
WD
WD
Re-entry
Re-entry
WD
WD
WD
WD
Re-entry
WD
WD
WD
WD
WD
Confidential/PII
In proceedings-re-entry
Confidential/PII
NTA
EWI
WD, re-entry.
In proceedings -re-entry
WD
Refugee
Confidential/PII

Confidential/PII	
Confidential/PII	
LPR	
LPR	
WD	
Visitor overstay/Petition withdrawn	
Visa waiver overstay/Petition withdrawn	
Visa waiver overstay/Petition withdrawn	
WD	
In proceedings	
WD	
Confidential/PII	
WD	

Custody Status at Time of Arrest (Detained, OREC, OSUP, Bond)
Detained
Detained
N/A
N/A
N/A
N/A
Non-detained
N/A
N/A
N/A
Detained
Detained
Detained
OSUP
Detained
N/A
N/A
N/A
N/A
N/A
Detained
N/A
Detained
Detained
N/A
N/A
N/A
N/A
N/A
N/A
Detained
N/A
N/A
N/A
Detained
OREC
OSUP
OSUP
Detained
Detained
Detained
NA
NA
Detained
Detained
Detained

NA
Detained
Detained
Detained
NA
NA
NA
NA
NA
NA
NA
NA
NA
NA
WD
OSUP
Detained
NA
Call in
Detained
Confidential/PII
N/A
N/A
N/A
N/A
Detained
N/A
Detained
N/A
N/A
Detained
Detained
Detained
N/A
N/A
NA
NA
NA
NA
NA
Detained
N/A
OSUP
Not arrested by ERO
N/A
N/A
Non-detained

Non-detained
LES [REDACTED]
N/A
LES [REDACTED]
N/A
N/A
N/A
N/A
N/A
NA
N/A
NA
N/A

Current Custody Status (Detained, OREC, OSUP, Bond)	Removed (Y/N)
Detained	N
Removed 3/12/18	Y
Non-detained	N
Non-detained	N
N/A	N
N/A	N
Non-detained	N
N/A	N
Non-detained	N
N/A	N
OSUP	N
Bond	N
Removed	Y
OSUP	N
Removed	Y
N/A	N
N/A	N
N/A	N
OSUP	N
OSUP	N
Bond	N
N/A	N
Removed	Y
Bond	N
N/A	N
N/A	N
N/A	N
N/A	N
N/A	N
N/A	N
N/A	N
N/A	N
ATD-GPS	N
N/A	N
N/A	N
OSUP	N
Removed	Y
OREC	N
OSUP	N
Non-detained	N
OSUP	N
Removed	N
Removed	Y
Non-detained	N
OUSP	N
Bond	N
Bond	N
Bond	Y

Non-detained	N
Bond	N
Bond	N
OSUP	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
OSUP	N
OSUP	N
Bond	N
Non-detained	N
OSUP	N
OSUP	N
OSUP	N
N/A	N
N/A	N
N/A	N
N/A	N
ATD	N
N/A	N
ATD	N
OSUP	Scheduled self-deport 6/28/18
N/A	N
Prosecuted for 1326, released by Judge Dein at Detention Hearing	N
Removed	Y
Bond	N
N/A	N
N/A	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Removed	Y
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N

Non-detained	N
Non-detained	N
Non-detained	N
Non-detained	N
N/A	N
N/A	N
N/A	N
N/A	N
N/A	N
Non-detained	N
N/A	N
Non-detained	N
OSUP	N