UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Arizona Dream Act Coalition, et al., Plaintiffs, vs. Brewer, et al., Defendants.	No. 2:12-cv-02546-DGC **EXPERT REPORT AND DECLARATION OF BO COOPER**

I, Bo Cooper, declare as follows:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

I. Qualifications

1. I served as the General Counsel of the Immigration and Naturalization Service (INS) from 1999 until 2003. As General Counsel, I directed a legal program of approximately 700 attorneys in 56 offices around the country. I was responsible for advising the Commissioner of the INS, the Attorney General, the White House, other Executive Branch agencies, and Congress on all aspects of U.S. immigration law. Before becoming General Counsel, I served in a number of other capacities in the Office of the General Counsel, beginning in 1991. I have also taught courses on immigration and nationality law, asylum and refugee law, immigration and national security, and advanced immigration enforcement issues. I have been a Public Service/Public Interest Fellow and Adjunct Faculty member at the University of Michigan Law School; an Adjunct Faculty member at the Georgetown Law Center; and a Fellow in Law and Government and Adjunct Faculty member at the

Washington College of Law at American University. My CV is attached as Exhibit A.

2. During my tenure as General Counsel, I served under Presidents Bill Clinton and George W. Bush.

3. I now practice immigration law in the Washington, D.C. office of the law firm of Fragomen, Del Rey, Bernsen & Loewy, LLP. I specialize in immigration law and policy matters and am the Managing Partner of the Firm's Government Strategies and Compliance practice.

4. While in private practice, I have continued to be involved in issues surrounding immigration enforcement, prosecutorial discretion, and the respective roles of the federal and state governments in immigration matters. For example, I served on the Task Force on Secure Communities, a subcommittee of the Homeland Security Advisory Council. This Task Force was established in June 2011 at the request of the Secretary of Homeland Security. The Homeland Security Advisory Council, which is composed of leaders from state and local government, first responder agencies, the private sector, and academia, provides advice and recommendations to the Secretary on matters related to homeland security. As another example, the advanced immigration course I currently teach at the Washington College of Law at American University has a particular focus on prosecutorial discretion, the interactions between the federal government and state and local governments in immigration matters, and the circumstances in which an alien may lack a formal immigration status yet still be authorized to be present in the United States.

5. I am making this declaration to provide my considered opinions concerning certain aspects of the relationship between the federal immigration system and Arizona Executive Order 2012-06.

6. As a basis for this opinion, I have studied the Deferred Action for Childhood Arrivals ("DACA") program initiated by the federal government on June 15, 2012. Under the DACA program, immigrants who were brought to the United States before the age of 16 and meet other criteria may

apply to receive a two-year renewable grant of deferred action during which they retain permission to remain in the country. *See* Janet Napolitano, Memorandum on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, June 15, 2012. Immigrants granted deferred action under DACA may apply for work authorization. *See* 8 C.F.R. § 274a.12(c)(14).

7. I have also reviewed Arizona Executive Order 2012-06, related provisions of the Arizona code governing the issuance of driver's licenses—namely, Arizona Revised Statutes §§ 28-3153(D), 28-3158(C), 28-3165(F)—and related policies of the Arizona Motor Vehicles Department ("MVD").

8. Arizona Revised Statutes § 28-3153(D) provides that "[n]otwithstanding any other law, the [Arizona Department of Transportation] shall not issue to or renew a driver license or nonoperating identification license for a person who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law." Executive Order 2012-06 provides that "[t]he issuance of Deferred Action or Deferred Action USCIS employment authorization documents to unlawfully present aliens does not confer upon them any lawful or authorized status," and thus may not be used to obtain a driver's license. MVD Policy 16.1.4 (Revised September 18, 2012) provides that, although applicants generally may use an employment authorization document to show authorized presence in order to obtain a license, "[a] customer presenting a USCIS Employment Authorization Document . . . resulting from a Deferred Action Childhood Arrival is not acceptable" for this purpose.

II. Opinions

9. This declaration addresses three principal ways in which Arizona's driver's license policy conflicts with the federal government's classification of noncitizens and interferes with the

federal government's treatment of deferred action grantees. First, Arizona has confused the granting of formal immigration status (such as admission to the United States pursuant to an immigrant or nonimmigrant visa) with authorization from DHS to be present in the United States for a specified time. From the federal government's perspective, although deferred action grantees may lack a formal immigration status, they are nonetheless legally authorized to remain in the country for the period of the grant as a matter of prosecutorial discretion. Arizona's contrary definition of authorized presence for the purposes of implementing Executive Order 2012-16 contradicts the treatment of deferred action recipients under the federal immigration system.

10. Second, by establishing a policy that excludes only DACA recipients from receiving driver's licenses, while continuing to grant driver's licenses to all other deferred action grantees, Arizona has created its own immigration classification that is inconsistent with the federal definition. Under the federal immigration system, all recipients of deferred action are authorized to remain in the country during the period of the grant regardless of the grounds for deferred action.

11. Third, Arizona's misclassification undermines federal goals underlying the exercise of prosecutorial discretion. Allowing a state to pick and choose which deferred action recipients it deems authorized by federal law or lawfully present in the United States would significantly undermine the federal government's purpose in authorizing particular individuals to remain in the United States through deferred action when the federal government, in the exercise of its prosecutorial discretion, deems it appropriate.

Prosecutorial Discretion and Deferred Action

12. As in many other areas of the legal system, prosecutorial discretion is fundamental to federal immigration law and is exercised at every stage of the enforcement process. DHS must determine which leads to investigate, which individuals to arrest or detain, which persons to release on bond, which cases to pursue for removal hearings or criminal prosecution, which removal orders to

execute, and which noncitizens to permit to remain in the country. The discretion to make these decisions is critical to the allocation of limited resources available to the agency. Discretion in the enforcement of the immigration laws is also necessary to enable the agency to respond to changing circumstances and balance numerous federal policy goals, including humanitarian and foreign policy concerns.

13. Shifts in enforcement priorities may emerge from within the agency as it reconsiders primary objectives or shifts may arise from external pressures from Congress or domestic and international concerns. In either case, the federal government requires flexibility to adjust core policy choices as circumstances change. For example, the current administration has prioritized the prosecution and removal of immigrants who have committed serious crimes.

14. The source, scope, and appropriate exercise of prosecutorial discretion were a particular focus during my tenure as General Counsel of the INS. This particular focus arose out of changes that Congress made to the Immigration and Nationality Act in 1996. The effect of those changes was to expand significantly the circumstances under which an alien would be treated as inadmissible to or removable from the United States, and to limit significantly the authority that immigration judges previously were given by statute to provide relief from removal in the course of removal proceedings. As a result, many aliens who had not previously been removable became removable, often for very old or low-level offenses, and in circumstances that might have justified relief from removal in immigration court under the authority that was previously available to immigration judges but had been withdrawn or curtailed by the 1996 amendments.

15. Many such cases received widespread attention in the national media, and a significant number of congressional representatives of both parties, including some of the key proponents of the 1996 amendments, wrote to the Department of Justice and the INS expressing concern that the agency was pursuing removal under the amendments of persons who, though in fact removable under the law,

were removable for reasons that raised relatively minor law enforcement imperatives, and who faced unnecessary hardship as a result of removal. These members of Congress expressed concern that the agency had not exercised its prosecutorial discretion more widely in such situations, and why it had not focused instead on "other more serious cases." Finally, they asked that the agency "develop and implement guidelines for INS prosecutorial discretion in a fair and expeditious manner." *See* Letter of November 4, 1999 from Members of Congress to Attorney General Janet Reno and INS Commissioner Doris Meissner, available at http://www.immigrationpolicy.org/sites/default/files/docs/Hyde%20letter%20to%20Reno%20and%20Meissner%201999.pdf]

16. In the months that followed, my office prepared a detailed analysis of the legal basis upon which, and the extent to which, the federal immigration authorities could exercise prosecutorial discretion in its enforcement activities, including through deferred action. I issued a memorandum to the INS Commissioner presenting that analysis in June, 2000. That analysis became the basis of one of several agency memoranda that have set forth guidelines for various forms of prosecutorial discretion, including deferred action. *See* Memorandum from Doris Meissner, Commissioner of Immigration and Naturalization Service, on Exercising Prosecutorial Discretion at 2 (Nov. 17, 2000); Memorandum from John Morton, Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens, U.S. Immigration and Customs Enforcement, 1-2, 4 (2011). These memoranda make clear that the agency's prosecutorial discretion decisions reflect the balancing of a complex set of factors. For example, the Meissner Memorandum discussed consideration of thirteen separate considerations: 1) immigration status, 2) length of residence in the United States, 3) criminal history, 4) humanitarian concerns, 5) immigration history, 6) likelihood of ultimately removing the alien, 7) likelihood of achieving enforcement goal by other means, 8) whether the alien is eligible or is likely to become

eligible for other relief, 9) effect of action on future admissibility, 10) current or past cooperation with law enforcement authorities, 11) honorable U.S. military service, 12) community attention, and 13) resources available to the agency.

17. Prosecutorial discretion may be exercised on a case-by-case basis. Or the government may explicitly delineate specific groups as low enforcement priorities, permitting members of those groups to request that the government refrain from seeking their removal. However this discretion is employed, its purpose is to help the federal immigration system meet its overarching goals and objectives.

18. Deferred action represents a more formalized exercise of prosecutorial discretion. The federal government has used deferred action for decades to decline to seek removal of persons deemed lower enforcement priority and to allow such persons to remain in the United States. Like other forms of prosecutorial discretion, a grant of deferred action is a discretionary determination to be made by DHS.

19. As a functional matter, the federal government typically provides deferred action to two types of applicants: (1) those seeking deferred action based on strong humanitarian or sympathetic factors combined with being a low priority for enforcement, and (2) those seeking deferred action based on their status as an important witness in an investigation or prosecution. Deferred action determinations are made on an individualized basis, but DHS has on previous occasions, prior to the DACA program, set out more generalized criteria upon which individualized decisions may be made.

20. The DACA program is an example of deferred action granted on the basis of compelling humanitarian factors. DACA candidates must submit a formal application, pass a background check and have their case individually reviewed by DHS officers. Successful applicants then receive formal documentation indicating that they have been granted deferred action under

DACA. The grant of deferred action means that during the two-year renewable period of the grant, DHS will no longer take action to remove individuals who would otherwise be removable. Moreover, pursuant to regulation, deferred action grantees are eligible for employment authorization upon a showing of economic necessity. *See* 8 C.F.R. § 274a.12(c)(14).

21. The introduction of the DACA program reflects a core policy judgment by the federal government that immigrants who were brought to the country at a young age, attended school, and meet other carefully selected criteria should be permitted to live and work in the United States during the period of the deferred action grant without fear of removal. The federal government has decided that it makes little sense to allocate resources to remove these noncitizens given their strong cultural ties to the United States. In doing so, the federal government has made a determination consistent with similar humanitarian considerations reflected throughout the federal immigration system, and consistent with its enforcement resources and priorities.

22. The type of deferred action granted under the DACA program is functionally the same as that provided to all other recipients of deferred action for immigration purposes. For all such grantees, deferred action means that the federal government has granted the individual permission and authorization to remain the United States. All recipients are eligible to apply for employment authorization and, if it is granted, obtain a Social Security Number. All deferred action recipients are present in the United States with the full knowledge and authorization of the federal government under the legal authority of the deferred action grant.

Although They Lack a Formal Immigration Status, Deferred Action Recipients Are "Authorized" to be in the United States

23. In concluding that DACA grantees may not receive driver's licenses, Arizona Executive Order 2012-06 relies upon provisions of Arizona law requiring that an applicant's "presence in the United States [be] authorized under federal law" before a license can be issued.

A.R.S. § 28-3153(D). The Executive Order states: "The issuance of Deferred Action or Deferred Action USCIS employment authorization documents to unlawfully present aliens does not confer upon them any lawful or authorized status and does not entitle them to any additional public benefit."

24. These statements of law and policy misapprehend the nature of deferred action. The grant of deferred action itself provides the necessary legal authorization to be in the United States. In concluding that deferred action recipients are not authorized to be in the country, Arizona appears to have confused a lack of formal immigration status with unauthorized presence.

25. The Arizona Executive Order correctly states that deferred action does not confer any formal immigration status. But a lack of formal immigration status does not mean that a noncitizen's presence in the United States is not authorized. The federal immigration system has long treated authorized presence and formal immigration status as distinct. The phrase "immigration status" is generally understood in federal immigration practice to refer to a specific set of federal immigration classifications for those admitted as "non-immigrants," or temporarily for certain purposes set out by statute; those admitted as "immigrants," or permanent residents; and other limited classifications established by federal law, like temporary protected status.

26. The distinction between lawful presence and formal immigration status is not restricted to cases of deferred action. There are many situations in which individuals are permitted to remain in the country without formal immigration status. For example, people with pending applications for asylum or adjustment of status may be authorized by DHS to remain in the United States and granted employment authorization although they lack status. The same is true of certain survivors of domestic violence who have filed petitions under the Violence Against Women Act. And individuals released from indefinite detention in accordance with *Zadvydas* v. *Davis,* 533 U.S. 678 (2001), and *Clark* v. *Martinez,* 543 U.S. 371 (2005), have no formal status under federal immigration law, but are entitled as a matter of constitutional right to remain undetained in the United States. Other individuals may

obtain deferral or withholding of removal in accordance with the Convention Against Torture, though such deferral does not confer a formal immigration status under federal immigration law.

27. Similarly, although deferred action does not provide formal immigration status, it is, by definition, a grant of permission by the federal government to remain in the United States for a given period. From the agency's perspective, approved deferred action represents *per se* legal authorization to be present in the United States. In practice, the agency uses deferred action as a mechanism to provide authorization to remain in the country to those who would otherwise be removable.

28. For instance, an undocumented immigrant whose testimony is required for the prosecution of a criminal trial might be approved for a one-year period of deferred action. Though the noncitizen has no lawful immigration status, the grant of deferred action authorizes his presence for the given period and serves to facilitate the government's prosecution of the crime. As a further example, in 2005, DHS made deferred action available to foreign students adversely affected by Hurricane Katrina. This program was intended, for humanitarian reasons, to extend legal authorization to students who faced obstacles to maintaining their nonimmigrant status as a result of the storm.

29. Numerous provisions of federal law reflect that deferred action constitutes authorization to remain in the country. In particular, deferred action is treated as a period of "stay authorized by the Attorney General" for the purposes of determining whether a noncitizen who leaves the country is barred from reentry under 8 U.S.C. § 1182(9)(B). The so-called three-and-ten year bars on reentry are triggered when a noncitizen is "unlawfully present" in the United States for certain periods of time. However, a noncitizen granted deferred action is deemed "authorized" to be in the country, and thus does not accumulate any "unlawful presence" during the period of the grant. In other contexts, such as eligibility to receive Social Security benefits, recipients of deferred action are similarly considered "lawfully present in the United States" under 8 U.S.C. § 1611(b)(2). *See* 8 C.F.R. § 1.3(a)(4)(iv).

30. Moreover, in addressing driver's license eligibility, Congress expressly provided, in the REAL ID Act, that "approved deferred action status" constitutes "a period of . . . authorized stay in the United States" for the purpose of obtaining a driver's license. 49 U.S.C. § 30301 note, Sec. 202(c)(2)(C)(i)-(ii).

31. No single federal classification can encompass every individual authorized to remain in the country without a formal immigration status. But as a functional matter, deferred action represents a clear example of a means by which DHS may authorize presence of a person who lacks a valid immigration status.

32. The federal government has classified DACA recipients as not "lawfully present" in one narrow situation: the administration of the Affordable Care Act and certain optional CHIP/Medicaid programs. *See* 4 C.F.R. § 152.2. This determination was a specific policy decision regarding DACA recipients' access to certain health programs. Although DACA recipients are not eligible for the specified health programs, from an immigration perspective DHS has nonetheless authorized them to be present in the United States.

Arizona's Treatment of DACA Grantees as "Unauthorized" Is Inconsistent with Deferred Action

33. As detailed above, DHS may grant deferred action to specific individuals for a variety of reasons, including humanitarian factors, cooperation in ongoing investigations, or membership in a designated group. The length of deferred action may vary for individual grantees as well, based on such factors as the likelihood (or unlikelihood) of gaining or regaining lawful status at the end of the given time period. Nevertheless, from a federal immigration law perspective, all recipients of deferred action are treated identically in terms of their permission to be in the United States. Every deferred action grantee is eligible to apply for work authorization and, if granted, a Social Security Number. Once an individual has been approved for deferred action, DHS does not differentiate

authorized presence from grantee to grantee or class to class.

34. In contrast to the federal immigration system, Arizona's laws and policies seek to carve out DACA recipients as a subset of deferred action grantees uniquely ineligible to receive driver's licenses, based on its erroneous conclusion that they are not authorized by federal law remain in the United States. Arizona's approach is contrary to the treatment of deferred action recipients in the federal immigration system. Therefore, Arizona appears to have created an exclusive definition of authorized presence, under which all recipients of deferred action except DACA grantees are authorized to be present in the United States. This non-uniform treatment does not comport with the federal immigration system, which treats all deferred action recipients as having authorization to remain in the country.

Arizona's Treatment of DACA Grantees Interferes with the Federal Government's Exercise of Prosecutorial Discretion

35. Arizona's effort to characterize DACA recipients as unauthorized interferes with the core federal structure underlying DHS prosecutorial discretion. A single, coordinated federal approach is necessary to balance the numerous, competing policy concerns and limited resources involved in regulating immigration and administering the immigration laws. Arizona's withholding of driver's licenses frustrates the federal government's policy choice that, for the period of the grant, recipients of deferred action be permitted to live and work in the United States. In announcing the DACA program, the Executive Branch expressed a clear intent that DACA beneficiaries be permitted to remain in the United States so that they can continue to have the opportunity to contribute to society through work, entrepreneurship, education, and public service. Arizona's denial of driver's licenses directly frustrates these objectives.

36. The exercise of prosecutorial discretion through deferred action involves a broad range of practical policy considerations. Certainly there are policy arguments both for and against

designating a broad class of childhood arrivals who may be eligible for deferred action. But it is essential to the construct underlying the federal immigration system that the policy debate around which noncitizens should be granted deferred action be resolved at the federal level and applied using a uniform definition of authorized presence.

37. The alternative would be to permit every federal judgment on prosecutorial discretion to become dependent on ratification by lawmakers in each individual state. This would frustrate Congress's intent that the Executive Branch be entrusted with discretion to enforce and implement the immigration laws. Because DHS's reasons for extending deferred action vary from case to case, that approach could overcome the federal government's ability to achieve its core objectives in granting deferred action. The underlying purpose of deferred action is to allow designated individuals to remain in the country even without a formal immigration status and to allow beneficiaries according to selected criteria to remain in this country, and to be employed, for purposes deemed appropriate to the administration of the federal immigration laws. Permitting Arizona to reject certain deferred action recipients with federal authorization to be in the United States would allow a state policy of enforcement through attrition to trump the federal goal. This would undermine the federal government's discretion to determine whether a noncitizen should be removed or whether he or she should be allowed to remain. It would also frustrate the federal government's ability to address foreign policy, humanitarian, law enforcement, and other federal needs through grants of deferred action.

III. Compensation

38. I am not being compensated for my services on behalf of the Plaintiffs in this case.

IV. Prior Testimony

39. Listed below are the cases in which I have been retained as an expert since December, 2008, four years prior to the date of this report:

- *Friendly House v. Whiting*, Civil Action No. 10-1061 (D. Ariz. 2010).

40. I reserve the right to amend or supplement this report as appropriate upon receipt of additional information or documents.

41. I declare under penalty of perjury under the laws of the United States and the State of Arizona that the foregoing is my true and correct declaration.

Executed this 11th day of December 2012, at Washington D.C.

Bo Cooper

Exhibit A (attached): CV

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Experience

Partner, Fragomen, Del Rey, Bernsen, & Loewy, LLP, March 2012 to present
Managing Partner of the Firm's Government Strategies and Compliance Group. Provides strategic business immigration advice to companies, hospitals, research institutions, schools and universities. Specializes in representing clients before the United States Congress and the executive branch agencies and in helping clients maintain a strong immigration compliance profile.

Partner, Berry Appleman & Leiden LLP, 2009 to March 2012
Directed the Firm's Washington D.C. office.

Of Counsel and Partner-elect, Paul, Hastings, Janofsky & Walker, 2003 to 2009
Directed the Firm's Washington D.C. Immigration Practice.

General Counsel, United States Immigration and Naturalization Service, 1999 to 2003
Responsible, as the Federal Government's top immigration law specialist, for advising the Commissioner of the INS, the Attorney General of the United States, the White House, other Executive Branch agencies, and the Congress on all aspects of U.S. immigration law. Principal legal advisor to the INS, a 34,500-employee agency with an annual budget of over six billion dollars. Director of a legal program of approximately 700 attorneys in 56 offices around the nation who litigate on behalf of the U.S. Government in immigration removal proceedings. Two-time recipient of Commissioner's Exceptional Service Award, the agency's most prestigious annual award.

Agency representation included congressional testimony; negotiations with other national governments; participation as a U.S. delegate to United Nations and other international meetings; presentations in academic and other non-governmental settings; and television, radio, and print media appearances, including *the Newshour with Jim Lehrer*, *Sixty Minutes*, *Nightline*, *the Today Show*, *Good Morning America*, CNN, BBC Radio, CBC Radio, and National Public Radio's *All Things Considered.*

Previous positions: Deputy General Counsel, 1997-1999; Associate General Counsel and Chief of the Refugee and Asylum Law Division, 1993 to 1997; Assistant General Counsel, 1991 to 1993.

Trial Attorney, United States Department of Justice, Civil Division, Federal Programs Branch, 1988 to 1991
Defense of the United States and its agencies against constitutional and Administrative Procedures Act challenges to federal programs and policies across the Executive Branch. Litigation in federal courts nationwide, including lead counsel at evidentiary hearings, depositions, and trial and appellate level arguments.

Adjunct Faculty, Washington College of Law, American University, January 2012 to present

Adjunct Faculty, Fellow in Law and Government, Washington College of Law, American University, 2004 to 2005

Adjunct Faculty, Public Interest Fellow, University of Michigan Law School, 2003 to 2004

Adjunct Faculty, Georgetown University Law Center, 2002

Adjunct Faculty, Washington College of Law, American University, 1995 to 1999

Law Clerk to the Chief Justice, High Court of American Samoa, 1987 to 1988

Education

Tulane University School of Law
Juris Doctor, *cum laude*, May 1987. Senior Notes and Comments Editor, Tulane Law Review; Order of the Barristers; American Jurisprudence Book Awards in Advanced Constitutional Law and Complex Litigation.

University of Paris, Sorbonne
Superior Level Certificate, French Language and Civilization, May 1985.

Tulane University
Bachelor of Arts, *cum laude* with departmental honors in English Literature, May 1983.

Publications

"The Supreme Court Speaks Out On Immigration," Metropolitan Corporate Counsel Magazine, October 2012

Co-author, with Buffenstein, D., "Business Immigration Law & Practice" (two-volume treatise), American Immigration Lawyers Association, July 2011

"Immigration and National Security Law" in *National Security Law* (J.N. Moore, E. F. Turner, ed, 2005)

"The Immigration and Nationality Act" in *Major Acts of Congress* (Macmillan Reference USA, 2004)

"A New Approach to Law Enforcement and Protection Under the Victims of Trafficking and Violence Protection Act", 51 Emory L. J. 1041, 1047 (2002).

"Procedures for Expedited Removal and Asylum Screening under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996", 29 Conn. L. Rev. 1501 (1997).

Note, "Fair Use of Copyrighted Work Under Harper & Row Publishers, Inc. v. Nation Enterprises", 61 Tul. L. Rev. 415 (1986).

Testimony before the United States Congress and other Government or Intergovernmental Bodies

U.S House of Representatives Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement, testimony concerning "Safeguarding the Integrity of the Immigration Benefits Adjudication Process" (February 15, 2012).

U.S. House of Representatives Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement, testimony concerning "H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers" (March 31, 2011).

U.S. Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Citizenship, testimony concerning "U.S. Visa Policy: Competition for International Scholars, Scientists and Skilled Workers" (August 31, 2006).

U.S. House of Representatives Committee on the Judiciary, Subcommittee on Immigration and Claims, testimony on (1) United States implementation of protection articles of the United Nations Convention Against Torture and on (2) legislative proposal to enhance legal authorities to remove serious violators of human rights and of humanitarian law from the United States (September 28, 2000).

U.S. House of Representatives Committee on the Judiciary, testimony on legislative proposal to alter authority to present classified information in immigration proceedings (May 23, 2000).

U.S. House of Representatives Committee on the Judiciary, Subcommittee on Immigration and Claims, testimony on legislative proposal to alter authority to present classified information in immigration proceedings (February 10, 2000).

U.S. Senate Committee on Energy and Natural Resources, testimony on legislative proposal to address immigration and worker abuse problems in the Commonwealth of the Northern Mariana Islands (September 14, 1999).

U.S. House of Representatives Committee on the Judiciary, Subcommittee on Immigration and Claims, testimony on legislative proposals to revise the counterterrorism-related grounds of removal, sentencing for alien smuggling and harboring, and access to U.S. asylum system from Guam (May 19, 1999).

U.S. Commission on Civil Rights, "Briefing on Boundaries of Justice: Immigration Policies Post September 11th" (October 12, 2001).

Organization of American States, Inter-American Commission on Human Rights, testimony on asylum seekers, expedited removal, and detention (October 8, 1997).

Selected Speaking Engagements at Academic and Public Policy Symposia

AILA Annual Conference on Immigration Law, Speaker (multiple years, to present).

Global Personnel Alliance Conference, Speaker (multiple years to present).

The National Employment Law Institute Employment Law Briefing & Conference, Speaker (2009, 2010).

Practicing Law Institute's 42nd Annual Immigration & Naturalization Institute, Speaker (October 2009).

Center for Migration Studies Annual Conference, Keynote Speaker (March 2002).

Emory University School of Law, 2002 Randolph W. Thrower Symposium, *Immigration Law: Assessing New Immigration Enforcement Strategies and the Criminalization of Migration*, "New Protections for Victims of Trafficking under the Victims of Trafficking and Violence Protection Act of 2000" (February 2002).

Stetson University College of Law, 2000 Nichols Foundation *Prominent Speaker Series* Lecture (April 2000).

St. John's University, Latin American and Caribbean Studies Symposium, *Immigrants from Latin America and the Caribbean: Coping in New York City*, Keynote Speaker (October 2000).

German Marshall Fund of the United States of America Symposium, Potsdam, Germany, *Refugees, Human Rights, Nationality: Challenges of the 21st Century*, "Current Problems Related to Termination of Residence" (October 2000).

Center for International and European Law on Immigration and Asylum, Ninth Migration Policy Forum, Berlin, Germany, *Residence Rights of Students*, "A Perspective from United States Immigration Law" (June 2000).

Harvard Law School Criminal Justice Institute, *U.S. Immigration Policy at the Millennium*, "Human Rights Implications of U.S. Immigration Policy" (December 1999).

Center for International and European Law on Immigration and Asylum, Second Migration Policy Forum, Bonn, Germany, *Control of Illegal Immigration and Rules Governing Jurisdiction for Asylum Determination after the Schengen and Dublin Conventions*, "Safe Third Country Considerations in the United States" (March 1998).

United Nations High Commissioner for Refugees, Global Consultations on International Protection, Expert Roundtable (Consultations on interpretive developments in international refugee law: Membership of a Particular Social Group, Gender-Related Persecution, and Internal Relocation), San Remo, Italy (September 2001).

Selected International Negotiations and Other Meetings

Co-leader of United States Delegation negotiating with the Government of Canada a "Safe Third Country" agreement relating to allocation of asylum caseloads (Washington, D.C., 2002).

Member of United States Delegation negotiating agreements with the Governments of Laos, Cambodia, and Vietnam to permit immigration removals from the United States (Vientiane, Phnom Penh, and Hanoi, 2001-2002).

Member of United States Delegation to United Nations High Commissioner for Refugees Global Consultations Ministerial Meeting on the 1951 U.N. Convention relating to the Status of Refugees (Geneva, 2001).

Member of United States Delegation to the Four-Country Conference, a meeting among the Governments of Australia, Canada, the United Kingdom, and the United States to consider multilateral approaches to common migration issues (San Francisco, 1999, London, 2001, Sydney, 2002).

Member of United States Delegation to the Full Round of the Inter-Governmental Consultations on Asylum, Refugee, and Migration Policies in Europe, North America, and Australia (Washington D.C., 1996, Katoomba, 2001, Oxford, 2002).

Member of United States Delegation to the Inaugural Joint Session of the Inter-Governmental Consultations and the Asia-Pacific Consultations (Bangkok, 2001).

Member of United States Delegation to the European Union's Center for Information, Reflection, and Exchange on Asylum, including as lead representative at first session in which the United States was invited to participate (Brussels, 1996-1999).

Member of United States Delegation negotiating with the Government of Canada a "Safe Third Country" agreement relating to allocation of asylum caseloads (Washington D.C. and Ottawa, 1995).