

Question#:	1
Topic:	Other Criminal Activity
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In the San Diego, CA area in the 1990s, 12 miles of border fence was erected. Over a 25 year period, illegal crossings declined by 88%. In 1993, border fence was installed in El Paso, Texas; there was a decline in illegal crossings by 95% over a 22 year period. In Tucson, AZ in 2000, illegal traffic dropped 90% over 15 years. And in Yuma, AZ, illegal traffic dropped 95% over 4 years. However, a border wall is not practical for the entirety of the southern border. A 2,000 mile continuous wall cannot be built along our southern border, so a multi-pronged approach is necessary. A combination of border wall segments, a sufficient number of officers and agents, and technology are needed to create an effective border security apparatus.

Since we know a physical barrier works to slow illegal traffic, have you seen a reduction in other criminal activity, as an apparent result of border wall installations?

Response: Yes, CBP has seen a reduction in criminal activity specifically related to illegal drug smuggling by way of vehicle incursions. The ability to effectively conduct vehicular drug trafficking incursions has been greatly decreased, due to the increased number of barriers in place, impeding a rapid transportation method previously exploited in these areas. Additionally, while not necessarily reducing overall foot transport traffic (drugs carried/ walked across), they do force the groups to cross in areas without barriers, thereby increasing their crossing time (which increases USBP's ability to respond to the incursion), and force them to attempt more expensive and time-consuming means of smuggling.

Question#:	2
Topic:	UAS Pilot Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Can you explain how CBP's pilot program using small unmanned aircraft systems is fairing? Has it been effective so far, and how will it help going forward?

Response: The U.S. Border Patrol (USBP) strives to provide agents in the field the best tools and technology to safely and effectively perform the border security mission. Small Unmanned Aircraft Systems (SUAS) are an essential piece of technology that USBP has been working to implement for many years to increase situational awareness and officer safety. With the assistance of CBP partners and several other federal agencies, USBP has officially created a SUAS program of record. This milestone ensures SUAS procurement, training, logistics, maintenance support and funding throughout the life of the program. USBP has an approved Certificate of Authorization with the Federal Aviation Administration (FAA) to formally authorize and set the parameters for the use of SUAS platforms in support of the border security mission.

Additionally, USBP has drafted an Internal Operating Procedure (IOP) that will serve as the national guidance and approval for USBP sectors to begin operating SUAS in their respective area of operations. This IOP outlines the legal parameters, policies, procedures; regulations, program management and training requirements, as well as other high-level guidance sectors need to begin SUAS implementation. Each sector will be responsible for creating their own standard operating procedure (SOP) that outlines the exact process for airspace deconfliction and mission execution in that particular area of responsibility. As a result of a multi component work group established by the Commissioner in FY18, USBP was designated the CBP Executive Agent for SUAS. In that role, USBP is working to develop a CBP SUAS policy to be used by all CBP components to stand up their respective SUAS programs.

In FY18 and FY19, SUAS testing and evaluation was conducted to evaluate the operational suitability and effectiveness in various border environments. The results of this testing and evaluation were favorable, allowing for the continued pursuit of SUAS systems and ultimately the establishment of operational requirements. These requirements were validated and supported through the Alternatives Analysis process by Johns Hopkins Applied Physics Laboratory. Extensive market research was conducted, including many technology demonstrations, to identify SUAS systems that most closely meet USBP's operational requirements. Because of these demonstrations, USBP has procured an additional 100 SUAS platforms set for deployment to the Southwest Border in the second quarter of FY19, with additional procurements planned in FY19 and FY20. To support future acquisitions, USBP has collaborated with the Department of Homeland Security's Science and Technology Directorate (S&T) for evaluation of SUAS platforms

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through the Robotic Aircraft for Public Safety (RAPS) Program, as well as the Robotic Aircraft Sensor Program – Borders (RASP-B), both of which have produced useful capability and limitation data to support refining operational requirements. Additionally, USBP continues to support the CBP Silicon Valley Initiative, which also fosters the development of future technologies to support the border security mission.

USBP views SUAS technology as a force-multiplying enhancement to CBP’s border security operations, and recognizes the need for the internal and practical application of SUAS technology with Border Patrol agent end users. SUAS deployments will supplement current fixed technology and manned aircraft thereby reducing surveillance and situational awareness gaps. Further, ease of mobility and portability enable SUAS to be moved to high-risk areas, allowing agents to adapt to changing threats.

To date, USBP has successfully trained over 100 Border Patrol agents as SUAS Operators and has 109 SUAS platforms in inventory with an additional 100 platforms in the procurement process. USBP has effectively deployed SUAS on 334 sorties, for 304 flight hours that assisted in 211 apprehensions on the Southwest Border.

Question#:	3
Topic:	Staffing and Equipment
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What steps are you taking to sufficiently staff and equip Ports of Entry and Border Patrol stations to ensure our border is secure?

Response: CBP assesses threats through a risk-based strategy and multilayered security approach, and aligns resources (both human and technological) to meet its mission and ensure that threats are mitigated at the ports of entry (POE). CBP uses its staffing models, such as the Workload Staffing Model (WSM) and Agriculture Resource Allocation Model (AgRAM), to analyze and provide recommendations for increases and changes to CBP Officer and CBP Agriculture Specialist staffing requirements at the POEs. These are decision support tools that calculate recommended staffing levels for the POEs based on current and projected enforcement and facilitation workload, including recognizing emerging threats. In addition, the CBP Field Offices are canvassed on a regular basis for technology and equipment needs.

The U.S. Border Patrol is similarly working to develop a staffing model to determine Border Patrol Agent requirements between POEs. The Personnel Requirements Determination (PRD) initiative began as part of the congressional mandate. The intent and a primary deliverable of PRD is an interactive tool/model that provides decision support for USBP staffing requirements. To date, USBP has made considerable progress and the model/tool is on schedule for completion in September 2019.

CBP has taken the following additional steps to sufficiently staff and equip the U.S. Border Patrol and Office of Field Operations to ensure our border is secure:

- CBP requested funding for additional BPAs in 2018, 2019, and 2020 President's Budgets.
 - CBP requested funding to hire an additional 500 BPAs in FY2018, 750 BPAs in FY2019, and 750 BPAs in FY2020. The amounts requested included costs for both pay and non-pay expenses.
- CBP is working to hire additional CBPOs that Congress funded in FY 2019.
 - All CBPO academy training seats for FY19 were filled by June 30, 2019 and 15% of FY20 CBPO academy seats are currently filled.
 - This year, CBP is projecting to hire approximately 2,100 CBPOs. In comparison, last year CBP hired 1,274 CBPOs. That represents an estimated 65% increase in CBPO hiring. While that progress alone is

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significant, it is on top of the improvements made last year in FY18, which saw a 39% increase in CBPO hiring over FY17.

- CBP has made significant hiring process improvements and efficiencies to shorten time-to-hire and bring on qualified candidates more quickly.
 - Over the last four years, CBP has reviewed organizational hiring processes and implemented process improvements. These process improvements resulted in a 60 percent increase in total frontline hires between FY 2017 and FY 2018, nearly doubling the total number of BPA hires from 522 to 1,000, which resulted in the first net gain of BPAs in six years.
 - Recent efforts include increasing federal and contract nursing staff in FY 2018 to reduce processing time and improve applicant satisfaction. Additionally, HRM modified the current medical services contract to handle applicant surge capacity, and increased medical processing decisions by 100% per month (800 per month in FY18 to 1,600 per month in FY19). This increase in production will lead to reduced medical processing time for frontline hiring supporting the agency in meeting hiring goals.
 - In FY18, CBP also increased staff to improve applicant care during e-QIP initiation. Prior to the FY19 furlough, e-QIPs were being processed in real time and CBP anticipates real time e-QIP processing will be reached once again by then end of FY19.
 - *Computer Adaptive Testing (CAT)*: CBP launched BPA Computer Adaptive Testing (CAT) on February 15, 2019. To date, CAT has proven to be successful in reducing test taking time and enhancing test security. A CBPO CAT is under development with an expected FY 2020 launch.
 - The efforts below have contributed directly to CBP's recent success enabling CBP to recruit candidates predisposed for success and maximize the number of qualified candidates who successfully complete the hiring process.
 - *Fast Track Pilot*: Launched in spring 2019 to test the ability of qualified candidates to EOD in 120 days or less, this process was limited to a small number of applicants and driven by recruiter identification of applicants. The Fast Track process demonstrated the ability to hire in under 60 days. As a result of the Pilot, CBP:
 - Identified 1,366 leads (including BPAs and CBPOs);
 - Set 39 EODs total (including BPAs and CBPOs);
 - Set 31 Fast Track EODs in less than 90 days; and

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- Found that recruiter leads passed medical and suitability at the same or lower rates than the average for all applicants.
- *Veteran Hiring/Partnership with the Department of Defense (DoD):* CBP and DoD have a joint and vested interest in supporting employment efforts for transitioning military personnel and veterans. Building on the strong history of collaboration between DoD and CBP, this continued partnership will assist CBP in meeting critical frontline staffing objectives while offering veterans rewarding career opportunities. CBP is currently looking to expand engagement within the military community, specifically by strengthening relationships with the individual DoD components and veteran-oriented organizations. CBP is conducting a greater number of military hiring hubs and establishing additional permanent recruitment offices on military installations.
- *Digital Advertising and Social Media:* CBP continues to employ a robust digital media campaign that includes advertisements on popular sites such as Nascar.com, ESPN.com and Military.com, and an increased social media presence on Instagram, LinkedIn, YouTube, and Twitter. CBP is also launching the “Go Beyond” branding campaign, which is designed to distinguish the operational components and CBP as a premier law enforcement organization and an employer of choice. New brand creative assets were developed with the components to identify specific attributes to reinforce the core of their individual brands while building the larger brand narrative.
- *Recruiter Training:* CBP developed and implemented a five-day National Recruiter Course to establish training standards for recruiters and has trained over 1,400 recruiters from all three components. In addition, CBP is developing a recruiter accountability mechanism to track recruiter performance to promote quality customer service to applicants.
- *Applicant Care:* Research has demonstrated that there is a strong correlation between an applicant’s experience in the hiring process and their decision to accept a job or position. In benchmarking other organizations recruitment efforts designed to elevate the applicant experience, CBP has established an applicant care process focused on providing more touch points throughout the recruitment process. The applicant care model CBP uses employs dedicated recruiters, hiring specialists, and technology in order to allow candidates to have the necessary information readily available throughout the process. This effectively addresses the discouragement often experienced in long hiring processes, while also motivating candidates to continue in the great anticipation of joining such an elite organization as CBP.

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- Currently, the CBP Hiring Center is standing up a formal Contact Center for all applicants. The Contact Center is leveraging current technology and incorporating new technology to provide metrics and measures on applicant interaction and workload.
- *Events and Outreach:* In FY 2018, CBP participated in more than 3,000 recruitment events for the third year in a row. CBP's use of advanced data analytics to direct its recruitment efforts, deemed a best practice by OPM, has enabled the Agency to identify areas with low brand awareness and refocus recruitment efforts toward these gaps.
- *OFO Recruitment Strategy:* OFO has implemented a new recruitment strategy that is scalable, versatile, and national in scope. The OFO recruitment strategy requires an all-encompassing synchronized approach to attracting, recruiting, and retaining applicants for frontline CBP Officer positions. This integrated approach requires investment at all levels focused on prioritized and targeted geographic locations to yield high quality applicants and establish pipelines to accomplish current and future hiring goals.
 - The OFO recruitment strategy removed current field office recruiting quotas and completion rates allocated to individual field offices and eliminated conflicting priorities and competition for OFO recruitment resources. This strategy allows recruiters to focus collective efforts at the national level, while enabling rapid access to recruitment, marketing, branding, and retention incentives. Collaboration and integration between field offices has resulted in the ability to saturate areas where the CBP Officer brand was not previously marketed.
 - Based on field engagement and supported by empirical data from pipeline applicants, OFO identified four ideal applicant profiles: college students, military and veterans, state/local law enforcement officers, and the public. Strategic engagement of these applicants focus on colleges/universities, DoD installations, and developing partnerships with community stakeholders, resulting in partnerships that will continue to yield pipelines of future CBP Officer applicants.

Question#:	4
Topic:	DNA Collection
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In 2005, Congress passed the DNA Fingerprint Act authorizing the Attorney General to collect DNA from persons arrested, charged, or convicted under the authority of the United States, including foreign nationals. In 2009, the Attorney General directed all federal agencies to begin collecting DNA samples. Since 2010, the FBI, DEA, ATF, and the U.S Marshals Service have been collecting the requisite DNA samples. DHS was exempted in 2010 from the requirement regarding non-U.S. persons detained for administrative proceedings, but the Attorney General ordered DHS to implement DNA collection as expeditiously as possible. According to a whistleblower, years after the expiration of the waiver, DHS still has yet to routinely collect any type of DNA.

On November 20, I sent a letter to the Department asking about its compliance with the DNA Fingerprint Act that authorized the Attorney General to collect DNA from persons arrested, charged, or convicted including foreign nationals.

When can I expect an answer to my letter that was due December 3, 2018?

Response: DHS is working to draft a response to your letter.

Question: After more than 8 years since the directive, does CBP have a policy for routinely collecting DNA samples as is required by law? What does the policy require?

If there is no policy, when do you expect full compliance to DNA collection, as required by law?

Response: Pursuant to 34 U.S.C. § 40702, DNA may be collected “from individuals who are arrested, facing charges, or convicted or from non-United States persons who are detained under the authority of the United States.” 34 U.S.C. § 40702(a)(1)(A). The collection of DNA samples from non-United States persons, “may be limited to individuals from whom the agency collects fingerprints and may be subject to other limitations or exceptions approved by the Attorney General.” 28 C.F.R. § 28.12(b).

Currently, DHS’s requirement to collect DNA under section 40702 is exempted by the Attorney General. Specifically, in March 2010, DHS requested exemptions from the requirements of 28 C.F.R. Part 28, by letter to the Attorney General, based on the severe organizational, resource, and financial challenges that would strain the resources of the agency to perform its broader mission should it be required to widely collect DNA.

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CBP utilizes tools in the apprehension and identification of Border Security threats, such as the submission of fingerprints to DHS's Automated Biometric Identification System (IDENT), and is at the forefront of DHS innovation such as the expansion into facial recognition technology.

Question#:	5
Topic:	Fraudulent Family Units
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Department of Homeland Security argues that the Flores Agreement "has incited smugglers to place children into the hands of adult strangers so they can pose as families and be released from immigration custody after crossing the border, creating another safety issue for these children." Multiple reports to your staff corroborate this demonstrating that smugglers pair children with unrelated adults, posing as a "family member" for purposes of crossing the border. Earlier this year, a 13-year old girl and an unrelated male claiming to be her father who sought entry into the country, and were released as a family unit. Law enforcement later discovered the man had raped, assaulted, and abused her, despite being monitored with a GPS anklet. Smugglers and other bad actors understand doing so avoids detention and guarantees release into the interior.

What can you tell the Committee about the increase in smuggling activity, and the rise in the number of fraudulent family units crossing the border since the 2015 modification to Flores? By what percentage has that number increased?

Do you know how many family units apprehended by CBP did not consist of verified family members?

Response: Beginning April 19, 2018, the USBP system of record was updated to track the separation of family units and groups purporting to be family units. Therefore, official statistics of groups separated based on concerns about fraudulent claims to family unity are not available prior to that date. For the time period of 4/19/18 through 01/31/19, nearly 2,000 individuals undergoing processing as family units have been separated due to fraud (a lack of familial relationship or because the alleged child was 18 or older).

For CBP OFO, the table below indicates the number of separations due to fraudulent relationships since July 2018.

Fiscal Year and Month	Number of Separations due to Fraudulent Relationship
FY 18-10 (JUL)	0
FY 18-11 (AUG)	0
FY 18-12 (SEP)	2
FY 19-01 (OCT)	5
FY 19-02 (NOV)	3

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FY 19-03 (DEC)	1
FY 19-04 (JAN)	0

Question: How does CBP verify familial relationships? What restrictions do agents face when making determinations about family relationships?

Response: In assessing whether a familial relationship exists, CBP reviews the documentation presented, such as birth certificates and passports (if available), for the purported family unit to determine the relationship between various members.

- CBP may also contact the respective consulate to verify the documentation presented to ascertain if a family relationship exists.
- CBP will observe and document the interaction between the travelers to learn whether a family relationship exists.
- Per the CBP Transportation, Escort, Detention, and Search (TEDS) policy (implemented in 2015), CBP maintains family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern.

Question#:	6
Topic:	Military Assistance
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On April 4, 2018, President Trump issued a Presidential Memorandum directing the Secretary of Defense to support the Department of Homeland Security at the southern border with the use of the National Guard. On October 29, 2018, Secretary Mattis announced he would send 5,200 troops to the U.S.-Mexico border.

Prior administrations have also used military personnel to support border surges in the past. In 2006, President George W. Bush ordered 6,000 National Guard troops to the border as a part of Operation Jump Start. President Obama ordered 1,200 National Guard troops to the border as a part of Operation Phalanx. It is imperative that in these temporary surge periods CBP officers and agents have the temporary backup to effectively perform their law enforcement duties.

32 U.S.C. § 502 and 10 U.S.C. § 15 make clear that the military may be used to assist federal law enforcement agencies, as long as they don't engage in specific law enforcement activities such as arrests, detentions, and removals. That would require an act of Congress.

How is the military helping CBP, and why is that necessary during these surge periods?

Response: The Department of Defense (DoD) is providing support to CBP pursuant to the President's direction, including his April 4, 2018, Presidential Memorandum. This support has included: aviation for increased situational awareness and transport of CBP quick reaction forces; intelligence analysis; engineering (e.g., harden POEs, erect temporary barriers, and emplace concertina wire); communications support; vehicle maintenance; planning; medical (e.g., screening, triage, and treatment); facilities (e.g., temporary housing for CBP employees); protection of CBP personnel as they perform their Federal function at POEs; and loan of riot gear equipment (e.g., helmets with face shields, hand-held shields, and shin guards). Consistent with the Posse Comitatus Act, military personnel supporting law enforcement personnel are not directly participating in law enforcement activities.

The military's presence and support increase the effectiveness of CBP's border security operations, help free up Border Patrol agents to conduct law enforcement duties, and enhance situational awareness to stem the tide of illegal activity along the southern border of the United States

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This support is necessary because, as stated in the President's April 4 memorandum, the security of the United States is imperiled by a drastic surge of illegal activity on the southern border.

Question#:	28
Topic:	Waiver Authority
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	Senator Mike Lee
Committee:	JUDICIARY (SENATE)

Question: In order to effectively and expeditiously construct physical barriers and deploy other tactical infrastructure along the southern border, does the Department of Homeland Security require enhanced authority to waive legal restrictions and requirements, such as environmental assessment requirements? Put another way, is the waiver authority contained in section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act adequate for the kind of large-scale border security projects envisioned by President Trump, or is new waiver authority needed?

Response: The authorities set out in Section 102 of IIRIRA have and will continue to be instrumental to the construction of border infrastructure, which is critical to DHS and CBP's ability to achieve and maintain operational control of the border.

Question#:	29
Topic:	Combatting Drugs
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	Senator Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Would physical barriers along the border be useful tools - as part of an overarching border security strategy - in combatting the flow of fentanyl and other drugs into the United States?

Response: The ability to impede and deny illicit activity through the use of physical barriers is a central element to a layered border security approach with the goal of achieving Operational Control (OPCON).

The U.S. Border Patrol's role in CBP's border security mission is to gain, maintain, and expand operational control of the U.S. border between the Ports of Entry. OPCON of the border is achieved by applying three things:

1. Establishing *Situational Awareness* of the border area.
2. Developing the capability to *Impede and Deny* cross-border illicit activity.
3. Effectively deliver an appropriate *Law Enforcement Response and Resolution* to illicit activity.

When properly executed, these capabilities enable CBP to identify and interdict fentanyl, other dangerous drugs, and would-be illegal aliens from entering the U.S.

Over a great number of years, the USBP has learned that the most effective way to impede and deny illicit cross-border activity is through the use of border barriers. The USBP has continued to refine its modern border wall designs with complementary capabilities. Together, these capabilities create a border wall system. This system is anchored in an impedance and denial capability (wall), complimented by domain awareness in the form of sensors, enforcement cameras and lights, and access and mobility comprised of patrol, access and maintenance roads.

The Border Wall System keeps illicit activity contained to the immediate border area to allow for a more rapid and efficient law enforcement response. In 1992, the USBP initiated a strategy of impeding and denying illicit activities along key areas of the southern border. The strategy included a significant increase in the use of border barriers and while their design and use was relatively primitive when compared with what we have today, their impacts were significant.

Question#:	30
Topic:	Physical Barriers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	Senator Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Ultimately, if we are to obtain optimum operational control over the southern border, how much of the 1,954 mile border with Mexico should be covered by physical barriers?

Response: Completion of CBP's top 17 border wall priorities, in addition to the current barriers, would result in approximately 970 miles of primary border barrier along the Southwest border.

Question#:	7
Topic:	Child's Death
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: As you are aware, a seven-year-old girl from Guatemala died in Border Patrol custody on December 8, reportedly as a result of severe dehydration and septic shock. According to news reports, this young girl and her family were held in Border Patrol custody for more than eight hours before she stopped breathing and was transported to the hospital.

When did you become aware of this child's death?

Response: I first learned of the death on the morning of December 8, 2018. While the case is under review, the initial timeline of events in this tragic case demonstrates that agents did everything they could to help Jakelin once they were aware she was ill.

Question: Why did CBP fail to notify Congressional appropriators about this child's death within 24 hours after she died?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying our Congressional Oversight Committees, and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	8
Topic:	Medical Screenings
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: CBP has informed my staff that its agents screened 163 migrants, including 85 children, for medical distress between 9:15 PM and 10:00 PM on December 6, in the remote desert of New Mexico. Please describe these medical screenings. Did CBP agents conduct any examinations of the migrants to determine whether they were exhibiting symptoms of distress? If so, what observations did they make about this child upon initial screening? Did CBP agents rely exclusively on the migrants' self-identification of their own medical conditions? Did they rely on self-identification of medical conditions for any children in this group?

What training do Border Patrol agents receive in order to conduct these medical screenings? Are medical personnel available to conduct health screenings? What procedures does CBP have in place to ensure that such a large population of individuals can be accurately screened for medical distress in a 45-minute period of time?

Response: Initial field interviews, to include a verbal medical questionnaire, attempt to determine several things in order to set priorities for treatment, transportation, and processing. 1) If the person claims to be, or appears to be in medical distress; 2) If the person is an unaccompanied alien child; 3) If the person is part of a family unit; 4) If the person is traveling alone.

The medical screenings conducted in this area are a verbal question and answer covering whether or not the person is currently sick, has known allergies, is taking any medication and if they consider themselves to be in good health. Personnel are also visually assessing the person for alertness and whether or not they are acting appropriately. Personnel are also looking for any outward signs of trauma (visible cuts, bruises, etc.) or illness such as lesions, rashes or other indications.

Jakelin's father did not provide any immediate negative health information to the Border Patrol, and agents did not note any outward signs of distress or trauma. CBP personnel use the responses to the health-related questions and their observations of the person to prioritize them for further medical evaluation/treatment and transportation priority in remote locations.

USBP has approximately 1,300 nationally-certified EMTs and Paramedics within its workforce. This is a voluntary certification and training is paid for by CBP. In remote areas such as the location in question, there are no professional medical personnel available to conduct health screenings. As staff is available, medically trained agents are deployed to the field with emergency medical supplies to render as much aid as possible

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based on their level of training. Although all USBP agents are able to observe abnormal behavior as an indication of altered mental state, and indications of trauma or physical impairment, CBP does not have procedures nor the resources to ensure each large group or population can be screened by medical personnel for distress within 45 minutes.

Question#:	9
Topic:	Child Screening
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Reports indicate that the screening consisted solely of questions to the young girl's father in Spanish, who was asked to sign documentation of the screening in English - despite neither Spanish nor English being his primary language. Were the Border Patrol Agents that conducted the initial screening fluent in Spanish? What procedures does CBP have in place to screen non-Spanish/English speakers? What information does CBP rely on, other than the testimony of an accompanying adult, to screen children?

Response: Initial interviews in the field are conducted in the Spanish or English language, depending on the desire of the person in custody. All agents are trained to speak Spanish at the Border Patrol Academy.

There are no procedures in place for screening of non-English or Spanish speaking individuals in the field along remote areas of the border. The ability to conduct interviews in other languages beyond English and Spanish exists only at stations or processing centers which all have access to telephones and contract interpreters. CBP, including USBP, has a translation services contract that allows access to interpreters for a variety of languages.

CBP personnel use persons' responses to the initial health-related questions and their observations of the person to prioritize persons for further medical evaluation/treatment and transportation priority in remote locations.

Question#:	10
Topic:	Temperature Taken
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Did this child's initial medical screening on December 6 include an assessment of this child's body temperature? If so, what was her temperature? Was this child's temperature ever taken prior to 6:00 AM on December 7?

Response: Initial medical screening did not include body temperature, only verbal question and answer and observation. Temperature-taking capability was not immediately available. The first time her temperature was taken was when she was being evaluated and attended to by medically-trained agent personnel.

Question#:	11
Topic:	Dehydration
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Was this young girl exhibiting symptoms of dehydration when she turned herself in on the evening of December 6th?

Response: No negative health information was provided by the father and no outward signs of distress or trauma were noted.

Question: Did this child start to exhibit any symptoms of dehydration during the eight hours she was in Border Patrol custody prior to her?

Response: None were noted. The first indication of any illness was when the father notified agents she had vomited. This was just prior to the bus departing for the Lordsburg Station, with her father and others.

Question: Was this young girl provided with food and water upon arrival at the Border Patrol station?

Response: Water was immediately available to all persons in the group once they were taken into the sally port of the Antelope Wells Port of Entry.

Question#:	12
Topic:	EMT Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What training do Border Patrol agents receive in order to administer emergency medical treatment?

Response: USBP agents volunteer for medical training, which is funded by the agency. They currently have approximately 1300 volunteers who are trained as paramedics and EMTs. Agents that administer emergency medical treatment are nationally certified EMTs or Paramedics. Some agents are trained as First Responders, which allows for the most basic life-saving measures to be taken.

Question: Are medical personnel available at Antelope Wells sally port to administer emergency medical treatment?

Response: Antelope Wells is a small port of entry that operates only during the day. At the time this group surrendered to agents, the port of entry was not conducting operations.

Question#:	13
Topic:	Triage
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What procedures are in place to determine whether a sick individual should be flown directly to a hospital rather than transported via bus to a border station?

Response: The decision on how to transport a sick person to medical care is made based on the totality of the circumstances in each case. The level of distress, overall responsiveness, signs and symptoms exhibited and extent of trauma are factors that are considered.

Question: What procedures are in place to make Emergency Medical Technicians available at all Forward Operating Bases and Border Patrol Stations?

Response: CBP is currently evaluating the assignment of medically trained personnel in each sector. It is important to note agents trained as EMTs and Paramedics are volunteers. Becoming an EMT or Paramedic is not a requirement to be a Border Patrol agent. Additionally, assignments of bargaining unit members, even those with medical training, must be in alignment with the current collective bargaining agreement.

Question#:	14
Topic:	Antelope Wells Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Please describe the conditions at the Antelope Wells sally port where this girl was held on the night of December 6-7.

Response: The sally port of the Antelope Wells POE is temperature controlled, providing protection from the elements and heating and cooling.

Question: How are detainees given access to water at Antelope Wells?

Response: Commercially purchased bottled water and restrooms are made available to all persons temporarily held in the sally port while they await transportation to a Border Patrol Station at no charge to the detainees.

Question#:	15
Topic:	After Action
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What is being done to ensure that this never happens again?

Response: This event is tragic and has affected everyone involved in one way or another. Although CBP cannot ensure someone with a pre-existing condition or encountered in poor health will not succumb to their illness, CBP is committed to doing everything we can to identify those persons in need of medical attention and get them assistance as soon as possible.

In the meantime, CBP is reviewing staffing to include the availability of deploying medically-trained Border Patrol agents into remote areas and increasing our ability to transport people from remote locations to stations and processing centers more rapidly.

Question#:	16
Topic:	El Centro, CA Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In summer 2018, following concerning reports of the alleged mistreatment of children and families at CBP facilities along the Southwest Border, I sent my staff to inspect facilities in California. Following those visits, my staff reported that detention conditions in at least one Border Patrol Station in El Centro, CA were inhumane. Families with small children were sleeping on the concrete floor with no padding. Detainees did not have adequate access to drinking water and lacked basic hygiene products. Moreover, unaccompanied minors had been detained in a room for up to five days, in possible violation of federal law; single adults, including asylum seekers, had been held for up to 10 days, despite CBP policy that migrants should not be kept in holding facilities for longer than 72 hours.

What steps is CBP taking to ensure families with small children are not sleeping on concrete floors with no padding at El Centro? At other border patrol stations?

Response: Aliens are issued blankets, mats or cots in accordance with established procedures. All stations follow this same guidance.

The USBP complies with the National Standards on Transport, Escort, Detention and Search (TEDS) and the Hold Room and Short Term Detention Policy which includes policy guidance on accessibility to all amenities for subjects in CBP facilities. These policies are routinely verified for compliance. These items are tracked on amenity reports, to help show that what each person had access to in the cell, and to custodial action logs, which show showers/shower wipes and other items by person.

Question#:	17
Topic:	Water Access
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: How does CBP ensure that individuals have regular access to drinking water at border patrol stations? Do individuals have constant and unimpeded access to water fountains or water bottles? If not, how does CBP ensure there is sufficient water provided?

Response: Yes, all persons are provided water. The majority of stations have water fountains in their cells, for those stations that do not, bottled water is provided as needed or requested. The provision of water in all cells is tracked through the preparation of amenity reports, to ensure access is constant.

Question#:	18
Topic:	Hygiene Products
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: How does CBP ensure that individuals have regular access to basic hygiene products? What products are available at El Centro?

Response: The USBP complies with the National Standards on Transport, Escort, Detention and Search (TEDS) and the Hold Room and Short Term Detention Policy which includes policy guidance on accessibility to all amenities for subjects in CBP facilities. These policies are routinely verified for compliance. Each sector purchases hygiene items such as feminine hygiene products, diapers, formula, etc. through its operational funds as wrap around costs. Items are identified, purchased, and refreshed based on the needs of each station. Basic hygiene logs are tracked on amenity reports, to help show what each person had access to in the cell, and to custodial action logs, which show showers/shower wipes and other items by person.

Question#:	19
Topic:	Time Detained
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: How long, on average, are families and unaccompanied minors being detained at Border Patrol Stations along the Southwest Border?

Response: CBP strives to process individuals in our custody as quickly as possible – usually within 24 hours – and then notify our partners at ICE, HHS, and other partners for transfer and appropriate placement. Our goal is to complete this whole process within the first 72 hours. For more vulnerable individuals, like UACs, we try to move even faster. If an individual has characteristics that require specialized placement, their placement may take slightly longer than the average person. Once ICE or HHS have identified placement, individuals are transferred to facilities operated by those entities and designed for longer-term detention.

Question: What is being done to shorten the time?

Response: In general, U.S. Border Patrol (USBP) prioritizes the processing of unaccompanied alien children (UAC) and family units (FMUA) over that of single adult detainees. These vulnerable groups require specialized detention arrangements, which fall under the purview of other federal departments and agencies, ICE and HHS. USBP continues to work directly with its federal partners to coordinate a more efficient transfer of custody.

During FY 2019 to date, USBP has seen a dramatic increase of groups of 100 or more arrested, many in the very remote areas of New Mexico and Arizona. These extremely large groups, mostly comprised of FMUAs and UACs, present a logistical challenge in their transport to Border Patrol stations. USBP has reallocated and increased contract transportation service support in these areas to meet this new trend. Increasing the transportation capability will have a positive effect on the time it takes for USBP to complete a subject’s processing and being available to be turned over to ICE or HHS.

Question: Does CBP have a process to assess data on the amount of time individuals are held in custody?

Response: Yes, time in custody is tracked in USBP’s and OFO’s electronic systems of record.

Question#:	20
Topic:	Compliance
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What oversight structure does your agency have in place to ensure compliance with legal and agency standards at Border Patrol facilities along the Southwest Border?

Response: USBP Policy & Compliance teams in Headquarters, DC, and at every Sector Headquarters, fulfill Self-Inspection Process protocols, and engage with the various DHS and CBP oversight entities. These entities conduct audits, inspections, and investigations, on whose resulting recommendations USBP implements corrective action plans.

CBP's Management Inspections Division (MID) within CBP's Office of Accountability provides executive managers with an internal, independent management inspections capability. The MID organizational structure consists of the Headquarters in Washington, DC and six field offices. Its mission is to provide CBP executive managers with timely, independent, and objective information and analysis concerning the integrity and performance of CBP programs, operations, and offices.

The Office of Professional Responsibility (OPR) has integrity and security oversight authority for all aspects of CBP operations, personnel, and facilities. OPR is responsible for ensuring compliance with agency-wide programs and policies relating to corruption, criminal and serious misconduct or mismanagement allegations, and for executing CBP's internal security and integrity awareness programs.

The Privacy and Diversity Office, an independent office within the Office of the Commissioner, has the responsibility of ensuring CBP's compliance with the Privacy Act and other departmental privacy policies, instilling a culture of privacy that protects personally identifiable information across all programs, processing Freedom of Information (FOIA) requests and managing diversity and inclusion, Equal Employment Opportunity (EEO), civil rights and civil liberties requirements.

DHS's Office for Civil Rights and Civil Liberties (CRCL) and Office of the Inspector General reviews and investigates civil rights and civil liberties complaints regarding DHS policies and activities. CRCL reviews and assesses allegations involving a range of alleged civil rights and civil liberties abuses.

Question#:	21
Topic:	Analyzing Trends
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What is Border Patrol's process for analyzing trends related to holding facility complaints to determine if reported violations are a one-time occurrence or a larger deficiency that needs to be addressed?

Response: Internally, USBP relies on CBP's PDO and OPR, as well as DHS's CRCL, to monitor and report such trends. Their findings may lead to corrective action plans. Additionally, OIG and GAO may provide similar conclusions and recommendations, on which corrective action plans may be based.

Question#:	22
Topic:	Child Welfare
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: At the December 11 hearing, I was glad to have the opportunity to discuss with you the Keep Families Together Act, which I introduced in June, and which was co-sponsored by all Senate Democrats. The Keep Families Together Act would prevent families from being separated unless parental rights were terminated or the parent was a danger to the child. My bill would also provide specialized child welfare training to the people making those determinations.

What procedures does CBP have in place to determine when it is not in a child's best interest to be with his or her parent?

Response: When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and their alien child(ren)) or a group purporting to be a family unit, CBP does not separate the child from either parent unless the specific criteria provided in the Preliminary Injunction in *Ms. L v. ICE* are met. With the appropriate approvals, CBP officers and agents may separate where a parent/legal guardian is being referred for prosecution for certain offenses, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal history, the parent/legal guardian has a communicable disease, or CBP is unable to determine the familial/custodial relationship. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

Question: Who makes that determination? Who, if anyone, reviews that determination?

Response: In instances where a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the Immigration and Customs Enforcement/Enforcement Removal Operations (ICE/ERO) local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14).

For USBP, the on duty Supervisors and managerial staff review initial decisions to verify compliance.

Question: What procedures are in place to allow the parent or the child to challenge that determination?

Response: DHS will, if appropriate, relay the basis for separation to the adult, or to the adult's attorney, upon request. CBP will not generally provide reasons to the adult if doing so would create a risk to the child's safety or would not otherwise be in the child's

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best interests, and will not do so in situations in which CBP suspects fraud, smuggling, and/or trafficking. While in CBP custody, there is not a means for the parent to challenge the decision to separate a parent/legal guardian from a child, or for the child to challenge the separation. ICE ERO in conjunction with HHS ORR make the final determination to reunify or maintain separation.

Question: What child welfare training does CBP currently provide for its officers and agents?

Response: CBP treats all individuals in its custody with dignity and respect, and has designed policies and procedures based on that principle, as well as all appropriate legal obligations.

CBP further recognizes the importance of thoroughly training our frontline officers. U.S. Customs and Border Protection Officers (CBPOs) and U.S. Border Patrol agents receive training on the proper processing, treatment, and referral of aliens. This training begins with the Academy training, and is reinforced through Post Academy training and the periodic issuance of memoranda and policy reminders/musters.

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and *Flores* Settlement Agreement (FSA) provide guidelines regarding the care and treatment of juveniles during CBP processing.

1. During CBP Officer Basic Training, CBP provides the following training modules:
 - Human Trafficking Awareness - 1 Hour Block
 - Cultural Diversity And Law Enforcement - 2 Hour Block
 - Personal Search Policy And Procedures - 4 Hour Block
 - Arrest And Detention - 2 Hour Block
2. At the Border Patrol Academy, new Border Patrol Agents take the DHS PALMS course dealing with the processing and handling of juveniles via the *Flores vs. Reno* court case/ TVPRA. This one hour course is mandatory for all Border Patrol Enforcement series, Customs and Border Protection series, Agricultural Specialist, Polygraph Examiners, and Customs and Border Patrol Interdiction series.
3. Distance Learning (online courses):

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- Human Trafficking Awareness Training and Unaccompanied Alien Children: *Flores v. Reno*/TVPRA (Course Provider: Office of Field Operations)
 - This one hour course is available to all CBP employees via DHS PALMS, however only the following job series are required to complete the course annually: Border Patrol Enforcement series, Customs and Border Protection series, Agricultural Specialist, Polygraph Examiners, and Customs and Border Patrol Interdiction series

Question#:	23
Topic:	Tracking Data
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: On June 23, the Department of Homeland Security (DHS) announced that it had "a central database," accessible to both DHS and Health and Human Services (HHS), to locate and track parents and minors who were separated from one another as part of the "zero tolerance" policy between April and June. However, on September 27, the DHS inspector general found "no evidence that such a database exists."

You testified at the December 11 hearing that DHS and HHS had tracking mechanisms in place for families separated under the "zero tolerance" policy. You also testified that 81 children were separated from their parents after the "zero tolerance" policy was ended on June 20.

When did DHS and HHS set up the data tracking mechanisms you referred to at the December 11 hearing?

Response: U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), each of which fall under the Department of Homeland Security (DHS), have independent IT systems designed to efficiently enforce immigration laws under their respective authorities. As such, each IT system is designed according to the enforcement business process of each individual Component; however, most data is stored in the Enforcement Integrated Database (EID), which serves as the combined data repository for ICE and CBP applications and contains immigration data related to encounters, subjects, arrests, detentions, and removals.

ICE has longstanding procedures in place that govern family separation and reunification. ICE did not have a systematic process in place to track the cases of family separation that occurred prior to the Zero Tolerance policy. While ICE worked with other involved agencies to reunify families as ordered by the Court in *Ms. L v. ICE*, the agency also updated ICE systems so that, going forward, ICE personnel can identify all aliens that CBP flags as part of a family unit that has been separated.

That said, DHS—specifically ICE—and the Department of Health and Human Services (HHS) work to ensure both agencies are fully up-to-date on the most recent data surrounding potential family separations. DHS and HHS update their respective data systems to reflect family separation data, ensuring that ICE officers and HHS staff have the information needed to make operational decisions.

Question: Please describe the methods DHS and HHS use to share data on separated families.

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Response: DHS and HHS share electronic data from each independent agency system through in person and electronic mail systems as has been the communication protocols since HHS was charged with the placement and of all Unaccompanied Alien Children present in the U.S. on March 2, 2003. Additionally, some personnel within DHS have access to the HHS UC Portal as another form of communication and to help ensure continuity of care.

Question: What software platforms do DHS and HHS use to track separated parents and children?

Response: For CBP, Office of Field Operations uses SIGMA and for U.S Border Patrol, they use the e3 suite of applications to include: e3 Intake, e3 Processing and e3 Detention Module. For ICE, Enforcement and Removal Operations (ERO) uses Enforcement Alien Removal Module (EARM).

DHS defers to HHS for their platforms.

Question: What identifying metrics do DHS and HHS use for each parent and child?

Response: When CBP refers a child to HHS, CBP personnel submit an electronic placement request to HHS with the child's name, A#, date and country of birth, and family group #. Additionally, the request includes the parents' names, phone numbers, relationship (mother or father), and address. Information about all UAC referred to HHS by CBP is also entered into the HHS UC Portal.

Question: Are changes to the data made by DHS accessible to all components of DHS, and to HHS, in real time?

Response: CBP data is stored within the DHS Enforcement Integrated Database (EID) which is maintained by ICE/OCIO. All data that is written to the EID is accessible by DHS Components with a need to know, who are thus able to obtain updated information if their particular system has access to that data field that has been updated. HHS is a separate cabinet entity and currently does not have access to DHS EID. Some personnel within DHS Components do have access to the HHS UC Portal which stores their data related to UAC.

Question: Are changes made by HHS accessible to all components of DHS in real time?

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Response: Some personnel within DHS Components do have access to the HHS UC Portal which stores their data related to UAC.

Question: Do DHS and HHS use the same database for children separated from their parents under the zero tolerance policy, and children separated from their parents since the policy ended?

Response: No, DHS and HHS maintain separate data systems to reflect family separation data. Information about all UAC referred to HHS by CBP is entered into the HHS UC Portal.

Question: If HHS makes a change in its data on separated families, can DHS use that information for immigration enforcement purposes, such as deportation or denial of a visa?

Response: ICE, CBP, and HHS signed a Memorandum of Agreement (MOA) on April 13, 2018, to address information exchanges between each department and to enhance cooperation. Subsequently, those individuals who are identified as potentially removable aliens through the information shared, pursuant to the MOA, may be referred to local ICE field offices for appropriate action. This may include targeting, arrest, and removal. These determinations are made on a case-by-case basis in accordance with federal law. As a result of funding restrictions in the Fiscal Year 2019 enacted budget, ICE Enforcement and Removal Operations (ERO) has ceased making arrests based solely on information referred from HHS while the agency analyzes the language and consults with interagency partners.

Question#:	24
Topic:	CBP Forms
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: When a CBP agent or officer encounters a child, the agent or officer needs to determine whether that child is a citizen of the United States in order to decide whether to begin immigration proceedings against the child.

What form or forms does a CBP officer or agent complete upon encountering a child near the United States border or at a port of entry?

Response: USBP does not complete any forms when questioning children in the field.

When encountering a child at the border or a port of entry, CBP establishes the identity, alienage, and admissibility of the child and processes them accordingly. The forms completed vary by the ultimate disposition of the child, however CBP Form 93 (Unaccompanied Alien Child Screening Addendum) is an additional form completed when CBP encounters a UAC. CBP Form 93 was introduced as a screening job aid with the implementation of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). CBP officers and agents receive training on processing Unaccompanied Alien Children (UAC), which includes the use of CBP Form 93, during training at the CBP Officer Academy, post-academy training, and during annual on-line refresher training covering topics of the TVPRA, *Flores* Settlement Agreement, and human trafficking issues.

Question#:	25
Topic:	Determine Citizenship
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: How does a CBP agent or officer determine whether a child encountered at the border is a United States citizen?

Response: CBP seeks to establish the identity, alienage, and citizenship of all seeking to enter the United States, regardless of age. This is established through a combination of documents presented by the alien, statements made by the alien (including those made during a Sworn Statement, when conducted), and information available to CBP through systems research. CBP may also contact the respective consulate to verify information, as necessary.

Question: Do the procedures for identifying citizenship differ depending on whether the child is unaccompanied, or whether the child is accompanied by a parent or legal guardian?

Response: When a parent or legal guardian accompanies a child, it is generally easier to obtain the information needed to determine citizenship. This is especially the case when there child may have derived U.S. citizenship through his parents.

Question: Do the procedures for identifying the child's citizenship differ depending on the child's age?

Response: The procedures for determining citizenship for children in the field does not differ based on the child's age. During temporary holding to determine legal alienage or citizenship, CBP will talk to the child or, a responsible adult and will request and consider evidence, such as a passport or birth certificate.

The procedures are the same, however the level of information available will vary on a case by case basis.

Question: If procedures differ depending on the child's age, or depending on whether the child is accompanied or unaccompanied, please describe the procedure in each type of case, and please indicate whether CBP officers or agents ever rely on a child's self-identification of citizenship.

Response: CBP Agents and Officers do rely on a child's responses to questioning to determine citizenship. When the information provided by a child is insufficient on its own, an Agent or Officer may seek other sources to validate this information. Border Patrol Agents routinely seek this validation through requesting foreign government

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records, consultation with consulate of the child's self-identified county of birth, and telephone calls to the child's immediate family or legal guardians.

Question: Additionally, please specifically indicate how CBP officers or agents determine the citizenship of an unaccompanied minor who is under the age of 5 or otherwise unable to understand questions related to citizenship.

Response: CBP Agents and Officers assume a child is a U.S. citizen when a determination cannot be made. In the event of an unaccompanied child who is in a compromising location or situation, CBP will contact the child's parents or legal guardian, state/local law enforcement, or state child welfare services.

In the case that CBP encounters a UAC who is under the age of 5 or otherwise unable to understand questions related to citizenship, CBP must rely on documents presented, available system information (if any), and contacting the respective consulate of the claimed citizenship to verify any documentation presented or claimed information.

Question: If a CBP officer or agent relies on any individual's self-identification of citizenship, what questions does the officer or agent ask to determine whether the individual is a United States citizen?

Response: CBP Agents and Officers will ask a subject questions related to their country of birth. When the child was born abroad, additional questions relate to the parents will be asked. In many cases to make a determination of birthright citizenship, the parents must be questioned.

Question: Does the officer or agent limit his or her questions to the child's place of birth?

Response: No, this is just the starting point for making a citizenship determination. A subject may be a U.S. citizen even if born abroad depending on a parent's' citizenship, residency and physical presence in the United States. Additional questions may be asked to determine the credibility of the statements.

Multiple questions are asked regarding the child's history and family to determine if there is any way that this child is a United States citizen, or has any immigration status in the United States.

Question: Does the officer or agent also ask whether the individual's parents or grandparents were born in the United States?

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Response: CBP Agents and Officers ask questions concerning of all suspected illegal aliens as to their parents place of birth and citizenship to ensure there is not a derivative citizenship claim, which in some instances the individual is not even aware.

CBP Agents and Officers do not generally ask questions about an individual's grandparents to determine citizenship.

Part of establishing the alienage relies on both the place of birth of the parents and their U.S. immigration history. The grandparent's place of birth is not usually directly asked, but inferred by asking if either parent ever was a U.S. citizen.

Question#:	26
Topic:	Abuse Accusations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: CBP agents have been accused of an alarming number of violent, exploitative acts. According to a December 5 NBC News article, Border Patrol agent Juan David Ortiz allegedly killed 4 women in Texas this September. Meanwhile, according to a November 12 New York Times article, Border Patrol agent Esteban Manzanares allegedly assaulted two teenage sisters in March 2014, one of whom was a minor. In all, there were 84 complaints of coerced sexual contact between CBP agents and migrants between January 2010 and July 2016. The CBP Inspector General investigated only 7 of these incidents and never held the officers involved accountable.

What steps does CBP take when one of its agents or officers is accused of abusing migrants?

Response: CBP takes all allegations of misconduct seriously. All allegations of criminal or administrative misconduct are referred to the Joint Intake Center (JIC), which serves as the central "clearinghouse" for receiving, processing and tracking allegations of misconduct involving personnel and contractors employed by CBP and Immigration and Customs Enforcement (ICE). The JIC provides CBP and ICE with a centralized and uniform system for processing reports of alleged misconduct. All allegations of misconduct are referred to the Department of Homeland Security (DHS) Office of Inspector General (OIG) for investigative consideration. If the DHS OIG determines not to investigate, the allegation is referred to either CBP's Office of Professional Responsibility or the appropriate component office for investigation, fact-finding or immediate management action.

Question: Is that agent or officer immediately permitted to return to the field?

Response: The merits and circumstances of every case are unique. The facts known at the time dictate whether or not the Agent/Officer's authorities and/or work assignment will be altered.

Question: What procedures are in place to ensure that every claim of misconduct or abuse is thoroughly investigated?

Response: CBP takes allegations of employee misconduct very seriously. Under a uniform system, allegations of misconduct are documented and referred to the DHSOIG for independent review and assessment. Cases are either retained by the DHS OIG for investigation or referred to CBP's Office of Professional Responsibility or the appropriate component office for further determination of the outcome. These allegations

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will be subsequently referred to CBP's Office of Human Resources Management Labor Employee Relations Division. The Office of Chief Counsel, along with component management, will review the consolidated final report and exhibits to determine if the allegation is sustained by evidence and determine appropriate penalty.

Question: Is there regular oversight of CBP conduct by an independent body? If so, please describe that oversight and identify the body that conducts it.

Response: The DHS Office of Civil Rights and Civil Liberties frequently conducts investigations into civil rights and civil liberties complaints filed by the public regarding CBP policies or activities, or actions taken by CBP personnel. Additionally, the DHS OIG operates independent of DHS and all offices within it. The DHS OIG is authorized to receive and investigate complaints or information from employees, contractors, and other individuals concerning the possible existence of criminal or other misconduct constituting a violation of law, rules, or regulations, a cause for suspension or debarment, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, and report expeditiously to the U.S. Attorney's Office whenever the Inspector General has reasonable grounds to believe there has been a violation of federal criminal law.

Question: What measures does CBP take to ensure that CBP agents do not abuse migrants in the course of their duties?

Response: CBP has a zero tolerance policy prohibiting all forms of sexual abuse and assault of individuals in CBP custody, including holding facilities, during transport, and processing. CBP is committed to protecting the safety of individuals in CBP custody, and it is CBP policy to provide effective safeguards against sexual abuse and assault for individuals in CBP custody. CBP has adopted Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities. Additionally, CBP complies with DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (codified at 6 C.F.R. Part 115).

Question#:	27
Topic:	Monitoring Agents
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: How does CBP monitor its agents while they are in the field?

Response: CBP utilizes various forms of technology (voice, video, and data) to maintain situational awareness of Border Patrol agent locations and activities while in the field.

The United States Border Patrol does its due diligence in selecting individuals who have shown the capacity to operate with little, to no, supervision in a very dangerous and diverse environment. As other law enforcement agencies throughout the country, once selected for the positions, Border Patrol Agents go through a rigorous law enforcement academy, followed by on-the-job training with a field training unit. This training is extensive and done to test the agents' ability to perform their duties in the manner designed by law and policy, and in support of the border security mission. Once OJT is completed, and approved by the station leadership, the agents are expected and trusted to perform their duties in vast areas and at times, on their own.

To provide supervision and support for the agents, the Border Patrol additionally deploys Supervisory Border Patrol Agents (SBPAs), first line supervisors, who provide guidance and direction to address issues and incidence that may rise in the performance of their duties. These SBPAs are senior agents who have been promoted to their positions based on the knowledge, experience, and ability to support daily field and administrative operations, thereby providing another layer to overall field operations.

Lastly, each unit is supervised by a Watch Commander, a second line supervisor, with overall oversight on the unit and overall support for the agents and SBPAs deployed during their shift. While USBP agents are trained to operate independently in a vast border environment, the Supervisors and Watch Commanders in the individual units provide supervision, guidance, and overall support to ensure the mission is accomplished safely, appropriately, and within the policies and expectations of the Border Patrol mission

Question: Are agents required to maintain regular contact with supervisors during their shifts?

Response: USBP does not have a specific national policy requiring regular contact between supervisors and employees, during a regular tour of duty. However, under CBP standards of conduct, Employees are required to respond readily to the lawful direction of their supervisor, and to not deviate from their assignment of work and location unless authorized to do so, by a supervisor.

Question#:	28
Topic:	Credible Fear Claims
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: As of today's date, the CBP website does not list the number of credible fear claims made by individuals crossing the border in fiscal years prior to FY2017. However, the CBP website indicates that claims that credible fear claims have increased in FY2018, relative to FY2017..

Why is data, such as the number of credible fear claims made by individuals crossing the border in fiscal years prior to FY2017 available on the CBP website? Please make such data available.

Response: CBP's intent was to pull and publish current data about claims of fear made in CBP custody because it was the predominant scope of public dialogue. In the interest of posting the data as timely as possible, CBP prioritized the publication of the most recent data to inform the public of current trends. Providing prior years' worth of additional statistics would have delayed the publication of the information. This was the first time CBP's Office of Public Affairs published claims of fear statistics on its website, which now includes criminal alien, gang affiliation and drug seizure data.

Question: Was that information ever previously available on CBP's website? If so, when was that information removed from CBP's website, and why?

Response: The Credible Fear data was not available on our website previously, but statistics of those who claimed a fear of return in CBP custody for FY17 and FY18 are on the website.

Question#:	29
Topic:	Preventing Narcotics From Entering
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: According to data on your website, CBP seized 1,361,624 pounds of illicit drugs in Fiscal Year 2017. It is my understanding that the vast majority of these substances enter the United States through legal ports of entry at the California-Mexico border.

Please explain how CBP allocates its staffing and resources to ensure that ports of entry along the Southwest Border that experience the highest seizure rates have the necessary resources and equipment to keep up with the flow illicit narcotics?

Response: CBP allocates resources to its ports of entry based on current and expected workload levels, to include inspecting for illicit drugs and carrying out drug seizure activities. CBP uses its Workload Staffing Model (WSM) to analyze and provide recommendations for changes to CBP officer (CBPO) staffing requirements. This decision-support tool calculates recommended staffing levels for each port of entry based on current and projected enforcement and facilitation workload, including recognizing risk and emerging threats.

CBP applies similar approaches for allocating equipment, such as non-intrusive inspection (NII) technology. CBP bases new NII technology deployment decisions on an assessment of field office needs (i.e., new ports, port expansions, port reconfigurations), interdiction and volume trends, port infrastructure and technology footprint, and the availability of personnel and funding resources.

In recognition of the higher level of workload on the southwest border compared to the northern border, including significantly higher drug seizure rates, CBP has currently allocated staff and equipment accordingly. CBP currently has 7,049 CBPOs allocated to the Southwest Border compared to 3,910 on the Northern Border. Similarly, at the end of FY2018, CBP had 118 large scale NII systems deployed to the southwest border POEs compared to 57 deployed to the northern border POEs.

Question: Please also provide a breakdown of the current staffing levels at each of the ports of entry in the United States.

Response: For security reasons, CBP does not provide staffing figures by port of entry. However, below, please find the staffing by field office.

Question#:	29
Topic:	Preventing Narcotics From Entering
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

**FY 2019 CBP Officer Staffing as of Pay
Period 24, Ending 12/08/2018**

Office	FY 2019 On-Board
Field Offices - Total	22,509
Atlanta	757
Baltimore	606
Boston	962
Buffalo	1,189
Chicago	770
Detroit	1,123
El Paso	1,297
Houston	896
Laredo	2,538
Los Angeles	1,362
Miami	1,734
New Orleans	219
New York	2,098
Portland	181
Preclearance	591
San Diego	2,111
San Francisco	895
San Juan	419
Seattle	1,451
Tampa	410
Tucson	900

Question: What additional resources and equipment are necessary to better prevent illicit narcotics from entering our country?

Response: CBP incorporates advanced detection equipment and technology, including the use of Non-Intrusive Inspection (NII) equipment, to maintain robust cargo, commercial conveyance, and vehicle inspection regimes at our ports of entry (POEs). In FY 2018, CBP utilized Large-Scale (LS) NII systems to examine over 6.4 million conveyances, resulting in over 206,000 pounds of narcotics seized with NII. More than 98 percent of the total weight of these seizures occurred by scanning 1.5 percent of Privately Owned Vehicle (POV) traffic and 16 percent of Commercial truck traffic at POEs on the Southwest Land Border. These systems are primarily deployed in secondary

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inspection operations, which provides operational limitations on the volume of traffic CBP Officers can reasonably scan.

To enhance our interdiction capabilities, we are actively conducting operational assessments to explore utilizing new Drive-Through NII imaging technology with a pre-primary inspection concept of operations (CONOP). Our goal of these assessments is to understand throughput constraints and ideal scanning CONOPs to determine the feasibility of scanning increased traffic without impact to primary inspection wait times. The assessments are utilizing commercially available drive-through X-ray imaging systems, which can support both pre-primary and secondary inspections. The assessments also involve exploring further integration of NII systems and automating data transfer capabilities to support image analysis from remote or command center locations. The findings and outcomes of these assessments will provide the necessary information to inform, document and validate the NII land border pre-primary inspection CONOP.

Based on the availability of funds, CBP will utilize the results to inform near-term and future system acquisition plans that require LS NII deployed in pre-primary or secondary inspection operations.

Question#:	30
Topic:	Mexican Legislation
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: I have authored two laws to address the continuing threat of drug tunnels. The first bill criminalized tunnel construction, while the second provided a number of additional tools to prosecute those who construct tunnels. Unfortunately, Mexico has not enacted similar legislation.

Is CBP working with the newly elected Mexican government to encourage it to enact similar legislation? If not, will you commit to doing so?

Response: In establishing a relationship with the new Mexican administration, CBP, in collaboration with DHS HQ and the Department of State, will confirm and pursue areas of shared interest. We expect this will include continuing attention to measures to stem illegal narcotics trafficking. While we have not yet engaged on the potential for Mexican legislation along the lines referred, CBP will explore as many mechanisms as is possible to engage appropriate Mexican Government counterparts against narcotics trafficking.

Question#:	31
Topic:	Mexican Counternarcotics Strategies
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In December, Andres Manuel Lopez Obrador was sworn in as Mexico's President. Lopez Obrador has made statements regarding his use of the Mexican Police and military and has suggested making changes regarding immigration and counternarcotics strategies within Mexico.

What specific steps is CBP taking to work with the government of Mexico to ensure that counternarcotics strategies and goals are prioritized?

Response: CBP has always maintained that the counter-narcotics dynamic is an integral part of the U.S.-Mexico relationship, particularly with regards to Transnational Criminal Organizations (TCOs). The Governments of the United States and Mexico have developed a common understanding of the impact Mexican TCOs are having on both countries and currently view addressing this burden as a shared responsibility. For this reason, CBP has numerous areas of cooperation with Mexico in order to mitigate the flow of narcotics across our shared border. Programs ranging from tracking and monitoring opium yields in Mexico, to sharing eradication goals and a joint strategy for intelligence driven eradication to providing and training Mexican immigration officials on non-intrusive inspection equipment to prevent the flow of illicit drugs both northbound and southbound, have fostered a robust level of cooperation between our two governments in this arena. Strengthening this level of cooperation is important to CBP and will continue to be a priority for the agency in the transition from the previous Mexican administration to the current one.

Question#:	32
Topic:	Southbound Contraband
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Do CBP's counternarcotics efforts include strategies to stop the flow of guns and money flowing southbound into Mexico?

Response: CBP recognizes that the southbound illegal flow of weapons and bulk cash from the United States into Mexico is an integral element of the bi-national issue with transnational criminal organizations (TCOs) trafficking contraband into the United States. As such, there are several initiatives in place and emerging that seek to address the southbound smuggling of weapons and currency. CBP has outbound enforcement teams to interdict illegally exported goods to include: weapons, ammunition and parts for weapons, dual-use/high-technology commodities, and undeclared and illicit currency. In addition, CBP continues to collaborate with the Government of Mexico to develop bi-national initiatives that further support these efforts.

Question#:	33
Topic:	INTERDICT ACT
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In Fiscal Year 2018, \$9 million was appropriated to carry out the Inspection Systems, Interdiction of Illegal Narcotics and the International Narcotics Trafficking Emergency Response by Detecting Incoming Contraband with Technology Act (INTERDICT Act), the purpose of which is to ensure that Customs and Border Protection (CBP) has the necessary screening devices, laboratory equipment, facilities, and personnel to better detect fentanyl and other synthetic drugs at international mail facilities.

Is the funding provided by the INTERDICT Act sufficient to make a discernable difference in detecting the amount of fentanyl coming into the country via the mail?

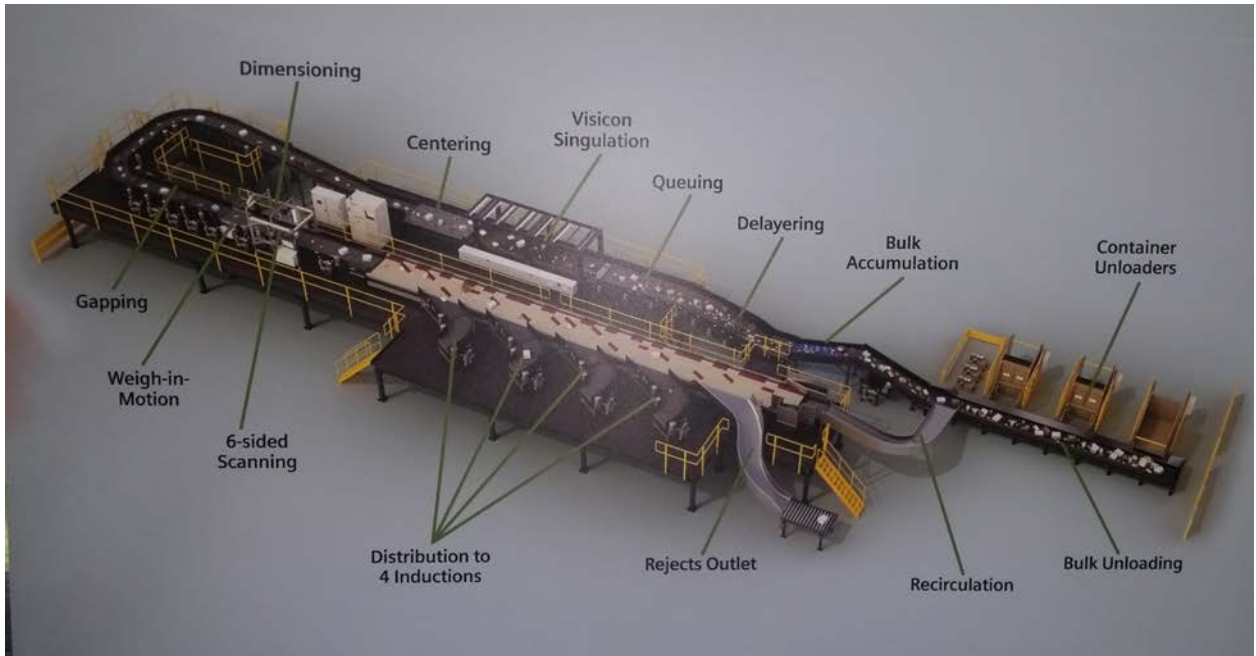
Response: During FY18, funding was utilized to purchase Presumptive Testing Instruments and safety equipment and training for CBP's frontline personnel. With assistance of the INTERDICT Act, all of CBP's International Mail Facilities and most of CBP's Ports of Entry now have the ability to presumptively identify fentanyl, fentanyl analogues and other opioids. With continued Congressional support, CBP will expand its detection and identification abilities of threats as new and emerging technology becomes available.

In FY 2018, the funding was used to stand up the Narcotics Reachback Center and to procure new and additional laboratory equipment and chemical analysis software. The INTERDICT Act enabled the development of a reachback capability to support CBP frontline officers with rapid adjudication of presumptive screening results of suspect fentanyl and fentanyl analogues, and other synthetic substances.

CBP continues to seek new and innovative technology and operational concepts capable of automating the scanning process to streamline operations, and solutions that can detect and identify threats or concerns.

Currently, the equipment CBP uses for moving packages at international mail facilities are antiquated and in desperate need for replacement. A new conveyor belt system with integrated layering, queuing, singulation, centering, six-sided bar-code scanning, 3D x-ray technology, opioid detection equipment, and distribution inductions is needed to address the increasing volume in the international mail environment. CBP would like to install systems, like the photo below, which would greatly enhance our ability to halt the flow of these drugs and track high-risk targeted shipments.

Question#:	33
Topic:	INTERDICT ACT
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)



With continued support from Congress, CBP, in coordination with our partners, will continue to, refine and further enhance the effectiveness of our detection and interdiction capabilities to combat transnational threats and the entry of illegal drugs into the United States.

Question: How specifically has the INTERDICT Act impacted CBP’s efforts at international mail facilities?

Response: CBP thanks Congress for its support contained in the INTERDICT Act authorizing language. The language has improved our ability to interdict fentanyl, synthetic opioids, other narcotics, and psychoactive substances illegally imported into the U.S.

FY 2018 enacted funding, for Opioid Interdiction, was utilized to procure Presumptive Testing Instruments, safety equipment and continue training for CBP’s frontline personnel. With assistance of the INTERDICT Act, all of CBP’s International Mail Facilities and most of CBP’s Ports of Entry now have the ability to presumptively identify fentanyl, fentanyl analogues and other opioids.

Question#:	33
Topic:	INTERDICT ACT
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: What percentage of the total number of packages is CBP inspecting at each international mail facility and how are those packages selected?

Response: One hundred percent of International mail is processed through radiation portal monitors at international mail facilities. Mail which has Advanced Electronic Data (AED) is processed through our Automated Targeting System and packages identified as high risk are selected for secondary examination. CBP requests that packages originating from high risk countries, or have other high risk indicators are presented by the United States Postal Service (USPS) for examination and CBP utilizes a combination of x-ray technology, K9 teams, or physical inspection based on officer knowledge to inspect these packages. CBP does not calculate what percentage of the total volume of mail this secondary examination represents, because CBP is dependent upon USPS to determine the total volume of mail.

Question: How has this number changed since funds were appropriated for the INTERDICT Act?

Response: CBP has primarily utilized the appropriated funds to purchase testing equipment allowing CBP to identify unknown substances through presumptive testing after discovery. CBP intends to utilize additional appropriations to update and automate CBP processing and scanning capabilities at international mail locations. Through these updates CBP will see a significant increase in the number of packages receiving secondary screenings and examinations.

Question#:	34
Topic:	Withdrawal from UPU
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: The Synthetics Trafficking and Overdose Prevention (STOP) Act, which was signed into law as part of the opioids package, requires advance electronic data (AED) for mail entering the United States from foreign countries. CBP has asserted that the AED required by this bill will be very helpful in its efforts to prevent synthetic drugs from entering our country. It is my understanding that the STOP Act may require the United States to renegotiate treaties with the Universal Postal Union (UPU) in order to obtain the AED required by the bill. Yet, public reporting indicates that President Trump may withdraw from the UPU.

If the U.S. withdraws from the UPU, what impact will it have on the implementation of the STOP Act?

Response: The STOP Act requires that DHS prescribe regulations requiring the United States Postal Service (USPS) to transmit advance electronic information for international mail to CBP consistent with the statute. The other requirements of the STOP Act are to collect a customs fee on all express mail shipments (EMS) in the postal environment and issue penalties to the USPS for postal shipments delivered to CBP without AED.

The United States has provided notice to the Universal Postal Union (UPU) to withdraw within one year. If the withdrawal goes through, per the Department of State, the international mail would no longer be considered international mail as it does not utilize the UPU documents. Therefore, CBP may have to consider this as cargo and we would treat it as regular cargo. In turn, this would put the responsible party as the carrier and not the USPS. Express mail may also be cargo and processed as regular cargo which would not require the collection of the customs fee. The USPS would not be the party to receive a penalty for shipments without AED. The penalty would go to the carrier that brings in the shipment of the importer of record depending on the mode transported.

Question#:	1
Topic:	Metering Data
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: When I asked you about the practice of "metering" at our ports of entry, and whether you agreed with the Department of Homeland Security's Inspector General's assessment that metering could actually increase illegal crossings between ports, you responded that he was analyzing a period of time when the "data did suggest . . . that was possible." You testified that you "accept . . . [the Inspector General's] conclusion on that point."

Can you please provide us with copies of the data set you referred to showing that metering at ports of entry possibly increased illegal crossings between ports of entry?

Response: In our discussion, I stated that the Inspector General's assessment covered a period of time in June when the data did suggest that that was possible. And in specific interviews with agents they explained that one or two different family groups stated that they had been waiting and decided to cross illegally. So, I accept their conclusion on that point.

Question#:	2
Topic:	Daily Limits
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: When I asked you whether our ports of entry have daily limits on the number of asylum seekers it processes every day, you said that there weren't any hard daily limits, but that each port director determines that number based on a "discretionary balance" between their various "mission requirements" every day.

Has your agency conducted any official assessment at each port of entry to determine capacity and resource constraints over a period of time, and then analyzing whether those constraints matched up with the discretionary number of asylum applications each port director is processing over that same time period? If so, will you provide us with copies of such assessments?

Response: CBP officers at ports of entry have a finite capacity to accomplish multiple missions: national security, counter-narcotics, and facilitation of lawful trade and travel. CBP must ensure safety and security for all travelers and our officers, while facilitating timely processing for U.S. citizens and lawful permanent residents, visitors with appropriate travel documents, and individuals without documents sufficient for admission or other lawful entry. When capacity is strained, ports of entry may practice queue management, which is a discretionary balance by the port directors assessing their mission requirements to process lawful trade and travel, to prevent narcotics trafficking. The POEs manage this balance on a daily basis based on the informed discretion of their leadership team.

CBP has not conducted any official assessments at each port of entry to determine capacity and resource constraints over a period of time, and then conducted an analysis of that information related to the number of discretionary asylum applications processed.

Question: Can you ask each port director if they limit the number of asylum seekers each day, like the Hidalgo Port of Entry director does at 48 each day, and provide those numbers to me?

Response: Each port director must balance their mission requirements to process lawful trade and travel, to prevent narcotics trafficking, and to process people without documents seeking admission. The number of inadmissible, removable, and/or undocumented travelers CBP is operationally capable to process varies depending on overall port volume and number of enforcement actions, which may fluctuate from day to day. The POEs daily operational priorities are based on the informed discretion of their leadership team.

Question#:	3
Topic:	Declined Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I understand CBP does not track the number of asylum seekers it declines to process or turns away every day at each port of entry. Would you commit to doing so going forward?

Response: CBP does not permit its officers to turn away individuals seeking asylum. CBP's role is to inspect and process all aliens arriving at ports of entry, and to refer any claims of fear to U.S. Citizenship and Immigration Services (USCIS). According to U.S. law and CBP policy, if a CBP officer encounters an individual who is seeking admission at a port of entry, and who expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of return to his or her home country, the officer refers the person for an asylum interview with a USCIS asylum officer or to immigration proceedings before an Immigration Judge. CBP OFO does not make any determination on the validity of such claims.

Question#:	4
Topic:	Private Landowners
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: One of the many issues with building the President's wall is the amount of private property that will be required in order to construct it.

How much land will need to be acquired from private landowners to build the President's wall?

Response: U.S. Customs and Border Protection (CBP), in coordination with the U.S. Army Corps of Engineers (USACE) is currently conducting real estate surveys on properties where planned segments of new levee and pedestrian fencing in the Rio Grande Valley of Texas would be constructed. The real estate surveys will identify the estimated acreage of private property needed to construct the border wall system. CBP will not know the estimated amount of private property required until all real estate surveys have been completed.

Question: How many landowners will be impacted by the construction of the President's wall?

Response: CBP, in coordination with the USACE, is still in the process of conducting real estate surveys in the Rio Grande Valley to determine the estimated amount of private property needed for construction of border wall system. CBP will not know the total number of impacted landowners until all real estate surveys are completed.

Question: How many eminent domain "takings" will be required for the wall segments funded in fiscal year 2018 and planned for fiscal year 2019?

Response: The Government's first attempt will always be to negotiate a voluntary Offer to Sell (OTS) with each landowner based on the appraised value of the land because it is CBP's preference to acquire property through a voluntary, negotiated sale. However, there are some instances where condemnation must be exercised, such as when a landowner cannot be identified or reached, there are incomplete title records, or when a landowner declines the Government's OTS. USACE, on behalf of CBP, recently initiated the process of preparing OTSs' for some properties required to construct levee and pedestrian fencing in the Rio Grande Valley. Once an OTS is presented to a landowner, the Government must allow sufficient time for the landowner to consider the offer and either accept the offer, negotiate/make a counteroffer, or decline the offer. The number of condemnation cases filed will ultimately be determined by the number of properties that have incomplete title records, the number of properties for which the Government is unable to identify or reach landowners, and the number of instances where the

Question#:	4
Topic:	Private Landowners
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Government and landowner are unable to reach a negotiated sale. As the real estate acquisition process is ongoing, the number of condemnation proceedings required will not be known until the full real estate acquisition process is completed.

Question#:	5
Topic:	Tracking Agent Hours
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I asked you about CBP's plan for dragnet-style vehicle checkpoints in my home state, which you said were "an important border security tool." But I find it difficult to believe that these checkpoints will be an effective use of law enforcement resources. Border Patrol stations in Vermont are already understaffed and stretched thin.

At each checkpoint in Vermont, will you commit to keeping track of the agent hours expended and- critically - how many total cars are stopped and arrests are made?

Response: Agent hours are always tracked via an internal reporting system. Currently the volume of vehicle traffic passing through an immigration checkpoint on the northern border is not tracked because license plate readers are not deployed. The total number of arrests attributed to the checkpoints are tracked.

Question: Would you also commit to tracking how many of these arrests are based on immigration status and not some other criminal offense?

Response: Yes, the number of arrests attributed to the immigration checkpoint will be tracked based on immigration related offenses.

Question#:	6
Topic:	Tracking Parents and Children
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I understand that the family separation policy was not your creation. Yet how is it possible that CBP implemented that policy without requiring agents to set up a system for tracking the location of the parents and the children so that they could later be reunited?

Response: CBP documents biographic information for all subjects in the subjects' A file, including familial relations. CBP documents aliens who entered the United States together. At the time the Zero Tolerance Policy initiative was launched, some cases referred to ORR included information that the child was separated. Currently, referral to ORR includes information that the child is separated, and information on parents is provided to HHS as requested when handling the reunification of verified families. System of record interoperability gaps were identified and CBP is working diligently with our agency partners to rectify this issue.

Question#:	7
Topic:	Criminal Migrants
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I've lost track the number of times President Trump has vilified migrants as criminals and gang members without citing any evidence whatsoever. If that evidence exists, presumably it came from his agency officials, like yourself. You and Secretary Nielsen have stated that there are "over 500 individuals with criminal records as part of the [recent] caravan." But the Trump administration has not released any information about the types of crimes comprising these individuals' criminal records.

As a threshold matter - did President Trump consult you about the supposed criminal elements in the migrant caravan before he began promoting these claims publicly?

Response: Following longstanding policy of administrations of both parties, I respectfully decline to discuss my interactions with the President.

Question: Will you commit to promptly providing this Committee and the public a detailed breakdown of the criminal records of these 500 individuals, including the types of crimes they committed and the manner in which you obtained information on their criminal backgrounds?

Response: The following information is based on biometric data collected from individuals believed to be part of the migrant caravans that transited Mexico between October-2018 and February 2019.

The DHS Human Smuggling and Trafficking Intelligence Unit receives biometric data through the Biometric Data Sharing Program (BDSP) on all individuals enrolled by the Mexican National Migration Institute (INM) at the migration stations it currently operates throughout México. DHS relies on information received from the DHS Attaché in México to identify where and when INM enrolled caravan participants into BDSP. DHS is not able to confirm if Mexico's INM identified all migrants involved with the caravan or only a portion of the full caravan population. A portion of the individuals may not have been part of the caravan but were enrolled at the same locations and within the same period.

Question#:	8
Topic:	Asylum Executive Action
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: A district court judge recently issued a nationwide temporary restraining order (TRO) halting the enforcement of President Trump's asylum executive action. The government's appeal to stay the TRO was rejected by the 9th circuit, which concluded that the executive action is likely inconsistent with U.S. law. Now, the onus is on you to ensure that your officers and agents are complying with this court order.

Did you receive any advance notice about this executive action before it was announced?

Response: As this matter is currently in litigation, CBP and the Department of Justice cannot comment.

Question: Did CBP provide a legal analysis of this executive action before it was announced?

Response: As this matter is currently in litigation, CBP and the Department of Justice cannot comment.

Question: Given how plainly this executive action contravenes an existing statute within your agency's purview – 8 U.S.C. § 1158, did you convey that legal advice to Secretary Nielsen or anyone in the White House?

Response: As this matter is currently in litigation, CBP and the Department of Justice cannot comment.

Question#:	9
Topic:	Asylum Guidance
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: What guidance, if any, has been provided to agents on the ground regarding their obligation to process migrants seeking asylum between ports of entry?

Response: According to U.S. law and CBP policy, if a U.S. Border Patrol agent encounters an individual who is not lawfully present or who is seeking admission at or between ports of entry, and who expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of return to his or her home country, the agent refers the person for a USCIS credible fear interview or to immigration proceedings before an Immigration Judge.

Question: Will you provide us with copies of that guidance if it exists?

Response: Following the *Ms. L. vs ICE* court decision issued on June 26, 2018, I sent a memo to the U.S. Border Patrol containing guidance on how to accurately apply that ruling between the POEs.

Question#:	10
Topic:	Child Death
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: 7-year-old Jakelin Caal Maquin died in Border Patrol custody on December 8 after crossing the U.S.-Mexico border. According to reports, Jakelin's father has said she was healthy when she arrived at the border, and initial screenings did not reveal any health issues. In your testimony before the Senate Judiciary Committee on December 11, you failed to mention Jakelin's death. You later told Rep. Kevin Yoder in a letter that you were concerned about "politicizing the death of a child."

Were you aware of Ms. Caal Maquin's death when you appeared to testify on December 11?

If yes, why didn't you bring Ms. Caal Maquin's death to the committee's attention? Who participated in any discussions on this subject?

Response: I first learned of the death on the morning of December 8th, 2018 and based on the guidance of CBP's legal team, I chose not to notify the committee at that time.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying out Congressional Oversight Committees, and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17th, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	11
Topic:	Death Reporting
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Congress requires CBP to report the death of any individual in CBP custody within 24 hours, including the details regarding the circumstances of the death. It took more than a week for reports of the death to become public. Why did CBP fail to report the death within 24 hours?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying out Congressional Oversight Committees, and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17th, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	12
Topic:	Medical Examination
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Did Ms. Caal Maquin receive a medical examination and food and water upon being taken into custody?

Response: The medical screenings conducted in this remote area are a verbal question and answer covering whether or not the person is currently sick, has known allergies, is taking any medication, and if they consider themselves to be in good health. Personnel are also visually assessing the person for alertness and whether or not they are acting appropriately. CBP personnel are also looking for any outward signs of trauma (visible cuts, bruises, etc.) or illness such as lesions, rashes, or other indications.

Jakelin's father did not provide any negative health information about her to the Border Patrol at the time they were taken into custody. Additionally, no outward signs of distress or trauma were noted.

CBP personnel use the responses to the health related questions and their observations to prioritize persons for further medical evaluation/treatment and transportation priority in remote locations.

Commercially purchased water was made available to all persons taken into custody, including Jakelin and her father.

Question#:	13
Topic:	Investigation
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Is CBP conducting an investigation into Ms. Caal Maquin death? If yes, does CBP intend to share its findings with Congress?

Response: The DHS Office of Inspector General has taken over the investigation into this case. CBP defers to DHS OIG with respect to the release of investigative information. While CBP awaits the results of their investigation, CBP will continue to take additional steps ensure transparency and accountability as we move forward.

Question#:	14
Topic:	After Action
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What steps will CBP take to prevent such a tragedy from happening again?

Response: In response to this tragic event, I directed the issuance on January 28, 2019, of Directive 2210-03, *CBP Interim Enhanced Medical Efforts*. This policy directs US Border Patrol agents and Office of Field Operations officers to perform a health interview for all aliens in USBP and OFO custody under the age of 18, and in some cases, adult aliens.

Directive 2210-003 is a temporary measure as CBP continues to analyze the impact of this Directive to inform development of a comprehensive health and medical policy that will ensure the appropriate care is available to all aliens encountered by CBP personnel. CBP is engaging experts in the health, academic and child care professions to provide guidance in the development of this policy.

To further demonstrate our commitment to providing care to all persons in our custody, CBP is moving towards using a medical screening contract to ensure all children in our custody in high-flow locations are evaluated by medical professionals and receive appropriate care as needed.

Additionally, we are reviewing staffing to include the availability of deploying emergency medical technician (EMT) certified Border Patrol agents into remote areas and increasing our ability to transport people from remote locations to stations and processing centers more rapidly.

Question#:	15
Topic:	Tear Gassing Children
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: In response to questions about the use of tear gas at the border, you told the committee that Border Patrol agents did not target children with tear gas during an incident at the border on November 25.

At whose direction was the tear gas fired, and why was it deployed at all when children were present?

Response: The use of less lethal munitions on Sunday, November 25, 2018 were based on the agents' perception of the threat as they faced a barrage of rocks and bottles being thrown at them along the U.S./Mexico border. Less lethal munitions were deployed to eliminate the threat of harm to everyone in the area, including Border Patrol Agents. The efforts of the Border Patrol Agents at the scene and the deployment of less lethal munitions, including CS gas, resulted in no reported injuries, except to Border Patrol Agents who were struck with rocks.

In all situations where less lethal munitions are deployed, Border Patrol Agents are trained to direct the munitions at the source of the threat.

Question: Have CBP officials ever discussed the medical risks associated with the use of tear gas on children?

Response: Upon review of available research conducted on the effects of CS, CBP has concluded that the risk of significant injury is within the threshold established by law enforcement and industry experts to use CS as a less lethal force option. There is no available data to suggest that children are at a heightened risk of significant injury due to CS exposure when age is the only differentiating factor. CBP will continue to follow all relevant case studies and research related to the subject matter and will make changes if needed to ensure our less lethal devices and technology are consistent with industry standards.

CBP recognizes the risks inherent with less-lethal use of force devices and identifies certain groups of individuals in the CBP Use of Force Policy as presenting unique factors that require special consideration, e.g. small children. The consideration our Authorized Officers/Agents must show these groups, because of the unique factors they present, is not limited to any specific less-lethal device, operational tactic, or defensive technique. Careful consideration, accurate assessment, and proper response are critical elements of every encounter, and stressed throughout CBP's use of force training curriculums.

Question#:	15
Topic:	Tear Gassing Children
Hearing:	Oversight of U.S. Customs and Border Protection
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Less-lethal chemical munitions may only be deployed by trained and certified CBP law enforcement personnel, and only in accordance with manufacturer’s specifications and applicable DHS and CBP policy. The CBP Use of Force Policy, Guidelines and Procedures Handbook provides guidance on the use of chemical munitions (“tear gas”) with respect to subjects who are small children. Specifically:

“Authorized Officers/Agents should not use a LLSI-CM and should consider other force options with respect to subjects who are: small children; elderly; pregnant; near known flammable materials (when using a pyrotechnic device); or operating conveyances” (CBP Use of Force Policy, Guidelines and Procedures Handbook, Chapter 4.C.7.c)

Question: Will CBP commit to evaluating the unique risks children face before engaging in the use of force that may compromise their health and safety?

Response: CBP Officers/Agents are trained to evaluate the unique risks associated with all uses of force. CBP provides use of force guidance and training for CBP Authorized Officers/Agents by way of a robust use of force policy derived from constitutional law, as interpreted by federal courts in cases such as *Graham v. Connor*, and *Tennessee v. Garner*.

CBP evaluates the risks of any less-lethal device through a rigorous research, test, and evaluation process prior to its approval and authorization for field use. Furthermore, CBP conducts periodic reviews of less-lethal devices, systems and associated equipment to assess their overall safety and effectiveness.

The CBP Use of Force Policy, Guidelines and Procedures Handbook also directs that any subject in CBP custody who has been exposed to a less-lethal chemical munition shall, as soon as practicable, be seen by an Emergency Medical Technician or other trained medical professional.

In accordance with the requirements of the CBP Use of Force Policy, Guidelines and Procedures Handbook, Authorized Officers/Agents should employ enforcement tactics and techniques that effectively bring an incident under control, while minimizing the risk of injury for all parties involved, or property damage. Any use of less-lethal force must be both objectionably reasonable and necessary in order to carry out the officer’s/agent’s law enforcement duties.

Before engaging in a use of force, CBP Authorized Officers/Agent must take into account the totality of the circumstances surrounding the situation, including the presence of imminent danger to the officer/agent or others

Question#:	15
Topic:	Tear Gassing Children
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: In light of a 7-year-old child's death in Border Patrol custody and the risks associated with tear gas use on children, will CBP reevaluate its use of tear gas when children are present?

Response: Officers/Agents must give careful attention to the totality of the facts and circumstances of each particular use of force, including the foreseeable risk of injury to involved subjects and others. The presence of children in an area where chemical munitions are deployed would be a factor in the totality of the circumstances surrounding the event.

The consideration our Authorized Officers/Agents must show children, because of the unique factors they present, is not limited to any specific less-lethal device, operational tactic, or defensive technique. Careful consideration, accurate assessment, and proper response are critical elements of *every* encounter, and stressed throughout CBP's use of force training curriculums.

Prior to deployment, if feasible, and if to do so would not increase the danger to the officer/agent or others, a verbal warning to submit to the authority of the officer/agent shall be given prior to the use of force.

Question#:	16
Topic:	Temporary Restraining Order
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: In response to the migrant caravan traveling through Mexico to seek asylum in the U.S., the Trump administration has issued an "asylum ban" that bars anyone who enters the U.S. from Mexico between ports of entry from seeking asylum in the US. On November 19, 2018, Judge Jon S. Tigar, a U.S. district court judge from the Northern District of California, found that that the plaintiff's in the East Bay Sanctuary Covenant v. Trump case would likely succeed on the merits of their lawsuit, which asserted that the ban improperly sought to override federal statute guaranteeing individuals' rights to apply for asylum regardless of their manner of arrival. Judge Tigar issued a temporary restraining order blocking the ban from going into effect.

Is CBP complying with Judge Tigar's temporary restraining order? Has the agency returned to pre-ban practices and processing?

Response: As this matter is currently in litigation, CBP and the Department of Justice cannot comment. Agents and officers still refer all claims of fear of return made during any processing for expedited removal to USCIS, as has always been CBP's guidance.

Question#:	17
Topic:	Asylum Seekers Between Ports of Entry
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: The DHS Office of Inspector General published a report from September 27, 2018, titled "Special Review - Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy." The report contains numerous concerning findings regarding the administration's preparedness to implement a policy that separated thousands of parents and children seeking protection in the United States. The OIG report details CBP's process of "metering" asylum seekers at ports of entry, the process by which individuals and families who want to seek asylum at a port of entry are often turned away, told they will not be processed, or told that they will have to wait what can be days or weeks and return another day. This is despite the fact that individuals have a right to seek asylum in the United States, and despite insistence from DHS in testimony and other public statements that asylum seekers should present at ports rather than cross between ports of entry. The OIG report notes that the evidence "strongly suggests a relationship" between metering at ports of entry and increases in crossings between ports, as expressed by at least one Border Patrol supervisor interviewed for the report.

How is CBP handling asylum seekers who have been apprehended by the agency between ports of entry? Are those individuals still being given the opportunity to seek asylum?

Response: According to U.S. law and CBP policy, if an agent encounters an individual who is not lawfully present or who is seeking admission between ports of entry, and who expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of return to his or her home country, the officer or agent refers the person for a USCIS credible fear interview or to immigration proceedings before an Immigration Judge.

Question: Will you commit to providing this committee with data showing the number of individuals apprehended between ports of entry who are screened for asylum and removed immediately compared to those or who are referred for credible fear or reasonable fear interviews?

Response: All individuals who are apprehended between the ports of entry and who express a fear of return are referred to USCIS. Such individuals are not subject to immediate removal. To the extent that the committee would like statistics on the number of individuals apprehended between the ports of entry who express a fear of return, I am happy to work with the committee to provide this information.

Question#:	18
Topic:	Turning Back Migrants
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Are you aware of concerns that Border Patrol agents are turning back migrants who reach the United States to Mexico without processing them? What have you communicated to the field to prevent this from happening?

Response: CBP does not permit its agents to turn back individuals who enter the United States illegally. When individual(s) who entered the U.S. illegally are encountered by Border Patrol agents, they are arrested and processed according to law. Agents only make arrests when they can do so safely. CBP takes allegations of employee misconduct seriously and refers incidents for investigation when sufficient information is available.

Question#:	19
Topic:	Metering Dangers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Are you aware of reports that the "metering" process makes asylum-seekers vulnerable to dangers like drug cartels or sex-trafficking? How do you respond to those reports?

Response: As I stated in my testimony, what is happening to some of the most vulnerable people in our hemisphere on this journey is deplorable. We need to continue to work with the Mexican government to address Transnational Criminal Organizations (TCOs) and the Central American governments to do more to address the economic, security, and governance push factors. We also have to address the incentives in our legal system that encourage people to undertake the dangerous journey to try to seek illegal entry in the United States.

CBP does not permit its officers to turn away individuals seeking asylum. The laws of the United States allow individuals to seek asylum if they have suffered past persecution or torture or have a well-founded fear of future persecution outside of the United States, typically in their country of origin, on account of their race, religion, nationality, membership in a particular social group, or political opinion. CBP policies and procedures are based on these laws and are designed to protect vulnerable and persecuted persons.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. To ensure the safety of all travelers, as well as CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals, as well as temporarily hold those found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. Individuals who arrive without documents sufficient for admission or other lawful entry may be required to wait to be processed until capacity permits.

CBP has worked closely with the Governments of Mexico and Central America to address the challenges of migration in the region. CBP very much appreciates the efforts of the Government of Mexico to address this challenging situation in accordance with the highest principles of protection of human rights and respect for migrants, while upholding the integrity of the Mexican border and Mexican immigration law.

Question#:	20
Topic:	Separating Children
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: The policy of separating families at the border had purportedly been suspended, but recent reports indicate the Trump administration has quietly resumed the practice. According to recent reports, CBP officials have engaged in coercive and abusive practices against the same vulnerable parents who were separated from their children under the Trump administration's "zero tolerance" policy. Accounts show that CBP officers verbally and physically abused them, denied them food, made them sleep on cold concrete floors next to toilets, and withheld feminine hygiene products. In many cases, parents were forced to relinquish their rights to reunify with their children, seek asylum, and/or consult with an attorney. To take just one example, one mother indicated that a CBP officer demanded she sign what she believed to be deportation papers or else, "I would never see my child again."

Does CBP separate children from their parents/legal guardians in these cases? If so, why does CBP not instead turn to measures such as parole or enrollment, if needed, into an alternative to detention program for the parent/legal guardian?

Response: When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and their alien child(ren)) or a group purporting to be a family unit, CBP does not separate the child from either parent/legal guardian unless the specific criteria provided in the Preliminary Injunction in *Ms. L v. ICE* are met. With the appropriate approvals, CBP officers and agents may separate where a parent/legal guardian is being referred for prosecution for a crime other than illegal entry, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal history, the parent/legal guardian has a communicable disease, the family unit consists of children with other family members such as a grandparent, aunt, or older sibling, or CBP establishes that the familial relationship is not bona fide. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

Question#:	21
Topic:	Guidance Relating to Parents
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Do CBP or DHS have any policy guidance in writing relating to parents/legal guardians who are apprehended or found inadmissible while traveling with a U.S. citizen or lawful permanent resident child? Please share any such guidance with the committee.

Response: On October 24, 2012, CBP/OFO published guidance regarding U.S. citizen and Lawful Permanent Resident children who are traveling with inadmissible alien parents. In addition, the *Flores* Settlement Agreement (FSA) provide guidelines regarding the care and treatment of juveniles during CBP processing. The memo and muster states, in part:

In situations where a verifiable guardian relationship exists with the child, CBP officers will ensure, unless safety or other aggravating factors exist, that both the guardian and the child remain together; provided access to toilets, drinking water, and food; and a detained parent or guardian will be afforded the opportunity to notify an alternative caregiver who may take custody of the minor, provided that consent is secured and acknowledged.

Question#:	22
Topic:	Cell Temperature
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: The Chicago Tribune recently reported that detention cells at U.S. Border Patrol facilities are kept at such cold temperatures that they are nicknamed "hielera," or "icebox," despite your assurances that written policies ensure comfortable temperatures and that the cells only feel cold because migrants come from hot climates. According to reports, only silver polyethylene sheets are made available for warmth and one 4-year-old became "very sick" because of the cold.

For what reason are detention cells kept so cold?

Response: Agents must comply with CBP's National Standards on Transport, Escort, Detention, and Search (TEDS). Officers/agents should maintain hold room temperature within a reasonable and comfortable range for both detainees and officers/agents. Under no circumstances will officers/agents use temperature controls in a punitive manner for ensuring temperatures are within approved reasonable and comfortable ranges. These temperatures are captured and recorded multiple times during a shift within the stations' amenity reports.

Question: Are low temperatures used for punitive purposes?

Response: Absolutely not. See above information from TEDS.

Question: What is CBP doing to ensure thermostats in its facilities are set between 66 and 80 degrees, the range deemed reasonable under the terms of the Flores settlement?

Response: Agents must comply with TEDS policy for ensuring temperatures are within approved reasonable and comfortable ranges. These temperatures are captured and recorded multiple times during a shift within the stations' amenity reports. Furthermore, sectors comply with Self Inspection Programs, CBP Health and Safety Monitors, Juvenile Coordinators, OIG and various NGO's, when applicable, to monitor temperatures and ventilation in compliance with TEDS and Flores. In some CBP facilities, agents do not have access to temperature controls and must contact off site building controls to change the temperature when necessary. Subject to this limitation, supervisors in a holding space will adjust temperatures as needed to ensure that the temperature stays within the acceptable range.

Question#:	23
Topic:	Border Wall I
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Do you believe that building a concrete wall - as opposed to a fence or other barrier - is the most effective way to secure our southern border?

Response: Border barrier, in combination with personnel and technology deployed in varying degrees in each location, is the most effective way to secure the Southwest border. The Border Patrol's unique contribution to border security is achieving and maintaining operational control of the border between the Ports of Entry. CBP's steel bollard standard design is the preferred design. It provides the see-through capability that maximizes agent safety and is more cost effective than solid wall alternatives. Steel bollard provides agents with minimally obstructed view of subjects on the opposing side of the barrier, enable safe approach tactics by agents, and increases protection against projectiles.

Question: What steps have you taken to determine whether building a fence or a wall is the most appropriate and cost-effective solution in any additional border areas?

Response: The Impedance and Denial (I&D) capability that border wall provides has been an operational requirement for the Border Patrol for over 25 years. In locations that wall has been deployed, it has had a positive operational outcome that has enhanced our ability to achieve operational control of the border. Operational control of the border is not reliant upon infrastructure and barriers alone. However, physical barriers are the backbone of a border security system that is most effective when complimented by other resources that include technology, personnel, and other key infrastructure such as roads. To identify any one solution as the most cost- effective would imply that operational control of the border can be achieved through a single border security solution; rather, these interdependent components are what enable the USBP to enhance its border security posture with the goal of gaining operational control.

Per the Mission Needs Statement (MNS) and Operational Requirements Document (ORD), U.S. Border Patrol requires I&D capabilities that increases vanishing time from the point of detection to be greater than the estimated USBP response time to the attempted entry. USBP conducted an Alternatives Analysis (AA) that measured the effectiveness of four I&D approaches which it quantified with an overall net operational impact. Each alternative's impact was divided by the estimated cost to generate the overall performance value. The alternative with the highest overall performance value was selected as the preferred I&D solution.

Question: How have you taken into account the input of local communities?

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Response: As a part of any proposed border wall construction, CBP regularly consults with stakeholders that have an interest in the project and are potentially directly affected, including local communities. CBP’s outreach and consultation comes in a variety of forms such as through mailings, emails, web site postings, webinars, and in-person meetings. Through this outreach, CBP solicits input about stakeholders’ concerns and knowledge of the area, specifically if they have information or data that will assist CBP in evaluating potential impacts to the environment, culture, commerce, and quality of life. CBP also meets with local officials, federal, state, and local resource agencies, and affected Tribes. For example, for a recent project to install mechanical gates in existing barriers in the Rio Grande Valley, Texas, CBP met with first responders to discuss operational issues that were unique to first responders in order to ensure their concerns were addressed and that they were familiar with gate operations.

Information regarding potential environmental impacts that is provided to CBP through its outreach and consultation process is utilized by CBP in its environmental planning. The culmination of this planning is the release of either an environmental analysis done pursuant to the National Environmental Policy Act (NEPA) or an Environmental Stewardship Plan (ESP), which mimics a NEPA document and is prepared for projects covered by a waiver issued by the Secretary of the Department of Homeland Security under Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Information as to other types of impacts is also accounted for in CBP’s planning process.

Question: Border wall construction all along Texas could result in an area almost the size of Rhode Island essentially being walled off from the United States. Is this optimal for protecting our country?

Response: The border wall alignment along the Rio Grande Valley was determined based on the 1970 U.S. Treaty with Mexico which prohibits the construction of any works in the floodplain that, in the judgment of the International Boundary and Water Commission (IBWC), may cause deflection or obstruction of the normal flow of the river. CBP has sought concurrence from IBWC for the proposed border wall alignment. Additionally, landowners will continue to have access to property between the Rio Grande River and border wall via motorized gates.

The Rio Grande Valley (RGV) Sector in Texas is the top priority for border wall construction and barrier here is critical to gaining and maintaining operational control of the Southwest border. RGV consistently ranks highest in apprehensions for the Southwest border and is among the top narcotics seizing sectors in the USBP. Limited

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tactical infrastructure and consistently high activity levels pose a great vulnerability to border security and put RGV at the top of the barrier priorities. Deploying wall system in high priority areas—particularly urban areas where illegal border crossers can quickly vanish into the surrounding community—allows Border Patrol to decide where illegal border crossings take place and USBP can place personnel and technology in complement to border barrier.

Question: Are there alternatives that could provide security without taking people’s private property and walling off wildlife refuges?

Response: The USBP mission to gain and maintain operational control of the border requires a combination of personnel, technology, and infrastructure. Due to varying challenges throughout the Southwest border, it is imperative to have the adequate amount of personnel to reach a law enforcement resolution, the technology to provide agents with situational awareness and detection capabilities, and the infrastructure to impede the cross border entries. Infrastructure designed to impede cross border entries is key in specific areas with short vanishing times where agents have seconds to minutes to respond to border incursions. Many considerations determine the strategic alignment for the border barrier to include illegal cross border activity, hydrology, and topography studies. When and where possible, CBP works with local stakeholders to mitigate the impacts as much as possible, including providing access to any property between the Rio Grande River and border barriers, without causing an impact to operations.

Question#:	24
Topic:	Border Wall II
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: DHS statistics indicate the lowest number of illegal border entries at least since 2000, and likely since the early 1970s." In light of the significant drop in unauthorized entries, which began long before this administration, and the uncertainty of the effectiveness of border walls, is it optimal use of taxpayer resources to spend billions of dollars on a border wall?

Response: The Impedance and Denial (I&D) capability that border wall provides has been an operational requirement for the Border Patrol for over 25 years. In locations that wall has been deployed, it has had a positive operational outcome that has enhanced our ability to achieve operational control of the border. Operational control of the border is not reliant upon infrastructure and barriers alone. However, physical barriers are the backbone of a border security system that is most effective when complimented by other resources that include technology, personnel, and other key infrastructure such as roads. To identify any one solution as the most cost- effective would imply that operational control of the border can be achieved through a single border security solution; rather, these interdependent components are what enable the USBP to enhance its border security posture with the goal of gaining operational control.

Per the Mission Needs Statement (MNS) and Operational Requirements Document (ORD), U.S. Border Patrol requires I&D capabilities that increases vanishing time from the point of detection to be greater than the estimated USBP response time to the attempted entry. USBP conducted an Alternatives Analysis (AA) that measured the effectiveness of four I&D approaches which it quantified with an overall net operational impact. Each alternative's impact was divided by the estimated cost to generate the overall performance value. The alternative with the highest overall performance value was selected as the preferred I&D solution.

In Fiscal Year (FY) 2019 through January, USBP apprehensions on the Southwest Border increased by 84 percent compared to the same time period in FY 2018. Including February, Southwest Border apprehensions are up 97 percent.

Question: If you do not recommend building border wall from coast to coast, what specific criteria will you use to determine where border wall should be constructed?

Response: CBP is not seeking barrier for all 1,954 miles of the Southwest border. CBP has developed a comprehensive methodology to determine where to deploy barriers that are most operationally effective, and in those locations that make the most sense. This methodology considers quantitative data, qualitative data, intelligence, and subject matter expertise to determine where barrier will provide the most operational impact. A CBP

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report detailing methodology and the border wall request to include priorities was provided to Appropriators in January 2018.

Question#:	25
Topic:	Waivers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Please describe which provisions of the law (including the National Environmental Policy Act, the Archaeological Resources Protection Act, the Clean Air Act and the Endangered Species Act) have been waived under recent waivers (pursuant to the 2005 REAL ID Act) for new construction. Would these laws have been unduly burdensome for DHS to comply with and why compliance would have been unduly burdensome?

Response: Each waiver issued under Section 102 of IIRIRA is published in the Federal Register and made available to the public. The specific laws that have been included in the prior IIRIRA waivers are set forth therein. The laws that have been included in prior IIRIRA waivers have either presented an immediate impediment to the expeditious construction of border infrastructure or could pose a threat to expeditious construction due to the potential for litigation, administrative, or regulatory delays.

In general, the prior IIRIRA waivers have included environmental and natural resource laws. However, even for those projects covered by an IIRIRA waiver, CBP has consistently demonstrated its strong commitment to environmental stewardship. CBP works diligently to integrate responsible environmental practices – including incorporating sustainable practices – into all aspects of our decision-making and operations. CBP utilizes existing environmental data, information from additional environmental surveys, and the input it receives from affected stakeholders, including federal, state, and local resource agencies to assess potential impacts. In addition, as a part of all its border infrastructure projects, CBP implements best management best practices that are designed to minimize or avoid impacts. Where avoidance is not possible, CBP considers implementing mitigation measures to offset impacts where it is feasible and there is available funding.

13 waivers have been issued under the current program. The attached slide includes a breakdown of these waivers and a background/overview.

Question#:	26
Topic:	Paying on Eminent Domain
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: A significant portion of the borderlands without existing border enforcement infrastructure in the Rio Grande Valley is privately owned. How much money do you anticipate paying on eminent domain just compensations in the Rio Grande Valley for the primary pedestrian fencing and levee fencing funded by Congress?

Response: At this time, CBP, in partnership with the U.S. Army Corps of Engineers (USACE) are currently reviewing surveys and appraisals valuing the land required in the Rio Grande Valley for the projects funded in FY 2018 and 2019. Property being sought for acquisition by CBP for construction of the border barrier is still under evaluation by the real estate acquisition team, and, therefore, a final estimate is not yet available. In general, an appraisal of each parcel of land required for the construction of the infrastructure is completed by the Government to determine the value of the land. Once an appraisal is completed, the landowner is presented with an Offer to Sell (OTS) which is negotiated with the landowner(s). It is always CBP's preference to acquire private property through voluntary sale.

If the landowner(s) and USACE/CBP are unable to reach an agreement on an OTS, the landowner is unknown, or there is the absence of a clean title, it is referred to the local Department of Justice (DOJ)/United States Attorney's Office (USAO) to initiate condemnation proceedings. The USAO attempts to negotiate an offer to sell before instituting condemnation proceedings. If unsuccessful, the USAO files a Declaration of Taking in the U.S. District Court in which the property is located. Upon filing the Declaration of Taking and depositing what the Government estimates is just compensation for the property it is acquiring, the Government has title to the property. The Government can access the property once the Court grants it possession.

Question#:	27
Topic:	Conservation Efforts
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: How does DHS plan to protect the important conservation values - wildlife movement, protected landscapes, bi-national conservation efforts, in the places walls are being constructed or replaced?

Response: CBP consults with the public, local, state, and Federal stakeholders, including resource agencies, to identify areas where natural, cultural, and biological resources may be present within a project area and to obtain recommendations for avoidance or minimization of environmental impacts. In addition, CBP utilizes existing data and conducts new environmental field surveys of the project areas to identify and document existing environmental conditions. Based on consultation and completion of field surveys, CBP completes an assessment of the environmental impacts from the project and develops measures to avoid or minimize impacts. CBP utilizes a suite of construction best management practices established through lessons learned and previous environmental surveys and assessments that are combined with mitigating measures to reduce or prevent the impact to environmentally sensitive areas. To provide one example of how these efforts inform CBP's planning and execution of border projects, CBP has worked closely with U.S. Fish and Wildlife Service to identify areas along the Southwest border where large mammals may be affected by a barrier and is developing migration gaps and corridors to minimize the impacts from the construction of barrier.

Question#:	1
Topic:	Child's Death
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: On December 13, the Department of Homeland Security announced that a 7-year-old girl from Guatemala died in Border Patrol custody after being apprehended along the border.

When and how were you made aware of this girl's death, and in light of this tragedy, what steps will you take to make sure that children in CBP custody receive the medical care they need?

Response: I first learned of the death on the morning of December 8, 2018. The entire U.S. Customs and Border Protection (CBP) family was deeply impacted by the death of this child and the challenging circumstances of all in our custody.

In response to this tragic event, I directed the issuance on January 28, 2019, of Directive 2210-03, *CBP Interim Enhanced Medical Efforts*. This policy directs US Border Patrol agents and Office of Field Operations officers to perform a health interview for all aliens in USBP and OFO custody under the age of 18, and in some cases, adult aliens. Please refer to the included copy of this Directive.

Directive 2210-003 is a temporary measure as CBP continues to analyze the impact of this Directive to inform development of a comprehensive health and medical policy that will ensure the appropriate care is available to all aliens encountered by CBP personnel. CBP is engaging experts in the health, academic and child care professions to provide guidance in the development of this policy.

To further demonstrate our commitment to providing care to all persons in our custody, CBP is moving towards using a medical screening contract to ensure all children in our custody in high-flow locations are evaluated by medical professionals and receive appropriate care as needed.

Additionally, we are reviewing staffing to include the availability of deploying emergency medical technician (EMT) certified Border Patrol agents into remote areas and increasing our ability to transport people from remote locations to stations and processing centers more rapidly.

Question#:	2
Topic:	ROAM App
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: Last year, Customs and Border Protection announced that it would reduce personnel and port hours for some northern border points of entry in Minnesota. In Crane Lake, CBP's Reporting Offsite Arrival - Mobile (ROAM) app officially replaced a permanent agent at the port last month. I am concerned that the lack of reliable cell service in the area will impact CBP's ability to efficiently process Minnesotans checking back into the United States.

What is CBP doing to ensure that its ROAM app functions properly and without interruption along the northern border, including at Crane Lake?

Response: The Reporting Offsite Arrival - Mobile (ROAM) application allows travelers to prepopulate traveler and mode of travel information on their personal device before embarking on a trip. Travelers can similarly prefill trip details in advance of arrival. For all current modes of travel, the mobile application requires network connectivity upon submission of the trip when the user clicks on the submit button. This application allows for an easy submission once the user has Wi-Fi or cellular connectivity. To further mitigate situations where travelers lack cellular data or Wi-Fi connectivity, CBP ROAM has deployed and installed iPads at numerous resort or lodge locations; nine of which are spread across the Crane Lake area. With the app already downloaded and at the forefront, travelers can easily submit their arrivals through the iPads. The majority of the iPads are connected to the resort Wi-Fi, and two have been deployed with Firstnet cellular data plans to ensure connectivity.

Question: Will you commit to having senior CBP officials meet with the Crane Lake community in response to the concerns that have been raised regarding the impact of these changes on the local economy?

Response: We actively engage with State, Local, Tribal, and Territorial stakeholders. CBP's Office of Intergovernmental Public Liaison is engaging leaders from the Crane Lake community to listen to their concerns about changes to port operations and raise any relevant issues with agency leadership.

Question#:	3
Topic:	Travel Ban Waiver
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Presidential Proclamation 9645, entitled "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats," also known as the travel ban, states that Customs and Border Protection (CBP) or consular officials can waive the ban's entry restrictions on a case-by-case basis. You indicated that you would provide information about these waivers in writing.

How many waivers have been granted by CBP officials?

Response: Presidential Proclamation 9645 went into effect on December 8, 2017. Since the proclamation went into effect to the present date, CBP has neither received any requests for waivers at ports of entry nor approved any requests for waivers of Presidential Proclamation 9645.

Question: How many requests for waivers has CBP received?

Response: To date, CBP has neither received any requests for waivers at ports of entry nor approved any requests for waivers of Presidential Proclamation 9645.

Question: Please provide the country-by-country breakdown for waivers granted and requested, as well as the reasons for granting or denying the waivers.

Response: CBP has neither received any requests for waivers nor approved any requests for waivers of Presidential Proclamation 9645.

Question#:	4
Topic:	Information Obtained
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In this administration, CBP and the Department of Health and Human Services Office of Refugee Resettlement are sharing information, including regarding potential sponsors for unaccompanied children, with Immigration and Customs Enforcement (ICE). On average, unaccompanied children are spending more time in the custody of the government before they are released to sponsors.

Was information that CBP obtained from children to identify caretakers used to arrest and deport their relatives and/or potential sponsors?

Response: U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), U.S. Customs and Border Protection, and the Department of Health and Human Services (HHS) Office of Refugee Resettlement entered into a memorandum of agreement (MOA) on April 13, 2018. The purpose of this MOA is to ensure that these signatories share relevant information concerning unaccompanied alien children, their potential adult sponsors, and adult members of those potential sponsors' households to verify that the potential sponsor is capable of providing shelter and care, and that the potential sponsor's cohabitants do not endanger the child after placement.

However, as a result of funding restrictions in the Fiscal Year 2019 enacted budget, I CE ERO has directed its field offices to cease making arrests based on information referred HHS pursuant to the April 13, 2018 MOA. Additionally, ICE is no longer transmitting any HHS lead referrals to its field offices and previous transmitted referrals have been removed from ICE's case management system.

Although ICE is no longer conducting arrests of sponsors or potential sponsors based on information received from HHS under the MOA, ICE notes that it does not exempt any class or category of alien in violation of federal immigration laws from potential enforcement action and will continue to conduct interior enforcement in line with its mission and the laws passed by Congress. As a result, aliens who are identified as illegally present through means other than an HHS lead referral may be subject to enforcement regardless of their status as a sponsor or potential sponsor.

Question#:	5
Topic:	41 Arrested
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In September 2018, ICE senior official Matthew Albence told Congress that 41 people who came forward as sponsors were arrested. Do you know how many of those arrests stemmed from information CBP obtained from unaccompanied children?

Response: As of December 20, 2018, of the 41 arrests, only one can be attributed to information ICE received from CBP.¹

¹ Please note that this data is based on manual review of information provided by U.S. Customs and Border Protection. U.S. Immigration and Customs Enforcement has provided this information in an effort to be responsive but notes any manually produced data may be subject to error.

Question#:	6
Topic:	Arresting Sponsors
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Last week, ICE officials announced that federal authorities have arrested 170 immigrants who came forward seeking to sponsor migrant children in government custody. Those arrests were the direct result of background checks conducted on potential sponsors of unaccompanied migrant children placed in the care of the Department of Health and Human Services. Of the arrested immigrants, 109 had no criminal record. Do you agree with me that arresting individuals who come forward as sponsors for unaccompanied children makes it more difficult to place children with sponsors and causes them to remain in government custody for longer periods of time?

Response: ICE ERO, CBP, and HHS ORR entered into an MOA on April 13, 2018. The purpose of this MOA is to ensure that these signatories share relevant information concerning unaccompanied alien children, their potential adult sponsors, and adult members of those potential sponsors' households to verify that the potential sponsor is capable of providing shelter and care, and that the potential sponsor's cohabitants do not endanger the child after placement.

However, as a result of the funding restrictions contained in the Fiscal Year 2019 enacted budget, ICE ERO has directed its field offices to cease making arrests based on information referred from HHS pursuant to the April 13, 2018 MOA. Additionally, ICE is no longer transmitting any HHS lead referrals to its field offices and previously transmitted referrals have been removed from ICE's case management system.

Although ICE is no longer conducting arrests of sponsors or potential sponsors based on information received from HHS under the MOA, ICE notes that it does not exempt any class or category of alien in violation of federal immigration laws from potential enforcement action and will continue to conduct interior enforcement in line with its mission and the laws passed by Congress. As a result, aliens who are identified as illegally present through means other than an HHS lead referral may be subject to enforcement regardless of their status as a sponsor or potential sponsor.

Question#:	7
Topic:	Criminal Records
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: For the 61 arrested individuals who did have criminal records, please provide a breakdown distinguishing between convictions for violent and nonviolent offenses.

Response: Please see the chart below.

Pending Criminal Charges and Criminal Convictions Associated with Department of Health and Human Services Data Arrests

Criminal Charge Category	Pending Criminal Charges	Criminal Convictions	Total Offenses
Traffic Offenses ²	17	63	80
Immigration ³	7	12	19
Assault	2	7	9
Larceny	3	4	7
General Crimes	2	1	3
Sexual Assault	2	1	3
Dangerous Drugs	-	2	2
Forgery	-	2	2
Fraudulent Activities	-	2	2
Public Peace	1	1	2
Commercialized Sexual Offenses	-	1	1
Liquor	-	1	1
Obstructing Judiciary, Congress, Legislature, Etc.	1	-	1
Sex Offenses (Not Involving Assault or Commercialized Sex)	1	-	1

*Fiscal Year 2019 data is current as of February 6, 2019. ICE tracks and reports on criminal history using the National Crime Information Center (NCIC) Uniform Offense Codes. The FBI's Next Generation Identification (NGI) System is the United States central database for maintaining crime-related information, maintained by the Federal

² NCIC Traffic Offense codes include: Hit and Run (5401), Transport Dangerous Material (5402), Driving Under the Influence of Drugs (5403), Driving Under the Influence of Liquor (5404), and Traffic Offense (5499).

³ NCIC Immigration Offense codes include: Illegal Entry (0301), False Citizenship (0302), Smuggling Aliens (0303), and Immigration (0399).

Question#:	7
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Bureau of Investigation, and is interlinked with Federal, tribal, state, and local law enforcement entities. Please note that aliens may have more than one criminal conviction or charge.

Question#:	8
Topic:	Investigation
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: After the hearing was over, Senators learned from press reports that a seven-year-old Guatemalan girl, Jakelin Caal Maquin, died in the custody of CBP on December 8 - three days before you testified before the Senate Judiciary Committee.

Will you support an objective and thorough investigation into the tragic death of Jakelin Caal Maquin?

Response: Yes. The DHS Office of Inspector General (OIG) has assumed the investigation into the death of Jakelin Caal Maquin. While CBP awaits the results of the OIG investigation, additional steps ensure transparency and accountability have been taken.

Question#:	9
Topic:	Bus Trip
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Were CBP officials informed that Jakelin Caal Maquin had become ill and was vomiting before she was loaded onto a bus to Lordsburg, New Mexico? If so, why did CBP officials insist that she board the bus for this long trip to Lordsburg?

Response: As the investigation into this event is ongoing, CBP declines to provide a response at this time.

Question#:	10
Topic:	Reforms
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: What reforms will you implement to ensure that sufficient resources are devoted to the care and wellbeing of children crossing the border so that they get the health care they need?

Response: On January 28, 2019, CBP released Directive 2210-03, *CBP Interim Enhanced Medical Efforts*. This policy directs US Border Patrol agents and Office of Field Operations officers to perform a health interview for all aliens in USBP and OFO custody under the age of 18, and in some cases, adult aliens. Please refer to the included copy of this Directive.

Directive 2210-003 is a temporary measure as CBP continues to analyze the impact of this Directive to inform development of a comprehensive health and medical policy that will ensure the appropriate care is available to all aliens encountered by CBP personnel. CBP is engaging experts in the health, academic and child care professions to provide guidance in the development of this policy.

CBP is currently evaluating the deployment of medically-trained law enforcement personnel to remote locations. CBP is committed to the care and wellbeing of all persons in our custody and take particular care for vulnerable populations such as children. At four locations in the El Paso, Laredo, Rio Grande Valley and Yuma Sectors, CBP has a medical contract specifically for the evaluation and care of children in our custody. In all cases, immediate attention and care is provided as soon as possible.

Question#:	11
Topic:	Disclosure
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: The agency's failure to promptly disclose this death in CBP custody prevented Senators from conducting important oversight during the hearing. Why did CBP fail to disclose this information to Senators prior to the hearing?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that contribute to families' decisions to take this dangerous path.

Question: Do we have your assurance that, in the future, information about any death in CBP custody will be made available to the Senate within 24 hours of the occurrence?

Response: On December 17, 2018, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody, including Congressional notifications. We outlined this process in keeping with Federal law enforcement best practices and it accounts for legitimate Congressional oversight. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	12
Topic:	All-Threats Approach
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Some estimates suggest that trade in counterfeit goods amounted to 2.5 percent of world trade in 2013 and continues to rise, harming legitimate U.S. businesses and endangering consumer welfare, such as in cases of adulterated counterfeit medicines. To increase the interception of such counterfeit goods to the United States, the U.S. Joint Strategic Plan on Intellectual Property Enforcement for Fiscal Years 2017-2019 recommended that CBP "[c]onsider opportunities to utilize an 'all-threats' approach in cargo screening programs" instead of the "single-threat" approach, under which container ships are screened for a single illicit item, such as contraband weapons, but must ignore any other illicit goods, such as counterfeits, discovered in the screening process. Please describe CBP's progress, if any, in implementing this recommendation.

Response: CBP utilizes a multi-layered approach to identifying all manner of threats that may be present in shipments large and small, across all environments, but must prioritize among areas of risk and constantly strive to enforce all violations, including trade violations, wherever they occur in the supply chain using the most efficient and appropriate methods.

Known threats are handled in a way that is appropriate for the level of risk presented. For example, an identified trade issue that does not present a safety risk, such as a revenue issue, may be handled post-entry, whereas a shipment of dangerous products may be detained and seized, or completely denied authorization to import. Along the spectrum of trade violations, CBP has a variety of tools and tactics it can use to bring about compliance and enforce trade laws.

CBP is mindful of the need to adapt in order to meet the challenges of an evolving trade landscape. New modes of conducting business, along with new actors and industries have emerged, disrupting the traditional global supply chain. CBP is working with our agency and private sector partners, titled "The 21st Century Customs Framework" (21CCF) to continue effectively fulfilling CBP's mission. The 21CCF will endeavor to address and enhance numerous aspects of CBP's trade mission to better position the agency to operate in the 21st century trade environment.

To this end, CBP hosted a Public Meeting on March 1, 2019, to obtain public input on the 21CCF themes: Emerging Roles in the Global Supply Chain, Intelligent Enforcement, Cutting-Edge Technology, Data Access and Sharing, 21st Century Processes, and Self-Funded Customs Infrastructure. More information can be found at <https://www.cbp.gov/trade/21CCF>.

Question#:	13
Topic:	Counterfeit Medical Devices
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: The International Trade Administration's 2016 Top Markets Report: Medical Devices found that "[a]lthough intellectual property rights (IPR) and counterfeiting have not posed as significant a problem for medical device firms as they have in the pharmaceutical industry, the sector is beginning to face related revenue losses with increasing frequency. . . . There is limited data on counterfeit medical devices, but based on feedback from industry, the most frequent incidences are in IVD reagents and solutions, contact lenses, medical test kits, combination products and components parts, such as semiconductors used in imaging equipment. U.S. industry loses market share to counterfeit products, and patients are subject to unnecessary risks."

Has CBP observed a growth in the importation, or attempted importation, of counterfeit medical devices?

Response: Due to the potential impact on consumer safety, CBP recognizes counterfeit medical devices as a significant health and safety risk. Enforcement activities that prevent dangerous products from entering the commerce of the United States are prioritized. CBP has not observed a significant growth in the imports, or attempted imports, of counterfeit medical devices in recent years. In Fiscal Year 2017, pharmaceutical and personal care products accounted for 16 percent of all Intellectual Property Right (IPR) seizures, ranking 7th of all seized product categories.

Question: What steps, if any, has CBP taken to address the importation of counterfeit medical devices, and how does it plan to address such illegal importations going forward?

Response: CBP has developed a multi-pronged approach to addressing the importation of counterfeit medical devices which includes preventing the import of counterfeit products, providing consumer education about the dangers of counterfeit products, and engaging with both regulating government agencies and medical devices industry. The Pharmaceuticals, Health and Chemicals Center of Excellence and Expertise leads efforts to engage the trade community in the sharing of information, obtaining data on risk factors and educating our trade partners on expectations and regulatory requirements.

CBP has developed and conducted several special trade operations focusing on counterfeit health related products and works side-by-side in a specialized trade targeting unit with officials from regulating agencies to analyze, identify and enforce imports containing potentially dangerous medical devices. CBP is currently developing two special operations to focus on medical products. Additionally, CBP is a principal agency at the Intellectual Property Rights Coordination Center (IPRC), which runs national

Question#:	13
Topic:	Counterfeit Medical Devices
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

operations focusing health and safety issues. *Operation Guardian* is a public health and safety initiative that combines the specific areas of many government agencies including U.S. Immigration and Customs Enforcement-Homeland Security Investigation (ICE-HSI) agents. This initiative focusses on targeting, interdicting and investigating the importation of hazardous products, such as the dangers found in imported apparel, pet food ingredients, toys, seafood and other consumer products.

CBP continues to build on the concept of deterring imports of counterfeit products through increasing public awareness on the impact purchasing and using counterfeit products can have on personal safety.

Since FY 2017, CBP has been running *The Truth Behind Counterfeits* public awareness campaign to inform consumers of the legal, economic and public health and safety impacts of purchasing IPR infringing merchandise. The campaign consists of four ads displayed at major international airports in the U.S. during high travel periods. The ads are run simultaneously on travel websites. Thus far, CBP has had five phases of the campaign (summer 2017, holidays 2017, summer 2018, holidays 2018, and summer 2019). Each phase has resulted in over 100 million views by travelers throughout the U.S. The ads promote consumer conscientiousness and encourage travelers to shop from reputable sources. For more information, see www.cbp.gov/fakegoodsrealdangers.

CBP regularly provides training to field personnel on new and emerging counterfeit products. This training is offered both as webinars and instructor-led, and often includes representatives from the impacted industry or company in order to highlight specific risks identified and provide precise training on known violations. We are eager to work with the trade community in providing beneficial trainings, which will assist in the identification and interdiction of dangerous counterfeits. Requests to provide training can be submitted through the trade training email, at tradeseminars@cbp.dhs.gov.

Engagement with industry is a critical piece of CBP's efforts in preventing dangerous products from entering the United States commerce. When medical device industry representatives identify an area of risk or a violator, it is critical to share this information so the issue can be researched and appropriate actions taken. Information can be provided to CBP at IPRHELPDESK@cbp.dhs.gov. Alternatively, the information can be provided to CBP's Commercial Allegation Reporting System (CARS) <https://eallegations.cbp.gov/Home/Index2>.

CBP enforces trademarks that have been registered with the U.S. Patent and Trademark Office (USPTO) and recorded with CBP. Right holders that wish to record a registered trademark with CBP can find more information at CBP's e-Recordation site,

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<https://iprr.cbp.gov/>. Additional opportunities for the private sector to engage with CBP can be found within the IPR Donations Acceptance Program, whereby right holders and industry leaders can provide technology donations to and partner with CBP to support IPR enforcement. More information on the IPR DAP can be found at [IPR DAP](#).

Question#:	14
Topic:	Child Death
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Three days before you testified, 7-year old Jakelin Caal Maquin died after she was apprehended by U.S. Customs and Border Protection. In March, when Congress passed funding for the Department of Homeland Security, we required Customs and Border Protection to "report the death of any individual in CBP custody or the death of any individual subsequent to the use of force by CBP personnel within 24 hours, including relevant details regarding the circumstances of the fatality."

Did you report Jakelin's death to Congress within 24 hours of her passing away? If not, why not?

When did you learn of Jakelin's death?

Response: I first learned of the death on the morning of December 8, 2018.

Question: Why did you decide not to disclose Jakelin's death to the Senate Judiciary Committee?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that contribute to families' decisions to take this dangerous path.

On December 17, 2018 I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody, including Congressional notifications. We outlined this process in keeping with Federal law enforcement best practices and it accounts for legitimate Congressional oversight. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question: Did anyone advise you whether to disclose Jakelin's death to the Senate Judiciary Committee? If so, please state who advised you on this decision and the content of their advice.

Response: No.

Question#:	15
Topic:	Language Protocols
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: It has been reported that Jakelin's father's first language is Mayan Q'echi'. When CBP apprehends or processes someone, what are the protocols for ensuring language access for non-Spanish and non-English speakers? Were those protocols followed?

Response: In accordance with the 2016 CBP Language Access Plan, the U.S. Border Patrol (USBP) has a protocol for law enforcement personnel when limited English proficient (LEP) individuals are encountered. In instances where in-house language capabilities are not sufficient, USBP has instituted use of contract telephonic interpretation services. In this case, an interpreter was not needed as the agents reported they were able to effectively communicate with the father in the Spanish language.

Question#:	16
Topic:	Videos
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: There are videos of multiple Customs and Border Protection personnel emptying water cans in the desert that might otherwise save the lives of migrant children. Some of these videos were reportedly taken after you took over leadership of Customs and Border Protection.

Are you aware of these videos?

Response: Yes. CBP is aware of these videos.

Question: Have you disciplined or otherwise fired any Border Patrol officers for engaging in this behavior?

Response: The act of destroying or tampering with water cans left out for migrants is contrary to CBP policy and constitutes grounds for disciplinary and/or corrective action. In cases where allegations were substantiated, CBP affected disciplinary action for the destruction of humanitarian aid. CBP will continue to investigate and address future allegations should they arise.

Question#:	17
Topic:	Rescue Beacons
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Do you believe that additional rescue beacons would help prevent deaths like Jakelin's in the future?

Response: In this case, a rescue beacon is not likely to have helped. Once the group crossed into the United States, they walked approximately one-half mile east and turned themselves in at the Bounds Forward Operating Base (FOB). Although beacons are well suited for remote locations, their benefits are less clear at ports of entry or FOBs.

Question#:	18
Topic:	Training and Resources
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Do you believe that Border Patrol officers would benefit from additional medical and trauma-sensitivity training? If so, what sort of training would you recommend they receive?

Response: USBP agents volunteer for medical training, which is funded by the agency. USBP has approximately 1300 volunteers who are trained and nationally certified as paramedics and EMTs.

Question: What resources do you believe would be helpful in preventing deaths like Jakelin's in the future?

Response: A modern border wall system will significantly enhance CBP's efforts to attain control of the border between the POEs. A wall system that integrates sensors, cameras, lighting, and access and patrol roads, has the support of USBP agents working our borders. In this case, a physical barrier on that part of the border, may have forced the migrant group to travel to a POE in a less remote area, instead of entering illegally, and apply for asylum.

Many of the land POE inspection facilities along our border are not designed to meet the modern security and operational missions of CBP. CBP needs additional funds to modernize our land POEs (especially in remote areas) to detain and care for the new demographics of mass family units crossing the border.

Additionally, transportation support funding, as requested in the FY 2020 Budget, would allow CBP to more efficiently transport migrants (especially ones who need emergency medical care) when they are detained in remote areas.

Question#:	19
Topic:	April 2018 Memo
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: On April 23, 2018, you sent a memo - along with the Directors of USCIS and Immigration and Customs Enforcement to Secretary Nielsen - titled "Increasing Prosecutions of Immigration Violations." A redacted version of your memo, which has been made available via a Freedom of Information Act request, argues that the Department of Homeland Security could "permissibly direct the separation of parents or legal guardians and minors." In order to facilitate the separation of parents and children, the memo advocated for prosecuting "all amenable adults who cross our border . . . including those presenting with a family unit."

Will you release an unredacted version of this memo in its entirety? If not, why not?

When you wrote this memo, did you intend for our government to systematically separate parents from their children? If so, why did you think that was permissible? If not, what result were you intending when you wrote this memo?

Response: DHS does not release or discuss predecisional and deliberative information.

Question#:	20
Topic:	Presidential Proclamation
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: President Trump recently issued a Presidential Proclamation barring certain individuals from receiving asylum. This policy could result in deporting asylum seekers back to their death. In addition to being needlessly cruel, this Proclamation is illegal under our laws and under international law. For this reason, a federal judge has already issued a temporary restraining order blocking it from going into effect. A federal appeals court upheld this temporary restraining order. I have previously written to President Trump demanding that he revoke this unlawful Proclamation rather than continuing to fight a losing battle in court. So far, he hasn't done so.

Were you consulted about the Proclamation before President Trump issued it?

Response: As this matter is currently in litigation, CBP refers questions regarding the promulgation of this action to the Department of Justice, which represents the United States in litigation.

Question: What counsel or advice did you give regarding this Proclamation to your colleagues or superiors?

Response: CBP cannot comment due to the pending litigation implicating these issues.

Question: Did you write any memos regarding this Proclamation? If so, please list all of them by date and title.

Response: CBP cannot comment due to the pending litigation implicating these issues.

Question: Please indicate if you would be willing to release unredacted versions of those memos.

Response: CBP cannot comment due to the pending litigation implicating these issues.

Question: In light of INA § 208(a)(1)'s command that any individual who arrived in United States "whether or not at a designated port of arrival" may apply for asylum, can you please explain how this Proclamation is legal?

Response: As this matter is currently in litigation, CBP refers questions regarding the promulgation of this action to the U.S. Department of Justice, which represents the United States in litigation.

Question#:	21
Topic:	Force Protection
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: In the weeks before the election, President Trump decided to deploy active duty troops to the border - an unprecedented decision, as only National Guard personnel had previously supported immigration enforcement activities. He claims that this deployment was necessary because Border Patrol agents require force protection. Our soldiers have been on the border, away from their families, for weeks. In response to a request from the Department of Homeland Security, the Pentagon recently extended these deployments through January 31. In addition to already missing Thanksgiving, our troops will also spend the December holidays at the border.

Did anyone ever suggest to you that you should request force protection for Border Patrol agents?

Response: No. CBP worked with both DoD and other federal agencies to request assistance as the size of the caravan was estimated at 10,000 people.

Question: When did you first determine that Border Patrol agents could not adequately perform their jobs without active duty military support?

Response: It was never stated or implied that USBP could not adequately do their duties. The fact that the caravan was growing daily by thousands and continued to show acts of violence against law enforcement officials in their travels to the U.S. border raised concerns that Border Patrol Agents and Office of Field Operations Officers would be over run at the southern border and acts of violence would be enacted against our federal agents.

Question: When the operation was first announced – days before the election – it was named “Operation Faithful Patriot.” But on November 7 – the day after the election – the Department of Defense dropped this name. It now simply calls this mission “border support.” Did anything about the nature of the operation change between the days before the election and the days after the election?

Response: CBP named the operation *Secure Line*. Operation Faithful Patriot was a designator by DoD. CBP defers to DoD on why they may have changed the title of the operation. CBP still refers to the current operation as *Secure Line*.

Question#:	22
Topic:	White House Meeting
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: There have been news reports about an unusual meeting at the White House that I would like to ask you about. It was reported that, at this meeting, civilians from the

Immigration and Customs Enforcement union and the Border Patrol union pressured John Kelly into authorizing military troops at the border to use force that even the White House counsel believes is unconstitutional.

Were you present at this meeting?

If so, what constitutional concerns were express and how were they received?

If not, are you aware of any other White House meetings at which the Border Patrol union is present, but you or your staff are not?

Response: CBP has a long history of collaborating with the U.S. Department of Defense to combat significant increases in the flows of migrants and drugs dating back to the Reagan administration.

The Commissioner along with Secretary Nielsen frequently meet with WH officials to discuss border security issues; however he has not attended meetings at the WH where union officials were present.

Question#:	23
Topic:	Shelter Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Our immigration laws require that people fleeing for their lives who arrive at our ports of entry have a chance to present their asylum claims. Yet, Customs and Border Protection has now adopted a practice called "metering," which blocks asylum seekers from presenting their claims at ports of entry. Rather, Customs and Border Protection officers often rebuff asylum seekers and tell them to wait - sometimes for weeks or months. As thousands of migrants are waiting longer and longer at our ports of entry, reports indicate that shelter conditions are squalid.

Can you please describe the conditions in these shelters?

Response: As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address the specific living conditions within these shelters.

Question: Can you assure me that these shelters have running water and adequate medical care for asylum seekers?

Response: As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address the specific living conditions within these shelters.

Question#:	24
Topic:	News Reports
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Two weeks ago, there were news reports that a Border Patrol officer told a family that was already on U.S. soil that if they did not turn back, they would lose their right to claim asylum.

Is this report true?

If true, would you agree with me that this is unlawful?

Response: CBP is unaware of this story, however if an allegation of employee misconduct were reported, the allegation would be referred to the Office of Professional Responsibility for investigation and appropriate action.

Question#:	25
Topic:	Blocking Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Do you think it is legal for Border Patrol agents to block asylum seekers from presenting their asylum claims at our ports of entry? Why or why not?

Response: CBP takes seriously our responsibility to uphold and enforce U.S. law while we seek to treat every person we encounter with dignity and respect. CBP does not permit officers or agents to refuse entry or turn away any individual, including those who may be seeking asylum.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. To ensure the safety of all travelers and CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals, as well as temporarily hold those found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. Individuals who arrive without documents sufficient for admission or other lawful entry may be required to wait to be processed until capacity permits.

Question#:	26
Topic:	Adequate Healthcare for Children
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Recent news reports indicate that migrants at the border are drawing up lists of asylum seekers to help US authorities process their asylum claims in an orderly and speedy fashion. Yet, these reports indicate that unaccompanied children are unable to get on this list. What is our government doing to ensure that these children have adequate healthcare while they wait for their asylum claims to be processed?

Response: CBP cannot address living conditions or benefits that Mexico is providing to migrants waiting to cross into the United States.

Once in CBP custody, unaccompanied alien children undergo initial medical screening and their health remains monitored for the duration of custody. Any child demonstrating a deterioration in health would be referred for additional medical care.

Once an unaccompanied alien child is transferred to HHS care, HHS medical protocols are followed. DHS defers to HHS for questions about healthcare for unaccompanied alien children in HHS care.

Question#:	27
Topic:	Border Security Plan
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: I have always been a believer that Congress should adopt a thoughtful, comprehensive approach to immigration. That is why in March, when Congress passed funding for the Department of Homeland Security, we required that DHS submit "a risk-based plan for improving security along the borders of the United States, including the use of personnel, fencing, other forms of tactical infrastructure, and technology." As of today, the Department of Homeland Security has not submitted this risk-based border security plan.

Why has the Department of Homeland Security not submitted this risk-based border security plan?

Response: Since this hearing, this report was transmitted to Congress. The House and Senate Appropriations Subcommittees on Homeland Security received the plan on December 21, 2018 entitled "Fiscal Year 2018 Border Security Improvement Plan."

Question#:	28
Topic:	Mexico Paying for the Wall
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: During the campaign, President Trump repeatedly said that Mexico would pay for the wall.

Do you have any plans to get Mexico to pay for the wall?

Will you share any and all plans to get Mexico to pay for the wall with the Senate Judiciary Committee?

Response: CBP does not have a role in identifying alternative sources of funding for the border wall.

Question#:	1
Topic:	Border Wall Land
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you told me that Customs and Border Protection (CBP) developed the plans for the President's border wall and that those plans included 1,100 miles of physical barriers at our southern border. When I asked you how many of the 1,100 miles constitutes land that is in the control of the federal government, you said you would get back to me.

Please provide the details of how many miles of the 1,100 miles of physical barriers in the plans for the President's border wall constitutes land that is currently in the control of the federal government.

Please provide a copy of the plans for the President's border wall.

Response: Infrastructure, in the form of barriers and supporting roads have been used by U.S. Border Patrol for nearly 30 years. While they have evolved in form, they have consistently functioned as the most effective way to accomplish needed impedance and denial (I&D). The operational impact of these barriers is profound with the most significant examples of their successes occurring in San Diego, California, Tucson and Yuma, Arizona, as well as El Paso, Texas. Field Commanders continue to advocate for border wall and the enduring capability it creates to impede and/or deny attempted illegal entries, while allowing additional time to affect a law enforcement resolution. To support this continued need, in 2017, CBP developed a decision support tool to prioritize the locations identified by field commanders as necessary to construct border barrier. The decision support tool combines both qualitative and quantitative data to prioritize the locations that would benefit from I&D, in this case, through border wall system. The methodology and results of applying the decision support tool were provided as part of CBP's Border Security Improvement Plan (BSIP) to Congressional Appropriators in January 2018. On June 28, 2019 DHS provided the BSIP to Judiciary Committee staff. Until such time as CBP has been funded to complete detailed project formulation to determine the exact alignment of border wall segments, we cannot accurately determine the ownership status (federal, private, etc) of the land required to construct.

Question#:	2
Topic:	Incentive to Cross
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: You stated at the hearing that, "from your perspective," when "we apprehend families and they are either not detained . . . or they're detained for just a short period of time . . . it creates an incentive for other families to cross."

What evidence do you have to support your statement that not detaining immigrant families or detaining them for only short periods creates an incentive for other immigrant families to cross the border?

Response: Pursuant to the *Flores* settlement agreement and court decisions interpreting it, the government must expeditiously process children accompanied by their parent(s) through the immigration process; the government has interpreted this requirement to generally limit a child's time in detention to no more than 20 days which is the length of time the USG considers the average or targeted time needed to transfer a child from detention. After this time, migrant families are released into the interior of the United States while they await their immigration proceedings. This wait could be as long as 1,300 days. Many of these families ultimately abscond, failing to appear for their immigration proceedings and remain in the country despite an in absentia order of removal.

CBP apprehensions of family units have significantly increased over the years. When CBP processes detainees, officers and agents will conduct interviews with the detainee to understand the journey undertaken from the detainee's home country to the U.S. In these interviews, migrants from Northern Triangle countries have repeatedly stated to CBP officers and agents that the various loopholes in immigration law, such as the *Flores* requirement, are common knowledge in Northern Triangle countries. Migrants know that traveling as a family unit will allow an expedited release from immigration custody into the U.S.

Question: Is it your view that family detention should be used as a deterrent tool to discourage other immigrant families from seeking refuge in the United States?

Response: The purpose of immigration detention is not deterrence, but is instead generally used to hold those who must be detained by law, those who are deemed a flight risk, and/or those whose release would result in a national security or public safety threat. For family units, the reality is that detention is needed to ensure that they appear for their immigration court proceedings and are ultimately removed if so ordered. Since September 2018, the Executive Office for Immigration Review has tracked family unit cases on dockets at 10 immigration courts. To date, approximately 82% of family unit

Question#:	2
Topic:	Incentive to Cross
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

cases tracked in those 10 immigration courts have concluded with an in absentia order of removal after those families failed to appear for their court hearings. This demonstrates that many family units arriving in the country are significant flight risks.

Question#:	3
Topic:	Family Case Management Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: When I asked you at the hearing about the basis for your conclusion that alternatives to family detention, including the Family Case Management Program, do not work, you said you deferred to prior testimony provided by Immigration and Customs Enforcement (ICE).

Have you seen any of the studies confirming that alternatives to detention are actually successful and significantly more cost effective than detaining families?

Response: CBP is aware of these studies and the claims of cost effectiveness and success. However, CBP facilities are for short-term detention; ideally, the migrant is encountered and processed at the same time rather than being caught, released and then asked to return for processing. Additionally, CBP is not authorized to conduct long-term monitoring of migrants. The alternatives to detention program is better suited to ICE, which is responsible for the long-term monitoring of migrants and ensuring their appearance at each of the various steps of the immigration process.

Question: Please review the November 30, 2017 report by the Department of Homeland Security's Office of Inspector General, which noted that, according to ICE, the Family Case Management Program resulted in 99 percent of participants complying with ICE check-ins and appointments and 100 percent of participants attending court hearings. Is it still your view that alternatives to family detention do not work? If so, how do you reconcile your view with such data showing otherwise?

Response: Family units (FMUA) may check in with ICE and appear at initial court hearings/master calendar hearings, but statistics reveal that they abscond from immigration proceedings later in the process in large numbers.

Statistics compiled by DHS indicate that from Fiscal Years 2015-2017 (no 2018 data available yet), there were 227,257 FMUA apprehensions. Of those, 135,255, or 60% of the total cohort have on-going immigration proceedings.

Of that total cohort, 44,647 have been ordered removed by an immigration judge. 30,452 of those were ordered removed in absentia. This is 68% of FMUA removal orders. This is indicative that a substantial number of FMUAs do not comply with the process, and 30,452 are absconders, who presumably remain in the United States despite being subject to a final order of removal. When the 2018 data becomes available, it will indicate a marked increase in FMUA apprehensions. If past trends are any indication, the number of absconders will continue to rise.

Question#:	4
Topic:	Family Detention Centers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you stated that CBP has a partnership with ICE in the immigration continuum, and that ICE has the capacity to detain 3,300 parents and children in its family detention centers and there are currently 2,500 families at these detention centers.

What is the length of detention of the 2,500 parents and children at family detention centers? Please provide a breakdown of how many family members are detained by the number of weeks they are detained (e.g., the numbers of parents and children who are detained 1 week, 2 weeks, etc.).

Response: Once an alien family unit is apprehended by U.S. Customs and Border Protection (CBP), they may be transferred from CBP custody to U.S. Immigration and Customs Enforcement (ICE) custody for placement in a Family Residential Center (FRC). As of March 15, 2019, ICE manages and operates three FRCs, which have the following capacities:

- Berks FRC: 96 beds
- Karnes County Residential Center: 830 beds
- South Texas FRC: 2,400 beds

FRC Population¹

Facility Name	Count of Adults	Count of Juveniles	Total
Berks FRC	7	7	14
Karnes County Residential Center	240	244	484
South Texas FRC	631	757	1,388
Total	878	1,008	1,886

*Daily population source count: ENFORCE 3/15/2019 at 8:46 a.m.

Question: What is the length of detention of the 2,500 parents and children at family detention centers?

¹ Fiscal Year (FY) 2019 FRC population data is current through March 15, 2019.

Question#:	4
Topic:	Family Detention Centers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Response: The average length of stay² for the Berks FRC is 13.9 days. The average length of stay at the Karnes County Residential Center is 9.3 days. The average length of stay for the South Texas FRC is 12.1 days. It is important to note that due to judicial interpretations of the *Flores* Settlement Agreement, DHS is only generally able to detain family units for approximately 20 days.

Question: Please provide a breakdown of how many family members are detained by the number of weeks they are detained (e.g., the numbers of parents and children who are detained 1 week, 2 weeks, etc.).

Response: ICE notes that the length of time an individual or family spends in detention varies based on many case-specific factors. The courts' interpretation of the *Flores* Settlement Agreement limit the time accompanied children can remain in detention. Therefore, in compliance with this interpretation, most children and their parents are released within approximately 20 days. However, those who have received a final order, and are in the process of being removed, may be detained for the duration of the repatriation process.

Number of Family Unit Members Detained by ICE by Week³

Length of Stay	Berks FRC	Karnes County Residential Center	South Texas FRC	Total
< 1 Week	21	3,024	3,164	6,209
1-2 Weeks	99	1,893	8,468	10,460
2-3 Weeks	47	1,014	5,310	6,371
3-4 Weeks	25	433	811	1,269
4-5 Weeks	4	68	223	295
5-6 Weeks	8	49	56	113
6-7 Weeks	6	19	6	31
7-8 Weeks	4	18	4	26

² FY 2019 year-to-date (YTD) data is current through March 9, 2019. ICE detention data excludes U.S. Department of Health and Human Services' Office of Refugee Resettlement transfers/facilities, as well as U.S. Marshals Service prisoners. Length of stay is measured in days.

³ FY 2019 YTD data is current as of March 9, 2019. Family units with a final order of removal can be held beyond 20 days, in order to effectuate their removal.

Question#:	4
Topic:	Family Detention Centers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

8-9 Weeks	-	6	-	6
9-10 Weeks	-	2	3	5
11-12 Weeks	-	2	4	6
Totals	214	6,528	18,049	24,791

Question#:	5
Topic:	Unfit Determinations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: On November 27, 2018, ProPublica reported that CBP officials separated Julio, from his 4-year-old son, Brayson, because of an alleged gang affiliation even though Julio is seeking to escape gang violence. In fact, the article noted that an asylum officer had found that Julio had credible fear of returning to his home country. Not only did CBP fail to inform Julio of why his child was taken from him, CBP has refused to provide Julio’s lawyer of any details or evidence of this alleged gang affiliation.

Who, specifically, is making these determinations of whether a parent is “unfit” and should be separated from her or his child after they cross the border?

What training do these officers making family separation determinations receive in child welfare and development to be able to make these determinations?

Response: There are multiple factors that play into the Department of Homeland Security (DHS) making the determination to separate children from their parents. All cases where family separation is contemplated are analyzed on their individual merits. As per USBP policy, the decision to separate a family unit lies with the Chief Patrol Agent in each sector and cannot be delegated below the Watch Commander position. In instances where a separation is warranted, a CBP Office of Field Operations (OFO) senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager. Additionally, the Office of Chief Counsel is generally brought in to provide guidance. Based on long-standing practice, U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement (ICE) may separate alien children from the purported parent or legal guardian with whom they are traveling at the time of apprehension when CBP or ICE is unable to confirm the custodial relationship, the child may be at risk with the adult, or the adult is transferred to a criminal detention setting due to a criminal charge. There are additional factors that contribute to an assessment that separation will protect the health, safety, and well-being of the child. These factors could include the adult’s criminal history, observed behaviors or actions that cause DHS to become concerned for the welfare of the child, concern about false parental or custodial relationship, or a suspicion of smuggling.

The decision to separate a family is a serious matter that CBP agents take very seriously. Although there is no formalized training, family separations for reasons of criminality or danger to the child are not a paradigm shift in law enforcement but rather an unfortunate byproduct of all criminal law enforcement. CBP continues to abide by the legal parameters set in the *Ms L v ICE* preliminary injunction.

Question#:	5
Topic:	Unfit Determinations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

CBP is committed to the care and wellbeing of all persons in our custody and takes particular care for vulnerable populations such as children. CBP ensures that its facilities meet the standards laid out in CBP's *National Standards on Transport, Escort, Detention and Search* (TEDS) policy.

In rare circumstances, separating parents or legal guardians from their children may occur during ICE enforcement actions, though such situations are comparatively rare outside of the separation that occurred as the result of the Zero Tolerance Policy. As such, ICE makes an independent custody determination on every individual or family unit in accordance with Executive Order No. 13841, *Affording Congress an Opportunity to Address Family Separation*, which directs the Executive Branch to maintain a family unit to the extent consistent with the law unless there is a concern the parent would pose a risk to the child's welfare. 83 Fed. Reg. 29435-29436 (June 20, 2018). As part of this process, multiple factors are taken into account when assessing whether a separation is appropriate. Such factors include the adult's immigration and criminal history; observed behavior or actions that cause DHS to become concerned for the welfare of the child; and concern about false parental or familial relationship. Existing statutes and regulations, as well as the *Ms. L v. ICE* preliminary injunction, provide that children may be separated from the adult(s) with whom they are traveling at the time of apprehension due to the adult being prosecuted for violating U.S. criminal laws; a lack of identity documents establishing parentage; or doubts about other evidence purporting to validate a parent or legal guardian relationship with the alien child. Absent exigent circumstances, family units that have a final order of removal, and are from countries where repatriation is possible, will be housed at a family residential center pending their removal from the United States.

Similar to USBP, ICE considers the danger posed to children by illegal immigration, such as threats of violence from human traffickers and the risk of crossing the Southwest Border in remote and dangerous areas. When claimed family units are encountered by ICE, a custody decision is made on a case-by-case basis, based on the totality of evidence.

Question#:	6
Topic:	Unfit Guidelines
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What guidelines or internal policy memoranda currently exist for CBP officials to determine whether a migrant parent traveling with a child is "unfit" and should be separated?

Response: U.S. Customs and Border Protection’s (CBP’s) National Standards on Transportation, Escort, Detention, and Search (TEDS) policy states in part that “CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation.” In accordance with these standards and with the preliminary injunction in *Ms. L v. ICE*, family units may be separated in certain situations, including:

- the parent is transferred to a criminal detention setting due to certain criminal charges;
- evidence that would indicate that the child’s safety is at risk; or
- the familial relationship cannot be verified

This list is not exhaustive and the operational decision to separate a family unit is made after taking the safety and wellbeing of the child or children into account.

Question: Have those guidelines changed in any way since June 26, 2018, when the San Diego district court prohibited family separations unless the parent is deemed unfit?

Response: CBP issued its National Standards on Transport, Escort, Detention, and Search (TEDS) in October 2015 to collect and codify our commitment to the safety, security, and care of those in our custody.” The TEDS Standards and the general parameters listed above have not changed since June 26, 2018.

Question: Are those guidelines or criteria identified in writing? If so, please provide a copy to the Senate Judiciary Committee.

Response: The TEDS Standards are attached.

Question: Did anyone with child welfare and development expertise develop those guidelines or criteria?

Response: The working group which helped develop the TEDS Standards included a majority of CBP components as well as DHS CRCL, DHS Policy and DHS OHA (via

Question#:	6
Topic:	Unfit Guidelines
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

CBP liaisons). Additionally, several groups of NGOs provided input into the development of TEDS.

Question#:	7
Topic:	Illegal Reentry Convictions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Has an illegal reentry conviction been used as a basis for determining that a parent is unfit to remain with her or his child and separating families?

Response: With the appropriate approvals, CBP officers and U.S. Border Patrol Agents can separate where a parent/legal guardian is being referred for a felony prosecution. 8 USC § 1326 is the criminal charge that may apply to an alien who is being prosecuted for attempting illegal reentry after having been previously been ordered removed. A previous felony conviction for illegal reentry is not itself necessarily an indicator for parental unfitness. However, USBP continues to abide by the legal parameters set by the court in the *Ms L v ICE* preliminary injunction.

Question#:	8
Topic:	Oversight
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What oversight or accountability is there to ensure that a CBP officer's assessment of the need to separate a parent from her or his child is accurate?

Response: In instances where a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the Immigration and Customs Enforcement/Enforcement Removal Operations (ICE/ERO) local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14).

Question: What avenues do parents have to challenge invalid separations if CBP refuses to provide information about its grounds for taking away their children?

Response: In those cases where there is a separation of a child from his/her parent/legal guardian, the reason for the separation is clearly explained to the parent/legal guardian. While the parent is in CBP custody, there is not a means for the parent to challenge the decision to separate a parent/legal guardian from a child.

Parents are provided with a tear sheet that provides information on how to locate communicate with their children. The parent does not sign the document but it is provided to them.

When CBP encounters an alien family unit (consisting of either one or two parents/legal guardians), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP's June 27, 2018 Interim Guidance on Preliminary Injunction in *Ms. L v. ICE* are met. With the appropriate approvals, CBP officers can separate where a parent/legal guardian is being referred for a felony prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors, the parent/legal guardian has a communicable disease, or CBP clearly establishes that the familial relationship is not bonafide. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

Question#:	9
Topic:	Tracking Children and Parents
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Department of Homeland Security's Office of Inspector General found in its September 2018 report that the Department, including CBP was unprepared to implement the zero tolerance policy and raised serious questions about the ability of the Department to identify, track, and reunify separated children with their parents.

What steps have you taken to fix these problems with identifying and tracking children and parents who have been separated?

Response: CBP documents biographic information for all subjects in their A file, including familial relations. CBP documents who entered the United States together. Accordingly, relevant information is provided to the Department of Health and Human Services when handling the reunification of verified families. System of record interoperability gaps were identified and CBP is working diligently with our agency partners to rectify this issue.

Question: How have you confirmed that all agencies that have custody of the parents and the children are aware of the family separation?

Response: CBP data is stored within the DHS Enforcement Integrated Database (EID) which is maintained by ICE/OCIO. All data that is written to the EID is accessible by DHS components with a need to know and thus are able to obtain updated information if their particular system has access to that data field that has been updated. HHS is a separate cabinet entity and currently does not have access to DHS EID. However, some personnel within DHS components do have access to the HHS UAC Portal, which stores their data related to UAC. CBP data collected for each UAC referral is entered into the HHS UAC Portal. Additionally, CBP has agreed to provide information to both ICE and HHS to indicate the separation of parents and children.

Question#:	10
Topic:	Mechanisms
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What mechanisms do you have in place to ensure that parents are aware of where their children are and how they can reach their children and vice versa?

Response: In the event the parent or legal guardian is in U.S. Immigration and Customs Enforcement (ICE) custody and the child(ren) is in Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) custody, the two agencies work together to establish multiple options for communication between the parent/legal guardian and the child. ICE Enforcement and Removal Operations (ERO) officers and ORR staff and contractors will work to schedule communications via telephone, Skype, or FaceTime.

ICE ERO has created posters, in multiple languages, that explain to a parent/legal guardian how to request an opportunity to communicate with his or her child. ICE ERO officers in adult detention facilities, working with the ICE ERO Field Office juvenile coordinators, identify the HHS facility in which the child is housed and coordinate with staff at that facility to schedule times for the parent/legal guardian to communicate with the child. Whenever possible, communication is conducted via video, but, at a minimum, is conducted telephonically. Each UAC in HHS care receives a minimum of two calls per week to family members.

Question#:	11
Topic:	Documentation
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Office of Refugee Resettlement has indicated that CBP now checks a box in a database indicating that a child has been separated from her or his parent and then notes the reason for the separation. What mechanisms do you have in place to ensure that all CBP officers are properly documenting all family separations and the reasons for the separation?

When a CBP officer separates a child from her or his parent, what documentary evidence is the officer required to submit to justify the separation?

Response: At ports of entry, when the decision has been made to separate an adult parent or legal guardian from his or her child, CBP policy dictates that a port manager at the GS-14 level or above approve the separation. Please note the decision to separate a family cannot be delegated below the GS-14 level. The following also applies:

- The CBP OFO Manager who approved the family separation notifies the ICE ERO Juvenile Coordinator; the notification cannot be delegated to a lower level manager.
- Form I-213 (Record of Deportable/Inadmissible Alien) must be annotated with the reasons for the family separation.
- Upon determination that a child is a UAC and does not meet the criteria to voluntarily withdraw their application for admission (e.g., if from a contiguous country, able to make an independent decision, not a victim of a severe form of trafficking, and no fear of return), a referral for placement is made by notification to both the ICE/ERO/ Field Office Juvenile Coordinator (FOJC) and to Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR).

Between the ports of entry, the Border Patrol records all family groups and family units within our system of record. If the on duty Watch Commander determines a separation is warranted, we annotate a field within the system of record, including the I-213, indicating the child(ren) are now unaccompanied and in need of placement. This opens a portal to transfer and enter information for HHS/ORR's use in finding appropriate placement for the Unaccompanied Alien Children. The electronic system of record is used to notify the ERO Field Office Juvenile Coordinator that a UAC has been identified and is being placed with HHS.

Question#:	12
Topic:	OIG Report
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Department of Homeland Security's Office of Inspector General also found in its September 2018 report that some family separations could have been avoided where parents were quickly prosecuted and released back into CBP custody while their children were still in CBP facilities. But instead of returning the parents to CBP facilities and reuniting them with their children, CBP officials transferred them directly to ICE. The OIG report explained, that "[a]ccording to a senior official who was involved with this decision, CBP made this change in order to avoid doing the additional paperwork required to readmit the adults."

Were you involved in making this decision? Were you aware of this decision at the time it was made?

Response: I cannot speak to who may have made any such statement to the Office of Inspector General nor am I aware of what that person was referring to specifically. Of course, immigration decisions should not be made purely to avoid paperwork, particularly where children are involved. CBP operates in a complex environment where there are many operational realities that evolve rapidly in the field. Field leadership often has to make a number of decisions related to transport timing, detention decision and referrals for prosecution. These are complex decisions in light of circumstances that may be quickly changing. Operational decisions are often different across different areas of responsibility. There are hundreds of ports and border patrol stations each with their own unique environment that is considered by field leadership as they address these questions.

Question: What steps have you taken to prevent such a situation in the future?

Response: In accordance with the Trafficking Victims Protection Reauthorization Act of 2008, USBP generally transfers all unaccompanied alien children (as defined in the Homeland Security Act) to the Department of Health and Human Services (HHS). USBP continues to abide by the Executive Order dated June 20, 2018 as well as the *Ms L v ICE* preliminary injunction. Accordingly, parents or legal guardians in family units who are referred for prosecution and return to CBP custody prior to the transfer of custody of the minor to HHS will be reunited. The separation, and if appropriate, reunification of separated family units are documented in the electronic system of record.

Question#:	13
Topic:	CBP Facilities
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In July 2018, the Center for Human Rights & Constitutional Law filed affidavits in court on behalf of migrants that described being detained in CBP facilities with foul-smelling water to drink, inedible food, and unsanitary conditions without access to showers. Moreover, the September 2018 DHS Inspector General's report found that hundreds of separated children were detained longer in CBP facilities than the 72-hour limit.

What steps have you taken to ensure that all of the CBP facilities provide humane conditions, such as drinkable water, climate appropriate temperatures, and a sanitary environment?

Response: CBP Agents and Officers routinely check all holding areas to ensure everything is in working order each shift. Agents record their findings within an amenity report, which is approved by a Supervisor. Any observed deficiencies are immediately noted in the electronic system of record. Further, work orders are requested and reported in order to maintain compliance.

CBP issued its National Standards on Transport, Escort, Detention, and Search (TEDS) in October 2015 to collect and codify our commitment to the safety, security, and care of those in our custody. TEDS requires that, while individuals are in CBP custody, CBP officers and agents document the provision of food and water, holding room temperature, and other welfare checks at frequent intervals in our electronic systems of record to ensure that CBP adheres to this policy at an individual level. Under TEDS, detainees generally should not be held for longer than 72 hours in CBP hold rooms or holding facilities, and every effort must be made to promptly transfer, transport, process, release, or repatriate detainees as appropriate and operationally feasible. In practice, the ability to transfer detained individuals out of CBP custody is in direct relation to ICE and HHS resources and bed space capacity. CBP is in close communication with ICE at the local and national levels to understand when capacity at ICE may affect the ability to transfer individuals out of CBP custody. However, the TEDS policy requires that reasonable efforts will be made to provide showers, soap, and a clean towel to juveniles who are approaching 48 hours in detention. The recent approval of the supplemental bill has provided CBP greater capabilities to meet this need.

CBP prioritizes the processing of minors in custody, and makes every effort to expeditiously process and transfer all minors. The large majority of UACs and family units with minor children are processed first to expedite placement with ORR or ICE Enforcement and Removal Operations (ERO), as appropriate.

Question#:	13
Topic:	CBP Facilities
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Additionally, the Flores Settlement Agreement requires that all minors:

- Must be held in the least restrictive setting
- Must have access to potable water
- Must have access to functioning toilets
- Must have access to a blanket, cot, or mat
- Be held in hold rooms that are clean, pest free, and have adequate ventilation

USBP prioritizes all minors to include those accompanied by a parent or legal guardian for processing.

Question: What mechanisms do you have in place to ensure that those detained in CBP facilities are treated humanely and that their detention is not unnecessarily prolonged?

Response: The Commissioner has stood up a Migrant Crisis Action Team (MCAT) responsible for tracking the amount of time each individual spends in CBP custody. Those in custody more than 72 hours are flagged and prioritized for movement with ERO. ERO is also a part of this MCAT Team. CBP has developed messaging campaigns to include posters and videos that outline the available supplies and resources for all persons in custody. CBP implemented mandatory TEDS and Flores Settlement Agreement training for all agents and supervisors to ensure compliance. Supervisors are mindful and take precautions to ensure any allegations of mistreatment or abuse are properly documented and routed for investigation.

Upon completion of CBP inspection, inadmissible applicants for admission who are not amenable to immediate return are referred to U.S. Customs and Immigration Enforcement (ICE) Enforcement and Removal Operations (ERO) custody. CBP only maintains custody of inadmissible applicants for admission for the minimum time necessary to complete the inspection and for ICE/ERO to accept custody.

Question#:	14
Topic:	Children Detained
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The American Academy of Pediatrics has warned that even short periods of detention of children "can cause psychological trauma and long-term mental health risks." What steps has CBP taken to minimize the time period during which a child is held in detention?

Response: CBP only maintains custody of aliens for the minimum time necessary for ICE/ERO and/or HHS/ORR to accept custody.

For single adults and family units, CBP works closely with ICE/ERO to accept transfer of aliens in CBP custody. Similarly, for Unaccompanied Alien Children, CBP works closely with Health and Human Services, Office of Refugee Resettlement (HHS, ORR) to expedite transfer to ORR care. Unfortunately, CBP does not control either process, as transfers out of CBP custody depend on the availability of space at partner agency facilities.

Question#:	15
Topic:	Tracking Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In its September 2018 report, the Department of Homeland Security's Office of Inspector General discussed the link between CBP's process of "metering," where CBP agents limit the number of asylum seekers who can cross the U.S. border at ports of entry per day, and increases in people trying to cross the border between ports of entry where they were subjected to the zero tolerance and family separation policy.

What records does CBP keep of the asylum seekers it turns away per day?

Does CBP track the number of asylum seekers who are not admitted each day, how long they have been waiting, and their demographics information? If so, please provide that information to the Senate Judiciary Committee.

Response: CBP's role is to inspect and process aliens arriving at ports of entry, and to refer any claim of fear to an appropriate adjudicator. Any alien who requests asylum or expresses a fear of return to their home country or country of last residence is referred to U.S. Citizenship and Immigration Services (USCIS) asylum officers or the immigration courts who make a final decision on asylum applications.

CBP does not keep records of individuals who attempt to access the port of entry (POE). Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of law trade, and processing of all travelers. CBP must manage this limited space to best ensure safety and security for travelers and our officers, while facilitating timely processing for U.S. citizens and lawful permanent residents, visitors with appropriate travel documents, and individuals without documents sufficient for admission or other lawful entry. This processing occurs in conjunction with inspections for drugs and prohibited items as we strive to protect the homeland. Processing individuals without proper documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary for CBP to verify the identity and criminal history of these individuals seeking to enter the United States without proper documentation.

For the safety of these individuals, other travelers, and CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals and to temporarily hold those found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without proper documents may be required to wait in Mexico before entering the port of entry.

Question#:	16
Topic:	Safety of Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What steps has CBP taken to ensure the safety of asylum seekers while they are waiting at the border in Mexico?

Response: As a sovereign nation, Mexico has its own laws, which govern the actions it may take consistent with its laws. CBP has no authority to take any action in Mexico with respect to aliens who are in Mexico.

Question: Do CBP agents account for certain humanitarian needs, such as health conditions, pregnancies, or small children, among asylum seekers, when requiring them to wait outside at ports of entry?

Response: Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of law trade, and processing of all travelers. CBP must manage this limited space to best ensure safety and security for travelers and our officers, while facilitating timely processing for U.S. citizens and lawful permanent residents, visitors with appropriate travel documents, and individuals without documents sufficient for admission or other lawful entry. This processing occurs in conjunction with inspections for drugs and prohibited items as we strive to protect the homeland. Processing individuals without documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary for CBP to verify the identity and criminal history of these individuals seeking to enter the United States without proper documentation.

For the safety of these individuals, other travelers, and CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals and to temporarily hold those found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without documents may be required to wait in Mexico before entering the port of entry.

CBP only maintains custody of inadmissible aliens for the minimum time necessary to complete the inspection and for another agency to accept custody. CBP generally prioritizes the processing of Unaccompanied Alien Children (UAC) and families ahead of the processing of other cases in secondary inspection. As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address specific conditions regarding the wait times of individuals allowed into any queueing line in ports of entry in Mexico.

Question#:	16
Topic:	Safety of Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

CBP began implementation of Migration Protection Protocol (MPP) at one port of entry, processing a relatively small, amenable population, and will expand to additional locations using a measured approach. Priority consideration will be given to locations that have sufficient infrastructure and resources to hold immigration proceedings. In addition, MPP will be implemented in locations where there is agreement with the Government of Mexico (GoM).

- To be clear, CBP processes applicants for admission to the United States, denies inadmissible travelers entry and, refers travelers who seek protection to appropriate officials for claims to be heard.
- CBP is committed to our multifaceted national security mission set which includes the safe, secure, and orderly processing of all travelers as expeditiously as possible without compromising safety or security of the Homeland.
- Due to our operational capabilities, we are temporarily limiting entry into our facility.
- The number of inadmissible travelers CBP is operationally capable to process varies depending on overall port volume and enforcement actions.
- We are acutely aware of the challenges that all travelers face and we will continue to treat all applicants with dignity and respect throughout the CBP process.
- CBP only maintains custody of inadmissible applicants for the minimum time necessary to complete the inspection and for ICE/ERO to accept custody.
- CBP prioritizes the processing of Unaccompanied Alien Children (UAC) and families ahead of the processing of other cases in secondary inspection.
- As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address the specific conditions of who is allowed into any queueing line in Mexico.

Shelter facilities in Mexico are not under the control of any U.S. Government entity; therefore, CBP cannot address the specific living conditions within these shelters.

Question#:	17
Topic:	Asylum Ban
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Trump administration issued an "asylum ban" that bars anyone who enters the United States from Mexico between ports of entry from seeking asylum in the United States. On November 19, 2018, Judge Tigar, a federal judge in San Francisco, issued a temporary restraining order preventing the Trump administration's asylum ban from going into effect until December 19, when the court can further consider the matter.

What role did you play in developing the asylum ban?

Response: CBP cannot comment due to the pending litigation implicating these issues.

Question: What steps have you taken to ensure that Judge Tigar's order is being followed?

Response: Consistent with the law and CBP's existing guidance, agents and officers continue to refer all claims of fear of return made during any processing to USCIS.

Question#:	18
Topic:	Informing the Committee
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: There have been recent reports that a 7-year-old girl from Guatemala died while she was in CBP custody on December 7 - four days before your came to testify before the Senate Judiciary Committee. It appears that CBP only publicly revealed the death after inquiries by The Washington Post.

Why did you fail to inform the Committee of this tragic incident either before or during the hearing?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

On December 17, 2018, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody, including Congressional notifications. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	19
Topic:	Cause of Death
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Following the 7-year-old's death, CBP claimed she "had not eaten or consumed water for several days," suggesting the father was to blame for the death, without any investigation or confirmation of the cause of death. But her father disputes that claim. Who at CBP decided it was appropriate to issue a statement making such a charged claim without any investigation and without waiting for the results of an autopsy?

Response: CBP did not issue a statement claiming that this 7-year-old, whose name was Jakelin, "had not eaten or consumed water for several days." During the medical evaluation and treatment of Jakelin, the father was asked the last time she consumed food or water, and he stated that it had been several days.

Question#:	20
Topic:	English Forms
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In addressing this incident, CBP pointed to forms in English that were signed by the father and made statements that were later contradicted by the father. CBP took such actions despite the fact the father speaks an indigenous language of Guatemala and does not speak English. Why did you make an individual who clearly does not speak English, sign a form in English, and then rely on the contents of that form against his interests?

Response: Each question written in English on the form was asked in Spanish by the agent. The agent was able to evaluate the father's proficiency in Spanish from the responses received to the medical screening questions as posed in Spanish. The father also demonstrated his understanding through his responses in Spanish.

Question#:	21
Topic:	Language Access
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What mechanisms does CBP have in place to ensure that language access services are available and used by CBP officers when they engage with migrants at the border?

Response: In accordance with the 2016 CBP Language Access Plan, the CBP has a protocol for law enforcement personnel when limited English proficient (LEP) individuals are encountered. In instances where in-house language capabilities are not sufficient, CBP has instituted use of contract telephonic interpretation services. In this case an interpreter was not needed as the agents reported they were able to freely communicate with the father in the Spanish language.

Question#:	22
Topic:	Investigate
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: What steps have you taken to investigate this death and what actions CBP could have taken to prevent it?

Response: The DHS Office of Inspector General has taken over the investigation into this case. While CBP awaits the results of that investigation, CBP will continue to take additional steps ensure transparency and accountability as we move forward.

Question: What steps have you taken to help prevent such tragedies in the future?

Response: In December, CBP issued a directive that required all juveniles in custody to be medically assessed as a safety precaution. Since that time, agents and officers have been completing medical assessments on all incoming juvenile aliens using existing best practices.

CBP is deploying a USBP management team to New Mexico to review our posture related to large groups arriving in this extremely remote area of the border. Additionally, CBP is formally requesting that our Mexican counterparts initiate a review of the smuggling network and routes that brought this family, and so many others, to the remote Lordsburg area.

CBP is also reviewing staffing, to include the availability of deploying medically trained Border Patrol agents into remote areas and increasing our ability to transport people from remote locations to stations and processing centers more rapidly. Additionally, CBP is working to expand the number of contracted medical staff at CBP facilities across the southwest border.

Question#:	23
Topic:	Turning Back Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: A report from the Department of Homeland Security's Office of the Inspector General (OIG) released on September 27, 2018, detailed the Customs and Border Protection (CBP) policy of "metering" individuals seeking asylum at ports of entry. Through the metering process, individuals or families seeking asylum at ports of entry are turned away and told that they will not be processed or that they will have to wait days or weeks in order to be processed. This metering procedure has continued even though, as the OIG report noted, observational evidence from both migrants and Border Patrol officers "strongly suggests a relationship" between metering at ports of entry and increases in crossings between ports of entry.

What is CBP's current practice and policy regarding turning back asylum seekers at ports of entry?

Response: CBP's role is to inspect and process all aliens arriving at ports of entry, and to refer any claim of fear to an appropriate adjudicator. Any alien who requests asylum or expresses a fear of return to their home country or country of last residence is referred to U.S. Citizenship and Immigration Services (USCIS) asylum officers or the immigration courts who make a final decision on asylum applications.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of law trade, and processing of all travelers. CBP must manage this limited space to best ensure safety and security for travelers and our officers, while facilitating timely processing for U.S. citizens and lawful permanent residents, visitors with appropriate travel documents, and individuals without proper documents sufficient for admission or other lawful entry. This processing occurs in conjunction with inspections for drugs and prohibited items as we strive to protect the homeland. Processing individuals without proper documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary for CBP to verify the identity and criminal history of these individuals seeking to enter the United States without proper documentation.

For the safety of these individuals, other travelers, and CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals and to temporarily hold those found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without proper documents may be required to wait in Mexico before entering the port of entry.

Question#:	23
Topic:	Turning Back Asylum Seekers
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: How does CBP determine whether and when to tell people to come back?

Response: At times, a port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without appropriate travel documents may be required to wait in Mexico before entering the port of entry. Once an alien enters the United States, he or she is processed in accordance with the law and CBP policy.

Question: Does CBP believe that the practice of turning away asylum seekers and telling them to come back later fully complies with the requirements of federal law and international law?

Response: At times, a U.S. port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without appropriate travel documents may be required to wait in Mexico before entering the port of entry. Once an alien enters the United States, he or she is processed in accordance with U.S. law and CBP policy.

Question#:	24
Topic:	System Changes
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Has CBP implemented any changes to this "metering" system for asylum seekers during the last two years?

Response: CBP policies have not changed. CBP OFO is committed to our multifaceted national security mission set, which includes the safe, secure, and orderly processing of all travelers as expeditiously as possible without compromising safety or security of the Homeland. The number of inadmissible aliens CBP is operationally capable to process varies depending on overall port volume and enforcement actions.

Question#:	25
Topic:	Waiting in Mexico
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Does CBP believe that the living conditions for those who are turned away at the border and forced to wait in Mexico are adequate?

Response: As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address the specific living conditions within these shelters.

Question: Are you aware of any agreements, protocols, or practices with Mexico—whether formal or informal, written, or unwritten—under which Mexican authorities are preventing asylum seekers from accessing ports of entry along the border?

Response: CBP is not aware of any such agreements, protocols, or practices.

Question: Does CBP recognize that those who are turned away at the border and forced to wait in Mexico may be in significant danger?

Response: CBP ports of entry (POE) are busy and complex facilities with a multitude of law enforcement activities occurring at any given time. The CBP managers and officers at these locations are responsible for the safety and security not just of asylum seekers but also of CBP and other government employees, lawful immigrants and the traveling public. POEs are of varying sizes and can accommodate varying numbers of people; when they become overcrowded it can present an unsafe environment for everyone. To that end, CBP's need to provide a safe and secure environment for all individuals may require that some aliens wait in Mexico until sufficient capacity opens up to allow processing of those aliens at the POE.

CBP cannot comment on the safety of another nation as this is out of our jurisdiction.

Question#:	26
Topic:	Data Collected
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What data has CBP collected about (1) the number of people turned back at ports of entry and (2) wait times for asylum seekers at ports of entry along the border? Please provide as much detail as possible about any such data and findings.

Response: CBP does not specifically collect data on either the number of individuals requested to wait because of the operational constraints of the port of entry or the wait times for any alien waiting to enter a U.S. port of entry (POE), including those who are seeking asylum. In recent months, at any given time, aliens without appropriate travel documents arriving at three or four of the southern land POEs have temporarily waited in Mexico.

Question#:	27
Topic:	Asylum Ban
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: On November 9, 2018, President Trump signed a presidential proclamation that would ban individuals who crossed the border outside an official port of entry from seeking asylum. An interim rule from the Department of Homeland Security and the Department of Justice that became effective the same day provided that migrants would be eligible for asylum only if they arrived at official ports of entry. But the governing federal law here is clear: "[a]ny alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . may apply for asylum." Given how clear the statute is, how can CBP implement a blanket ban on any asylum seekers who did not enter through a designated port of entry?

Response: As this matter is currently in litigation, CBP refers questions regarding the promulgation of this action to the Department of Justice, which represents the United States in litigation.

Question#:	28
Topic:	Court Order
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: On December 7, 2018, the U.S. Court of Appeals for the Ninth Circuit upheld a federal district court's order temporarily blocking the Trump Administration's "asylum ban" from going into effect. The panel opinion said the Administration's new rule was directly at odds with federal immigration law and would give only "the hollowest of rights" to asylum seekers.

Is CBP complying with this court order?

Response: Yes. Guidance to agents and officers in the field has not changed in regards to the processing of claims of fear. Agents and officers are instructed to refer all claims of fear both at and between ports of entry to the appropriate adjudicator.

Question: To your knowledge, have CBP officials been advising asylum seekers that crossing the border outside a port of entry would preclude them from applying for asylum?

How is CBP handling asylum seekers who are found outside ports of entry? Are these individuals and families still able to seek asylum in the United States, as this court order requires?

Response: According to U.S. law and CBP policy, if any U.S. Border Agent encounters an alien who entered illegally between ports of entry, and if that person expresses a fear of return to his or her home country, the officer refers the person for an interview with a U.S. Citizenship and Immigration Services asylum officer or to immigration proceedings before an Immigration Judge.

No one is being denied the opportunity to make a claim of credible fear or seek asylum.

CBP stats on those claiming fear at and between our ports of entry:

<https://www.cbp.gov/newsroom/stats/sw-border-migration/claims-fear>

Question#:	29
Topic:	Wait Times
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: During the past two years, CBP officials have said that the agency cannot immediately process all of the migrants who arrive at the ports of entry along the U.S.-Mexico border. The growing wait times for people who have reached the border, including asylum seekers in particular, are well documented.

What specific steps has CBP taken to try to reduce these wait times?

Response: Expanding physical capacity (buildings and infrastructure) at U.S. Ports of Entry (POE) is a challenge. Most POEs have a restricted footprint and were designed decades ago when volumes were significantly lower. The President’s Budget annually requests funding for LPOE expansion and modernization and U.S. Customs and Border Protection (CBP) continues to work to expand capacity through hiring additional CBP Officers. CBP has made tremendous strides in hiring new CBP officers for the southwest border through judicious use of recruitment and retention incentives, and continues to expand best practices for hiring, such as “Fast-Track” hiring. On a daily basis, Port Directors work to maximize the available capacity. Each Port Director utilizes Queue Management to assess their mission requirements to process lawful trade and travel, to address our counter-narcotics mission, and to process people without documents. The number of inadmissible travelers CBP is operationally capable to process varies depending on overall port volume and enforcement actions. Because the mission ebbs and flows and changes, the number of asylum seekers each POE can manage will fluctuate from day to day. Importantly, CBP is merely the first step in the asylum process. Increasing the availability of additional custodial space at U.S. Immigration and Customs Enforcement (ICE)/Enforcement Removal Operations (ERO) facilities along with transportation support are critical. Diverting agency resources from outside the Southwest Border is neither sustainable nor suitable as it places additional stresses on those areas, creating longer wait times at airports and slower cargo processing in those areas from where CBP officers are being diverted.

Our ports of entry process millions of people, vehicles, and loads of cargo every year. Our national and economic security rest on CBP preventing dangerous goods and people from entering our country as well as facilitating the efficient flow of legitimate trade and travel. Approximately 545,000 passengers and pedestrians and 214,000 privately owned vehicles pass through our Southwest Border ports of entry every day. Most of our ports of entry were built decades ago, before current levels of volume introduced capacity challenges. CBP strives to manage this limited space to best ensure safety and security for travelers and our officers, while facilitating timely processing for U.S. citizens, visitors with documentation, and individuals without documentation. This processing

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occurs in conjunction with inspections for drugs and prohibited items as we strive to protect the Homeland.

Question#:	30
Topic:	Daily Processing
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: How many asylum seekers is CBP processing daily at ports of entry?

Response: Any traveler who requests asylum or expresses a fear of return to their country or country of last residence is referred to U.S. Citizenship and Immigration Services (USCIS) asylum officers or the immigration courts who make a final decision on asylum applications. CBP does not maintain statistics on asylum applications that are granted or denied.

- The number of inadmissible aliens CBP is operationally capable to process varies depending on overall port volume and enforcement actions.
 - After CBP has processed aliens that appear to be inadmissible, the aliens are generally transferred into the custody of ICE ERO for detention and further disposition.
- CBP closely monitors the processing of cases to ensure that cases are processed expeditiously in accordance with the applicable law.
- If an alien arriving in the United States at a port of entry (POE) is subject to expedited removal, and the individual expresses a fear of return to his or her country of origin, his or her case is referred to an USCIS asylum officer and the alien is detained until the credible fear interview as part of case processing under Section 235(b)(1) of the Immigration and Nationality Act (INA).
 - CBP also has the discretion to refer a case to an Immigration Judge for proceedings under Section 240 of the INA.

Question: What is the estimated capacity for processing asylum seekers and other individuals at the ports of entry along the U.S.-Mexico border? Please provide a breakdown of estimated capacity for processing asylum seekers by port of entry.

Response: CBP has no such estimates. Each of our Nation's 328 ports of entry is unique in composition of volume and traffic, and the processing capacity varies based on the size of each port and traffic, as well as other factors such as the volume of cargo and trade, staffing, ongoing enforcement actions, and other mission needs.

Question#:	31
Topic:	Granted Daily
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: How many asylum applications are being granted daily? Among those grants, how many are for people who did not cross the border at official ports of entry?

Response: CBP does not adjudicate applications for asylum. CBP's role is to inspect and process all aliens arriving at ports of entry (POE), and between POEs, and to refer any claims of fear to an appropriate adjudicator, as explained below.

According to U.S. law and CBP policy, if any CBP officer/agent encounters an applicant for admission, an individual who is not lawfully present or who is seeking admission between ports of entry and who expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of return to his or her home country, the agent refers the person for an asylum interview or to immigration proceedings before an Immigration Judge.

In FY18, the U.S. Citizenship and Immigration Services (USCIS) the Asylum Division granted an average of 65.8 affirmative asylum applications per business day. This average excludes weekends and federal holidays. Of these FY2018 grants, USCIS records indicate that 85.14% of granted asylees entered at a POE and 14.86% entered at an unknown place of entry. This data excludes individuals screened in the credible or reasonable fear processes and those who made defensive asylum claims after being placed in removal proceedings, as these cases are ultimately decided by an immigration judge. DHS defers to the Department of Justice to provide grant rates for those cases.

Question#:	32
Topic:	Recent Figures
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What are the most recent figures available for the number of people found outside ports of entry who are (1) removed from the United States immediately, versus those who are (2) referred for "credible fear" or "reasonable fear" interviews?

Response: For FY19 through December 11, 27,137 people found outside of a port of entry have been returned to either Mexico or Canada. 12,647 people found outside of a port of entry who were apprehended by USBP and processed for expedited removal have claimed a fear of return while in U.S. Border Patrol custody. USCIS received 99,035 credible fear cases and 11,101 reasonable fear cases in FY18 and 35,310 credible fear cases and 4,341 reasonable fear cases from October 2018 through January 2019.

Question#:	33
Topic:	Temporary Processing Facilities
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Previous administrations have opened temporary processing facilities to increase processing capacities along the border. During the last two years, has CBP opened any temporary processing facilities along the border?

Response: CBP opened six, temporary, soft-sided Centralized Processing Centers in RGV, El Paso and Yuma Sectors between May and August 2019 with a capacity of 6,500 family units, unaccompanied children and single adults.

Question: In your assessment, what other steps can CBP take to process asylum seekers more effectively?

Response: Congressional support of DHS' 2020 budget request will allow the agency to increase the processing of asylum seekers. DHS' request includes resources for additional officers and agents, retention of current agents and officers and maintenance and expansion of USBP and OFO facilities. Additionally, DHS' request includes funding for border wall system to eliminate illegal crossing and to direct asylum seekers to the ports of entry.

In addition, Congressional appropriations of additional resources to expedite the immigration docket is critical to avoiding the extensive backlog of cases in the immigration courts. Current data shows that, in some instances, aliens can wait up to 1,300 days after the initial encounter before they are able to appear before an immigration judge.

Question#:	34
Topic:	Alternatives to Detention
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Alternatives to detention, such as community supervision and electronic monitoring, have been shown to be effective and cost-efficient. The government's own statistics bear this out. A U.S. Immigration and Customs Enforcement program, along with several community pilot programs, have reportedly demonstrated high rates of compliance in past years. With these alternative programs, people have shown up for court hearings and other appointments as often as 99 percent of the time. And these alternative programs are dramatically cheaper. The Department of Homeland Security has estimated that holding someone in an immigration detention center costs between \$134 and \$319 a day. Alternatives to detention like community supervision and electronic monitoring cost around \$4.50 a day. If CBP lacks the ability to process asylum seekers properly and in a timely manner, then why have alternatives to detention not been considered, or reconsidered?

Response: U.S. Immigration and Customs Enforcement (ICE)'s Alternatives to Detention (ATD) Intensive Supervision Appearance Program (ISAP) is a tool that uses technology and case management to monitor a very small segment of aliens assigned to the non-detained docket. The program was designed to complement ICE's immigration enforcement efforts by offering increased supervision and monitoring of individuals who are not currently detained.

The ATD program is not a substitute for detention. The only effective means for ICE to ensure an individual's departure from the United States upon issuance of a final order of removal is through the use of detention. Any individual not detained is a potential flight risk, and while the use of ATD may help mitigate some of the risk or provide critical information to assist with locating an individual, ATD cannot provide any assurances that the alien will be located and ultimately removed. Detention is the only method that will ensure a 100 percent compliance rate with an immigration judge's decision. Thus, the ATD program is not nearly as effective as detention.

Given the cost associated with detention, congressionally-mandated funding limitations, and other limitations imposed by courts, ICE is only able to detain a fraction of those with cases pending before the immigration courts. To improve compliance with immigration law, ICE needs sufficient detention and ATD resources to better manage aliens throughout their removal proceedings. Today, ICE has insufficient detention and ATD capacity and funding. Under current ICE deployment of ATD, participants are frequently removed from the program before their first immigration hearing. Although this policy provides ICE with the ability to track more individuals, having participants cycle through the program prior to any significant developments in an individual's

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Topic:	Alternatives to Detention
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
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immigration case makes it extremely difficult to assess the real effectiveness of the ATD program. So yes, while enrolled in the ATD program, a large number of participants comply with the requirements, attend scheduled hearings, office visits, submit to home visits, etc.; however, because there are so few hearings scheduled during this time, there is very little possibility of reaching a final disposition during the normal term of enrollment. Thus, the compliance rates during this very early stage of the process are high, but are not reflective of participation through the full process; and it is important to note that, based on DOJ data, nearly 45 percent of all non-detained removal orders are issued in absentia to aliens who fail to appear.

As of May 2019, there were approximately 100,000 aliens enrolled in ATD, about 50,000 in detention, and more than 3 million on ICE's non-detained immigration docket—including more than 1 million aliens who have already been issued a final order of removal by an immigration judge and failed to comply with their order of removal.

ICE has significantly expanded its use of ATD from approximately 23,000 participants in Fiscal Year (FY) 2014 to more than 100,000 in FY 2019. This expansion has come with a number of challenges, including particularly high levels of absconders among recently enrolled family units. In FY 2019, as of April 30, 2019, the absconder rate for family units was 26 percent, significantly higher than the 12.2 percent absconder rate for non-family unit participants.

Any individual not detained, whether they are assigned to ATD or simply released with no formal monitoring at all, can abscond at any time. This can occur immediately upon release or several years later once there is an administrative final decision in their case. Given that there is no additional penalty for individuals who abscond, and no reward or benefit for those who elect to comply, there is very little incentive for individuals assigned to the non-detained docket to ever comply with a final order of removal. Finally, detained cases are prioritized and generally take months to complete compared to several years complete for those not detained. As a result of these differing case processing timelines, as well as additional costs associated with locating ATD absconders and other program violators, the costs of ATD could be more expensive than detention notwithstanding the significant differences in effectiveness and efficiency the two options present.

Question#:	35
Topic:	Reasons
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Migration Policy Institute President Andrew Selee, who testified at another Senate Judiciary Committee hearing on December 12, 2018, stated: "While there is no single study that has successfully explored the mix of reasons that Central Americans leave their homes to embark on a dangerous journey north, available evidence suggests that the rise in the number of Central American asylum-seekers is tied both to violence and impunity, in other words, the need to seek protection and the inability to obtain it within their own countries." Do you agree with that conclusion? Please explain the sources that have informed your response.

Response: I do not agree with that conclusion. A report was recently released by USC's Center for Risk and Economic Analysis of Terrorism Events (CREATE) in collaboration with the Institute for Defense Analyses (IDA). This 12-month study on immigration from El Salvador, Guatemala, and Honduras to the United States, found that juvenile migrants are primarily motivated by economic opportunities and reunification with family members, while economics have primarily motivated adult migrants. The study found mixed evidence on the impact of crime and violence on migration from these countries.

CBP recommends that all members of the Judiciary Committee familiarize themselves with the "Northern Triangle Migrant Flow Study: Final Report" (*available at https://create.usc.edu/sites/default/files/northern_triangle_migrant_report.pdf*).

Question#:	36
Topic:	Death Notification
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: In the early hours of December 8, 2018, Jakelin Caal Maquin, a seven-year-old girl from Guatemala who had arrived at the U.S. border with her father, died while in CBP custody. She had been apprehended by CBP on the evening of December 6, and according to an initial diagnosis she died of dehydration, fever, and septic shock just over a day later.

Why was Congress not notified of the death of Jakelin Caal Maquin prior to the Senate Judiciary Committee hearing at which you testified on December 11, 2018?

Were you aware of the death of Jakelin Caal Maquin prior to your testimony at the hearing?

Response: CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying our Congressional Oversight Committees and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17, 2018, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody, including Congressional notifications. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	37
Topic:	Facility Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: In light of Jakelin Caal Maquin's death while in CBP custody, what is CBP doing to improve facility conditions and procedures to ensure the safety and wellbeing of all individuals and families in CBP custody?

Response: The safety and well-being of all persons in our custody are a priority for CBP. In general, CBP's short term holding facilities are under constant internal and external review. We will continue to review and address any conditions that develop and require remediation.

In December 2018, CBP issued a directive that required that all juveniles in custody be medically assessed as a safety precaution. Since that time, agents and officers have been completing medical assessments on all incoming juvenile aliens using existing best practices.

Question: A 2016 OIG report found that CBP Forward Operating Bases along the U.S.-Mexico border, including the one where Jakelin Caal Maquin was temporarily held, lacked safe drinking water. (OFFICE OF THE INSPECTOR GEN., U.S. DEP'T OF HOMELAND SEC., CONDITIONS AT CBP'S FORWARD OPERATING BASES ALONG THE SOUTHWEST BORDER (REDACTED) (Feb. 8, 2016), <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-37-Feb16.pdf>.) Have inspections and any necessary corrective actions been undertaken to ensure that all CBP facilities have safe drinking water?

Response: Water, at the location at which Jakelin and her father were encountered, is tested monthly and a more comprehensive test is conducted annually. Any confirmed report of unsafe drinking water is immediately notified to employees and the water is turned off. Mitigation efforts are immediately put in place and the water is not turned on until the water is confirmed safe for use. Persons, including aliens, at this location have always also been provided with commercially purchased bottled water.

Question#:	38
Topic:	Protocol
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What is the CBP protocol for individuals who become ill while in CBP custody?

Response: Under the 2015 CBP National Standards on Transport, Escort, Detention, and Search (TEDS), CBP has implemented the following procedures:

During transport:

- *Medical Issues:* Officers/Agents must be alert to medical symptoms such as coughing, fever, diarrhea, rashes or emaciation, in addition to obvious wounds, injuries, cuts, bruising or bleeding, heat related injury or illness, and dehydration. Any observed or reported injury or illness must be reported, and appropriate medical care must be provided or sought in a timely manner.
- *Detainee Distress:* In addition to verbal communication, officers/agents must be alert to non-verbal cues exhibited by detainees that might indicate that the detainee is in mental or physical distress. This might include expressions of suicidal thoughts, hallucinations, or other signs of disorientation.

While in custody:

- *Medical Issues:* Upon a detainee's entry into any CBP hold room, officers/agents must ask detainees about, and visually inspect for any sign of injury, illness, or physical or mental health concerns and question the detainee about any prescription medications. Observed or reported injuries or illnesses should be communicated to a supervisor, documented in the appropriate electronic system(s) of record, and appropriate medical care should be provided or sought in a timely manner.
- *Medical Emergencies:* Emergency medical services will be called immediately in the event of a medical emergency (e.g., heart attack, difficulty breathing) and the call will be documented in the appropriate electronic system(s) of record. Officers/Agents must notify the shift supervisor of all medical emergencies as soon as possible after contacting emergency services.

Question: Are medical staff, including staff trained in pediatric care, available at all CBP facilities to ensure the safety and wellbeing of those held in CBP custody?

Response: In a number of locations, CBP has nationally certified EMTs and Paramedics trained in basic to advanced life-saving techniques. At four locations in the El Paso, Laredo, Rio Grande Valley and Yuma Sectors, CBP has a medical contract specifically

Question#:	38
Topic:	Protocol
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

for the evaluation and care of children in our custody. In all cases, immediate attention and care is provided as soon as possible.

Question#:	39
Topic:	Translators
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Are translators available at all CBP facilities, and are all documents signed by individuals in CBP custody provided in a language that they understand?

Response: No, all documents signed by individuals in CBP custody are not provided in a language that they understand. However, in accordance with the 2016 CBP Language Access Plan, the U.S. Border Patrol (USBP) has a protocol for law enforcement personnel when limited English proficient (LEP) individuals are encountered. In instances where in-house language capabilities are not sufficient, USBP has instituted use of contract telephonic interpretation services. In this case an interpreter was not needed as the agents reported they were able to effectively communicate with the father in the Spanish language. Each question written in English on CBP forms is asked in Spanish by the agent.

Question#:	1
Topic:	San Ysidro Port of Entry Findings
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On November 25, 2018, Border Patrol agents used tear gas on a group of migrants approaching the border fence near the San Ysidro Port of Entry in California. This group, which included women and young children, had been protesting poor shelter conditions and reported five to eight week-long waits for processing of asylum claims at the port before the attempted crossing. CBP's use of tear gas has garnered considerable criticism. Human rights groups and legal experts have condemned its use, arguing that it violated international human rights agreements.

In a statement to the media on November 26, 2018, you defended the use of tear gas in this incident as being in accordance with CBP training and policy. On November 27, 2018, San Diego Sector Border Patrol Chief Agent Rodney Scott stated to the media that he had asked the CBP Office of Professional Responsibility to investigate the circumstances surrounding agents' use of tear gas. On December 11, 2018, you told this Committee that this CBP investigation was termed a use of force incident review and that CBP has a process of publishing findings of such reviews, including tactics, training, procedures identified for improvement. You committed to providing this Committee with the findings.

Please provide this Committee with the findings of CBP's use of force review for the use of tear gas on November 25, 2018 at the San Ysidro Port of Entry.

Response: On December 12, 2018, the San Diego Local Use of Force Review Board (LUFRRB) convened and the facts of case were presented to the board members. At the conclusion of the presentation, the board members unanimously determined that the deployment of tear gas on November 25, 2018 was in compliance with CBP's Use of Force Policy. Furthermore, no misconduct was identified when multiple Border Patrol agents and one CBP Officer attempted to prevent a group of Central Americans from illegally entering the United States near the San Ysidro Port of Entry.

On March 20, 2019, CBP OPR was informed that a DHS Office of Inspector General (OIG) audit team conducting an independent review uncovered information that a long-range audio device had been utilized during the November 25, 2018, incident in a manner (or mode) which the DHS OIG regarded as a use of force. On April 10, 2019, CBP OPR received notice that the DHS OIG had opened an investigation into the use of the device. The OIG investigation remains on-going.

Question#:	2
Topic:	Tear Gas Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Does CBP train its officers to survey scenarios to confirm that no vulnerable individuals - including children, the elderly, and disabled individuals - are present prior to using tear gas to disperse crowds?

Response: CBP has a robust less-lethal training curriculum that specifically trains Authorized Officers/Agents to tactically analyze situations to properly identify, prioritize, and address the various threats (or the lack of a threat) of a given encounter. As part of this “Threat Assessment” training, certain groups of individuals have been identified as presenting unique factors that require special consideration: e.g. – small children, women known or suspected to be pregnant, the elderly, persons with known or obvious physical or mental limitations, special needs individuals, etc. The consideration our officers and agents must show these groups, because of the unique factors they present, is not limited to any specific less-lethal device, operational tactic, or defensive technique. Careful consideration, accurate assessment, and proper response are critical elements of *every* encounter, and stressed throughout CBP’s use of force training curriculums.

The CBP Use of Force Policy, Guidelines and Procedures Handbook provides guidance on the use of chemical munitions (“tear gas”) with respect to subjects who are small children. Specifically:

“Authorized Officers/Agents should not use a LLSI-CM and should consider other force options with respect to subjects who are: small children; elderly; pregnant; near known flammable materials (when using a pyrotechnic device); or operating conveyances” (CBP Use of Force Policy, Guidelines and Procedures Handbook, Chapter 4.C.7.c)

As part of the 120-hour CBP Less-Lethal Instructor Training Program, instructor candidates participate in several hours of “Scenario Based Training”, which provides realistic operational situations to apply the principles and decision-making strategies presented during the course, and demonstrate their proficiency with various less-lethal devices, munitions, and/or techniques. One of the scenarios includes deployment of chemical munitions (e.g. tear gas) to familiarize the students with target assessment, analyzing effects of environmental factors (e.g. wind intensity and determining wind direction), identifying multiple available routes of egress for affected individuals, decontamination procedures, and reporting/documentation.

Question#:	3
Topic:	Body-worn Camera Pilot Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: During your testimony on December 11, 2018, you acknowledged that body-worn cameras were not used by agents who were involved in using tear gas at the San Ysidro Port of Entry on November 25, 2018. You noted, however, that CBP was the first federal agency to pilot body-worn cameras and that it is expanding its operational deployment of body-worn cameras. This initiative is informed by a 2015 CBP body-worn camera feasibility study, which found that CBP could benefit from the use of body-worn cameras. You committed to providing this Committee with a written update on CBP's progress in implementing the body-worn camera pilot.

Please provide this Committee with a written update on CBP's progress in implementing its body-worn camera pilot.

Response: As directed by Congress, CBP conducted an evaluation (from May 1 - November 1, 2018) to determine the effectiveness of Incident-Driven Video Recording Systems (IDVRS) at addressing CBP's capability gaps associated with documenting incidents. CBP selected evaluation locations that represent a wide range of CBP's operational environments while also providing an opportunity to record high volumes of public interactions. The evaluation will provide insight regarding the effectiveness of IDVRS in terms of transparency, safety, camera use and reliability, evidence-gathering, IT infrastructure requirements, and personnel requirements.

Next Steps:

Complete and present LESC's findings, to be shared with Congress, from the collection, compilation, and analysis of field evaluation and comparative data on current CBP camera systems, to include a Final Report and Rough Order of Magnitude (ROM) Cost Estimate to inform CBP's implementation decision and strategy for an Incident Driven Video Recording System.

Question: Please include details on the number of body-worn cameras that CBP is using in its daily operations, broken down by field office and/or port of entry.

Response: During the evaluation period, CBP issued IDVRS to 138 officers/agents in 10 locations across each of CBP's operational components - Air and Marine Operations (AMO), Office of Field Operations (OFO) and U.S. Border Patrol (USBP).

IDVRS Pilot locations (from May 1 - November 1, 2018):

Question#:	3
Topic:	Body-worn Camera Pilot Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

AMO:

Tucson, AZ Air Branch (6)

West Palm Beach, FL Marine Unit (5)

OFO:

Long Beach, CA Seaport (7)

Eagle Pass, TX Land Port of Entry (9)

Atlanta, GA International Airport (12)

Detroit, MI Land Port of Entry (13)

USBP:

Campo, CA Station (26)

Las Cruces, NM Station (7)

Laredo, TX North Station (29)

Kingsville, TX Station (24)

Question#:	4
Topic:	CBP's Analysis
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On November 25, 2018, CBP closed the San Ysidro Port of Entry - our nation's busiest port - for approximately five hours midday during the post-Black Friday travel and shopping weekend. This unexpected closure left thousands of pedestrians stranded, disrupted transit systems, and created an 8-mile freeway backup. The San Ysidro Chamber of Commerce estimated over \$5 million lost from 650 San Ysidro businesses alone. On November 26, 2018, nonetheless, the President threatened to "close the border permanently."

The San Ysidro port sees 73 million border crossings yearly and cross-border traffic and trade is at the heart of the over \$250 billion annual gross regional product of San Diego and Imperial Counties and neighboring Baja California. Paola Avila, a vice president at the San Diego Chamber of Commerce declared after the closure that, "The uncertainty of border closures occurring at any time is a substantial economic threat for our region."

During your testimony on December 11, 2018, you admitted that the port closure had resulted in a loss of over \$5 million to San Ysidro businesses alone. I asked you to provide this Committee with complete documentation of CBP's analysis underlying the decision to close the San Ysidro Port of Entry on November 25, 2018, including the reasons for the closure initially, why it lasted five-hours, and how CBP weighed harmful effects on commerce. I also asked for your recommendation for what improvements can be made to protocols, policy, and training relating to port closures going forward. You also committed to meet with San Diego area elected officials and Chamber of Commerce leaders to discuss impacts of port closures.

Please provide this Committee with complete documentation of CBP's analysis underlying the decision to close the San Ysidro Port of Entry on November 25, 2018, including the reasons for the closure initially, why the closure lasted five-hours, and how CBP weighed harmful effects on legitimate travel and commerce.

Response: On November 25, 2018, CBP encountered a dynamic and challenging situation at and around the San Ysidro Port of Entry. Over 1,000 migrants marched toward the Mexican side of the port of entry--El Chaparral--and pushed through the Mexican Federal Police lines in an attempt to enter the United States through the port of entry, as well as over and under the fence line around the port of entry. Large groups attempted to enter the United States without authorization at multiple points over the course of approximately four to five hours.

Question#:	4
Topic:	CBP's Analysis
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Around the port of entry some of the migrants threw rocks at Border Patrol Agents. Border Patrol Agents and CBP Officers faced a difficult situation in the border zone between the primary and secondary fences and at the Tijuana River channel along the border, where photographs and video footage show over 500 migrants attempting to enter the United States en masse. The Border Patrol Agents and CBP Officers had to act quickly to protect themselves and each other while maintaining the integrity of the international border. The Port of Entry was closed for several hours to maintain control of the border, until the attempts to enter unlawfully the United States subsided.

Border Patrol Agents and CBP Officers were able to resolve the situation professionally and honorably, without any migrant sustaining a serious injury and without a serious breach of the U.S. international border.

After the closure of the San Ysidro port of entry, CBP's Office of Trade conducted a review of traffic and trade volumes at the land ports of entry at San Ysidro, Otay Mesa, and Calexico, California, to support CBP's efforts along the Southern Border. This review utilized FY 2018 data to provide total values of imports and exports for major commodity types and the major importers who bring in those commodities, as well as crossing statistics for pedestrians and passenger vehicles. CBP does not have access to local economic data; however, CBP has worked with the San Diego and San Ysidro Chambers of Commerce to review their data. Those Chambers were highly supportive in providing insight into the impact port closures have on the local economy, and the chambers were able to provide an estimate on the amount of lost revenue associated to retail sales. On November 19, 2018, when the port of San Ysidro was also temporarily closed, the chambers estimated that the loss of revenue to up to 650 local retailers was \$5.3 million.

Question#:	5
Topic:	Recommendations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with your recommendations for improvements to protocols, policy, and training relating to port of entry closures.

Response: We are still reviewing the events at this time and will apply them in the future to our protocols, policies, and training regarding closing ports of entry.

Question#:	6
Topic:	Follow-up Meeting
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide details about which San Diego area elected officials and Chamber of Commerce leaders you have met with to follow up on CBP's closure of the San Ysidro Port of Entry on November 25, 2018.

Response: CBP maintains close working relationships with state and local leaders at both the headquarters and field levels. Surrounding the events and operations at the San Ysidro POE in late November, CBP's headquarters-based Intergovernmental Public Liaison (IPL) office proactively reached out to San Diego Mayor Faulconer's office and the San Diego Chamber of Commerce on November 19, 2018, to share a CBP statement providing information and updates regarding operations and security at the ports. The IPL office maintained communications with the Mayor's office and Chamber leading up to November 25, 2018 and after the events of that day. Additionally, on December 3, 2018, CBP IPL worked with the Mayor's office to coordinate a call between the Mayor and agency leadership. Separately, on December 6, 2018, CBP IPL worked with the San Ysidro Chamber of Commerce to deliver a letter from the Chamber to CBP agency leadership regarding CBP operations and activities in the region.

Question#:	7
Topic:	Closures Since October 2018
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete documentation of CBP's analysis underlying its decision to close the San Ysidro Port of Entry during the early morning of November 19, 2018, and any other California port of entry closures since October 2018.

Response: CBP is reviewing the events with support of our National Office of Professional Responsibility and our Law Enforcement Compliance Division. CBP will be transparent about the finding of this situation.

Question#:	8
Topic:	Trafficking Referrals
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Administration officials have repeatedly stressed concerns about children being trafficked at our border by adults falsely claiming to be their parents. On November 27, 2018, the President declared that, "you have a lot of people that grab children" at the Southwest border to falsely pose as an asylum-seeking family to enter this country. Secretary Nielsen also told Congress in April-before the zero tolerance policy was revealed-that DHS was separating families to protect children from trafficking.

Multiple times, starting this past spring, I have asked DHS officials for information on referrals for criminal prosecution for trafficking in cases of children separated from adults at the border who said they were their parent or guardian. In November 2018, my office received a written response from DHS that DHS "does not maintain data" on such criminal referrals since January 2017. This is inconsistent with Secretary Nielsen's repeated declaration that it is DHS policy to criminally prosecute lawbreakers.

On December 11, 2018, you contradicted DHS' assertion, saying that DHS does track criminal referrals carefully and cross-designate with individuals who were part of a fraudulent family unit. You committed to provide this information to the Judiciary Committee.

Please explain why DHS informed my office that it "does not maintain data" on referrals for criminal prosecution for trafficking in cases of children separated from adults at the border who said they were their parent or guardian.

Response: Criminal prosecution is a multi-agency process. CBP tracks individuals it has referred for criminal prosecution. CBP does not investigate human trafficking, and so does not refer cases of suspected human trafficking for prosecution, but it can refer suspected human trafficking activity for further investigation by an investigative law enforcement agency, such as Immigration and Customs Enforcement Homeland Security Investigations.

Question: Please provide this Committee with information on all cases, since January 2017, of adults falsely claiming to be parents or guardians of children at the Southwest border who were then referred for criminal prosecution for trafficking.

Response: Beginning April 19, 2018, the USBP system of record was updated to track the separation of family units and groups purporting to be family units. Therefore, official statistics of groups separated based on concerns about fraudulent claims to family unity are not available prior to that date. For the time period of 4/19/18 through

Question#:	8
Topic:	Trafficking Referrals
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
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01/31/19, nearly 2,000 individuals undergoing processing as family units have been separated due to fraud (a lack of familial relationship or because the alleged child was 18 or older).

Question#:	9
Topic:	OPR Report
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: The CBP Office of Professional Responsibility and the DHS Office of Inspector General have launched investigations into the tragic death of 7-year old Jakelin Amei Rosmery Caal Maquin in CBP custody on December 8, 2018. CBP is also reviewing its policies for notifications of deaths in custody to the public and Congress.

Please provide this Committee with a complete copy of the CBP Office of Professional Responsibility report and all other CBP internal reports pertaining to the treatment of Jakelin Amei Rosmery Caal Maquin while she was in CBP custody.

Response: The DHS Office of Inspector General has taken over the investigation into this case. CBP defers to DHS OIG with respect to the release of investigative information. In the aftermath of Jakelin's death, CBP has implemented a new interim medical directive as well as new policy on notifications of death. While CBP awaits the results of their investigation, CBP will continue to take additional steps ensure transparency and accountability as we move forward.

Question#:	10
Topic:	Medical Evaluation Training and Protocols
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete information about CBP protocols and training for Border Patrol agents for medical evaluation in initial encounters and processing of individuals into custody.

Please include specific information on protocols and training relating to: identification and treatment of dehydration, requirements for direct medical evaluation of a child traveling with a parent or guardian, Form I-779 language access requirements, and circumstances when emergency medical responders outside CBP must be called to address a medical condition of an individual in custody.

Response: The USBP has EMT and Paramedic certified Agents in its workforce. These Agents can conduct a patient assessment and recommend transfer to a higher level of care at any point during detainment or custody of a person. In addition, any Agent, regardless of medical background, can request emergency services if they are unsure if a person needs a higher level of care.

EMT and Paramedic certified Agents follow either local protocols, or the DHS EMS Protocols, all of which are in accordance with national standards and models for EMS programs. These protocols address the standard treatments within the agent's scope of practice. Each Agent is certified under the National Registry of Emergency Medical Technicians (NREMT) after completing an accredited EMT or Paramedic course and complies with recertification training requirements.

The USBP is currently reviewing its guidance for direct medical evaluation of a child traveling with a parent or guardian along the southwest border.

The Form I-779 is available in English and can be translated by Agents or through language services for those detainees that speak another language.

There is no set list of exhaustive criteria that can adequately direct an Agent to bring in local EMS services to assess a person in custody. However, if detainees request to be taken to a hospital, Agents do so and document this in the alien's record.

Question: Please outline which medical experts, including pediatric medical experts that CBP officials consulted with in developing these protocols and training.

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Response: The DHS Office of Health Affairs (OHA, now CWMD) medical doctors with a range of specialties helped create the protocols. The EMT basic and Paramedic courses are accredited as are any refresher hours in accordance with national EMT standards.

Question#:	11
Topic:	Antelope Wells Port of Entry Inspections
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete information on all inspections of the Antelope Wells Port of Entry since January 2017, including details on staffing, the availability of food, water, personal hygiene supplies, and restrooms for individuals in custody, and the number and availability of transportation vehicles at the facility.

Response: CBP does not, as a matter of security, provide staffing information or enforcement data at the port of entry level. CBP assesses threats through a risk-based strategy and multilayered security approach, and aligns resources (human, technological, and humanitarian supplies) to meet its mission and ensure that threats are mitigated at the ports of entry (POE).

The Port of Antelope Wells averages less than 30 vehicles per day and detains approximately one inadmissible alien per month. When an inadmissible alien is encountered by OFO, they are transported by OFO to the Area Port of Columbus for processing and temporary hold. All individuals have access to food, water, hygiene supplies, and restrooms.

Question#:	12
Topic:	Death Reporting Requirements
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please explain CBP's delay in reporting Jakelin Amei Rosmery Caal Maquin's death to members of Congress, including Democratic Appropriations Committee members given the FY2018 Omnibus reporting requirement for deaths in custody.

Response: CBP was in the process of solidifying a privacy waiver; DHS did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying our Congressional Oversight Committees, and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with federal law enforcement best practices. CBP believes this new policy meets both the spirit and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

House Report 115-239, accompanying the FY18 DHS Appropriation, as well as House Report 114-668, accompanying the FY17 DHS Appropriation, and House Report 114-215, accompanying FY16 DHS Appropriation, directed CBP to report, within 24 hours, the relevant circumstances regarding a death of any individual in CBP custody or a death caused by the use of force of a CBP employee. Although the language in a committee report is not considered binding in the same manner as language in the statute, CBP understands that a committee's ability to conduct oversight is paramount and is pleased to have implemented a policy memorandum related to Congressional notification.

Question: Please explain why you believe that mentioning Jakelin Amei Rosmery Caal Maquin's death during your Senate Judiciary Committee testimony on December 11, 2018 – when you were asked about the adequacy of CBP facilities for care of children – would have meant, “politicizing the death of a child.”

Response: As mentioned above, CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most

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importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Bringing up the death of a minor in a public discussion about the adequacy of CBP facilities for care of children did not seem appropriate.

Question#:	13
Topic:	Improve Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: It is well documented that conditions and training at CBP facilities are not informed by child welfare best practices. Legal complaints filed on behalf of immigrant children have highlighted poor CBP facility conditions, including limited access to food and water, spoiled food, freezing temperatures, and verbal and physical assault. Media reporting has shown children crammed with adults in large detention "cages" with concrete floors and only mylar blankets and no soft bedding for multi-day stays. Additionally, a June 2014 U.N. High Commissioner for Refugees report and a July 2015 GAO report found CBP facilities deficient for children, with inconsistent child screening processes and insufficient training regarding children.

In your testimony on December 11, 2018, you admitted that CBP facilities are "incompatible" for children.

Given your admission that CBP facilities are "incompatible" for children, please detail the specific actions that you and other CBP officials are undertaking to improve conditions and training for intake, custody, and care of children at CBP facilities.

Response: CBP is committed to the care and wellbeing of all persons in our custody and takes particular care for vulnerable populations such as children. CBP ensures that its facilities meet the standards laid out in CBP's *National Standards on Transport, Escort, Detention and Search (TEDS)* policy. CBP is currently deploying medically-trained law enforcement personnel to both remote and high traffic locations. At four locations in the El Paso, Laredo, Rio Grande Valley and Yuma Sectors, CBP has a medical contract specifically for the evaluation and care of children in our custody. In all cases, immediate attention and care is provided as soon as possible.

Question: Please detail which child-welfare and pediatric medical experts you are consulting with to guide such improvements.

Response: CBP requested and received medical field support from the U.S. Coast Guard and the U.S. Public Health Service Commissioned Corps. Teams were deployed to the Yuma, Tucson, and El Paso Sectors to increase capacity to perform pediatric medical checks. We have subsequently expanded the use of contracted medical personnel to perform medical screening in areas of the southwest border where we are experiencing the highest volume of UAC and family unit apprehensions.

We are also coordinating with the Centers for Disease Control and Prevention to gather data on infectious diseases among migrants in custody, and develop recommendations for

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further CBP action. Additionally, we have sought advice from external medical experts, including the American Pediatric Association and others.

Question#:	14
Topic:	Transgender Care
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On December 5, 2018, I joined with Senators Udall and Heinrich to send you and the ICE Acting Director a letter requesting documentation relating to the May 2018 death in ICE custody of Roxsana (Jeffrey) Hernandez, a 33-year old transgender asylum seeker from Honduras. Ms. Hernandez was reportedly denied adequate medical care, food, and water, and faced freezing temperatures while she was held in a CBP custody for 5 days at the San Ysidro Port of Entry. I have not yet received a response.

In response to my December 5, 2018 letter, please provide complete accounting and documentation of CBP's specific training for processing, medical evaluation and care, and safety of transgender individuals in your custody.

Response: CBP considers individuals who have self-identified as transgender to be “At-risk detainees” and processes them in accordance with the policies identified in the *National Standards on Transport, Escort, Detention and Search* and the DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (codified at 6 C.F.R. Part 115). Generally, CBP considers a traveler’s gender to be the gender shown on person’s travel documents; however, for processing purposes or searches, whenever operationally feasible, officers/agents take into account an individual’s gender, gender identity, or declared gender. CBP treats at-risk populations with dignity, respect and special concern for their particular vulnerability.

When processing transgender, intersex or gender non-conforming individuals, CBP agents and officers are directed to take additional steps to ensure processing is done in a safe, respectful and professional manner. These steps include:

Searches

- **Gender of Searching Officer:** Whenever operationally feasible, CBP officers conducting a search or that are present at a medical examination must be of the same gender, gender identity, or declared gender as the detainee being searched.
- **Officers/Agents** may not search or physically examine a detainee for the sole purpose of determining the detainee’s gender-related characteristics. If the detainee’s gender is unknown, officers/agents will ask the detainee their gender or gender identity.

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- Cross-gender searches or cross-gender visual body cavity searches must not be conducted except in exigent circumstances, including consideration of officer safety.
- Prior to commencing any search or pat-down, the primary searching CBP officer will communicate with the individual to identify any concerns.
- If an individual states that they identify with a gender that is different from what is listed on the travel document, the supervisor will be notified. CBP officers of the same gender declared by the individual will become the primary searching and witnessing officers.

Hold Rooms

- Officers/Agents will physically check hold rooms on a regular and frequent manner, according to each operational office's priorities and procedures
- Before placing any detainees together in a hold room or holding facility, CBP officers shall assess information [to determine] if the detainee may be considered an at-risk detainee, including whether the detainee... has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.

Showers

- Whenever showers are provided, transgender and intersex detainees will be given the opportunity to shower separately from other detainees.

When considering medical care, at-risk detainees are treated consistent with regular detainees. For all detainees, any physical or mental injury or illness observed by or reported to an officer/agent is reported to a supervisor and appropriate medical care is provided or sought. In the event of a medical emergency, CBP notifies emergency services immediately.

Question#:	15
Topic:	Family Separation Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: According a December 6, 2018 New York Times article and other reporting, the administration has continued to separate children from their families in "certain cases" since the President's June 20, 2018 Executive Order relating to family separations. These cases include when there are serious criminal charges against a parent, when there are concerns about the health and welfare of a child, or when there are medical concerns. Since the President's June 20 Executive order, the administration has reportedly separated 81 children from their parents at the Southwest border.

What specific procedures and training do CBP employees use and receive to carry out family separations?

Response: At the CBP Field Operations Academy, basic trainees complete the following classes:

- Human Trafficking Awareness (C102) - 1 Hour Block, 7/18/18 update
- Cultural Diversity And Law Enforcement (C280c) - 2 Hour Block 8/31/18 update
- Personal Search Policy And Procedures (S340c) - 4 Hour Block, 10/05/18 update
- Arrest And Detention (S360c) - 2 Hours Block, 9/4/18 update

At the Border Patrol Academy students complete:

- DHS PALMS course dealing with the processing and handling of juveniles via the Reno vs. Flores court case/William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA).

All CBP law enforcement officers complete the following via online delivery:

- Human Trafficking Awareness Training and Unaccompanied Alien Children: Flores v. Reno/TVPRA (Course Provider: Office of Field Operations)
- Unaccompanied Alien Children: Best Practices. – created 2015

Border Patrol agents receive a variety of training on the policies and procedures concerning individuals in CBP custody. In addition to the training listed, all agents abide by the National Standards on Transport, Escort, Detention, and Search (TEDS) policy.

Specifically for family separations, CBP provides guidance to all employees to ensure compliance with court orders. CBP does not provide specific training to all CBP employees on family separations. However, processing unaccompanied alien children

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and children with families is touched on in the below segments for all those who come in contact with children.

Question: What child welfare training does CBP currently provide for its officers and agents?

CBP Officer Basic Training:

- Human Trafficking Awareness (C102) - 1 Hour Block, 7/18/18 update
- Cultural Diversity And Law Enforcement (C280c) - 2 Hour Block 8/31/18 update
- Personal Search Policy And Procedures (S340c) - 4 Hour Block, 10/05/18 update
- Arrest And Detention (S360c) - 2 Hours Block, 9/4/18 update

Distance Learning (online courses):

- Human Trafficking Awareness Training and Unaccompanied Alien Children: Flores v. Reno/TVPRA

Reno/TVPRA (Course Provider: Office of Field Operations)

- Unaccompanied Alien Children: Best Practices. – created 2015

The Border Patrol Academy ensures the trainees take the DHS PALMS course dealing with the processing and handling of juveniles via the Reno vs. Flores court case/William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA).

Question: Is this training trauma-informed?

Response: No.

Question: Has CBP consulted with child welfare experts in developing this training?

Response: No, OTD develops training based on DHS and CBP policy.

Question#:	16
Topic:	Official's Fitness
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: In the DHS Office of Inspector General's September 27, 2018 report on family separations under the zero tolerance policy, the IG reported that an unidentified senior CBP official at the McAllen Processing Center in Texas admitted that CBP kept families separated when it may have been possible to reunite them, simply "to avoid doing additional paperwork."

Have you followed up directly with the senior CBP official who made this statement to the DHS IG to assess whether they are a fit individual to be responsible for management of family separations?

If not, will you commit to assess the fitness of this senior official?

Response: CBP does not keep families separated for the avoidance of paperwork. It is easier to keep families together and maintain unity from a law enforcement perspective.

CBP takes allegations of employee misconduct seriously and refers incidents for investigation to OIG when sufficient information is available. However, the individual cited in the OIG report was not named and as such CBP is not aware of his or her identity and is unable to confirm if he or she engaged in such conduct.

Question#:	17
Topic:	Abuse Allegations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: A complaint legal advocates filed with the DHS Office of Inspector General and DHS Office of Civil Rights and Civil Liberties on August 23, 2018 alleges that CBP employees subjected parents to duress during the family separation process under the zero tolerance policy-including physical and verbal abuse, withholding feminine hygiene products, providing spoiled food, and falsely telling them that their children would be permanently taken from them.

After a Homeland Security and Government Affairs Committee hearing on September 18, 2018, I submitted written questions to CBP's Acting Deputy Commissioner Robert Perez about what CBP has done in response to these allegations. I have not yet heard back.

When did you become aware of these allegations and what did action did you take in response?

Has CBP conducted an investigation into these allegations?

If so, when will the inquiry be completed and will you publish it?

If not, will you commit to commence an inquiry immediately?

Response: The complaint of duress and abuse parents were allegedly subjected to by CBP employees during the family separation process was filed directly with the DHS Office of Inspector General (OIG) and the DHS Officer for Civil Rights and Civil Liberties (CRCL). Congress enacted the Inspector General Act of 1978 to ensure integrity and efficiency in government. The DHS OIG was established by Congress in 2002 to provide independent oversight and promote excellence, integrity, and accountability within DHS. While organizationally a Component of DHS, the OIG operates independent of the DHS and all offices within it. The DHS OIG has primary jurisdiction for investigating all allegations of misconduct on the part of DHS employees. In this case, the DHS OIG declined to investigate the complaint and the matter is currently under investigation by CRCL. CRCL is responsible for investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities. CRCL recently assured CBP's Office of Professional Responsibility (OPR) that if the CRCL investigation uncovers any information or evidence that could be indicative or reflective of CBP employee misconduct, OPR will be notified immediately.

Question#:	18
Topic:	Operation Streamline
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On December 18, 2018, the Associated Press reported challenges for the implementation of Operation Streamline and the "zero tolerance policy" in San Diego, California fueling prolonged detentions of individuals charged with misdemeanor illegal entry by the U.S. Marshals Service.

Please provide this Committee with complete policy and guidance documents on CBP's implementation of Operation Streamline and the "zero tolerance policy" in California.

Response: Operation Streamline was never implemented in the Southern District of California. Following the Attorney General's "Zero Tolerance" Directive in 2018, CBP began working closely with the U.S. Attorney's Office in the Southern District of California on identifying cases for criminal prosecution, both misdemeanor and felony. In compliance with the Attorney General's Zero Tolerance Directive, criminal immigration violations are prosecuted in the Southern District of California with the assistance of CBP and in compliance with due process, equal protection, and all local district court orders.

Question#:	19
Topic:	Criminal Prosecution Data
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with monthly data on the number of individuals CBP has referred for criminal prosecution for illegal entry and illegal re-entry in California, broken down by Border Patrol Sector, since January 2017.

Response:

Charge Code	FY	Month	SBO		
			ELC	SDC	
8 USC 1325	FY2017	Jan	24	52	
		Feb	13	30	
		Mar	32	49	
		Apr	30	32	
		May	30	52	
		Jun	30	47	
		Jul	33	57	
		Aug	21	112	
		Sep	29	88	
	FY2017 Total			242	519
	FY2018	Oct	28	105	
		Nov	37	84	
		Dec	75	88	
		Jan	106	123	
		Feb	79	98	
		Mar	41	128	
		Apr	20	124	
		May	183	536	
		Jun	557	578	
		Jul	558	691	
		Aug	490	788	
		Sep	397	602	
		FY2018 Total			2,571
	FY2019TD	Oct	308	760	
		Nov	192	409	
		Dec	83	162	
	FY2019TD Total			583	1,331
	8 USC 1325 Total			3,396	5,795
	8 USC	FY2017	Jan	43	73

Question#:	19
Topic:	Criminal Prosecution Data
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1326		Feb	30	51	
		Mar	49	76	
		Apr	42	50	
		May	52	77	
		Jun	43	90	
		Jul	42	146	
		Aug	20	163	
		Sep	26	122	
		FY2017 Total	347	848	
		FY2018	Oct	42	151
			Nov	57	129
			Dec	95	136
			Jan	122	174
			Feb	92	161
			Mar	53	187
			Apr	33	171
			May	50	90
			Jun	76	63
			Jul	36	81
			Aug	43	75
			Sep	36	75
		FY2018 Total	735	1,493	
		FY2019TD	Oct	53	79
			Nov	45	76
			Dec	14	22
	FY2019TD Total	112	177		
8 USC 1326 Total		1,194	2,518		