

Question#:	1
Topic:	Parole Program I
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Please provide the following information with respect to the Cuba, Haiti, Nicaragua, and Venezuela parole program from January 2023 to date, disaggregated by month and nationality:

How many applications for parole have been received through the program?

Response: Requested data are provided in the tab labeled “Question #1A (rounded)” of Attachment A.

Question: How many have been approved?

Response: Requested data are provided in the tab labeled “Question #1A (rounded)” of Attachment A. Please note that a confirmation of a Form I-134, filed under the Process for Venezuelans prior to January 6, 2023, or of a Form-134A, Online Request to be a Supporter and Declaration of Financial Support, filed under the Processes for Cubans, Haitians, Nicaraguans, or Venezuelans, does not necessarily mean that the beneficiary has received travel authorization – U.S. Customs and Border Protection (CBP) makes those determinations, and even if travel authorization was issued, the beneficiary may not have traveled to the United States.

Question: How many individuals approved have been given employment authorization?

Response: Requested data are provided in the tab labeled “Question #1A (rounded)” of Attachment A.

Question: For each month in fiscal year (FY) 2023 to date, how many appointments have been made available per day at each port of entry through the CBP One application?

Response: Requested data are provided in the tab labeled “Question #1B (rounded)” of Attachment A. Note, however, that the CBP One app does not provide appointments at Ports of Entry (POEs) for the processes for Cubans, Haitians, Nicaraguans, and Venezuelans.

Attachment A, Question #1A

	Cuba					Haiti					Nicaragua					Venezuela					Total				
	Applied	Approved	Traveled	Paroled	EAD	Applied	Approved	Traveled	Paroled	EAD	Applied	Approved	Traveled	Paroled	EAD	Applied	Approved	Traveled	Paroled	EAD	Applied	Approved	Traveled	Paroled	EAD
January	5,900	5,800	4,000	4,000	3,200	4,300	4,100	1,600	1,600	1,500	1,900	1,800	300	300	300	13,500	13,100	5,800	5,600	4,600	25,600	24,800	11,700	11,400	9,600
February	6,000	5,800	5,600	5,500	4,400	11,900	11,600	6,500	6,200	5,700	6,000	5,800	2,400	2,300	1,900	6,400	6,200	8,200	8,000	6,500	30,400	29,400	22,600	21,900	18,400
March	8,400	8,200	5,200	5,100	4,000	13,600	13,300	10,400	10,100	9,000	6,300	6,000	4,800	4,500	3,600	6,400	6,100	7,500	7,300	5,700	34,700	33,700	27,800	26,900	22,300
Total	20,300	19,800	14,800	14,500	11,600	29,800	29,100	18,400	17,800	16,100	14,200	13,600	7,500	7,100	5,800	26,300	25,400	21,400	20,900	16,800	90,700	87,900	62,200	60,300	50,300

NA - Data not available.

Note: Applications are those individuals who have received I-134/A confirmation, completed their beneficiary materials, and been passed to CBP for vetting and approval or denial of a travel authorization; note that not all application individuals will have completed their beneficiary materials in CBP One. Approved travel authorizations are for those individuals who have passed the security check by CBP for the CHNV parole processes. Each authorization only covers one individual, but an individual may be authorized multiple times. Applications approved are those that have not expired due to failure to travel within a 90-day window and have not been cancelled. These include approved applications for people who have already entered the United States. Travel authorization dates are the received date for the application; for example, if an application was received in October but approved in November, it would be counted in October. Paroles include individuals who received a CHNV parole disposition from OFO at the time of arrival and inspection at the port of entry. An individual eligible for a parole process may not necessarily have the same nationality as that type of parole; for example, a minor with Costa Rican nationality may be eligible for Venezuelan parole if that minor has a Venezuelan mother. OFO disposition data as of September 7, 2023; all other parole data as of September 26, 2023. Work authorizations are based upon USCIS EAD data as of August 29, 2023.

Source: OHSS analysis of USCIS EAD and I-134/I-134-a data, CBP ATA Beneficiaries Vetting Summary Report_2023-09-26, and OFO inadmissibles data.

CBP One Appointment Daily Average by Month and POE: January 12, 2023--March 31, 2023

	Brownsville	Eagle Pass	Laredo	Hidalgo	El Paso	Calexico	San Ysidro	Nogales	Total
Jan-23	190	50	40	110	70	20	190	40	720
Feb-23	190	40	40	120	80	30	210	40	760
Mar-23	230	50	40	140	70	20	200	40	810
Total	210	50	40	130	70	20	200	40	770

Source: Office of Homeland Security Statistics analysis of CBP data.

Question#:	2
Topic:	Expedited Removal
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Since January 2017, how many individuals have been placed in expedited removal proceedings? Please disaggregate by month and nationality.

How many of these individuals have been removed from the United States after receiving a negative credible or reasonable fear determination by USCIS?

Response: Requested data is provided in the tab labeled "Question #2 (rounded)" of Attachment A.

Attachment A, Question #2

Final or Most Current Outcomes, Total SW Border Encounters by Fear Claims: Fiscal Years 2017 - 2023 YTD (March 2023)

MOST CURRENT OUTCOMES		Total						
		2017	2018	2019	2020	2021	2022	2023 YTD
Mexico	Total Encounters ¹	155,500	188,400	205,900	272,000	622,200	764,600	359,800
	Processed for Expedited Removal	68,900	87,000	84,700	53,700	9,000	19,300	11,700
	Comprehensive negative fear ²	1,000	2,000	2,400	4,000	200	300	200
	Executed Removal Orders	1,000	2,000	2,300	3,300	200	200	200
Guatemala	Total Encounters ¹	58,700	106,600	238,300	39,700	222,700	170,100	59,200
	Processed for Expedited Removal	27,500	47,500	35,800	13,200	1,900	3,100	700
	Comprehensive negative fear ²	2,600	4,100	3,800	2,600	300	400	100
	Executed Removal Orders	2,200	3,200	3,300	2,000	200	400	0
Honduras	Total Encounters ¹	44,600	75,300	239,600	36,800	278,100	175,300	59,800
	Processed for Expedited Removal	20,800	35,700	39,000	7,700	2,700	4,300	700
	Comprehensive negative fear ²	2,000	3,500	5,800	900	300	500	100
	Executed Removal Orders	1,900	3,200	5,600	800	300	300	100
El Salvador	Total Encounters ¹	46,100	31,000	79,900	14,800	82,700	80,200	25,000
	Processed for Expedited Removal	21,900	16,600	16,900	4,000	1,200	8,800	2,100
	Comprehensive negative fear ²	2,500	2,100	2,900	800	100	200	100
	Executed Removal Orders	2,400	2,000	2,800	700	100	100	100
Cuba	Total Encounters ¹	2,200	7,100	32,800	13,300	38,400	219,700	113,500
	Processed for Expedited Removal	1,800	6,100	18,200	1,600	11,200	3,200	2,600
	Comprehensive negative fear ²	100	200	900	200	600	0	200
	Executed Removal Orders	0	100	900	100	0	0	0
Colombia	Total Encounters ¹	300	300	600	400	6,000	124,200	88,300
	Processed for Expedited Removal	100	200	200	100	1,500	22,100	18,600
	Comprehensive negative fear ²	0	0	100	0	300	4,200	3,100
	Executed Removal Orders	0	0	0	0	200	2,900	1,300
Nicaragua	Total Encounters ¹	900	3,200	13,600	2,200	47,900	160,500	93,300
	Processed for Expedited Removal	600	2,300	4,800	300	17,700	13,500	700
	Comprehensive negative fear ²	100	200	500	100	2,100	2,100	100
	Executed Removal Orders	100	200	400	0	1,000	600	0
Venezuela	Total Encounters ¹	300	700	7,600	2,700	48,200	186,400	60,600
	Processed for Expedited Removal	200	300	2,100	400	14,200	5,700	1,500
	Comprehensive negative fear ²	0	0	100	0	700	400	100
	Executed Removal Orders	0	0	0	0	100	100	0
Ecuador	Total Encounters ¹	1,400	1,500	12,200	11,400	90,900	22,700	56,000
	Processed for Expedited Removal	1,200	1,200	4,100	1,800	3,100	4,800	5,800
	Comprehensive negative fear ²	100	200	800	600	800	1,200	1,300
	Executed Removal Orders	100	200	800	600	600	900	700
India	Total Encounters ¹	2,800	8,400	7,200	900	2,300	17,900	17,200
	Processed for Expedited Removal	2,700	7,900	5,900	400	1,200	2,000	500
	Comprehensive negative fear ²	0	300	1,500	100	100	200	0
	Executed Removal Orders	0	300	1,400	100	0	100	0
All Other Countries	Total Encounters ¹	24,000	17,500	40,500	22,400	139,200	265,500	212,000
	Processed for Expedited Removal	14,500	9,800	11,500	8,500	21,000	32,800	22,400
	Comprehensive negative fear ²	1,400	700	1,400	2,100	5,200	4,900	3,500
	Executed Removal Orders	1,300	500	1,000	1,000	3,300	2,800	1,000
Total	Total Encounters ¹	336,800	439,800	878,200	416,500	1,578,600	2,187,200	1,144,500
	Processed for Expedited Removal	160,300	214,700	223,200	91,700	84,700	119,700	67,400
	Comprehensive negative fear ²	9,900	13,200	20,100	11,400	10,600	14,400	8,900
	Executed Removal Orders	9,200	11,600	18,500	8,700	6,200	8,400	3,400

¹ Includes SW Border encounters by USBP and OFO. Excludes accompanied minors, unaccompanied children, and OFO administrative encounters, none of whom are amenable to ER.

² USCIS negative fear determinations not appealed to EOIR, negative fear determinations affirmed by EOIR, and administrative case closures not referred to EOIR (ordered removed).

Notes: Encounters include USBP apprehensions and OFO inadmissibility determinations on the Southwest Border by year of encounter. Data are current as of March 31, 2023; future reporting may include updates to previous reports' data.

Source: DHS Office of Homeland Security Statistics Enforcement Lifecycle data as of March 31, 2023.

Question#:	3
Topic:	Shelter and Services Program
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Please provide criteria for the allocation of Shelter and Services Program funding to nonprofits, states, and localities to support to noncitizens recently arrived in the United States.

Please also provide a summary of what services are funded (e.g. housing, transportation) and any limitations on the usage of such funds.

Response: The Consolidated Appropriations Act of 2023 authorized the creation of a new U.S. Department of Homeland Security (DHS) grant program, the Shelter and Services Program (SSP), to support these communities. The Act directs CBP to transfer funding to the Federal Emergency Management Agency (FEMA) to establish the SSP. The Act also authorizes the use of a portion of that funding for the existing Emergency Food and Shelter Program – Humanitarian (EFSP-H) until the SSP is established. DHS has directed \$350 million of the \$800 million transferred to FEMA to be directed to EFSP-H. This is in addition to the \$75 million used for EFSP-H during the Continuing Resolution. DHS is delivering on its commitment to provide needed support to communities across the country that receive noncitizen migrants who are in immigration proceedings.

Question#:	4
Topic:	Personal Property
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Since August 2022, there have been disturbing reports of Border Patrol agents discarding important personal property confiscated from migrants.

What steps has DHS taken to ensure that migrants maintain access to such property, such as legal documents, vital medications and/or medical instruments, in the course of processing by Border Patrol? Please provide any applicable guidance provided to agents and officers.

Response: U.S. Border Patrol (USBP) follows the April 2021 guidance titled “Personal Effects Internal Operating Procedures.”¹ Each station for each Border Patrol sector has a field training unit responsible for training all incoming Border Patrol agents on policies and procedures, including procedures related to personal effects.

Question: There have also been reports of occasions where Border Patrol agents confiscated religious garb, such as Sikh turbans, from migrants. What steps is CBP taking to ensure that such religious garb is not removed or confiscated from migrants? Please provide any applicable guidance.

Response: USBP provided interim guidance to all Border Patrol Sector Chiefs on August 6, 2022. This interim guidance reiterated USBP’s commitment to following the National Standards on Transport, Escort, Detention, and Search. Further, the interim guidance communicated that if a migrant is classified as “non-threat” and no other risk factors are present, then a religious item, such as a turban, should be returned to the migrant at the conclusion of the search. In addition, CBP has worked with the DHS Office for Civil Rights and Civil Liberties to develop more specific guidance on religious headwear. CBP is also in the early stages of developing a broader policy directive on religious accommodations for those within CBP custody.

Question: What steps has DHS taken to ensure that migrants who are transferred from CBP to ICE custody ultimately retain personal property that was in their possession upon apprehension? Please provide any applicable guidance provided to agents and officers.

What steps has DHS taken to ensure that migrants who are transferred to the custody of another government agency (e.g., the U.S. Marshals Service or the Federal Bureau of Prisons) ultimately retain personal property that was in their possession upon apprehension? Please provide any applicable guidance provided to agents and officers.

¹ This guidance is available at https://www.cbp.gov/sites/default/files/assets/documents/2022-Oct/PersonalEffectsIOP_082922_Redacted.pdf.

Question#:	4
Topic:	Personal Property
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Response: USBP follows the “Personal Effects Internal Operating Procedures” document referenced above.

U.S. Immigration and Customs Enforcement (ICE) detention standards ensure that detained noncitizens’ personal property, including funds, valuables, documents, baggage, and other personal property, is safeguarded and controlled while the noncitizen is in ICE custody. Each detained noncitizen’s personal property is inventoried, receipted, stored, and safeguarded for the duration of the noncitizen’s time in ICE custody. Standard operating procedures for each facility include obtaining a forwarding address from each noncitizen who has personal property at the facility, in the event that personal property is lost or unclaimed after the noncitizen’s release, transfer, or removal.

Because certain original documents are required to request travel documents from other countries, identity documents, such as passports, birth certificates, etc., are inventoried and given to an ICE Enforcement and Removal Operations (ERO) deportation officer for placement in the noncitizen’s administrative file. These original documents are returned to the noncitizen once removal proceedings are terminated, administratively closed, if the noncitizen is granted an immigration benefit, or upon the noncitizen’s removal from the United States.

Question#:	5
Topic:	Pending I-485 Applications
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Applicants can file adjustment applications as soon as a visa becomes available, but USCIS does not approve them if visa availability "retrogresses" while the application is pending. Instead, USCIS places those applications on hold until a visa becomes available again.

Please provide the number of pending I-485 applications USCIS held for this reason between January 1, 2023 and the present, disaggregated by month and classification.

Response: Requested data are provided in the tab labeled "Question #5" of Attachment A.

Attachment A, Question #5

I-485, Application to Register Permanent Residence or Adjust Status
 Pending Count for Preference Category Applications By Country and Preference Category
 For Applications Affected by Changes to the Final Action Date (Retrogressed Between January 2023 and April of 2023) for the Corresponding Month
 For January 2023 through April 2023, as of April 18, 2023



**U.S. Citizenship
and Immigration
Services**

Country	Preference Category	January Visa Bulletin Dates Movement	January 2023	February Visa Bulletin Dates Movement	February 2023	March Visa Bulletin Dates Movement	March 2023	April Visa Bulletin Dates Movement	April 2023
Grand Total			14,458		963		2,475		12,620
CHINA	Total		3,090		-		53		146
	Employment Based Preference - E1	From 12/31/2022 to 2/1/2022	3,090	No Retrogression	-	No Retrogression	-	No Retrogression	-
	Employment Based Preference - EW3	No Retrogression	-	From 12/22/2013 to 6/22/2013	-	No Retrogression	-	No Retrogression	-
	Employment Based Preference - E4	No Retrogression	-	No Retrogression	-	From 6/2/2022 to 2/1/2022	53	From 2/1/2022 to 9/1/2018	146
INDIA	Total		11,368		-		1,005		1,342
	Employment Based Preference - E1	From 12/31/2022 to 2/1/2022	11,368	No Retrogression	-	No Retrogression	-	No Retrogression	-
	Employment Based Preference - E2	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 10/8/2011 to 1/1/2011	1,057
	Employment Based Preference - E4	No Retrogression	-	No Retrogression	-	From 6/22/2022 to 3/1/2021	485	From 3/1/2021 to 9/1/2018	285
	Employment Based Preference - E5	No Retrogression	-	No Retrogression	-	From 11/8/2019 to 6/1/2018	520	No Retrogression	-
Mexico	Total		-		311		80		396
	Employment Based Preference - E2	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 11/1/2022 to 7/1/2022	122
	Employment Based Preference - EW3	No Retrogression	-	From 6/1/2020 to 1/1/2020	311	No Retrogression	-	No Retrogression	-
	Employment Based Preference - E4	No Retrogression	-	No Retrogression	-	From 9/15/2020 to 8/1/2020	80	From 8/1/2020 to 9/1/2018	268
	Family Based Preference - F2A	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 3/31/2023 to 11/1/2018	6
Philippines	Total		-		23		17		185
	Employment Based Preference - E2	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 11/1/2022 to 7/1/2022	27
	Employment Based Preference - EW3	No Retrogression	-	From 6/1/2020 to 1/1/2020	23	No Retrogression	-	No Retrogression	-
	Employment Based Preference - E4	No Retrogression	-	No Retrogression	-	From 6/22/2022 to 2/1/2022	17	From 2/1/2022 to 9/1/2018	158
Rest of World	Total		-		629		1,320		10,551
	Employment Based Preference - E2	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 11/1/2022 to 7/1/2022	6,820
	Employment Based Preference - EW3	No Retrogression	-	From 6/1/2020 to 1/1/2020	629	No Retrogression	-	No Retrogression	-
	Employment Based Preference - E4	No Retrogression	-	No Retrogression	-	From 6/22/2022 to 2/1/2022	1,320	From 2/1/2022 to 9/1/2018	3,729
	Family Based Preference - F2A	No Retrogression	-	No Retrogression	-	No Retrogression	-	From 3/1/2023 to 9/8/2020	2

Note(s):

- 1) This report reflects the most up-to-date data available at the time the database is queried.
- 2) Counts may differ from previous periods due to system updates and post-adjudicative outcomes.

Attachment A, Question #5 continued

- 3) Petitions received in one reporting period may be approved or denied in subsequent reporting periods.
- 4) Priority Date is sourced from the Form I-485 only; when the priority date is not filled out on the application, it is missing and will not be reflected in this report.
- 5) - represent a count of zero.
- 6) The priority date is based on Visa Bulletin Final Action Dates, Department of State publishes, for the corresponding months (January 2023 - April 2023) which may be found at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>
- 7) Preference categories which did not retrogress between January and April of 2023 were removed from this report.
- 8) This report does not reflect applications which are pending but were not retrogressed between January and April of 2023.

Source(s):

Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality
Claims 3 and ELIS queried April 2023, TRK 11787

Question#:	6
Topic:	Digitization
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: What is the timeline for USCIS digitization by form type for the third and fourth quarters of FY 2023 and the first two quarters of FY 2024?

Response: USCIS is currently scanning the following physical files as part of the enterprise digitization initiative:

- I-829 Petition by Investor to Remove Conditions on Permanent Resident Status, receipt files - ~5,400 files during FY 2023.
- I-918 Petition for U Nonimmigrant Status, and 918 Supplement A receipt files and A-files - ~ 91,000 files during FY 2023.
- N-400 Application for Naturalization (Military Naturalization), and N-600 Application for Certificate of Citizenship, A-file - ~123,000 files during FY 2023.
- A-files for open I-829s (located at the National Records Center) - ~2,000 files during FY 23..

Beginning in FY 2023 Q3, and extending into Q4, USCIS will begin scanning the following physical immigration records:

- I-601A, Application for Provisional Unlawful Presence Waiver, receipt files - ~ 60,000 files starting in Q3, FY 2023.
- Additional I-829 receipt files, to support N-400 adjudication.

USCIS is still determining the prioritization of scanning additional physical immigration records for FY 2024 Q1 and Q2, pending funding availability.

USCIS will continue technical development to support digitizing paper filings at ingest into a fully electronic filing and adjudication environment. The following forms are planned for conversion from paper to digital at ingest:

- I-129S Nonimmigrant Petition Based on Blanket L Petition (due in FY 2023 Q4)

USCIS is actively engaged in increasing the scope of retrospective digitization of USCIS records to support efficiencies in both adjudication and record retention. For certain forms, USCIS also converts paper submissions to electronic content during the intake processing. External stakeholders also can create and submit electronic benefit requests using the agency's designed online account platform. Each of these methods result in robust simultaneous efforts for this agency initiative to address high priority-pending applications and petitions through increased

Question#:	6
Topic:	Digitization
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

electronic accessibility for adjudication, as well as reduction in a physical storage footprint and increased record retention agility for multiple immigration product lines.

Question#:	7
Topic:	Humanitarian Parole for Afghans
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: How many applications for humanitarian parole were filed by or on behalf of Afghan nationals between June 1, 2021 and November 5, 2021? Of this number, please provide the number of applications pending today, breaking out the number of applications filed for individuals who remain in Afghanistan and the number of applications filed for individuals who are in a third country.

Response: Approximately 28,900 Form I-131, Application for Travel Document, requests for parole were filed by or on behalf of Afghan nationals between June 1, 2021, and November 5, 2021. Of these, 16,927 were pending as of April 18, 2023, of which 12,973 of the filings indicated the prospective parole beneficiary is located in Afghanistan, and 3,954 indicated the prospective parole beneficiary is located outside of Afghanistan. The beneficiary's location is based on what the petitioner indicated when filing the Form I-131 and may not necessarily reflect the beneficiary's actual current location. For example, the beneficiary may have relocated after the petitioner filed Form I-131, or the petitioner may have completed the Form I-131 incorrectly.

These numbers are summarized in the tab labeled "Question #7 (rounded)" in Attachment A.

Attachment A, Question #7

Adjudicative Status		Applicant Location		TOTAL
		Afghanistan	Other Countries	
TOTAL Receipts		19,900	9,000	28,800
Pending		13,000	4,000	16,900
Non-Pending		6,900	5,000	11,900

Note(s):

- 1) Some petitions/applications/requests approved or denied may have been received in previous reporting periods.
- 2) This report reflects the most up to date data available at the time the database is queried.
- 3) Counts may differ from those reported in previous periods due to system updates and post-adjudicative outcomes.
- 4) For a complete list of USCIS forms and descriptions, visit: <https://www.uscis.gov/forms>
- 5) Values have been rounded to the nearest 100. Totals may not equal the sum of the data due to rounding.

Source:

Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality HQRAIO, queried 4/2023, TRK 11761.

Question#:	8
Topic:	Streamlining Processing
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Please describe any efficiencies USCIS is implementing to streamline processing in the U.S. Refugee Admissions Program (USRAP) without undermining current vetting procedures.

Response: Concurrent Processing: USCIS began sending teams to circuit ride locations as part of a new “concurrent processing” model to reduce start-to-finish processing times for refugee applicants in FY 2023. This is based on a model designed by and with the Refugee Coordination Center, a joint initiative between USCIS; U.S. Department of State (DOS) Bureau of Population, Refugees and Migration; and the U.S. Digital Service.

Concurrent processing means steps that have historically taken place sequentially, such as medical exams or assurances for placement with domestic resettlement agencies, instead take place at the same time, including the USCIS interview and finalization of the decision. It also implements a unified prioritization logic, a process by which both USCIS and DOS agree on a shared approach to prioritizing cases to ensure that USRAP partners move cases forward expeditiously. This approach increases efficiencies with an aim to shorten the timeline, from USCIS interview to admission to the United States, down to three months without sacrifice to program integrity.

USCIS has been implementing concurrent refugee processing in various locations worldwide, beginning with Afghan refugee processing in Qatar. In FY 2023 Q1, USCIS used the concurrent processing model in Guatemala, Turkey, Malaysia, and Tanzania. In FY 2023 Q2, USCIS continued concurrent processing in Guatemala, Tanzania, Turkey, and Malaysia and expanded the model to Burundi, Chad, Ecuador, El Salvador, and Rwanda.

These efficiencies do not undermine vetting procedures; the interagency vetting regime remains the same. In fact, security checks may be initiated earlier and may occur simultaneously with other processing steps.

National Vetting Center: In FY 2023, USCIS improved its vetting process by consolidating security checks at the National Vetting Center. This has allowed USCIS to leverage advanced technology to consistently apply the highest integrity vetting processes across multiple security check processes. At the same time, this consolidation has ensured all information is processed in an efficient and consistent manner during the adjudicative process.

Technological Improvements in Refugee Processing: USCIS has also been able to increase efficiency through technological improvements. In FY 2023 Q1, USCIS added functionality to its case management and processing system, Global, that allows officers to review Form I-590,

Question#:	8
Topic:	Streamlining Processing
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Registration for Classification as Refugee, electronically, instead of manually on a paper form. As the fiscal year progresses, USCIS will also implement digital Form I-590 review, electronic signature, and the electronic Record of Proceeding (eROP). These efforts will result in a number of efficiencies, including streamlining supervisory review, reducing the volume of exchanged paper between USCIS and resettlement partners, decreasing Resettlement Support Center (RSC) staff travel packet creation time per case by approximately one hour, and minimizing the number of paper documents refugee applicants must travel with to the United States. As a result, refugee cases will become entirely digital.

This complete digitization of the Form I-590 is the first step toward full electronic processing, which will also increase efficiency for the RSCs by reducing the time currently spent taking information captured electronically, printing it for USCIS' use, and then scanning and uploading it back into the system.

These technological enhancements and the efficiencies gained will permit officers and RSC staff to redirect time currently spent on administrative tasks to more substantive tasks.

Question#:	9
Topic:	Video Teleconferences
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: To what extent is USCIS using video teleconference technology (VTEL) to interview refugees? Please provide the number of interviews conducted by VTEL, and the criteria for conducting such interviews.

Response: In coordination with DOS, USCIS has continued to expand the use of video teleconference technology (VTEL) interviews in locations where USCIS does not travel regularly. The use of VTEL interviews in FY 2023 Q1 and Q2 enabled USCIS to interview over 2,000 additional refugee applicants in 10 countries. Criteria for VTEL interviews include locations that are difficult to reach due to their remote nature or security restrictions preventing travel, low-volume locations where it may not be efficient to send officers, or reinterviews for cases that require additional questioning due to changes after the initial interview.

Question#:	10
Topic:	I-730 Backlog
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Refugees resettled in the United States may apply to reunite with their spouses and children from overseas. For decades now, this program has faced significant delays and backlogs. In FY2022, the median processing time for just the first part of the following-to-join process, Form I-730, was over two years.

Please discuss what steps DHS is taking to reduce the I-730 backlog.

Response: USCIS conducted a resource review on Form I-730, Refugee/Asylee Relative Petition, following-to-join refugee processing in 2022, including an assessment of pending Form I-730 workloads and areas requiring additional attention. In an effort to increase processing of Form I-730 following-to-join refugee petitions pending initial domestic processing, two teams of USCIS officers traveled to the Asylum Vetting Center (ZGA) in November 2022 and February 2023 to complete cases. Additionally, USCIS initiated an effort to facilitate remote review and processing of pending Form I-730 following-to-join refugee petitions. USCIS plans to continue efforts to reduce the Form I-730 workload backlogs across the agency in FY 2024.

Furthermore, as of January 1, 2023, USCIS centralized the filing location of Form I-730 following-to-join asylum petitions at the Texas Service Center, enabling USCIS to quickly locate following-to-join asylee petitions, as needed. As part of the centralization process, USCIS created the Humanitarian, Adjustment, Removing Conditions, and Travel Documents (HART) Service Center to handle the adjudication of humanitarian focused benefits, including Form I-730 following-to-join asylum petitions. With increased staffing and a focus on humanitarian benefits, USCIS has significantly reduced the Form I-730 following-to-join asylum backlog.

Additionally, where a pending Form I-730 for a beneficiary residing abroad has been associated with their petitioner's pending adjustment of status application, USCIS will expedite the petitioner's application to adjust status. This, in turn, moves the beneficiary's Form I-730 to adjudication and furthers the agency goal of promoting family unity. Finally, Form I-730 related digitization efforts are underway and, when finalized, will greatly increase the efficiency of adjudicating domestic based beneficiaries.

Question#:	11
Topic:	Pending Naturalization Removals
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: How many individuals who were placed in removal proceedings in FY 2022, and the first two quarters of FY 2023, have or had pending naturalization applications?

Response: Please see the data below which provides the number of individuals placed in removal proceedings by ICE in FY 2022, and the first two quarters of FY 2023, and the number of pending cases in removal proceedings with pending naturalization applications (N-400).

N-400, Application for Naturalization Subset of Alien Number List with N-400 Applications As of May 2, 2023			
	Fiscal Year ICE Created the Case	Number of Individuals with Any N-400 Receipt Placed in Removal Proceedings	Number of Individuals with a Currently Pending N-400 Application Placed in Removal Proceedings
TOTAL		1,623	339
N-400	2022	1,081	232
N-400	2023	542	107

Note(s):

- 1) Some applications approved, denied, or pending a decision may have been received in previous reporting periods.
- 2) This report reflects the most up-to-date data available at the time the database is queried.
- 3) Counts may differ from those reported in previous periods due to system updates and post-adjudicative outcomes.
- 4) For a complete list of USCIS forms and descriptions, visit <http://www.uscis.gov/forms>.

Question#:	12
Topic:	H-1B's Revoked
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Question: Beginning in October 2022, technology companies began laying off long-time workers, including those in the United States on temporary H-1B visas tied to their employment who were awaiting a green card. For the final quarter of FY 2022 and the first two quarters of FY 2023, please provide the number of approved H-1B visas revoked at the request of the employer for workers who are also the beneficiary of an approved Form I-140 petition, disaggregated by occupation and employer.

Response: See Attachment A (tab labeled “Question #12 Part1”) showing the number of I-129 revocations who also have an approved I-140 listed by the quarter of revocation, occupation and employer. Please note that the reason for revocation is not available in the system, so we are not able to discern revocations due to layoffs. Given the context of the question, only non-fraud revocations are reported. In addition, an exact match of the I-129 to the I-140 is not possible due to lack of a personal identifier. The report matched the I-129 to the I-140 based on the A-number if entered on both forms. Many I-129 petitions do not have the beneficiary’s A-number captured, in which case the report matched the I-129 to the I-140 based on a key of the combined fields of the beneficiary’s last name, first name, date of birth, and country of birth. Therefore, it is possible some I-129 revocations are not matched to an approved I-140, and not counted in this report.

Question: In the last quarter of FY 2022 and the first two quarters of FY 2023, how many employers filed H-1B petitions checking the “change of employer” box?

Response: See table below showing the number of H-1B petitions checking the “change of employer” box between July 1, 2022 through April 11, 2023.

I-129 Receipt Quarter	Receipts
Grand Total	66,712
FY 2022 Q4	29,296
FY 2023 Q1	21,730
FY 2023 Q2	15,686

Question: In the last quarter of FY 2022 and the first two quarters of FY 2023, how many approved Form I-140 petitions has USCIS revoked where the beneficiary was laid off and secured a new employer for nonimmigrant status, but was not eligible to “port” because he or she had not filed a Form I-485?

Question#:	12
Topic:	H-1B's Revoked
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Richard J. Durbin
Committee:	JUDICIARY (SENATE)

Response: See table below showing the number of Form I-140 revocations with beneficiaries who also have an approved change of employer Form I-129 listed by the quarter of I-140 revocation. Please note that this table used the same A-number and name matching the revoked Form I-140 to the filed Form I-129 change of employer petition as in Question 12 Part I explained above. Therefore, it is possible some Form I-140 revocations are not matched to a filed Form I-129 change of employer petition, and therefore, are not counted in this report. Finally, any case with a pending I-485 was excluded from the counts.

I-140 Revocation Quarter	Receipts
Grand Total	56
FY 2022 Q4	17
FY 2023 Q1	16
FY 2023 Q2	23

See PDF entitled "Attachment A, Question 12"

Question#:	13
Topic:	CHNV Program
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Please provide detailed data for each of the following. For each, please specify the answer for fiscal year 2019, fiscal year 2020, fiscal year 2021, fiscal year 2022, fiscal year 2023 (year to date if answering prior to September 30, 2023) and, if applicable, fiscal year 2024 year to date.

Identify the total number of individuals who received a new grant of parole under § 212(d)(5)(A) of the Immigration and Nationality Act [8 U.S.C. § 1182(d)(5)(5)].

Response: Requested data are provided in the tab labeled “Question #13A (Supplemental data)” of Attachment A.

Question: Of the individuals identified in subpart (a) above, identify how many of those individuals were encountered by CBP at the southwest border prior to their grant of parole.

Response: Requested data are provided in the tab labeled “Question #13B” of Attachment A.

Question: Identify the total number of individuals who had their parole renewed or extended beyond the time in their initial grant of parole.

Response: Requested data are provided in the tab labeled “Question #13C” of Attachment A.

Individuals Granted Parole by CBP: October 1, 2018 - March 28, 2023

Fiscal Year	Individuals Granted Parole
2019	40,165
USBP	125
OFO	40,040
<i>OAW</i>	0
<i>U4U</i>	0
<i>CHNV</i>	0
<i>Other</i>	40,040
2020	32,632
USBP	13
OFO	32,619
<i>OAW</i>	0
<i>U4U</i>	0
<i>CHNV</i>	0
<i>Other</i>	32,619
2021	140,954
USBP	35,465
OFO	105,489
<i>OAW</i>	54,503
<i>U4U</i>	0
<i>CHNV</i>	0
<i>Other</i>	50,986
2022	591,477
USBP	378,209
OFO	213,268
<i>OAW</i>	21,702
<i>U4U</i>	62,450
<i>CHNV</i>	0
<i>Other</i>	129,116
2023	578,743
USBP	294,865
OFO	283,878
<i>OAW</i>	11
<i>U4U</i>	59,158
<i>CHNV</i>	70,760
<i>Other</i>	153,949
Total	1,383,971

Notes: Data as of May 4, 2023. Individuals are reported by fiscal year of first parole in the period. An individual could have been paroled multiple times; this table reports the earliest instance of parole for the time period. As some parole events are missing a unique identifier, this likely slightly overcounts the number of individuals paroled. The parole date is the date parole granted for OFO paroles and date of apprehension for USBP paroles. OFO paroles include individuals with a parole disposition as well as individuals given a Notice to Appear and released with an I-94. USBP paroles only include individuals with a parole disposition. Paroles of Afghans for Operation Allies Welcome only counted if granted August 16, 2021 - October 18, 2022; paroles of Afghans outside of this range are counted in the "other" category.

Attachment A, Question #13B

2023

Fiscal Year	Individuals Encountered before Parole
2019	1,557
2020	696
2021	556
2022	866
2023	104
Total	3,779

Notes: Data as of May 4, 2023. Individuals are reported by fiscal year of first USBP encounter in the period before their parole. An individual could have been encountered multiple times; this table reports the earliest instance of encounter for the time period. Data describe individuals encountered at the Southwest Border between October 1, 2018 and March 28, 2023 prior to their grant of parole during the same time frame. As some parole events are missing a unique identifier, this likely slightly undercounts the number of individuals encountered prior to being paroled.

Source: Office of Homeland Security Statistics analysis of CBP data.

Individuals Paroled Again and not Paroled Again: October 1, 2018 - March 28, 2023

Fiscal Year	Individuals Paroled Again	Individuals not Paroled Again
2019	329	39,836
2020	528	32,104
2021	335	140,619
2022	800	590,677
2023	562	578,181
Total	2,554	1,381,417

Notes: USCIS data as of December 1, 2023; CBP data as of May 4, 2023. Parole renewals/extensions (individuals paroled again) are defined as individuals who received parole approval from USCIS after their initial grant of parole from CBP between October 1, 2018 and March 28, 2023. Parole terminations/not renewals/not extensions/denials (individuals not paroled again) are defined as individuals who did not receive parole approval from USCIS after their initial grant of parole from CBP between October 1, 2018 and March 28, 2023. Fiscal year is the most recent instance an individual was paroled. As some parole events are missing a unique identifier, this likely slightly undercounts the number of individuals paroled again.

Source: Office of Homeland Security Statistics analysis of CBP and USCIS data.

Question#:	14
Topic:	CHNV Program
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: On January 5, 2023, the Department announced new processes for nationals of Cuba, Haiti, Nicaragua, and Venezuela, also known as the CHNV program. Please identify the number of nationals from each of the 4 countries (Cuba, Haiti, Nicaragua, and Venezuela) who have received authorization to travel to the United States through the CHNV program.

Response: Requested data are provided in the tab labeled “Question #14 (rounded)” of Attachment A.

Question: Please identify the number of nationals from each of the 4 countries who have arrived in the United States.

Response: Requested data are provided in the tab labeled “Question #14 (rounded)” of Attachment A.

Question: Please identify the number of nationals from each of the 4 countries who have arrived in the United States and who have been granted parole after inspection by a CBP officer.

Response: Requested data are provided in the tab labeled “Question #14 (rounded)” of Attachment A.

Attachment A, Question #14

CHNV Travel Authorizations, Arrivals, and Entries: January 1, 2023 - March 31, 2023

	Cuba				Haiti				Nicaragua				Venezuela				Total			
	Applied	Approved	Traveled	Paroled	Applied	Approved	Traveled	Paroled	Applied	Approved	Traveled	Paroled	Applied	Approved	Traveled	Paroled	Applied	Approved	Traveled	Paroled
January	5,900	5,800	4,000	4,000	4,300	4,100	1,600	1,600	1,900	1,800	300	300	13,500	13,100	5,800	5,600	25,600	24,800	11,700	11,400
February	6,000	5,800	5,600	5,500	11,900	11,600	6,500	6,200	6,000	5,800	2,400	2,300	6,400	6,200	8,200	8,000	30,400	29,400	22,600	21,900
March	8,400	8,200	5,200	5,100	13,600	13,300	10,400	10,100	6,300	6,000	4,800	4,500	6,400	6,100	7,500	7,300	34,700	33,700	27,800	26,900
Total	20,300	19,800	14,800	14,500	29,800	29,100	18,400	17,800	14,200	13,600	7,500	7,100	26,300	25,400	21,400	20,900	90,700	87,900	62,200	60,300

NA - Data not available.

Note: Applications are those individuals who have received I-134/A confirmation, completed their beneficiary materials, and been passed to CBP for vetting and approval or denial of a travel authorization; note that not all application individuals will have completed their beneficiary materials in CBP One. Approved travel authorizations are for those individuals who have passed the security check by CBP for the CHNV parole processes. Each authorization only covers one individual, but an individual may be authorized multiple times. Applications approved are those that have not expired due to failure to travel within a 90-day window and have not been cancelled. These include approved applications for people who have already entered the United States. Travel authorization dates are the received date for the application; for example, if an application was received in October but approved in November, it would be counted in October. Paroles include individuals who received a CHNV parole disposition from OFO at the time of arrival and inspection at the port of entry. An individual eligible for a parole process may not necessarily have the same nationality as that type of parole; for example, a minor with Costa Rican nationality may be eligible for Venezuelan parole if that minor has a Venezuelan mother. OFO disposition data as of September 7, 2023; all other data as of September 26, 2023.

Source: OHSS analysis of USCIS I-134/I-134A data, CBP ATA Beneficiaries Vetting Summary Report_2023-09-26, and OFO inadmissibles data.

Question#:	15
Topic:	CHNV Vetting
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Please describe with specificity the vetting conducted by USCIS, prior to granting travel authorization, of nationals who seek parole through the CHNV program, including what information the individuals provide to USCIS, how that information is used to vet the individual, whether they are interviewed (including whether the interview is in-person) by USCIS, and the percent of those who submit to this vetting who are not granted travel authorization.

Please describe with specificity the additional screening and vetting individuals undergo after arriving in the United States.

Response: First, USCIS reviews the Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, filed by the potential supporter to determine whether the potential supporter meets all eligibility requirements, to include clearing potential fraud, public safety, national security, human trafficking, and exploitation vetting. USCIS leverages the USCIS online account process to initiate vetting of supporter information submitted in connection with online filing of a Form I-134A.

If a potential supporter's Form I-134A is confirmed, USCIS will notify the beneficiary with instructions on how to initiate the advance travel authorization process, which includes additional vetting during the second step of CHNV processing by CBP.

The beneficiary submits biographical information through their USCIS online account and applies for an advance travel authorization that may, if approved, allow them to travel to a U.S. interior POE. CBP, supported by the National Vetting Center (NVC), will vet the beneficiary's eligibility for parole. This vetting process consists of both classified and unclassified security checks and is supported by multiple vetting support agencies. Unlike individuals arriving irregularly to the Southwest Border, this process ensures that individuals are vetted for travel well before arriving to a U.S. POE, and that those presenting certain derogatory information will be denied authorization to travel to the United States.

The beneficiary is also required to complete vaccinations and comply with all public health requirements and to provide for their own commercial travel to a U.S. airport and final U.S. destination.

If, upon completion of the vetting for the second step of the CHNV process, the beneficiary receives advance travel authorization from CBP and arrives in the United States, CBP will inspect the beneficiary at a POE, where they will undergo a third round of screening and vetting, to include biometric vetting. If CBP paroles the beneficiary into the United States, the NVC will assist in providing recurrent vetting for the duration of the beneficiary's parole period. Anyone determined to pose a national security or public safety threat, or who otherwise upon inspection

Question#:	15
Topic:	CHNV Vetting
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

does not warrant a grant of parole as a matter of discretion, is referred to ICE for detention and/or removal. If an individual poses a threat to national security or public safety, we deny admission, detain, remove, or refer them to other federal agencies for further vetting, investigation, and/or prosecution as appropriate.

While CBP may interview a beneficiary upon inspection at the POE, USCIS does not interview the beneficiary as part of its review of the Form I-134A request to be a financial supporter.

Question#:	16
Topic:	Case Disposition
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Please describe the ultimate disposition of cases involving individuals who have arrived in the United States but failed inspection and were not granted parole, including whether these individuals have been referred to ICE for detention and whether they are in fact detained.

Response: All travelers arriving at a POE are inspected by CBP officers. An inspection is performed to determine whether an applicant for admission is admissible to the United States. All applicants for admission have the burden of showing, to the satisfaction of the inspection officer, that they are admissible. Individuals found to be inadmissible are processed for appropriate removal proceedings in accordance with Section 235(b) of the Immigration and Nationality Act (INA). Depending on the circumstances of the case, the individual could, among other possibilities, be ordered immediately removed from the United States; permitted to withdraw their application for admission and immediately depart; be referred to USCIS for a credible fear interview; or be issued a Notice to Appear before an immigration judge.

Those individuals ordered to be removed immediately from the United States, and those who are permitted to withdraw their application for admission, may be detained until such time as departure is executed. At land border POEs, departure arrangements are subject to repatriation agreements in effect in the local area. At air and sea POEs, immediate departure would mean the next available transportation arrangement.

In the case of those individuals referred for either a credible fear interview or issued a Notice to Appear before an immigration judge, they are referred to ERO for individualized custody determinations. If ERO advises that an inadmissible noncitizen shall not be detained, the individual may be paroled from custody pursuant to 8 CFR 212.5 while awaiting their removal proceedings before an immigration judge.

Question#:	17
Topic:	U.S. Based Supporters
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Please describe with specificity the vetting conducted by USCIS of U.S.-based supporters who apply to support nationals seeking parole through the CHNV program, including what information these supporters provide to USCIS, whether they must be interviewed (including whether that interview is in-person) by USCIS prior to being confirmed by USCIS, and the grounds upon which a supporter may fail to be confirmed by USCIS. Please identify the number of U.S.-based supporters who have sought confirmation by USCIS under the CHNV program and the number of those who have been denied confirmation.

Response: As of April 7, 2023, of the 146,429 Form I-134A filings that had been processed, 130,126 were confirmed and 16,303 were non-confirmed. That breaks down into approximately 89 percent confirmed and 11 percent non-confirmed.

When a Form I-134A is filed, the potential U.S.-based supporter undergoes background and security checks in DHS systems to check for records matching the individual to potentially adverse DHS and other U.S. government database records, which may reveal a public safety, national security, or other immigration concern.

An interview with the potential supporter is ordinarily not required for USCIS to confirm or non-confirm the request. However, if the case is referred for additional review due to a potentially adverse record, the USCIS officer may interview the U.S.-based supporter (either by phone or in-person). USCIS considers the following grounds upon which a U.S.-based supporter may fail to be confirmed:

- Background check results indicating a criminal, public safety, national security, or immigration fraud concern.
- When USCIS is unable to verify the supporter meets the eligibility grounds regarding the U.S.-based supporter's legal status and their ability to support a beneficiary during their temporary period of parole in the United States.

Question#:	18
Topic:	Granted Asylum
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: The "Circumvention of Lawful Pathways" Notice of Proposed Rulemaking (NPRM), published in the Federal Register on February 23, 2023, notes that "most people processed for expedited removal under Title 8 will likely establish credible fear and remain in the United States for the foreseeable future despite the fact that many of them will not ultimately be granted asylum." Please indicate for fiscal year 2019, fiscal year 2020, fiscal year 2021, fiscal year 2022, fiscal year 2023 (year to date if answering prior to September 30, 2023) and, if applicable, fiscal year 2024 year to date the percentage of:

aliens who claim credible fear who ultimately are granted asylum;

aliens who establish credible fear and also are ultimately granted asylum.

Response: Between 2019 and 2023 Q2, 72 percent of noncitizens who claimed credible fear were referred to the U.S. Department of Justice's Executive Office for Immigration Review (EOIR) Immigration Judge (IJ) for a full hearing.² Of the EOIR IJ referrals, 27 percent of the cases had been completed as of March 31, 2023.

During this period, 15 percent of the completed cases resulted in an asylum grant or other relief. (Note that because most asylum proceedings initiated since FY 2019 remain unresolved the share of noncitizens making credible fear claims/establishing credible fear who are ultimately granted asylum is not yet known.)

From February 2, 2021, to May 11, 2023, the vast majority of individuals encountered along the Southwest Border were expelled under the Title 42 public health order.

Detailed data are provided in the tab labeled "Question #18 (rounded)" of Attachment A.

² EOIR referrals include positive determinations, appealed negative determinations vacated by EOIR, and administratively closed cases referred to an IJ.

Attachment A, Question #18

MOST CURRENT OUTCOMES	2019	2020	2021	2022	2023 YTD	Total
Total Encounters¹	878,200	416,500	1,578,600	2,187,200	2,051,400	7,111,900
Processed for Expedited Removal	223,200	91,700	84,700	119,700	206,900	726,200
Credible fear claims ²	98,300	23,900	49,000	50,000	122,300	343,500
Total referrals to EOIR ³	78,100	12,600	38,100	35,500	83,200	247,500
EOIR Cases completed ⁴	44,000	5,200	8,300	6,200	4,100	67,800
Asylum Granted or other EOIR Relief from Removal ⁵	6,800	1,400	1,100	700	300	10,300
Asylum or other relief as share of credible fear claims	7%	6%	2%	1%	0.3%	3%
Asylum or other relief as share of noncitizens who establish fear	9%	11%	3%	2%	0.4%	4%
Asylum or other relief as share of EOIR cases completed	16%	26%	13%	11%	8%	15%

¹ Excludes Unaccompanied Children (UC), Accompanied Minors (AM), OFO administrative encounters, and parolees released into the United States with Notice to Appear and a CBP One confirmation number, none of whom are amenable to expedited removal.

² Based on USCIS APSO clock-ins.

³ USCIS positive fear determinations, negative fear determinations vacated by EOIR, and case closures referred to EOIR.

⁴ Cases with the EOIR completion codes indicating an IJ decision or other completion codes indicating termination, dismissal, administrative closure, failure to prosecute, and other administrative completions.

⁵ Completion codes for conditional grants of asylum, grants of asylum, adjustment of status under various statutory provisions, asylum withholding, statutory withholding of removal, deferral of removal under CAT, withholding of removal under CAT, findings of non-removability, and cancellation of removal.

Notes: Encounters include USBP apprehensions and OFO inadmissibility determinations on the Southwest Border by year of encounter. Table is event-based, so noncitizens encountered on multiple occasions appear in the table multiple times.

Source: DHS Office of Homeland Security Statistics Enforcement Lifecycle. Results based on source data as of March 31, 2023.

Question#:	19
Topic:	Appeared at Appointments
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Please identify:

The number of non-U.S. citizens who have appeared at appointments scheduled through the CBP One app to seek an exception to expulsion under Title 42 and

How many of those individuals were granted an exception and allowed to enter the United States.

Response: As of April 20, 2023, there were 70,702 noncitizens processed with CBP One confirmation numbers for Title 42 exception processing. As of April 20, 2023, there were 69,612 noncitizens released from the POEs pending the results of their immigration proceedings after being granted a Title 42 exception. Every noncitizen who arrives at the border and is processed by CBP is subject to security screening. Their biographic and biometric information is vetted across a suite of law enforcement and intelligence databases. Any noncitizen who poses a risk to national security or public safety is referred to ICE or other government agencies for detention.

Question: Are non-U.S. citizens who have presented at a port of entry via appointments scheduled through the CBP One app detained and/or placed into removal proceedings?

Response: Following arrival at a POE, individuals who are excepted from the Title 42 public health order (which is no longer in operation as of May 11, 2023) are processed under Title 8 for appropriate removal proceedings, during which any noncitizen may apply for asylum or other humanitarian protections, as appropriate. CBP One does not guarantee that an individual will be processed in a certain manner. Decisions on detention or release are determined on a case-by-case basis, based on the specific circumstances at the time of encounter. Every noncitizen who arrives at the border and is processed by CBP is subject to security screening. Their biographic and biometric information is vetted across a suite of law enforcement and intelligence databases. Any noncitizen who poses a risk to national security or public safety is referred to ICE or other government agencies for detention.

Question: Are non-U.S. citizens who have presented at a port of entry via appointments scheduled through the CBP One app required to indicate an intent to seek asylum in order to schedule their appointment?

Response: CBP One is not used to screen asylum applicants, nor does it ask individuals if they plan to seek asylum as part of the information or scheduling process. DHS does not know in advance if noncitizens seeking an exception to the Title 42 public health order (which is no

Question#:	19
Topic:	Appeared at Appointments
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

longer in operation as of May 11, 2023) might request protection. Individuals do not apply for asylum at a POE, nor does CBP play any role in the adjudication of asylum applications. Noncitizens utilizing CBP One for this purpose had to attest that they believe they meet certain identified vulnerability criteria and they must be prepared to substantiate this claim upon presentation at a POE. Every noncitizen who arrives at the border and is processed by CBP is subject to security screening. Their biographic and biometric information is vetted across a suite of law enforcement and intelligence databases. Any noncitizen who poses a risk to national security or public safety is referred to ICE or other government agencies for detention.

Question#:	20
Topic:	Detention Beds
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: In its Congressional Budget Justification for FY 2024, DHS provided a budget overview for ICE and included information about its plans to reduce its adult ADP -- or average daily population. In FY 2023, the ADP was 34,000. In the justification, ICE says it will reduce that ADP by 9,000 to 25,000, at a cost of \$157.20 per bed. ICE said that funding for 25,000 beds would still maintain "ICE's ability to effectively manage its current detainee population flows." During your testimony, you claimed that there was no plan to reduce detention space and maintained that the difference in the budget would be met with funds from a requested \$4.7 billion contingency fund.

Question: Do you believe 25,000 beds would be enough for ICE to effectively manage its current detainee population?"

Response: The Administration and DHS are committed to streamlining and improving the immigration system by restoring trust, respecting human dignity, and promoting equity. ICE remains firmly committed to continually enhancing civil detention operations to promote a safe and secure environment for detained noncitizens. The President's FY 2024 Budget Request represents a consistent approach – it prioritizes detention for noncitizens who pose significant risk and alternatives to detention for low-risk noncitizens, and establishes a two-year emergency Southwest Border Contingency Fund (SWBCF). The fund will support border operations and provide additional operational flexibilities to help ensure ICE maintains the necessary bedspace to meet changing mission requirements.

Question: If DHS did not plan to cut detention bedding, then why would ICE state that 25,000 beds would maintain "ICE's ability to effectively manage its current detainee population?"

Response: ICE continually evaluates bedspace availability and adjusts its detention capacity and detained population to account for shifting migration patterns, including influxes of noncitizens along the Southwest Border. The Southwest Border Contingency Fund was designed to help ensure ICE can maintain the necessary bedspace to meet changing mission requirements.

Question: How much of the \$4.7 billion contingency fund will go toward detention bedding and other costs for detention?"

Response: The President's FY 2024 Budget Request provides funding for an average of 25,000 detention beds, in addition to other operational expenses associated with the custodial detention of noncitizens. In the FY 2024 request, the Custody Operations PPA (programs/projects/activities) is scheduled to receive \$2.409 billion for resources necessary for administrative and operational oversight. The proposed FY 2024 Southwest Border Contingency

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Fund does not promise a specific amount for detention beds or other associated detention-related costs, only that detention expenses may be provided for through the proposed FY 2024 Southwest Border Contingency Fund.

In the President's FY 2024 Budget Request, ICE has also requested funds to establish a separate Third Party Medical PPA at a cost of \$168.2 million, which realigns base funding from the Custody Ops PPA (\$102 million) and adds an increase of \$60.2 million. This new PPA is separate from the FY 2024 proposed Southwest Border Contingency Fund.

Question: Will you commit to maintaining and not reducing the current levels of detention beds?

Response: As stated above, ICE remains firmly committed to continually enhancing civil detention operations to promote a safe and secure environment for detained noncitizens. The SWBCF was designed to help ensure ICE can maintain the necessary bedspace to meet changing mission requirements.

Question#:	21
Topic:	ESFSP Funds
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: An Inspector General Report dated March 28, 2023, details a stunning lack of oversight for \$110 million distributed through FEMA's Emergency Food and Shelter Program (EFSP) to Local Relief Organizations (LRO) for the provision of food and shelter to families and individuals encountered by DHS. For example, the OIG Report indicates that LROs did not use the funds in accordance with guidelines. Indeed, LROs provided such services to individuals who were not encountered by DHS.

Please indicate what steps DHS is taking to counteract the abuse of EFSP funds.

Will DHS discontinue the disbursement of funds to LROs which did not comply with American Rescue Act Plan Guidance?

Response: By statute, FEMA awards all funds appropriated for the Emergency Food and Shelter Program (EFSP) (homelessness and humanitarian relief) to the EFSP National Board. United Way Worldwide (UWW), at the request of the National Board, serves as its Secretariat and Fiscal Agent and handles day-to-day management, including disbursement, of EFSP funds. FEMA, the National Board, and UWW take the mandates to serve those experiencing or at risk of hunger and homelessness, and its responsibility to be stewards of federal funds, very seriously.

Specific to the humanitarian relief funding, FEMA and the National Board continue to improve oversight of the program and have provided clearer guidance to local recipient organizations on eligible expenses. Increased reporting and recordkeeping requirements are also in place.

Beginning in FY 2023, the National Board revised its guidance to include a new requirement for local recipient organizations to provide quarterly reports on their EFSP Humanitarian Relief expenditures. This is a significant change from previous years for which local recipient organizations only had to report expenditures at the end of the eligible spending period. This new requirement will enable FEMA and the National Board to improve its oversight and monitoring of the grant funds, while also increasing clarity on the categories of services that are eligible for funding under the program.

Also beginning in FY 2023, the National Board's guidance requires local recipient organizations to keep records of the Alien Identification Number (A-number) for everyone provided services under the program. Only individuals with an A-number are eligible to receive services under EFSP Humanitarian Relief. This additional oversight will ensure that funds are provided only to those families and individuals who are eligible by law.

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Topic:	ESFSP Funds
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

In its report, the DHS Office of Inspector General (OIG) questioned \$7.4 million (58 percent) of the \$12.9 million it reviewed because it was unable to obtain supporting documentation. \$7.3 million of the questioned cost was for one subrecipient agency which contracted for COVID-19 testing in a way that OIG believed unreasonable because of how it paid for shifts worked within a 24-hour period.

The contract was established during the height of the pandemic and after being alerted to concerns, the National Board worked with the agency to change the vendor and renegotiate the contract. The local agency has since terminated the contract and the National Board has issued guidance to prevent a repeat of this issue in the future.

Question#:	22
Topic:	Transportation of Migrants
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: A December 2022 Report of the Heritage Foundation revealed that non-governmental organizations (NGOs) operating near the southern border have undertaken a substantial role in facilitating the disbursement of unlawful migrants all across the United States.

Please indicate what funds are provided to NGOs which permit the transportation of migrants across state lines.

What guidelines govern the use of such funds?

Response: Funding was appropriated by Congress to DHS for eligible non-profits and faith-based organizations, and government agencies could seek reimbursement for transportation expenses (local and long-distance) incurred for services provided to families and individuals encountered by DHS from EFSP-H. Funds provided for the EFSP-H were, by statute, awarded in their entirety to the EFSP National Board. The EFSP National Board then sub-awarded funds to local recipient organizations that provided eligible food, shelter, and other supportive services.

Per the EFSP National Board’s guidance for FY 2023, the following transportation expenses were eligible for reimbursement:

- Local transportation (including contracted services, vehicle rental, gas, insurance, drivers) for direct and indirect services that support needs of families and individuals encountered by DHS;
- Mileage reimbursement using the federal rate of 62.5 cents per mile for local transportation or actual fuel costs;
- Long-distance transportation costs (transportation costs to move families and individuals encountered by DHS to another city or state) via bus, airline, or train ticket; and
- Parking (e.g., local street, airport).

The guidance stipulates the additional following conditions:

- Any form of contracted transportation services must meet the procurement standards in 2 C.F.R. Part 200;
- Charter bus and other forms of grouped transportation should operate at a minimum of 75 percent capacity;
- All fares must be coach class on a commercial airline; any form of “luxury” transportation is not eligible (e.g., limousine services);
- Airfare cannot exceed \$700 per ticket;

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- International transportation is not eligible; only services provided within the United States are allowed;
- The chartering of aircraft, watercraft, or other vehicle not specifically stated in the guidance is ineligible;
- Interstate bus chartering is defined as the contracting of transportation, typically a bus, traveling from one state to another state. For interstate bus chartering to be considered an eligible expense, coordination and acknowledged communication (per charter/trip) with a receiving jurisdiction or organization must be documented and coordination includes, but is not limited to:
 - A minimum of 48-hour (distance permitting) notice before arrival;
 - An identified arrival time and location that is suitable for the receiving jurisdiction;
 - A manifest of passengers that includes their demographic and family composition; and
 - The identification of any critical unmet needs.
- If an individual encountered by DHS presents themselves or is observed to have acute or severe medical issues, those must be addressed before engaging in long-distance travel or the associated charter will be considered ineligible.

Question: Do you dispute the findings of the Heritage Foundation Report indicating the disbursement of migrants to nearly every Congressional District in the United States?

Response: Once released from DHS custody, noncitizens generally have freedom of movement throughout the United States, subject to reporting requirements or, if applicable, conditions of parole, such as attending their immigration court proceedings.

Question#:	23
Topic:	Gotaways
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Lindsey O. Graham
Committee:	JUDICIARY (SENATE)

Question: Since the Biden Administration began, there have been approximately 1.3 million "gotaways" entering the United States – individuals who were not stopped by authorities. Last year, 98 individuals on the Terrorist Watchlist were intercepted coming across our border. This year, there have been 69 individuals on the Terrorist Watchlist that have been intercepted crossing our border.

Is it possible that among the 1.3 million "gotaways," individuals on the Terrorist Watchlist have come into our country without being stopped by authorities?

Do you intend to track down and vet the 1.3 million "gotaways" to assure none are on the Terrorist Watchlist?

Can you confirm none of these 1.3 million "gotaways" have ever taken up arms against the United States?

Can you confirm that none of these 1.3 million "gotaways" are members of ISIS-K?

Can you confirm that none of these 1.3 million "gotaways" are currently planning a terrorist attack against the United States?

Response: DHS can only track the number of gotaways, and this numerical data is insufficient to allow the Department to speculate on derogatory information on individuals that were not apprehended by USBP. There have always been gotaways since the United States has enforced its borders, and we work hard to decrease the number. We are committed to enforcing our laws and work tirelessly with our federal and international partners to ensure that any individual who may pose a threat to public safety does not enter the United States. In the past 10 years, the proportion of gotaways has dropped dramatically, and we are constantly working to bring that number down. Apprehension rates have increased dramatically since 2013. Prior to 2013 a majority of those who attempted to cross irregularly were able to do so. The average apprehension rate under this Administration has remained similar to the average from the prior Administration and we are working every day to invest in our workforce and provide the needed resources to bring it down further.

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Thanks to investments in border technology and personnel, our ability to detect illegal crossings is better than at any previous time. Today, we have the strongest combination ever of technology, infrastructure, and personnel deployed along the Southwest border, and we're confident in the men and women of Border Patrol who are dedicated to our security.

Furthermore, we work closely with our interagency and international partners to detect and prevent people who pose national security or public safety risks from entering the United States, often receiving intelligence before they attempt to enter the United States. CBP screens and vets every individual encountered, and if an individual is determined to pose a potential threat to national security or public safety, we either deny admission, detain, remove, or refer them to other federal agencies for further vetting and prosecution as appropriate.

Question#:	1
Topic:	Tijuana River Channel Infrastructure
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: These questions relate to the construction of new border fence infrastructure through the Tijuana River Channel along the San Diego-Tijuana border. Customs and Border Protection (CBP) has conveyed that this project will move forward despite strong concerns voiced by the community, State of California, and a number of federal stakeholders that a physical barrier running through a flood channel raises significant public safety and environmental concerns. This project also appears to have the potential to impede the U.S. Environmental Protection Agency's (EPA) plans to mitigate the cross-border pollution that flows through the channel.

What is the status of this project?

Response: The U.S. Customs and Border Protection's (CBP) Tijuana River Project involves the construction of an approximately 0.2-mile bridge crossing the Tijuana River in San Diego County. The Project is intended to address significant operational and life safety issues by adding needed infrastructure to a gap in the existing barrier, specifically a bridge with vertical lift gates, lighting, a 20-foot wide roadway, and a maintenance walkway for crossing the Tijuana River. Currently, illicit activity in the area requires United States Border Patrol (USBP) to deploy additional personnel and resources, which negatively impacts other USBP operations on the border. Without the infrastructure described above, USBP agents are unable to adequately respond to threats or perform rescue operations quickly in the river channel. To this same end, polluted conditions in the river channel create health and safety concerns for USBP Agents and migrants alike.

This project is intended to deter illicit activity and improve access and response times for USBP agents who work in the area. As part of the Project development, CBP collaborated with the U.S. International Boundary and Water Commission (USIBWC) and the Environmental Protection Agency (EPA).

Early construction activities began in November 2022, executed by the U.S. Army Corps of Engineers. While early construction activities are underway, CBP does not have an anticipated start date for major construction activities due to recent heavy rains in the area.

Question: Has CBP consulted with the EPA and the U.S. International Boundary and Water Commission to ensure the project does not interfere with ongoing Tijuana River pollution mitigation projects? If so, please describe the timing and nature of this consultation.

Response: Throughout the development of the Tijuana River Project, CBP coordinated with USIBWC, as well as the EPA, and continues to collaborate closely to include solutions for the transboundary trash flow issues that plague the Tijuana River and estuaries located down river,

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Topic:	Tijuana River Channel Infrastructure
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Primary:	The Honorable Dianne Feinstein
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causing environmental degradation. CBP continues to meet with each agency to provide updates on progress and to answer questions.

Question: What specific measures are being taken to ensure the new fence infrastructure will not interfere with high-volume water flow during heavy rain and flash flood events? Please include specific detail on who will be responsible for ensuring gates in the fence infrastructure remain free of debris, and that they are opened in a timely manner during heavy rain events, or following an unexpected water or wastewater system failure in the city of Tijuana?

Response: The design of the Tijuana River Project includes a series of automated vertical lift gates that USBP will operate during and in anticipation of flood events. USBP will conduct regular maintenance of the infrastructure where it crosses the Tijuana River, to include the clearing of debris or refuse accumulation in front of and on the vertical lift gates. The automated vertical lift gates are operated with grid power. CBP has, however, incorporated failsafe mechanisms into the vertical lift gate design. The gates can also be operated with back-up generators, and in the event of automated gate failure, Border Patrol agents from a nearby Border Patrol station or those patrolling the immediate vicinity of the bridge can manually lift the gates. Additionally, the lift gates are designed to withstand up to five feet of water/sludge from waste treatment plant failure upstream. CBP worked closely with USIWBC to develop protocols for the operation of the lift gates. Those protocols are memorialized in a Memorandum of Agreement and a robust operations and maintenance manual.

Question#:	2
Topic:	Fentanyl Seizures
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: The number of drug-related overdose deaths occurring across the United States is staggering. Last year marked the second straight year that over 100,000 Americans lost their lives to a drug-related overdose. This tragedy has in large part been fueled by illicitly manufactured fentanyl, which is often smuggled across our Southern border. For example, in January, CBP officers assigned to the Campo Station in San Diego intercepted 57 packages containing blue fentanyl pills with a total weight of 250 pounds and an estimated street value of \$3,412,000. In February, CBP officers stationed at the Andrade Port of Entry in California reported the largest seizure in the entry point's history with almost \$1 million worth of fentanyl and methamphetamine. These seizures come on the heels of eleven significant seizures of contraband and illicit opioids last fall totaling \$4.1 million dollars, including intercepting 65 pounds of illicit fentanyl at the Calexico West Port of Entry. These record-breaking seizures under the Biden Administration are encouraging, but also serve as a grim reminder that approximately 60 percent of all fentanyl seized at ports of entry is being seized in San Diego and Imperial counties.

What is the Department of Homeland Security (DHS) doing to build on these recent successes in impairing the flow of deadly fentanyl into the United States, especially in California?

Response: The U.S. Department of Homeland Security (DHS) is helping implement President Biden's National Drug Control Strategy. DHS has stopped more fentanyl and arrested more individuals for fentanyl-related crimes in the last two years than in the previous five years combined. More than 90 percent of fentanyl seized is smuggled into the United States by cartels through ports of entry, primarily in vehicles driven by U.S. citizens. Our strategy to disrupt the flow of fentanyl and precursor chemicals coming into the United States includes improving our detection capabilities through personnel surges, advanced technology deployment, and increased information-sharing. We are making progress, but we need Congress' continued support in order to further the fight.

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) is the primary federal law enforcement agency responsible for investigating drug seizures and other criminal activity occurring at ports of entry. CBP officers and other law enforcement agencies to interdict drugs and identify and investigate drug smuggling organizations attempting to introduce illicit contraband into the United States, and to seize such contraband. HSI's ability to conduct complex large-scale investigations represents one of DHS's best weapons for dismantling transnational criminal organizations (TCOs) in a manner not possible solely through border interdiction efforts.

Question#:	2
Topic:	Fentanyl Seizures
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

On March 13, 2023, DHS implemented a surge operation in the two areas where the largest amounts of fentanyl being smuggled into the United States are encountered, Southern California and Southern Arizona. Dubbed Operation Blue Lotus, the joint surge operation by CBP and HSI included the detailing of additional personnel and resources to these areas to interdict fentanyl and other synthetic drugs and investigate the TCOs responsible for this criminal activity. HSI deployed over 200 special agents and criminal analysts to augment the personnel in Southern California and Southern Arizona and combat fentanyl at its entry points into the United States. On April 17, 2023, the White House congratulated DHS on the successful efforts of the operation to date with the reported seizures of over 5,000 pounds of fentanyl, more than 3,500 pounds of methamphetamines, nearly 1,000 pounds of cocaine and 156 arrests in the first month of the operation's efforts.

While much attention is given to the smuggling of narcotics across the southern border, TCOs use other methods to introduce deadly drugs into our communities. Illicit drugs continue to flow into the United States via international airports located throughout the United States. In addition to the use of drug couriers, TCOs continue to smuggle illicit narcotics destined for American communities concealed within express consignment and other parcels. In response, HSI has expanded Border Enforcement Security Taskforce (BEST) units at international mail facilities (IMFs), express consignment hubs, and international airports acting as IMFs, as part of HSI's targeted response to the opioid crisis. The IMFs and express consignment environments are a particularly significant avenue for the smuggling and transshipment of fentanyl, opioids, and other illicit narcotics. The placement of BEST units at IMFs enables the immediate application of investigative techniques on seized parcels, which aid in establishing the probable cause needed to carry out enforcement actions in the United States and elsewhere.

In Fiscal Year (FY) 2022, HSI narcotics enforcement efforts resulted in the seizure of nearly 21,000 pounds of fentanyl, approximately 11,535 criminal arrests, and 5,500 convictions. This represents a 44 percent increase in HSI fentanyl seizures from FY 2021.

Question: How is DHS coordinating with state and local law enforcement in these efforts?

Response: DHS participates in numerous task forces that focus on coordinating efforts with state, local, and tribal law enforcement partners, including HSI's participation in High Intensity Drug Trafficking Area and Organized Crime Drug Enforcement Task Force and its Strike Forces.

As an example of this coordination, HSI leads 87 BEST units at key border locations throughout the United States. Their primary mission is to combat emerging and existing TCOs by employing the full range of federal, state, local, tribal, and international law enforcement resources in the fight to identify, investigate, disrupt, and dismantle these organizations at every level of

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operation. BESTs eliminate the barriers between federal and local investigations (access to both federal and state prosecutors), close the gap with international partners in multinational criminal investigations, and create an environment that minimizes the vulnerabilities in our operations that TCOs have traditionally capitalized on to exploit our nation's land and sea borders.

HSI-led BESTs were established by law in the Jaime Zapata BEST Act of 2012. HSI's BEST task forces currently have over 1,000 task force officers and personnel participating from other state, local, tribal, federal, and international partners. In 2022, the Bipartisan Safer Communities Act amended the BEST Act to allow for salary reimbursement of HSI's state, local and tribal task force officers, though no additional funding was provided.

DHS works to capitalize on increased staffing, and expand operational capability alongside our federal, state, and local partners to quickly identify, develop, and dispose of critical national security and public safety investigations focused on fentanyl transit routes along the southern border and its approaches. During Operation Blue Lotus, CBP and HSI has worked with approximately 49 separate state and local agencies in Southern California and Southern Arizona. These local and state partners have assisted HSI agents' efforts to disrupt the trafficking and transportation of fentanyl and other illicit drugs to interior locations in the United States.

Question#:	3
Topic:	Basic Housing Allowance
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Members of the Coast Guard, because of the nature of their service, are often stationed in areas with high costs of living. Because servicemembers are required to live within 30 minutes of their duty station for readiness purposes, it is critical that the Basic Allowance for Housing (BAH) provided by the Coast Guard is appropriately updated to ensure that servicemembers can afford to live near the locations where they are stationed. Unfortunately, recent reports reflect that many California-stationed Coast Guard members are not receiving a BAH appropriate for the high cost of living in their area. This is particularly true for Coast Guard servicemembers stationed around the San Francisco Bay, one of the busiest waterways in the United States.

What is the Coast Guard doing to ensure that affordable housing options are available to its servicemembers, particularly those near San Francisco?

Response: Coast Guard members in the San Francisco region have a number of housing options. The Coast Guard has 300 housing units in Alameda with 2-, 3-, and 4-bedroom units for families and unaccompanied members. The Service also maintains Coast Guard-owned housing which is available in Novato for accompanied and unaccompanied members stationed in the North Bay.

Members are also able to seek housing utilizing Basic Allowance for Housing (BAH) which is routinely evaluated and adjusted based on housing set points in the area. Finally, the Coast Guard offers the opportunity for Coast Guard leased housing if a member is unable to identify adequate housing on the market. This service allows the Coast Guard to negotiate and enter a lease to provide housing for a servicemember.

Question: Has the Coast Guard explored increases in the BAH for the San Francisco Bay region or proposed any new housing developments?

Response: The Coast Guard alone does not set BAH rates for any region. The Coast Guard works together with the U.S. Department of Defense (DoD) service representatives to establish the BAH in localities called Military Housing Areas (MHA). The BAH rates for all Uniformed Services personnel on active duty are managed by DoD's Defense Travel Management Office (DTMO) based on the different MHAs. DTMO, with each service's assistance, annually collects rental housing market data in each MHA to set BAH rates. There are no proposed housing developments being considered by the Coast Guard at this time for the San Francisco Bay region.

Question#:	4
Topic:	CRC's
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In 2014, the Federal Emergency Management Agency (FEMA) began a reorganization process of its Public Assistance program with the intent of making it more streamlined and delivering reimbursements to state and local governments faster. Chief among its reforms was the use of Consolidated Resource Centers (CRCs), four locations across the United States where reimbursements are processed. A report commissioned by FEMA and published in January, however, noted that the median time from the approval of a reimbursement request to the obligation of funds has more than doubled since these CRCs were created. These delays have stressed the budgets of cities and counties as they wait to receive approved funds.

Understanding that the pandemic has stressed FEMA's capacity, what steps is FEMA taking to ensure that authorized, approved reimbursement requests are processed in a timely fashion?

Response: The Federal Emergency Management Agency (FEMA) has not seen an increase in the median time from the approval of a reimbursement request to the obligation of funds. Once FEMA approves a project, it is typically obligated within three business days. However, FEMA has noted an increase in the time from when we receive a Request for Public Assistance – which indicates an applicant’s intent to seek reimbursement – and the time when those projects are received, approved, and obligated.

As noted, FEMA commissioned an independent assessment of the Public Assistance (PA) program, which was published in January. That assessment found that processing at the CRCs, which occurs during Phase 3: Scoping and Costing, based on information and documentation provided by field counterparts, took an average of 21 days and accounted for less than 15% of the processing times for PA. The bulk of the time, 60 percent, is dedicated to Phase 2: Impacts and Eligibility Assessments, where Program Delivery Managers in the field work with applicants to assess their impacts from the disaster and prepare and submit specific project applications.

FEMA has seen a massive increase in the amount of assistance requested in recent years. In the five-year period between 2010 and 2014 FEMA provided an average of \$4 billion in assistance each year. In the last five years (2018 to 2022) FEMA has averaged almost \$23 billion in assistance each year – more than a five-fold increase, including an historic nationwide disaster declaration for COVID.

FEMA implemented a new Delivery Model for the PA Program in 2017 in part to handle this increase in workload and last year commissioned an assessment to assess that Delivery model. A key aspect of the PA National Delivery Model is continuous improvement, and the assessment reflects our commitment to that tenant; more than 560 internal and external stakeholders shared their observations as part of this process.

Question#:	4
Topic:	CRC's
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That Assessment found that processing of the recent historic workload (including the 59 major disaster declarations for COVID-19 in particular) would not have been possible without the CRC structure. The CRCs hold a reservoir of talent and PA expertise that are more difficult to recruit for, and their day-to-day existence increases operational readiness because – unlike field offices – new organizational structures and relationships do not have to be established.

However, that assessment also noted recommendations for program improvement addressing overarching themes including consistency, risk, and timeliness. In coordination with the broader PA Assessment effort, FEMA has been looking for ways to streamline coordination and delivery of federal assistance now and find ways for communities to navigate the PA program more easily.

The assessment found that most of the delays in timeliness occurs during Damage Intake and Analysis phase when a FEMA Program Delivery Manager in the field works with the applicant to prepare their project application for submission to the CRC. Specifically, as it relates to timeliness FEMA has already made several changes to reduce the burdens during this phase, including:

- Simplified documentation requirements for unobligated projects under the Public Assistance Program and Policy Guide – also known as the PAPPG – version 4.
- Waived the PAPPG v3.1 requirement for unobligated projects on open incidents, that completed small projects must be prepared based on actual costs.
- Adjusted the 90-day post-obligation deadline for projects with work completed prior to obligation to begin on the date of obligation
- Announced the release of the Public Assistance Sampling Procedure which reduces the level of documentation that applicants are required to submit for large projects for FEMA to validate PA claims.
- Providing applicants flexibility in how they claim costs for the work associated with power restoration projects.
- No longer performing a separate reasonable cost analysis of work performed through the Emergency Management Assistance Compact (EMAC) – as long as – the project followed established EMAC rules. Deploying CRC staff at critical junctures to the field for complicated or stuck projects to ensure an increase in accuracy, timeliness, and efficiency.

Question#:	5
Topic:	Electrical Facility Attacks
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Human-related disturbances at U.S. electrical facilities are now at their highest point in at least a decade. In some cases, such as the plot to attack the Baltimore grid, the perpetrators were avowed neo-Nazis and white nationalists. I am glad to see that the Federal Energy Regulatory Commission is taking this problem seriously and has tasked the North American Energy Reliability Corporation (NERC) with examining security standards for power substations.

What is DHS doing to support utilities and NERC as they examine how to improve the security of power substations?

How is DHS coordinating with the Federal Bureau of Investigation and local law enforcement to capture the perpetrators of recent attacks on power substations, and deter future attacks?

Response: The Cybersecurity and Infrastructure Security Agency (CISA) works closely with interagency partners and both public and private sector stakeholders to advance critical infrastructure security by building the capacity to assess and mitigate physical and cyber risks. Through trainings, exercises, and best practice resources that focus on prevalent attack methods (e.g., active shooter, vehicle ramming, bombing) and evolving threats (e.g., unmanned aircraft systems), CISA enhances the understanding of potential operational impacts that result from a successful attack and suggests corresponding protective measures.

CISA is committed to equipping stakeholders with products, services, and resources to support risk-mitigation and capacity building efforts.

Given the recent attacks against the electricity subsector, as well as the evolving tactics, techniques, and procedures employed by adversaries, CISA partnered with the U.S. Department of Energy (DOE) and recently released two products, including the *Sector Spotlight: Cyber-Physical Security Considerations for the Electricity Sub-Sector* and the *Sector Spotlight: Electricity Substation Physical Security*. Focusing on the electricity subsector and electricity substations' unique physical and cybersecurity vulnerabilities respectively, these new resources provide owners, operators, and stakeholders with updated threat information, protective measures that can help improve a substation's cyber-physical security posture, options for a layered security strategy that will ultimately reduce or minimize the impact of an attack, best practices for mitigating risk, and recommendations for maintaining resilience in advance of an attack.

CISA is working with DOE and other federal partners to support a future webinar series for public and private partners on electric substation security. The target audience will be state/local

Question#:	5
Topic:	Electrical Facility Attacks
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

law enforcement, state homeland security officials, and other regional partners. DOE is in the lead for these webinars and dates have not yet been selected. DOE and DHS are working to host 2-3 webinars on physical security of the energy sector. Webinars are expected to include a DHS Office of Intelligence and Analysis (I&A) and Federal Bureau of Investigation (FBI) threat briefing to ensure clear understanding of the current and emerging threat versus and a DOE and CISA discussion of actions that have been taken and resources to help industry.

In addition, CISA maintains a cadre of security advisors who facilitate local field activities in coordination with other interagency partners across the United States. CISA's 10 Regions proactively engage with federal, state, local, Tribal, and territorial government partners, and members of the private sector to protect critical infrastructure. CISA's Regions conduct security assessments and provide access to security resources, trainings, and information. Over the past year, the Regions conducted 48 assessments for Energy Sector stakeholders, including site visits, access to geospatial information, and comprehensive surveys to provide stakeholders with customized reports to evaluate facility vulnerabilities and provide mitigation recommendations. CISA's services also help connect community leaders, law enforcement officials, and other organizational representatives to collectively identify ways to reduce risk to infrastructure.

Question#:	6
Topic:	Otay Mesa East Port of Entry
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: U.S. Customs and Border Protection, the Federal Highways Administration, and the General Services Administration (GSA) have been working with the California Department of Transportation and the San Diego Association of Governments to open the Otay Mesa East Port of Entry. This is a project of significant national interest, and will support more than \$2.4 billion in national trade volume and 120,000 jobs. In order to keep this project on track, all federal, state, and local project sponsors need to come together to reach an agreement on the financial structure of the project. Specifically, engagement is needed from GSA and CBP to begin work on the design process or this project will be unnecessarily delayed.

What can DHS do to keep this project moving forward and who at CBP can begin engaging state and local planning agencies with the initial design work?

Response: CBP support for construction of the Otay Mesa East Port of Entry has always been predicated on its being cost-neutral to the federal government. In recent months, the San Diego Association of Governments (SANDAG) has identified significant funding challenges that still need to be addressed to keep the project cost-neutral for federal partners. With a shared goal to keep the project progressing, federal partners (CBP and the General Services Administration) hold weekly sessions with SANDAG to discuss all facets of the project and held a senior level discussion between all parties in April. SANDAG and federal partners must reach agreement on division of responsibilities during delivery and operation of this new crossing before design and construction can advance.

Question#:	7
Topic:	Friendship Park Fence
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In the face of strong community opposition, CBP recently announced its intention to replace the existing 18-foot fence infrastructure surrounding Friendship Park along the border of San Diego and Tijuana. In its place, the agency plans to install 30-foot steel bollard fencing in all but one very small area. This project, which was originally proposed by former President Trump and then put on hold by the Biden Administration, has recently been approved to move forward with only minor modifications to the design.

What is the current status and expected cost of this project?

Response: On January 4, 2023, DHS approved a new path forward for the Friendship Circle Project which comes after CBP re-paused the project on August 4, 2022, to allow time to further engage with stakeholders to address community concerns. During the public consultation period and prior discussions with Friends of Friendship Park (FOFP), stakeholders emphasized that regaining access to Friendship Park is their primary concern, as the park has been closed since early 2019 due to security concerns and the safety of the existing infrastructure. CBP analyzed the feedback received during the consultation period, and after careful consideration and discussion with stakeholders, the new path forward includes the following:

- CBP is committed to allowing visitors on the U.S. side of the border access to Friendship Park through a gate in the secondary barrier each Saturday and Sunday for four hours each day (10 a.m. to 2 p.m.), for a maximum of 25 visitors at a time. Access to the park will be coordinated with USBP after construction is complete, once it is operationally safe to do so, which will allow visitors on the U.S. side of the border to communicate with friends and family located in Mexico through the primary barrier similar to years past. In addition, USBP remains committed to restoring the Binational Garden following the completion of construction activities and allowing for long term maintenance of the garden by FOFP during open hours.
- CBP will construct the new primary barrier immediately adjacent to the Friendship Circle area (~60 feet) with 18' foot tall bollards, while the rest of the project will remain at 30' foot tall bollards with anti-climb features in accordance with operational requirements. The primary barrier will include mesh on the north side of the bollards at the area of Friendship Circle to prevent the passing of contraband, similar to the current design. This approach addresses stakeholder concerns while minimizing impacts to USBP operations.

CBP began construction on the replacement of the secondary fence on February 13, 2023, and anticipates construction on the primary fence will begin later this summer 2023. As noted above,

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Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

USBP will coordinate with FOFP to save any native and protected plants within the garden prior to construction activities for the primary fence.

Question: Has CBP formally assessed the operational benefit of 30-foot fence infrastructure that justifies the expense of replacing existing 18-foot barriers? If so, please share this analysis.

Response: Over the years, USBP has conducted numerous testing and evaluations of border barrier attributes through the DHS Major Acquisition Program Alternatives Analysis (AA) process. In July 2018, USBP completed the Southwest Border Wall Alternatives Analysis (AA) for California and Arizona. This AA has informed decisions related to acquiring the most effective and best value barrier replacement solutions and attributes for the San Diego, El Centro, Yuma and Tucson Sectors. Based on analysis conducted in the San Diego Sector, while 18 foot barriers can be effective, the 30 foot bollard with anti-climb features provides greater deterrence from scaling. Also, the additional height provides USBP with greater time to respond to potential breaches– particularly in urban areas where vanishing times are seconds to minutes, such as this location in San Diego. Significant levels of arrests remain in areas with no upgraded fencing. Tijuana smugglers have funneled illicit activity west to areas without 30’ fencing.

Question: Is CBP tracking the number of falls from 30-foot fence infrastructure that lead to injury or death along the Southwest border? If so, please share this data.

Response: In accordance with H. Rept. 116-458, CBP’s Office of Professional Responsibility (OPR) carefully reviews CBP-involved deaths including those associated with falls from border barriers. CBP issues an annual report containing statistical data related to the causes of these various deaths. Falls from border barriers were enumerated in the FY 2021 report and will also be enumerated in the forthcoming FY 2022 report.

Question: How will CBP and DHS provide formal assurance that community members from both sides of the border will continue to have access to Friendship Park once construction is complete?

Response: As noted above, CBP is committed to providing the community with future access to Friendship Park upon completion of construction, when it is operationally safe to do so. The completion of the Friendship Circle Project is necessary to ensure future access to the Park.

Question#:	8
Topic:	Assault Weapons Seized
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In 2022, the Transportation Security Administration (TSA) seized 4,495 firearms at security checkpoints-a new record in the agency's 20-year history.

Please provide a list of the make and model of each assault weapon seized by the TSA in 2022.

Response: The Transportation Security Administration (TSA) does not seize firearms and TSA records do not classify weapons. Local law enforcement responds to firearm discoveries and, if provided by local reporting, TSA records information about the firearm discovered. 6,542 firearms were discovered at our checkpoints in Calendar Year 2022.

The disposition of any weapons discovered at the airport is determined by local law enforcement and is governed by state law.

Question#:	9
Topic:	Guns to Mexico
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: The Bureau of Alcohol, Tobacco, Firearms and Explosives found that 70 percent of firearms reported to have been recovered in Mexico from 2014 through 2018 and submitted for tracing were sourced in the United States. These smuggled weapons help the illegal drug trade and have links to organized crime. In Fiscal Year 2020, U.S. Immigrations and Customs Enforcement and U.S. Customs and Border Protection established a joint operation to intercept firearms being smuggled into Mexico. However, according to a 2021 Government Accountability Office report, DHS has not fully developed performance measures for this effort and thus has limited ability to assess where the operation is working to stop the flow of weapons into Mexico.

What is DHS doing to identify performance measures that would enhance the agency's ability to optimize the use of United States government resources stop the smuggling of firearms from the United States into Mexico?

Response: Through Operation Without a Trace – a joint CBP and HSI initiative, along with the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ (ATF) Southbound initiative to combat the illegal flow of firearms from the United States to Mexico – DHS has enhanced cohesion among federal partners to tackle this issue and created a mechanism to track meaningful performance metrics. These performance measures include tracking the number of cases initiated, arrests related to firearms smuggling and seizures of firearms, firearms components, and ammunition destined for Mexico. Operation Without a Trace has co-located CBP and HSI ATF personnel assigned to this effort within ATF’s Operation Southbound Firearms Trafficking Task Forces to improve information sharing, de-confliction, and synergy among these components. Operation Without a Trace has also created a training effort focused on educating law enforcement personnel assigned to Southwest Border locations on the methodologies, smuggling trends, legal factors, and best practices used both for interdiction of weapons bound for Mexico and the development of complex criminal investigations. Since its inception in 2020, Operation Without a Trace has achieved significant success preventing Mexico-bound gun trafficking, resulting in the initiation of 803 investigations, the execution of 555 arrests, the seizure of 1,213 firearms, nearly 723,203,000 rounds of ammunition, and \$16.5 million in illicit currency. Additionally, as of FY 2023 YTD, Operation Without a Trace has provided advanced firearms identification and investigations training to over 90 law enforcement personnel located along the Southwest Border.

To fully optimize the use of U.S. Government resources to reduce the smuggling of firearms from the United States to Mexico, the United States requires further engagement from Mexican counterparts at the highest levels of law enforcement to enhance the sharing of information gleaned from firearms investigations/seizures in Mexico. This would allow DHS, ATF and other

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U.S. Government components to trace and track the origin of these weapons and identify individuals and networks, both in the United States and Mexico, who are responsible for the acquisition, smuggling, and distribution of U.S.-sourced firearms to Mexico. ATF is actively working to develop the National Firearms Trafficking Center to ensure continued partnership that will include consistent, transparent performance measures that will reflect the overall efforts by all participating Federal law enforcement agencies in combatting firearms trafficking.

Question#:	10
Topic:	Ukrainian Children
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: Following Russia's unprovoked invasion of Ukraine, intercountry adoptions between Ukraine and the United States were suspended. According to advocates, approximately 300 Ukrainian children who were in the midst of adoption proceedings have been stuck in shelters across Europe and have not been able to join their families in the United States. Unfortunately, these children do not qualify to participate in the Uniting for Ukraine program. Does DHS have plans to enact policies that will reunite these children with their adoptive families, and if so, what are those policies?

Response: The Ministry of Social Policy of Ukraine (MSP) has stated that adoption in Ukraine is “impossible” at this time. Based on the MSP’s statement, if a petitioner has not already completed all the required adoption steps in Ukraine, beginning or continuing the adoption process may not be possible at this time.

Question: Would DHS consider implementing a temporary humanitarian parole policy that would allow certain Ukrainian orphans to join their adoptive families in the United States?

Response: U.S. Citizenship and Immigration Services (USCIS) has received numerous questions from the public on how the situation in Ukraine is impacting Ukrainian children. In response, we have published a new webpage called “Adoption Information: Ukraine.”¹ As you may be aware, the Ukrainian government has expressed concern to the Department of State about moving Ukrainian children out of Europe, especially for the purposes of adoption. Although USCIS is still accepting Form I-600A applications and Form I-600 petitions for Ukraine, the Ukrainian government has made clear that the adoption process may not be possible at this time unless a petitioner has already completed all the required adoption steps in Ukraine.

On June 11, 2022, the government of Ukraine announced that hosting programs may resume in certain circumstances but will not apply to children who are considered orphans or deprived of parental care under Ukrainian law. As the situation evolves, USCIS recommends reviewing the Department of State’s website for updates.²

With respect to a temporary humanitarian parole policy, USCIS may use its discretion to authorize parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit. For adoption-related parole requests, as for any parole request, USCIS considers any

¹ “Adoption Information: Ukraine” <https://www.uscis.gov/adoption/country-information/adoption-information-ukraine>

² “Updated – Information for U.S. Citizens in the Process of Adopting Children from Ukraine” <https://travel.state.gov/content/travel/en/News/Intercountry-Adoption-News/updated-information-for-u-s--citizens-in-the-process-of-adopting.html>

Question#:	10
Topic:	Ukrainian Children
Hearing:	Oversight of the Department of Homeland Security
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compelling circumstances of the individual situation. USCIS does not often approve parole requests for adoption-related cases without evidence of compelling, extenuating circumstances, because parole does not provide the same important safeguards for prospective adoptive children, prospective adoptive parents, and birth parents that exist in regular adoption-based immigration avenues, such as determinations that a child is an orphan or available for intercountry adoption. Additionally, parole does not afford children the benefits of U.S. immigration status protections that regular adoption-based immigration avenues provide. For example, many children who come to the United States based on adoption will be admitted as U.S. citizens or as lawful permanent residents (Green Card holders); however, a child who is paroled will have to take additional steps to get a Green Card or become a U.S. citizen. We remain committed to working with prospective adoptive families to assist them to the greatest extent possible during this challenging time.

Question#:	1
Topic:	Support from the Navy
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Recently, Navy Secretary Del Toro and Coast Guard Deputy Commandant Peter Gautier met to discuss coordinating on enforcing against illegal, unreported, and unregulated (IUU) fishing. For the Coast Guard, what would be the most helpful next steps from the Navy for the Coast Guard to combat IUU fishing more effectively? What other support from the Navy would be beneficial to this effort?

Response: The Navy can best support counter-illegal, unreported, and unregulated (IUU) fishing through combined operations that deploy Coast Guard law enforcement detachments onboard U.S. Department of Defense (DoD) major assets. Additional support includes enhancing maritime detection capabilities of eligible countries within their exclusive economic zones, increasing maritime domain awareness in those Tier One and Tier Two Priority Regions identified by the Maritime Security and Fisheries Enforcement (M-SAFE) Act Interagency Working Group, and developing a common operating picture for regional information sharing.

Question#:	2
Topic:	IUU Fishing
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What additional resources does the Coast Guard require to combat IUU fishing internationally and support partner and allied governments that seek assistance with enforcing against IUU fishing in their exclusive economic zones?

Response: The Coast Guard received funding in the FY 2023 enacted budget that will increase the Coast Guard’s presence in the Atlantic Basin by deploying additional assets to bolster capacity and grow capabilities to counter IUU fishing. This will create the foundation to expand Coast Guard operations in the Atlantic Basin by creating capabilities and capacity to conduct operations, engage in maritime governance activities, and participate in regional engagement to increase partner nation proficiency, self-sustainment, and local expertise in maritime security operations via joint exercises, operations, and training. Working with partner nations, the Coast Guard will leverage increased capacity and enhanced capability in the region to observe, collect, and share information on illicit maritime activities to support the cooperative enforcement of international law.

Question#:	3
Topic:	Information Sharing Systems
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: Private actors, including environmental and wildlife organizations that collect publicly available information from satellite data and other sources of data, such as Global Fishing Watch and Vulcan, can provide valuable supplemental information to the U.S. government on where IUU fishing is happening.

Will you commit to standing up an information-sharing system (i.e. a vestibule) to help the U.S. Coast Guard have the most up-to-date information possible on IUU fishing and be able to share that information with other governments and private actors?

What additional resources or authorities are needed to establish an information-sharing vestibule in which information can be received and shared out in a timely manner?

Response: The Coast Guard is committed to increased maritime domain awareness (MDA) and information sharing but has not identified a single system or vestibule. Many partner nations utilize different MDA tools provided by various like-minded nations. The Coast Guard is agnostic to any single platform; however, based on Coast Guard engagements with partner nations, SeaVision is often used to share unclassified MDA. DoD Combatant Commanders routinely train partner nations in effective SeaVision use, including the use of real-time chat functions and appropriate levels of information sharing. The Coast Guard will continue to assess resource requirements through the annual budget process.

Question#:	4
Topic:	Sharing in Timely Manner
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: When unauthorized fishing vessels enter partner and allied governments' waters, speed is of the essence. By the time the appropriate U.S. officials have the authorization to share information with its allies and partners, the fishing vessel may be long gone. How does the Coast Guard plan to ensure that our partners and allies can get intelligence and information in a timely manner to act on IUU fishing in their waters?

Response: SeaVision's chat function supports real-time unclassified communication and information sharing with partner nations as cases arise. For classified intelligence and information sharing, previously approved intelligence sharing agreements are required to disseminate real-time or actionable intelligence between partner nations.

Question#:	5
Topic:	Employment Authorization
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: Last fall, Senator Murkowski and I urged United States Citizenship and Immigration Services (USCIS) to address the delays that arriving refugees were encountering in getting their employment authorization documents approved. In November, USCIS announced that it would begin granting certain refugees work authorization automatically.

Can you provide more detail about the implementation of this policy and the number of work authorizations that USCIS has automatically granted?

Response: Refugees admitted under section 207 of the Immigration and Nationality Act (INA) are employment authorized incident to status and do not require an Employment Authorization Document (EAD) to begin working. Their Forms I-94, Arrival/Departure Record, containing an unexpired refugee admission stamp or admission code of “RE”, may be presented to an employer to complete Form I-9, Employment Eligibility Verification, when a refugee is hired. Within 90 days of providing the Form I-94 to their employer, the refugee must present either an EAD or a document from List B, such as a state-issued driver’s license, and an unrestricted Social Security card, to continue working.

Question: What other changes has the Department made to improve the processing of work authorization applications?

Response: To assist with initial EAD issuance, U.S. Citizenship and Immigration Services (USCIS) has initiated a new process for resettled refugees to get their EADs, Social Security numbers, and Social Security cards. Previously, the refugee applicant carried their own physical EAD application in the refugee travel packet to the port of entry, then the form was mailed to USCIS after their arrival. In the revised process, we anticipate that data will be shared directly from Department of State systems to USCIS systems and then onwards to the Social Security Administration, replacing the paper workflow with an entirely digital process to ensure refugees can obtain EADs and benefits more quickly. USCIS recently piloted this digital process for 75 arriving refugees and plans to implement this process for all arriving refugees later this fall.

In addition, on September 20, 2023, the U.S. Department of Homeland Security (DHS) released *“Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act”*, announcing that USCIS will increase the maximum validity period of initial and renewal EADs to 5 years for certain noncitizens, including those admitted as refugees or granted asylum; recipients of withholding of removal; and applicants for asylum, adjustment of status, or cancellation of removal. This step is designed to ensure that refugees do not lose the

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Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

critical employment authorization to remain self-sufficient. It will also contribute to USCIS efforts to reduce processing times and backlogs.

USCIS continues to expend significant resources and is leveraging technology solutions to improve processing speed, efficiency, consistency, and integrity across all aspects of EAD filing and adjudications. For Fiscal Year (FY) 2023 to date, the median processing time for EADs based on a pending adjustment of status application is 5.5 months, compared with 6.7 months for FY 2022. For FY 2023 to date, the median processing time for EADs based on a pending asylum application is 2.0 months, compared with 9.2 months for FY 2022

Question#:	11
Topic:	Whistleblower Rights
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Whistleblowers help ensure the government remains transparent and accountable to the people. They play a key role in exposing incidents of government waste, abuse, and fraud and save the taxpayer billions of dollars every year. In many instances, they risk their careers, jobs, and reputations by bringing to light government misconduct. According to the results of the 2022 Office of Personnel Management Federal Viewpoint Survey, over a third of DHS employees responded that they "strongly disagreed, disagreed, or neither disagreed or agreed" that they "can disclose a suspected violation of any law, rule or regulation without fear of reprisal." An additional 2,664 employees responded that they did not know that they could report government misconduct. According to the DHS NO FEAR Act Annual Report, in Fiscal Year 2022 the most frequently alleged basis of discrimination in formal Equal Employment Opportunity complaints was reprisal, and there was a 6% increase in the number of reprisal claims in FY 2022 as compared to FY 2021.

It is critically important that whistleblowers are protected from being subjected to reprisal for exposing government waste, abuse, and fraud and that employees know their rights with respect to reporting government misconduct, especially to Congress.

What steps have you taken to ensure whistleblowers are protected from acts of retaliation for exposing incidents of waste, fraud, and abuse? What actions has DHS taken to ensure its employees are informed of their rights related to the reporting of allegations of waste, abuse, and fraud?

Response: The Department shares your interest in ensuring employees understand their rights to make protected whistleblower disclosures, have information on how to make such disclosures, and are protected from retaliation. The Department has demonstrated its commitment to whistleblower protections and supporting the important work of the DHS Office of Inspector General (OIG) and the U.S. Office of Special Counsel (OSC) by, among other things:

- maintaining on the DHS intranet site an information and resource page for employees and contractors with information regarding how to make a whistleblower disclosure and protections for whistleblowers;
- ensuring that employees are trained on how to make protected disclosures and on protections for whistleblowers, including mandatory annual training;
- requiring periodic training for supervisors regarding responding to whistleblower disclosures and on anti-retaliation;
- issuing periodic communications to the workforce regarding the importance of disclosing wrongdoing and on whistleblower protections;

Question#:	11
Topic:	Whistleblower Rights
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

- working with the OIG on procedures for reviewing retaliation claims involving security clearance determinations; and
- holding supervisory employees responsible for anti-retaliation, including through anti-retaliation requirements in performance standards.

The Department's efforts have resulted in demonstrable progress. In 2016, for example, only 51.39 percent of DHS Federal Viewpoint Survey respondents agreed that they could disclose a suspected violation of any law, rule, or regulation without fear of retaliation. By 2022, however, 62.7 percent of respondents agreed with this statement, an improvement of almost 11.5 percent over six years. The Department looks forward to its continued work on this issue.

The OIG and the OSC serve as important resources for whistleblowers and devote much of their work to allegations received by whistleblowers. In addition, pursuant to the Office of the Inspector General Act, the OIG is responsible for designating a Whistleblower Protection Coordinator to educate employees and assist the Inspector General in promoting the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal. Accordingly, much of the Department's work on whistleblower issues is in support of the Inspector General.

Secretary

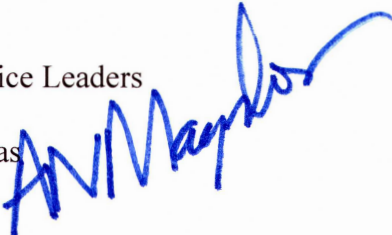
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

August 18, 2022

MEMORANDUM FOR: DHS Agency and Office Leaders

FROM: Alejandro N. Mayorkas
Secretary 

SUBJECT: **Employee Accountability Processes**

On April 7, 2022, I directed the General Counsel to lead a group to review employee misconduct discipline processes and to recommend improvements. I have made it one of our Department's top priorities to champion our workforce and create a culture of excellence, openness, and accountability. Today, I am directing you to take additional steps towards this goal.

First, I am directing Management to work with the Office of the General Counsel and with all of you to update the Department's policies, including the DHS Table of Penalties, and to develop an information resource for employees and supervisors on the disciplinary process. Management will provide me an update on its progress by September 30, 2022.

Second, I am directing the Office for Civil Rights and Civil Liberties to work with the Office of the General Counsel, Management, the Office of the Inspector General, and all of you to enhance tracking and information sharing regarding reports of harassment, including reports that are made to the Inspector General or warrant swift action. The Office for Civil Rights and Civil Liberties will provide me an update on its progress by September 30, 2022.

Third, I am directing each operational agency and the Federal Law Enforcement Training Centers to develop and provide to me by September 30, 2022 an implementation plan to form centralized bodies in each agency that:

- (1) are comprised of officials trained in disciplinary, equal employment opportunity, and anti-retaliation requirements and principles;
- (2) are dedicated to the task of proposing and deciding discipline;
- (3) are outside the alleged wrongdoers' chain of command;
- (4) handle the most serious misconduct and employees of a certain status; and,
- (5) follow a systematic written procedure in which responsibilities, timelines, and the role of advisors are clear.

The Office of the Chief Human Capital Officer within Management will develop an implementation plan for other agencies and offices other than the Office of the Inspector General.

Fourth, I am directing Management to work with the Office of the General Counsel and all of you to ensure policies at both the Department and Component-levels include:

- (1) periodic communication with our workforce identifying high-priority categories of misconduct, including conduct expectations and recommended penalty range;
- (2) enhanced information-sharing protocols for hiring across DHS agencies and offices;
- (3) tracking misconduct allegations, from allegation to final resolution, in a way that meaningfully distinguishes between the nature and seriousness of misconduct; and,
- (4) effective use of the probationary period.

Management will provide me with an update by October 31, 2022.

Thank you for your leadership and attention to this critical initiative.

Question#:	12
Topic:	Afghan Security Concerns
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: At the hearing, I noted that multiple Inspectors General have found that the Department of Homeland Security failed to fully vet and screen Afghan evacuees before entry into the United States. In one report, the Defense Department Inspector General said at least 50 evacuees in the United States posed potentially significant national security concerns. I asked the following question at the hearing: how many Afghan evacuees are currently in the country who pose potential or actual national security concerns? You failed to answer. Accordingly, please answer whether DHS knows how many Afghan evacuees are currently in country who pose potential or actual security concerns.

Response: DHS appreciates the important work conducted by the DoD and OIG. DHS has previously raised concerns about the process underlying both reports as well as some of their data and findings. Afghan evacuees underwent a multi-layered screening and vetting process that began overseas and was conducted by intelligence, law enforcement, and counterterrorism professionals from the U.S. Department of State, DHS, DoD, FBI, and other U.S. interagency partners.

After departing Afghanistan and before entering the United States, Afghan evacuees underwent an interagency screening and vetting process that started overseas, where individuals underwent biometric and biographic vetting. This process included national security and criminal records checks conducted by intelligence, law enforcement, and counterterrorism professionals from DoD, DHS, FBI, the National Counterterrorism Center, and other Intelligence Community partners. Only those who cleared this comprehensive screening and vetting process were approved for onward travel to the United States. As with all noncitizens who are seeking admission to the United States at U.S. ports of entry (POEs), Afghan evacuees were inspected by CBP officers upon arriving at a POE. During this inspection, CBP officers conducted additional biographic and biometric checks. Those individuals who were identified by CBP as requiring further review were referred to secondary inspection, where additional reviews of information or interviews were conducted as warranted. Only those evacuees who cleared inspection at the POE were admitted or paroled into the United States, depending on their individual status and documentation.

Those who did not clear this inspection process were processed for appropriate removal proceedings under the Immigration and Nationality Act or, as appropriate, given an opportunity to voluntarily withdraw their application for admission to the United States. Those who did not choose to voluntarily withdraw their applications for admission were placed into removal proceedings. Additionally, all Operation Allies Welcome (OAW) parolees have been and remain subject to recurrent vetting, as are other foreign nationals who are admitted into the United States, such as visa holders. Recurrent vetting enables the federal government to identify, and

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Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

appropriately act upon, any information of concern that may arise after entry into the United States. DHS regularly receives information from and shares information with our federal and local partners on individuals who may pose a public safety or national security threat. If derogatory information becomes available after an individual enters the United States, DHS and our partners work together to determine appropriate next steps, which may include prosecution, revoking parole, and/or placing the individual into removal proceedings.

Neither the DHS OIG nor DoD reports acknowledged the fact that vetting is not a static process. New intelligence and information may arise that can identify information on an individual. This is why DHS ensures that all OAW parolees undergo continuous and recurrent vetting for the duration of their parole.

DHS notes that the DHS OIG report failed to consider evidence provided to the OIG via briefings and documentation. For example, the DHS OIG report highlights a claim that CBP was unable to appropriately “screen, vet, and inspect” all Afghan nationals during the recent operation. This inaccurate conclusion fails to place CBP within the full spectrum of U.S. interagency screening and vetting processes for OAW and to subsequently inspect all Afghan evacuees at POEs. All noncitizens arriving at a POE, including Afghan evacuees, are inspected and processed by CBP Officers. Decisions about whether to parole an individual noncitizen are made on a case-by-case basis, taking into account all information developed during the inspection. The DHS OIG report also states that CBP admitted or paroled individuals into the United States without proper identification or documentation. DHS believes the OIG reached this erroneous conclusion because the OIG misunderstood the procedures that are administered for parole. Specifically, the report appears to assume that all individuals must travel on a valid travel document (such as a passport) to be inspected and admitted or paroled into the United States. However, CBP personnel may accept an identification document, such as a traveler’s birth certificate, foreign driver’s license, or other national identity document, to establish identity. The majority of Afghans had some form of identification or documentation demonstrating their identity, such as birth certificates or national identification documents.

Further, DHS provided documentation and evidence to the DHS OIG multiple times showing that all paroled Afghan nationals undergo recurrent vetting processes for the duration of their parole. Despite this, the report goes on to recommend that DHS establish recurrent vetting for parolees, failing to acknowledge that individuals paroled into the United States as part of OAW are already subject to recurrent vetting. In addition, OIG requested evidence that vetting results were negative on individuals, rather than accepting that vetting would only return derogatory information (i.e., positive results), while no results would be considered negative.

The DHS OIG report also uses specific examples to allege the vetting system does not work, when in fact, these examples show the process is working as intended. Specifically, the report

Question#:	12
Topic:	Afghan Security Concerns
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stated that two individuals were paroled into the United States while having derogatory information in their vetting records, which is incorrect. DHS provided the OIG evidence that these individuals were cleared by the interagency vetting process at the time of travel and no derogatory information was reported prior to their parole into the United States. DHS was alerted to new derogatory information available *after* the individuals were paroled to the United States. As expected, DHS and our interagency partners immediately acted upon this new derogatory information, indicating a vetting system that is working as designed.

CBP processed 76,845 people connected with OAW since July 2021.

Question#:	13
Topic:	Confucius Institutes
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: At the hearing, I asked you whether the Department of Homeland Security considers Confucius Institutes and their affiliates to be an extension of the communist Chinese government. You failed to directly answer. Accordingly, please answer yes or no to the question.

Response: As Secretary Mayorkas stated in response to questions during the hearing, yes, the Department is concerned about Confucius Institutes, and specifically about the fact that many of them act as non-traditional collectors of intelligence on behalf of the Chinese government.

Question#:	14
Topic:	Sexual Harassment Reports
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: A 2018 survey by the Department of Homeland Security Inspector General, which covered years 2011 to 2018, showed a pattern of rampant sexual harassment and misconduct at the DHS. Over 10,000 employees experienced sexual harassment or misconduct, but unfortunately 8,148 of the victims did not report it. Of those who did not report, 2,296 employees felt they would not be supported by DHS management, 2,012 employees feared retaliation, and 1,799 employees believed that the alleged harasser would not be investigated even if reported. In April 2022, you formed a task force to investigate the matter and make recommendations to fix this crisis. However, it is unclear what DHS has done to address the underlying data - that 10,000 DHS employees, from 2011-2018, reported widespread sexual harassment at DHS.

Protecting the Department's workforce and addressing all allegations of sexual harassment and misconduct must remain a top priority. Please answer the following:

What were the findings of the task force and have any recommendations been implemented? If so, what are they?

Response: Secretary Mayorkas agrees that protecting the Department's workforce, including from sexual harassment, is a top priority. The Department maintains mandatory and robust anti-harassment standards that apply to all offices and components. The Office for Civil Rights and Civil Liberties (CRCL), which has programmatic responsibility for anti-harassment efforts, works with components to review and strengthen their anti-harassment programs.

DHS leadership has prioritized the issues of sexual harassment, workplace misconduct, and whistleblower protection. In 2018, then-Secretary Kirstjen Nielsen issued several messages to the workforce on the subject of sexual harassment in the Department. DHS Headquarters issued a plain-language sexual harassment policy later that year. Secretary Mayorkas has continued this emphasis on addressing misconduct through the creation of a workplace misconduct task force. These efforts are in addition to annual workforce messages and employee training on topics including harassment and discrimination, whistleblower protections, and the NO FEAR Act.

The task force's findings were issued by the Agency's Office of the General Counsel, and are privileged. The Secretary considered those findings and issued a memorandum on August 18, 2022, directing the relevant DHS offices and components to implement a number of policy changes. A copy of that memorandum is enclosed. The Secretary's recommendations are being implemented according to a schedule that varies by office or agency.

Question#:	14
Topic:	Sexual Harassment Reports
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Although the DHS Inspector General conducted the work, have you conducted a sexual harassment survey of DHS employees since becoming aware of the troubling number of sexual harassment allegations at its components?

Response: It is the Secretary’s understanding that the DHS Inspector General has approved a project whereby the Office of Inspection and Evaluations will conduct a survey in FY 2023. Apart from the survey work performed by DHS OIG, a Department-wide sexual harassment survey has not been conducted. However, CRCL reports Department-wide statistics on sexual harassment complaints on a quarterly basis. Individual agencies and offices conduct surveys and climate studies on topics that can include employee perceptions of harassment, discrimination, and retaliation. Additionally, DHS participates in the Federal Employee Viewpoint Survey (FEVS). One of the questions on the FEVS asks whether the respondent “can disclose a suspected violation of any law, rule, or regulation without fear of reprisal.” Between 2011 and 2022, the percentage of positive responses to that question has increased from 56 percent to 63 percent.

Question: If so, what problems were identified and what have you done to address them? If not, why have you not conducted a sexual harassment survey given the troubling results of the 2018 survey?

Response: Please see the response to the previous question. The Department has zero tolerance for sexual harassment. DHS was taking proactive steps to address harassment before the IG completed its survey, and we will continue to work towards a workplace where every employee is treated with respect and can raise concerns without fear of reprisal.

Question#:	15
Topic:	Improper LWA Payments
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In September 2022, DHS's Office of Inspector General (OIG) reported that FEMA did not implement controls to prevent more than \$3.7 billion in improper payments from the Lost Wages Assistance (LWA) program in response to the COVID-19 pandemic.

Has the FEMA Administrator coordinated with state workforce agencies to evaluate the number of transactions and dollar amounts for fraudulent and improper payments made through the LWA program? If so, please discuss coordination and dollar amounts.

Please describe coordination, if any, between FEMA officials and state workforce agencies to recover fraudulent and improper payments from the LWA program.

Please provide dollar amounts and support for any monies to date that the FEMA administrator has de-obligated and recovered because they were made fraudulently or other improper payments made through LWA from state workforce agencies.

Please describe plans and actions that FEMA has taken to improve management of its federal assistance programs and reduce fraud risk in response to the IG's findings, including any other steps taken to address the report's recommendations.

Response: For Lost Wages Assistance (LWA) the DHS OIG concluded there was \$3.3 billion in potentially fraudulent payments, \$21.6 million in overpayments, and \$403 million in payments made without obtaining claimant's required self-certifications. Under the LWA grant awards, State Workforce Agencies (SWA) were required to: (1) identify and report the number and amount of overpayments as part of the grant closeout process; (2) describe their procedures used to waive improper payments as allowed under certain circumstances pursuant to Section 262 of the Continued Assistance for Unemployed Workers Act of 2020; and (3) repay FEMA for all identified improper payments not otherwise waived, to include all payments made due to fraud, whether they recover the funds or not from claimants.

SWAs must investigate and pursue the recovery of fraudulent and improper payments regardless of when they are identified, even if the grants are closed, and the requirement to reimburse FEMA for identified improper payments does not end.

Total amounts owed back to FEMA (whether due to overpayments, overdrawn funds, or cost share requirements) are currently being determined as FEMA reviews final reports and closeout documentation and works with SWAs to validate funds owed to FEMA. Once FEMA validates debt owed by an SWA, in accordance with FEMA directives and other relevant guidance and procedures, the debt is transferred to the FEMA Finance Center (FFC) for collection. The FFC

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Topic:	Improper LWA Payments
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then bills, monitors, collects, and, in conjunction with the Individual Assistance Division, tracks the debt.

SWAs may return funds to FEMA prior to debt referral to the FFC for collection. As of April 4, 2023, nearly \$165 million has been returned to FEMA.

Question#:	16
Topic:	GAO PA Grants Recommendation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: GAO's June 2022 Priority Open Recommendations letter to the Department of Homeland Security includes a 2020 recommendation for the Administrator of FEMA to designate one lead entity with responsibility for providing oversight of agency-wide efforts to manage fraud risks to Public Assistance (PA) emergency work grants, consistent with the leading practice. GAO states that fully implementing this recommendation would reduce fraud risk within these grants. As of January 2023, GAO reported that FEMA has not implemented this recommendation.

Please discuss plans, if any, to fully implement this recommendation.

Response: This question refers to GAO-20-604, "FEMA Should Take Additional Actions to Strengthen Fraud Risk Management for Public Assistance Emergency Work Grants", Recommendation 2: "The Administrator of FEMA should designate one entity as the lead entity with responsibility for providing oversight of agency-wide efforts to manage fraud risks to PA emergency work grants, including managing the fraud risk assessment process, consistent with leading practices." FEMA responded to this recommendation in the September 11, 2020, Management Response Letter and has maintained its position.

FEMA strongly believes that its multi-directorate approach provides a proactive and layered review process to manage fraud risk within the PA Program. For example:

- FEMA's PA program directly oversees emergency work grants and has policies and procedures in place to manage fraud risks;
- FEMA's Office of the Chief Financial Officer oversees FEMA's appropriate accounting policies;
- FEMA's Office of Chief Security Officer-Fraud Investigations & Inspections Division (OCSO-FIID) is responsible for reviewing allegations of fraud by grantees and investigating allegations of fraud by non-FEMA individuals. OCSO-FIID's Program Review and Inspection Branch is responsible for providing observation-based risk reviews agency-wide and validating that risk control measures are established and functional for program categories under review; and
- FEMA's OPR under the Office of the Administrator is responsible for investigating employee misconduct.

FEMA believes this division of responsibilities in managing fraud risks is consistent with sound accounting principles, and to combine all these functions into one office would potentially cause conflicts of interest in violation of best practices.

Question#:	16
Topic:	GAO PA Grants Recommendation
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Please discuss any other actions to reduce fraud risk within PA emergency work grants.

Response: As a part of the Corrective Action Plan for the GAO 20-604 audit, FEMA’s Office of the Chief Security Officer has recently completed review of PA Category A (Debris Removal) and is currently reviewing PA Category B (Emergency Protective Measures). The review is to ensure that regular fraud risk assessments of PA emergency work grants are done to determine a fraud risk profile that aligns with leading practices as provided in the Fraud Risk Framework.

FEMA has also updated key training and guidance documents for the PA grant program to ensure ease in reporting suspected fraud. PA recipients have also been directed to provide this guidance to subrecipients. FEMA has updated and distributed all relevant PA Position Assists and the “FEMA Fact Sheet: Managing Fraud Risks,” to include how and where to report suspected fraud. Additionally, FEMA will include information on how and where to report suspected fraud in the next version of the PA Program and Policy Guide.

FEMA has also updated an extensive list of trainings given by the FEMA Grant Programs Directorate’s Procurement Disaster Assistance Team and FEMA Recovery PA to include fraud reporting and prevention training guidance. FEMA is also currently working to implement program-specific antifraud training and guidance materials for PA staff who work directly with PA applicants on both Category A (Debris Removal) and Category B (Emergency Protective Measures) projects.

Question#:	17
Topic:	Disinformation Activities
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Even though you terminated the Disinformation Governance Board in August, it appears that the Department is continuing to aggressively pursue counter-disinformation activities.

Recent documents from the Cybersecurity and Infrastructure Security Agency say that it has a "burgeoning" counter-disinformation effort that includes "directly engaging with social media companies to flag MDM [misinformation, disinformation and mal-information]."

Department of Homeland Security officials also said that they intend to engage in these disinformation activities related to the 2022 midterms and the 2024 general election, and that in the coming years, the department plans to target "'inaccurate information' on a wide range of topics, including 'the origins of the Covid-19 pandemic and the efficacy of Covid-19 vaccines, racial justice, U.S. withdrawal from Afghanistan, and the nature of U.S. support to Ukraine.'"

Have you or staff ever communicated with a social media company to discuss content on its forum? If so, which social media companies and what was the topic?

Have you ever instructed a subordinate to communicate with a social media company to discuss content on its forum? If so, which social media companies and what was the topic?

Please describe the extent of the relationship between the Department of Homeland Security and the FBI's Foreign Influence Task Force to flag content for alleged disinformation, misinformation and mal-information.

Response: DHS is committed to conducting all activities, including those pertaining to disinformation, in a manner that complies with the law and protects individuals' privacy, civil rights, and civil liberties.

DHS is charged with safeguarding the United States against threats to its security. In recent years, many of those threats have been exacerbated by disinformation. As part of its mission, DHS has worked for many years across multiple administrations to address and mitigate different forms of disinformation that threaten the authorized missions of the Department.

Countering disinformation that threatens the homeland and providing the public with accurate information in response to such disinformation are critical to fulfilling DHS's congressionally mandated missions. On May 18, 2022, Secretary Mayorkas tasked the nonpartisan Homeland Security Advisory Council (HSAC) to stand up a subcommittee to conduct a thorough review and assessment of those efforts. The HSAC Subcommittee on Disinformation Best Practices and

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Topic:	Disinformation Activities
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Safeguards (the Subcommittee), led by former Secretary of Homeland Security Michael Chertoff and former Deputy Attorney General Jamie Gorelick, completed its work in late August 2022. On August 24, 2022, the HSAC deliberated and approved the Final Report in a public meeting. The Subcommittee concluded that disinformation threatens the homeland and that it is critical that the Department take steps to address this threat.

The Department uses the HSAC recommendations as a guide to address threat streams that undermine the security of our country, while promoting transparency in our work. With respect to disinformation, DHS does not compel or pressure social media companies to take action concerning specific posts or actors on social media—nor does it seek to obtain or exercise any new authorities to combat disinformation. Again, DHS remains committed to conducting all its activities, including those pertaining to disinformation, in a manner that complies with the law and protects individuals’ privacy, civil rights, and civil liberties.

DHS component agencies work diligently to mitigate the harms of disinformation in their respective mission areas. Examples of such efforts include working to combat human smuggling, protecting critical infrastructure, and responding to malign foreign influence efforts. In addition to engaging with state and local governments, the Department works with entities such as private critical infrastructure owners where appropriate.

Countering disinformation is an evolving, multifaceted and complex task that must constantly adapt to a shifting threat landscape across numerous mission areas and rapid developments in technology. Consequently, the Department is unable to provide an accurate accounting of all personnel who have ever engaged in countering disinformation.

Question#:	18
Topic:	Chinese Land Purchases
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: During the hearing, I asked whether the Department of Homeland Security (DHS) was working with the Department of Agriculture (USDA) and law enforcement entities to track suspicious farmland purchases by China and other foreign nations. You respond that DHS generally works within Committee on Foreign Investment in the United States (CFIUS) to track foreign investments. However, this answer is insufficient; the USDA and many law enforcement entities are not regular CFIUS members. So again, I ask for the record: how is Homeland Security working with the USDA and law enforcement entities to track these types of suspicious land purchases?

Response: Although the U.S. Department of Agriculture (USDA) is not a Committee on Foreign Investment in the United States (CFIUS) member agency, USDA is an integral participant in CFIUS cases implicating its equities or expertise, including foreign investment or real estate transactions implicating agriculture or food security. In such matters, USDA typically serves as a co-lead agency, assessing risk on behalf of the interagency just as any member agency co-lead would do. In such circumstances, DHS works with USDA along with the other CFIUS member agencies to determine whether a national security risk arises from such transactions, and if so, to negotiate or impose risk mitigation that is effective and enforceable. As part of this process, all DHS law enforcement agencies participate.

Congress, in passing the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), expanded CFIUS jurisdiction to include foreign real estate purchases near sensitive national security sites such as military bases or where such real estate is located within, or will function as part of, an air or maritime port. CFIUS jurisdiction is not tied to foreign purchases of farmland *per se*, but could include such transactions if there is the presence of a U.S. business or real estate that meets the aforementioned criteria. For transactions that may be covered transactions under CFIUS jurisdiction, including transactions involving farmland, where the parties choose not to voluntarily file for CFIUS review (non-notified transactions), the U.S. Department of the Treasury as CFIUS Chair runs a transaction identification process that leverages both classified and unclassified sources of information, including databases, tips from the public, congressional notifications, and referrals from other agencies, to identify transactions, involving countries of concern, including from the People’s Republic of China. CFIUS members agencies, including DHS, as well as USDA and law enforcement agencies such as the Federal Bureau of Investigation, participate in the non-notified process. For example, DHS has leveraged information from USCIS to run visa and passport information upon request to help identify the ultimate beneficial owners of transactions of interest.

Question#:	19
Topic:	Fentanyl Scheduling
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Fentanyl is responsible for most of the recent drug overdoses. Congress continues to extend the temporary controlled authority for all fentanyl analogues, but this will expire at the end of December. Please explain why permanently scheduling these drugs is a necessary step to combat overdose deaths, and the cartels.

Response: DHS believes that a permanent class-wide scheduling of fentanyl-related substances is necessary to combat overdose deaths and protect the health and safety of Americans. Permanent class-wide scheduling would deter cartels and traffickers from developing new deadly substances that aid in evading prosecution. Class-wide scheduling would allow law enforcement to respond to the illicit manufacturing, importation, and trafficking of fentanyl-related substances before they are distributed and before they can cause harm to Americans. The Administration shared a comprehensive proposal with Congress two years ago supporting Schedule I classification for all fentanyl-related substances along with other consensus recommendations developed jointly by the Office of National Drug Control Policy (ONDCP) and the U.S. Departments of Health and Human Services and Justice. DHS defers to the ONDCP, which can share further information on the Administration's position and address the complex issues surrounding scheduling of fentanyl-related substances.

DHS analysts assess that to circumvent detection and prosecution, TCOs utilize chemists to continually develop lethal fentanyl analogues and fentanyl-related substances using different precursors and pre-precursor chemicals, as well as new synthesis techniques. The ever-changing fentanyl analogues and fentanyl-related substances contain similar psychoactive effects and comparable toxicity levels of fentanyl that lead to the same potentially deadly reactions. The ability of TCOs to create new related substances by simply making small changes in the chemical composition and synthesis techniques makes it difficult for law enforcement and prosecutors to stay ahead of these changes and adapt if a schedule is too narrowly defined and does not allow for the identification and charging of substantially similar but chemically different analogues.

Question#:	20
Topic:	Cartel Presence
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Iowa Department of Public Safety (DPS) commissioner testified that states, like Iowa, are affected by the cartels. In 2020, Iowa DPS opened 13 cases with a direct evidentiary tie to Mexican cartels. In 2021, that jumped to 39 cases. In 2022-23, that number is expected to be even higher.

Based on DHS's most recent data, how many states do the cartels have a presence in?

Of the identified workers embedding in the states by the cartels, what percentage are entering illegally?

Response: HSI is the principal investigative arm of DHS and the primary federal law enforcement agency responsible for investigating drug seizures and other criminal activity occurring at POEs and other border entry points. Based on information from other agencies, open-source information, and internal holdings, HSI believes there is TCO-related activity in some form in all 50 states and Puerto Rico.

Question: Of the identified workers embedding in the states by the cartels, what percentage are entering illegally?

Response: HSI does not possess this data.

Question#:	21
Topic:	Violent Gangs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Iowan DPS Commissioner testified that the tie between violent crime and drug trafficking is significant. He said that 42 % of the murders that occurred in Des Moines, Iowa in the last 2 years had a tie to drug trafficking. The 2011 National Gang Threat Assessment found that gangs are responsible for an average of 48% of violent crime in most areas. What metrics can you provide showing how DHS is cracking down on these violent gangs?

Response: During FY 2022, the HSI National Gangs and Violent Crimes Unit (NGVCU) supported HSI field offices with gang-related Racketeer Influenced and Corrupt Organizations Act investigations and gang enforcement operations. This support has yielded 4,777 criminal gang arrests, 1,045 convictions, 482 indictments, 929 gang related investigative cases initiated, over 45.9 thousand pounds of illegal drugs seized to include cocaine, methamphetamine, fentanyl, and marijuana, and over 38,000 pounds of precursor chemicals.

To date in FY 2023, NGVCU has reported the following gang related statistics: 2,222 criminal arrests, 1,076 indictments, 351 convictions, and 504 gang related investigative cases. In addition, NGVCU supported gang enforcement operations resulting in the seizure of over 930 weapons, including one grenade, as well as over \$7 million in monetary instruments, and over 9,000 pounds of illegal drugs, including cocaine, methamphetamine, fentanyl, marijuana, and heroin.

Question#:	22
Topic:	Cyberattacks
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: According to a recent Gallup poll, cyberterrorism now ranks as a top critical threat to U.S. vital interests in the minds of a majority of Americans.

Is DHS ready for the next widespread cyberattack?

In the event of a major, widespread cyberattack, will DHS be able to quickly help rebound and restore normal operations for critical infrastructure?

Response: DHS, through CISA, plans for a coordinated public-private response to cyber incidents to minimize impacts and quickly recover. Through CISA’s work, the government, the private sector, and U.S. international partners have come together for the first time to develop joint cyber defense plans and enable real-time information sharing on issues like the U.S. response to Russia’s invasion of Ukraine, Log4Shell, and the Lapsus\$ hacking group.

In 2023, CISA is working on joint cyber defense plans that include collective cyber response. As part of this effort, CISA will lead an update of the National Cyber Incident Response Plan (NCIRP), in close coordination with interagency partners. The update will incorporate changes and lessons learned since the release of the 2016 NCIRP, articulating specific roles for non-federal entities in organizing and executing national incident response activities. This updated plan will better prepare our nation to withstand major cyber incidents.

Question#:	23
Topic:	Reporting Parole Data
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: DHS is of the opinion that they do not need to report data to Congress or the American public. However, there is statutory authority outlining that DHS is required to report all parole data. In fact, it is clearly laid out in the Joint Explanatory Statement that accompanied the Department of Homeland Security Appropriations Act of 2022. That Statement reads, at the top of page 8:

Parole Requests.-Beginning within 60 days, the Department shall provide quarterly reports on the number of parole requests received and granted, and for those granted, the rationale for each grant and its duration.

Do you agree that DHS is required by law to disclose complete parole data?

Will DHS commit to reporting all parole data as outlined by law?

Response: Yes, DHS is committed to providing this report to Congress. This report is being finalized, and will be provided to Congress in the coming months. The delay has been due to complex and extensive inter-agency work required to draft this report.

Question#:	24
Topic:	Paroled into the U.S.
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Immigration parole programs are an exercise of discretion by Homeland Security that allows people to enter the U.S. when they have no other legal option. It is clear over the past few years at least a few hundred thousand aliens have been paroled into the United States, perhaps it is millions -the American public just do not know because DHS does not report complete parole data to Congress or the public. How many people did DHS parole in the following programs since their inception:

The Ukraine parole program announced in 2022?

The Afghanistan parole program announced in 2021?

The Parole for Venezuela announced in 2022 and Cuba, Haiti and Nicaragua added in 2023?

Response: As of April 11, 2023, nearly one year since DHS launched the groundbreaking and life-saving process known as Uniting for Ukraine after Russia’s unprovoked invasion of Ukraine, DHS had paroled into the United States 124,477 Ukrainian nationals and their qualifying immediately family members.

Afghan evacuees paroled as a part of Operation Allies Welcome announced in 2021: 77,992 parolees received OAR (Operation Allies Refuge) parole. Data from CBP Office of Field Operations as of June 15, 2023. OAR/OAW did not begin until August 16, 2021 and the last OAR was processed on October 18, 2022.

The migration enforcement process announced for Venezuelan nationals and their immediate family members in October 2022 – which was later expanded to nationals of Cuba, Haiti, and Nicaragua in January 2023 – continues to yield significant results in reducing the number of encounters of these nationals along the Southwest Border. Through these efforts, which combine a safe and lawful pathway with a consequence for failing to use that pathway, DHS has paroled into the United States 34,395 Venezuelans; 17,782 Cubans; 21,760 Haitians; and 8,814 Nicaraguans as of April 11, 2023.

Question#:	25
Topic:	Parole Programs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The law requires that parole is to be made only on a case-by-case basis, but the programs mentioned above are very large, clearly defined groups of people who are to be paroled in under certain criteria outlined in the program created by DHS.

Do you see parole under these very large, clearly defined programs as complying with the case-by-case requirement in the law?

Response: The Immigration and Nationality Act provides the Secretary of Homeland Security with the discretionary authority to parole noncitizens “into the United States temporarily under such reasonable conditions as [the Secretary] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A). This translates to a requirement for an individual evaluation of each application for parole and an individualized determination to be made in each case. All parole adjudications made in the course of the parole processes described above meet these statutory requirements. Each request for parole through these processes are reviewed on a case-by-case basis, and a decision to grant or reject the discretionary request for parole is made on a case-by-case determination, taking into account the totality of the circumstances presented in each individual case.

Question#:	26
Topic:	Parole+ATD
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On March 8, a federal judge issued an order which stated "the Parole+ATD Policy is vacated under the APA, and that policy is remanded to DHS for further proceedings consistent with this Opinion and Order" because the policy "contravenes the INA." In other words, your policy of releasing the millions who attempt illegal entry is unlawful.

Has DHS stopped the practice of parole+ATD per this court order?

Has DHS stopped the practice of parole per this court order?

Response: Yes, CBP ceased the use of Parole+ATD (Alternatives to Detention) per the court order.

Question: Has DHS ever paroled without ATD aliens apprehended while trying to enter illegally?

Response: CBP has the authority (8 U.S.C. § 1182(d)(5)(A)) and ability to parole individuals and did so even prior to Parole+ATD. CBP paroles are always conducted on a case-by-case basis and for either urgent humanitarian reasons or significant public benefit.

Question#:	27
Topic:	Electronic Border Security Equipment Shut Off
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: We have heard concerning reports that many of the current electronic border security and surveillance detection equipment on/around the border are being purposely shut off or removed.

Can you explain why sensors and cameras on/around the border have been shut off?

Can you explain why sensors and cameras on/around the border have been removed?

Response: No sensors or cameras on or around the border have been shut off.

Question: Can you explain why the lighting along the border fence has been shut off?

Response: No lighting along the border has been shut off.

Question: Can you explain why pending projects to expand lighting at the border have been cancelled or delayed?

Response: Presidential Proclamation 10142 suspended all construction activities funded with DHS's FY 2017-2021 barrier appropriations. This included the installation of system elements (enforcement cameras, lighting and other detection technology) which are intended to complete the border barrier system and increase USBP's ability to secure the border through domain awareness of illegal cross-border activity. As announced on July 11, 2022, DHS is utilizing remaining prior year barrier funds to complete system attributes in locations where barrier was constructed but the planned system attributes were left incomplete at the time of the pause. Procurement actions are underway to support this work.

Question#:	28
Topic:	Gotaways
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: DHS reports that there have been over one million "known gotaways" at the Southwest Border since President Biden took office.

Do you have data that tracks how many gotaways have been caught and deported each year since FY 2020?

Response: DHS cannot speculate on the number of individuals removed that also were not apprehended by USBP. The Department can only track the number of gotaways encountered crossing the border. This numerical data is insufficient to allow the Department to track how many of these individuals were later encountered by ICE and removed from the United States.

Question: Most "known gotaways" are only "known" because of monitoring devices such as cameras on balloons and sensors at the Southwest border, but given that DHS has recently removed many of these sensors and cameras, how will DHS know how many gotaways there are in the future?

Response: DHS did not remove or shut off any cameras or sensors on or around the border.

Question: Is knowing the number of gotaways important data to have to measure DHS's border security effectiveness?

Response: It is important for USBP field commanders to have the number of gotaways to identify vulnerabilities and allocate resources accordingly. Gotaway data also provides critical situational awareness to USBP to assist in understanding and controlling the operational environment in any given sector.

Question: Did DHS remove these cameras and sensors so they would no longer have the embarrassing and tragic data on gotaways?

Response: DHS did not remove any cameras or sensors.

Question#:	29
Topic:	Credible Fear
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: DHS and the media refer to aliens encountered and released from the Southwest border as "asylum seekers".

Of the over one million aliens encountered and released into the United States in FY2022, how many had a finding of credible fear found by USCIS?

Response: Every noncitizen who arrives at the border and is processed by CBP is subject to security screening. Their biographic and biometric information is vetted across a suite of law enforcement and intelligence databases. Any noncitizen who poses a risk to national security or public safety is referred to ICE or other government agencies for detention and potential removal.

DHS may conditionally release from custody noncitizens who have been fully screened and vetted pending the outcome of their immigration court proceedings. This could include noncitizens who have been processed for expedited removal, appeared before a USCIS asylum officer and immigration judge, and determined to have a credible fear, or noncitizens who are otherwise placed in removal proceedings before an immigration judge. In FY 2022, USCIS completed 48,399 credible fear screenings for individuals in detention; of those, 28,182 positive credible fear determinations were made.

Noncitizens who are conditionally released are subject to reporting requirements, such as regular check ins with ICE, attendance at their immigration court proceedings, and keeping DHS apprised of their current residential address. In some cases, noncitizens are equipped with ATD technology (e.g., GPS monitoring device) prior to release. Although noncitizens generally have freedom of movement throughout the United States, noncitizens equipped with ATD technology may be subject to conditions requiring them to remain in a certain location. The ATD program allows ICE to track noncitizens while their immigration proceedings are pending; nearly 95 percent of noncitizens enrolled in an ATD program appear for their scheduled immigration court hearings as required.

Question#:	30
Topic:	Released Aliens
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Are the rest of the released aliens (i.e., those who do not have a USCIS-found claim of credible fear) "asylum seekers"?

Response: Noncitizens encountered by USBP are processed for expedited removal or placed into regular removal proceedings, as appropriate.

Question: How many were issued an NTA (Notice to Appear)?

Response: During FY 2022, CBP issued NTAs to 405,550 noncitizens.

Question: How many were issued an NTR (Notice to Report)?

Response: During FY 2022, no Notices to Report (NTRs) were issued.

Question: How many were not issued an NTA or an NTR?

Response: During FY 2022, a total of 500,498 noncitizens were released under a non-NTA and non-NTR dispositions/outcomes.

Question: Roughly, what percentage of those who have unlawfully entered or been released into the United States will DHS deport?

Response: Approximately, 55 percent of migrants encountered (those who unlawfully entered) were removed or expelled during FY 2022.

Question#:	31
Topic:	Automatically Extending TPS
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On November 16, 2022, DHS published a federal register notice "automatically extending" TPS for four countries: El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. However, DHS has not made a formal, legal finding to extend or re-designate TPS for these countries as required by law. Please explain the legal authority that allows you to "automatically extend" TPS for these countries in the absence of the statutorily required findings and process.

Response: The November 16, 2022, Federal Register notice *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal* (87 FR 68717) (FRN), did not automatically extend Temporary Protected Status (TPS) for four countries. Rather, the FRN provides that certain beneficiaries under the existing TPS designations of El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal retain their TPS pursuant to court orders related to pending litigation involving the TPS designations of these countries.³ As the FRN provides that these court orders require that beneficiaries retain their TPS while litigation is ongoing, it also provides for the automatic extension of the validity of TPS-related documentation, including Employment Authorization Documents, Notices of Action (Forms I-797), and Arrival/Departure Records (Forms I-94).

³TPS terminations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal were announced by DHS during 2017 to 2018. Lawsuits challenging the terminations were filed in the U.S. District Court for the Northern District of California in *Ramos v. Nielsen*, 326 F. Supp. 3d 1075 (N.D. Cal. 2018), and *Bhattarai v. Nielsen*, No. 19-cv-00731 (N.D. Cal. Mar. 12, 2019), and in the U.S. District Court for the Eastern District of New York in *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019). DHS has taken actions to ensure its continued compliance with court orders related to these cases by publishing periodic notices to continue TPS and extend the validity of TPS-related documentation previously issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal (83 FR 54764 (Oct. 31, 2018); 84 FR 7103 (Mar. 1, 2019); 84 FR 20647 (May 10, 2019) (correction notice issued at 84 FR 23578 (May 22, 2019)); 84 FR 59403 (Nov. 4, 2019); 85 FR 79208 (Dec. 9, 2020); 86 FR 50725 (Sept. 10, 2021) (correction notice issued at 86 FR 52694 (Sept. 22, 2021)). The most recent such notice at 87 FR 68717 (Nov. 16, 2022), continued TPS and extended the TPS-related documents specified in the notice through June 30, 2024.

Question#:	32
Topic:	Secure Border
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What does a secure border look like to you as Secretary of Homeland Security?

What does a secure border look like to DHS? How has this view changed or shifted over the last five years?

Response: Congress defined operational control in the Secure Fence Act of 2006 as “In this section, the term ‘operational control’ means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.” Considering the statutory definition, if one person successfully evades law enforcement at the border, then the border is not secure. According to this definition, no administration has ever maintained operational control of the border. DHS will continue to do everything that we can to support our personnel with the resources, technology, and policies that advance the security of the border, and do not come at the cost of the values of our country.

The Biden-Harris Administration has repeatedly called upon Congress to pass comprehensive and bipartisan legislation to fix our immigration system, which has been broken for decades.

Question#:	33
Topic:	Minimize Incentives
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On his first day in office, President Biden announced a bill that would grant permanent status and then citizenship to any alien present in the United States by a given date, regardless of whether they entered legally or illegally. Many experts, as well as just common sense, relay that such proposed bills create a "pull factor" that acts as an incentive for people to make the dangerous journey to enter the United States illegally. Isn't it the job of the Secretary of Homeland Security to identify and minimize incentives and pull factors that encourage illegal immigration?

Response: President Biden sent the U.S. Citizenship Act of 2021 to Congress on day one of his Administration to restore humanity and American values to our immigration system. The bill would provide hardworking people who enrich our communities every day and who have lived here for years, in some cases for decades, an opportunity to earn citizenship. It would also modernize our immigration system and prioritize keeping families together, growing our economy, responsibly managing the border with smart investments, addressing the root causes of migration from Central America, and ensuring that the United States remains a refuge for those fleeing persecution. The bill would also create an earned path to citizenship for our immigrant neighbors, colleagues, parishioners, community leaders, friends, and loved ones—including Dreamers and the essential workers who have risked their lives to serve and protect American communities.

The Secretary once again calls upon Congress to follow President Biden's example and help the Department by passing comprehensive legislation to fix our broken immigration system.

Question#:	6
Topic:	Parole Authority
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: By my count, you have created at least 13 parole programs since you assumed the position of Secretary. What statute gives you the authority to give broad, categorical grants of parole to entire classes of people?

Can you please describe with specificity what "urgent" humanitarian reason or "significant public benefit" justifies this blanket use of parole in each program?

Response: Section 212(d)(5)(A) of the INA provides the Secretary of Homeland Security with the discretionary authority to parole noncitizens “into the United States temporarily under such reasonable conditions as [the Secretary] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” All existing parole processes have been established based on the authority granted to the Secretary under the INA, and are administered consistent with statutory requirements, including the requirement that parole may be granted only on a case-by-case basis. As such, DHS does not provide broad categorical grants of parole to entire classes of people; rather, DHS evaluates each individual uniquely to ensure they meet the requirements, including passing screening and vetting, for a grant of discretionary parole . Specific reasons and justification for each process are outlined in the Federal Register Notices implementing these processes.

Question#:	7
Topic:	Parole Given
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How many individuals have received some form of parole since January 2021?

Response: Please see the below charts.

U.S. Immigration and Customs Enforcement (ICE) Final Releases from January 1, 2021 through April, 15, 2023 by Paroled Release Reasons

Release Reason	Fiscal Year (FY)			Total
	2021	2022	2023	
Total	35,826	79,307	49,246	164,379
Paroled	28,352	66,064	37,591	132,007
Paroled – After CF positive determination made	2,459	4,208	7,105	13,772
Paroled - Humanitarian	5,015	9,035	4,550	18,600

U.S. Border Patrol (USBP) Nationwide Parole* Apprehensions January 1, 2021 - April 15, 2023

Data includes deportable migrants only

Data Source: Enforcement Integrated Database (Unofficial) FY 2021 – FY 2022 as of End of Year Dates; FY 2023 year-to-date (YTD) as of April 15, 2023

FY	Parole APPs
FY 2021	35,468
FY 2022	378,235

Question#:	7
Topic:	Parole Given
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

FY 2023 YTD	294,905
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*Paroles include apprehensions with disposition of P.¹

For U.S. Customs and Border Protection (CBP) Office of Field Operations, please see attached Excel chart.

Question: How many of those grants of parole were given under a specific parole program created by this administration?

Response: Since January 2021, ICE released certain individuals in ICE custody pursuant to parole in accordance with INA § 212(d)(5)(A) and 8 C.F.R. § 212.5. Such parole releases were not conducted as part of specific parole process. Parole is an administrative measure used by ICE to temporarily authorize the release from immigration detention of a noncitizen. ICE only grants parole if it determines that there are urgent humanitarian reasons or a significant public benefit, and that the person merits a favorable exercise of discretion. Such individuals include, but are not limited to, noncitizens with serious medical conditions, pregnant women, certain juveniles, noncitizens who will be witnesses in judicial, administrative, or legislative proceedings in the United States, and those whose continued detention is not in the public interest.

During FY 2022, the USBP utilized Parole Plus Alternatives to Detention (Parole + ATD), on a case-by-case basis, as a necessary tool for decompressing overcrowded USBP facilities. USBP facilities over capacity present health, safety, and security risks to the workforce and individuals in detention, further straining USBP resources. To maintain secure, safe, and humane facilities, USBP utilized its parole authority to release noncitizens on a case-by-case basis for urgent humanitarian reasons. See USBP table above for parole statistics. On March 8, 2023, in *Florida v. United States*, the U.S. District Court for the Northern District of Florida vacated the July 2022 joint CBP and ICE memorandum entitled *Policy on the Use of Parole Plus Alternatives to Detention to Decompress Border Locations* (Parole + ATD Memo). As such, DHS may no longer rely on the Parole + ATD Memo when issuing paroles under INA § 212(d)(5)(A).

Additionally, as of April 15, 2023, CBP paroled into the United States, on a case-by-case basis, more than 125,000 Ukrainians and qualifying immediate family members under Uniting for Ukraine. As of April 15, 2023, under CHNV Parole processes, CBP paroled into the United

¹ The designation “P” represents the marker in the data system that indicates that at the end of USBP’s custodial responsibility, the individual's disposition was “Parole”.

Question#:	7
Topic:	Parole Given
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

States, on a case-by-case basis, more than 87,000 CHNV nationals and their qualifying immediate family members.

The data below represents OFO only Parole Counts. The Border Patrol or CBP Stats may need to be consulted for additional information on non-OFO Paroles. The data below mimics the ICE table presented in the QFR and represents January 1, 2021 through April 4, 2023

OFO Only Parole Counts and Parole Categories	FY 2021 (From 1/1/2021)	FY 2022	FY 2023 (Through 4/15/2023)	Total
Total	21,942	129,381	175,480	326,803
PAROLED-(CAM)-CENTRAL AMERICAN MINORS REFUGEE AND PAROLE PROGRAM		174	162	336
PAROLED-(CFR)-CUBAN FAMILY REUNIFICATION PAROLE (USCIS)		3	428	431
PAROLED-(CH)-ADVANCE HUMANITARIAN	286	475	430	1,191
PAROLED-(CHP)-CUBAN HUMANITARIAN PAROLE			19,424	19,424
PAROLED-(CMP)-CUBAN MEDICAL PROFESSIONAL PAROLE (USCIS)		1	1	2
PAROLED-(CP3)-CUBAN REUNI PAROLE REQ AT DV/IV INTERVIEW NOT ON FAM-BASED PET AS BENEFICIARY (USCIS)			5	5
PAROLED-(CP)-PUBLIC INTEREST	2,248	2,023	921	5,192
PAROLED-(DA)-ADVANCE PAROLE	1,407	3,072	3,091	7,570
PAROLED-(DE)-DEFERRED INSPECTION	31	149	488	668
PAROLED-(DT)-PORT OF ENTRY	17,154	60,113	19,111	96,378
PAROLED-(HHP)-HAITIAN HUMANITARIAN PAROLE			22,977	22,977
PAROLED-(HP)-HAITIAN FAMILY REUNIFICATION		1	3	4
PAROLED-(NHP)-NICARAGUAN HUMANITARIAN PAROLE			9,703	9,703
PAROLED-(OAR)-OPERATION ALLIES REFUGE PAROLE	797	474	21	1,292
PAROLED-(OP)-OVERSEAS OR SUBOFFICE AUTHORIZATION			5	5
PAROLED-(PAR)-USCIS HAB/DOS ISSUES FOIL (PARCIS) RECOM CBP PAROLE	15	48	61	124
PAROLED-(PFR)-USCIS FAMILY REUNIFICATION TASKFORCE PAROLE	4	54	61	119
PAROLED-(RP)-FILIPINO WORLD WAR II VETERANS PAROLE (USCIS)		2	18	20
PAROLED-(SBP)-SIGNIFICANT PUBLIC BENEFIT (SILENT) PAROLE SUBCLASS OF "CP" PAROLE WHERE I94 NOT AVLBL		4	230	234
PAROLED-(UHP)-UKRAINIAN HUMANITARIAN PAROLE / UNITING FOR UKRAINE		62,788	62,740	125,528
PAROLED-(VHP)-VENEZUELAN HUMANITARIAN PAROLE			35,600	35,600

Question#:	8
Topic:	Definition of Operational Control
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Since you have taken the position of DHS Secretary, despite the ever-increasing chaos at the border, you have repeatedly stated that you have operational control of the border. "Operational control" of the border is defined by statute. What is the statutory definition of "operational control"?

For the first time, during the March 2023 DHS Oversight hearing, you offered your own made-up definition of "operational control". What statute gives you the authority to redefine statutory terms of art?

Response: Congress defined operational control in the Secure Fence Act of 2006 as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.” Considering the statutory definition, if one person successfully evades law enforcement at the border, then the border is not secure. According to this definition, no administration has ever maintained operational control of the border.

The Department is maximizing use of available resources to effectively operate within our broken immigration system. DHS is leading a whole-of-government approach in surging resources to include personnel, transportation, medical support, and facilities to support border operations. In addition, DHS is increasing local coordination between state and local officials, as well as bolstering the capacity of non-governmental organizations to receive noncitizens after they have been processed by CBP and are awaiting the results of their immigration removal proceedings. Further, DHS is increasing CBP processing efficiency and moving with deliberate speed to mitigate potential overcrowding at Border Patrol stations to alleviate the burden on the surrounding border communities and administering consequences for unlawful entry, including removal, detention, and prosecution.

We work hard every day to maintain and improve our operational control. The resources we have surged and the technology we are bringing to bear are designed to do so and to lighten the heavy load that the brave men and women of the Border Patrol carry.

Question#:	9
Topic:	Credible Fear Standard
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Your newly minted definition of the term "operational control" of the border is "maximizing the resources we have to deliver the most effective response." Even by your made-up definition, you do not have operational control of the border.

Can you please clearly explain how relaxing the credible fear standard for asylum applicants such that more applicants remain in the country longer-years longer than they should-"maximize[es] the resources" DHS has been given?

Response: DHS applies the credible fear standard as outlined in the INA. In section 235(b)(1)(B)(v) of the INA, a credible fear of persecution is defined as a "significant possibility" that the noncitizen could establish eligibility for asylum. All noncitizens seeking asylum are subject to the same credible fear standard based on this statutory definition.

DHS and the U.S. Department of Justice (DOJ) jointly issued the Circumvention of Lawful Pathways Rule on May 11, 2023. This rule imposes conditions on asylum eligibility for noncitizens who fail to use lawful pathways to enter the United States. Under this rule, if an asylum officer determines that the noncitizen is subject to and has not made a sufficient showing of being excepted from or rebutting the presumption of asylum ineligibility, the asylum officer's screening would be limited to determining whether the noncitizen has demonstrated a reasonable possibility, a higher standard than credible fear's significant possibility standard, of persecution or torture in the designated country of removal. If a reasonable possibility of persecution or torture is established, the noncitizen will be issued a notice to appear for removal proceedings before an immigration judge.

Question#:	10
Topic:	Rerouting Funding
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Can you please clearly explain how rerouting funding that should be going to build border walls to prevent unlawful entries maximizes the resources you have been given to effectively control illegal crossings?

Response: CBP uses a comprehensive approach to border security that leverages local, state, and federal law enforcement partners and use of technology, infrastructure, and enforcement personnel to secure the Southwest border, and has made significant investments in all aspects of our border security approach.

On his first day in office, President Biden signed a proclamation to effect a reassessment of federal policy with respect to the construction of a barrier along the Southwest border. See Proclamation 10142, 86 Federal Register 7225 (January 20, 2021). Among other things, the proclamation ordered a pause in ongoing border barrier construction activities to the extent permitted by law and ordered DHS and DoD to develop plans for the “redirection of funds concerning the Southwest border wall, as appropriate and consistent with applicable law.”

On June 9, 2021, DoD and DHS announced their respective border wall plans. DoD canceled all border wall projects that it had undertaken pursuant to 10 U.S.C. § 284 and 10 U.S.C. § 2808 and announced a plan for the redirection of unobligated DoD funds that had been designated for border barrier construction.

The DHS Plan (the Plan) focuses on the use of funds that Congress appropriated to CBP between FYs 2017 – 2021 for barrier system construction. Among other things, it allows for prioritization of discrete projects that are required to address life, safety, environmental, and other remediation requirements related to incomplete construction and to using prior-year barrier system appropriations to remediate the former DoD barrier project sites. DHS announced an amendment to the Plan on July 11, 2022. The amendment allows for additional uses of prior-year barrier system funding so that CBP can continue to prioritize environmental remediation and mitigation.

CBP is executing FY 2017 – 2021 barrier appropriations in accordance with the DHS Plan for Use of Border Barrier Funds pursuant to Presidential Proclamation 10142, as amended by the Amendment to the Plan dated July 11, 2022.

To date, DHS has approved more than \$2.5 billion in awarded and planned projects. These projects are currently in various stages of completion. This includes 129 gate and gap locations along with the completion of make-safe / remediation activities and the installation of system attributes. Of which 68 gates and gaps have been completed; and 50 gates and gaps are in the

Question#:	10
Topic:	Rerouting Funding
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

process of being executed. CBP estimates a total of 118 gates and gaps will be completed by the end of FY 2023.

Question#:	11
Topic:	Operational Control
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: The statutory definition of "operational control of the border" is defined in the Secure Fence Act of 2006 and requires "the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband." Does the Department of Homeland Security currently have operational control of the border? Please answer with yes or no and explain your answer.

Response: Congress defined operational control in the Secure Fence Act of 2006 as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.” Considering the statutory definition, if one person successfully evades law enforcement at the border, then the border is not secure. According to this definition, no administration has ever maintained operational control of the border.

The Department is maximizing use of available resources to effectively operate within our broken immigration system. DHS is leading a whole-of-government approach in surging resources to include personnel, transportation, medical support, and facilities to support border operations. In addition, DHS is increasing local coordination between state and local officials, as well as bolstering the capacity of non-governmental organizations to receive noncitizens after they have been processed by CBP and are awaiting the results of their immigration removal proceedings. Further, DHS is increasing CBP processing efficiency and moving with deliberate speed to mitigate potential overcrowding at Border Patrol stations to alleviate the burden on the surrounding border communities and administering consequences for unlawful entry, including removal, detention, and prosecution.

We work hard every day to maintain and improve our operational control. The resources we have surged and the technology we are bringing to bear are designed to do so and to lighten the heavy load that the brave men and women of the Border Patrol carry.

Question#:	12
Topic:	Outside Entries
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How many unlawful aliens entered our country outside a port of entry during fiscal year 2022?

Response:

FY	USBP Nationwide
FY2022	2,214,652

Question: How many so far in fiscal year 2023?

Response:

FY	USBP Nationwide
FY2023TD - March 28, 2023	1,051,114

Question#:	13
Topic:	Known Terrorists Encountered
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How many known terrorists were encountered at our borders during fiscal year 2022?

Response: In a commitment to transparency and openness with Congress and the American public, DHS provides monthly updates regarding encounters at our borders of individuals with connections to terrorism. This data can be found at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> under Terrorist Screening Data Set Encounters.

These numbers reflect individuals with terrorism-related records who have been identified through TECS, the principal records database used by CBP to assist with screening and admissibility determinations.

DHS works closely with our interagency and international partners to detect and prevent people who pose national security or public safety risks from entering the United States, often receiving intelligence before they attempt to enter the United States. For example, CBP inspects every individual encountered, and if an individual is determined to pose a potential threat to national security or public safety, we either deny admission, detain, remove, or refer them to other federal agencies for further vetting and prosecution as appropriate. Encounters of known or suspected terrorists attempting to cross the Southern Border are uncommon. These encounters represent significantly less than 0.01 percent of total encounters per fiscal year in recent years. And these encounters may include individuals who are not known or suspected terrorists, such as encounters with family members of a KST.

Question: What about thus far this fiscal year?

Response: The most up-to-date information is updated monthly and is available on CBP's website.

Question#:	14
Topic:	Chinese Nationals
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How many Chinese nationals were arrested along our Southwest border during fiscal year 2022?

Response: In FY 2022, CBP apprehended and/or encountered 2,176 Chinese nationals along the Southwest border.

Question: What about thus far this fiscal year?

Response: In FY 2023 (through March 28, 2023), CBP encountered 6,165 Chinese nationals along the Southwest border. While encounters of Chinese nationals along the Southwest border remain higher than FY 2022, they have decreased [since when?]. This movement is consistent with regional migration trends, influenced by the fallout of the COVID-19 pandemic, authoritarian regimes, climate change and economic hardship.

Question: Where are they now?

Response: DHS enforces the nation's laws at the border, irrespective of nationality. Chinese nationals encountered at the Southwest border are processed under longstanding Title 8 immigration authorities, the same as other noncitizens. Noncitizens encountered at the Southwest border are screened and vetted. Noncitizens who pose a risk to public safety or national security are detained and generally referred to ICE for a custody determination. Interior enforcement under the Biden administration continues to focus on individuals who present a serious public safety concern. ICE notes that as of April 27, 2023, there were 126 Chinese nationals in ICE detention and 3,390 enrolled in an ATD program, which includes periodic check-in with ICE officers.

Question#:	15
Topic:	Doing Your Job
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: An estimated 196 Americans are dying each day from fentanyl-as the Washington Post pointed out-that is the equivalent of a fully loaded Boeing 757-200 crashing and killing everyone on board every day. Would you be doing your job if a Boeing 757-200 crashed everyday under your watch?

Response: The global environment of drug production and trafficking is the most complex the United States has ever faced. This environment requires the United States to adopt a holistic strategy to halt the rising toll of this epidemic on Americans and warrants a consistent message about this plan from our government’s senior leadership to international partners, Members of Congress, and the American people.

DHS utilizes a comprehensive and multi-layered approach to countering the illicit flow of narcotics, including supporting a range of national and departmental strategies. These strategies outline a deliberate effort to commercially disrupt the global illicit fentanyl production and the trafficking supply chain. By focusing on commercial disruption, we intend to halt the flow of fentanyl and other synthetic opioids and their precursors and save lives.

DHS has identified counter fentanyl efforts as a priority, calling for strengthening intelligence collection and enforcement efforts, in coordination with the interagency, against transnational criminal organizations, with a particular focus on fentanyl and other narcotics trafficking.

Targeting the fentanyl and methamphetamine precursor chemical supply chain is an integral element of DHS’s approach to stopping the production of illicit drugs. These precursors serve as the fuel the cartels need to manufacture their deadly drugs destined for American cities and streets. Blending interagency and foreign collaboration, industry partnerships, financial data, and information technology tools, DHS identifies, targets, and interdicts precursor chemical shipments destined for Mexican cartels.

In our current efforts to address this opioid crisis, DHS is focusing on disrupting the supply chain: tackling the manufacturing and distribution of fentanyl. We will do this by:

- Denying illicit fentanyl producers’ access to the precursor chemicals used in fentanyl production, including unregulated and dual-use chemicals that can be used to create immediate precursors.
- Denying illicit fentanyl producers’ access to the pill presses, die molds, encapsulating machines, and spare parts used to transform powder fentanyl into pills. In those cases

Question#:	15
Topic:	Doing Your Job
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
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where denial of access is not possible, implement tracking measures so the activities of actors in the supply chain can be revealed.

- Disrupting illicit fentanyl producers' ability to move raw materials, manufacturing machinery, and finished fentanyl by developing greater visibility and exerting greater control over the illicit exploitation of commercial air and maritime shipping, including mail and express consignment.
- Disrupting the flow of financial benefits and operating capital to individuals and groups involved in facilitating the production and trafficking of illicit fentanyl.

Addressing illicit fentanyl in the context of the ongoing opioid crisis in the United States is a domestic and foreign policy priority for this Administration. The U.S Government cannot wholly prevent criminal activity, including fentanyl smuggling, by itself.

DHS will leverage our bilateral and multilateral partnerships to disrupt and deter foreign-sourced fentanyl and related precursor chemicals from crossing our borders. Through venues like the North American Drug Dialogue, the U.S. Canada Joint Opioids Action Plan, the United Nations Commission on Narcotic Drugs, and a variety of country-specific working groups, we will continue to pursue best practices essential to effectively deter the diversion of chemicals used to manufacture fentanyl, methamphetamine, and other illicit synthetic drugs.

Question#:	16
Topic:	Carrying Drugs
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: The Department of Justice reported, "Mexican transnational criminal organizations continue to supply most of the cocaine, methamphetamine, heroin, and fentanyl smuggled into the [United States]." A week or so ago, the Associate Press reported, "there is little debate among the U.S. and even Mexican officials that almost all of the fentanyl consumed in the United States is produced and processed in Mexico."

And yet, you stated in February that it was "unequivocally false that fentanyl is being brought to the United States by non-citizens encountered in between the ports of entry who are making claims of credible fear and seeking asylum." In fact, you asserted, "The vast, vast majority is sought to be smuggled through the ports of entry and tractor-trailer trucks and passenger vehicles."

How can you make this claim knowing that in fiscal 2022, there were 599,000 known gotaways and so far in this fiscal year there have been 385,000 additional known gotaways?

Response: CBP seeks to prevent drug trafficking through POEs, which is where most synthetic drugs enter the United States. Recent DHS Office of Intelligence and Analysis (I&A) reporting indicates that Mexico-based drug traffickers involved in both drug and human smuggling rarely exploit migrants to smuggle fentanyl into the United States. Analysts continue to assess that the vast majority of fentanyl that enters the United States moves through U.S. POEs, and CBP data indicates that U.S. citizens were responsible for transporting the fentanyl seized in 77 percent of seizures in FY 2023 to March 28, 2023. Personal vehicles remain, by volume, the primary method of conveyance for illicit drugs entering the country over land, with notable increases within commercial truck conveyances for methamphetamine. The non-intrusive inspection (NII) Systems Program provides technologies to inspect and screen cars, trucks, railcars, sea containers, as well as personal luggage, packages, parcels, and flat mail through either X-ray or gamma-ray imaging systems. CBP officers use NII systems to detect anomalies effectively and efficiently in an effort to prevent contraband, including drugs, unreported currency, guns, ammunition, and other illegal merchandise, as well as inadmissible persons, from being smuggled into the United States, while having a minimal impact on the flow of legitimate travel and commerce.

Homeland Security Investigations (HSI) and CBP work together to identify and investigate drug smuggling organizations attempting to introduce illicit contraband into the United States, and to seize such contraband. HSI's ability to conduct complex large-scale investigations represents one of the Department's best weapons for dismantling transnational criminal organizations (TCOs) in a manner not possible solely through border interdiction efforts.

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While much attention is rightly given to the smuggling of narcotics across the Southwest border, TCOs also use other methods to introduce deadly drugs into our communities. Illicit drugs continue to flow into the United States via international airports located throughout the United States. In addition to the use of drug couriers, TCOs continue to smuggle illicit narcotics destined for American communities concealed within express consignment and other parcels. In response, HSI expanded Border Enforcement Security Task Force (BEST) units at international mail facilities (IMFs), express consignment hubs, and international airports acting as IMFs as part of HSI's targeted response to the opioid crisis. IMFs and express consignment environments are a particularly significant avenue for the smuggling and transshipment of fentanyl, opioids, and other illicit narcotics. The placement of BEST units at IMFs enables the immediate application of investigative techniques on seized parcels, which aid in establishing the probable cause needed to effect enforcement actions in the United States and elsewhere on individuals associated with fentanyl and opioid-laden parcels.

Question: How can you be sure that unapprehended border crossers are not carrying drugs?

Response: While there can never be absolute certainty without apprehension, the data and extensive experience of CBP strongly support the conclusion that the vast majority of fentanyl is brought in through the POEs.

Question#:	17
Topic:	Drug Smuggling
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: We all acknowledge that the fentanyl coming into this country is coming across our southern border. It is killing close to 200 people a day. And you tell us it is all coming through the ports of entry and not between them. So, am I to understand that we lack sufficient procedures or technology to find "the vast, vast majority" of the fentanyl that is "sought to be smuggled" in "tractor-trailer trucks and passenger vehicles"?

Response: Shifting trends and sophisticated TCO tactics mean that now, more than ever, efforts to counter TCO activity require coordination and cooperation across the law enforcement community. CBP's Office of Field Operations (OFO) leverages collaboration with our federal, state, local, Tribal, and international partners to address drug trafficking and other transnational threats at POEs and in the mail and express consignment environments. This includes working closely with the Office of National Drug Control Policy High Intensity Drug Trafficking Area program and continuous work with other laboratories and the medical community, including coroners and medical examiners, to identify emerging drug threats.

From the start of FY 2023 to March 28, 2023, CBP seized more than four times the amount of fentanyl (19,663 lbs.) than in FY 2020 (4,558 lbs.). On average, 85 percent of fentanyl seized on the Southwest border is seized by OFO at POEs. For example, of the 14,104 pounds of fentanyl seized on the Southwest border in FY 2022, 11,904 pounds were seized by OFO, as compared to 2,200 pounds by USBP.

The fact that most interdictions occur at the POEs shows that CBP is increasingly successful at interdicting fentanyl through its combination of sophisticated targeting, NII technology, and specially trained canines.

Question: Is DHS failing to find the vast majority of these drugs even when they are smuggled through ports of entry? If that is the case, what are you doing to fix the problem?

Response: TCOs increasingly demonstrate the ability to modify synthetic drugs, making detection and identification difficult. They also continually adjust their operations to circumvent detection and interdiction by law enforcement by shifting to transportation of smaller quantities of drugs and by improving concealment techniques.

Because there is no single tool or capability that can detect all suspected threats in all situations and environments, OFO uses a multifaceted approach that combines advanced detection capabilities, such as specialized canines and non-intrusive inspection technology; laboratory testing and scientific analysis; domestic and foreign partnerships; and intelligence and information sharing. Most importantly, we have dedicated, highly trained officers and

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intelligence research specialists whose experience and expertise are an essential component of all of CBP's efforts to combat transnational threats and prevent the entry of illegal drugs into U.S. communities.

- CBP utilizes large-scale and small-scale NII X-ray and gamma-ray imaging systems to detect the presence of illicit substances, including synthetic drugs, hidden within passenger belongings, cargo containers, commercial trucks, rail cars, privately owned vehicles, as well as express consignment and international mail parcels, thereby increasing the probability of interdiction.
- Canine operations are an invaluable component of CBP's counternarcotic operations. CBP officers utilize specially trained canines for the interdiction of narcotics, firearms, and undeclared currency, as well as in support of specialized programs aimed at combating terrorism and countering human trafficking. The first classes of handlers and dogs trained to detect fentanyl graduated in December 2017 from CBP's canine training centers in Front Royal, Virginia, and El Paso, Texas. Today, all OFO Concealed Human and Narcotic Detection canine teams have completed training, to include the odor of fentanyl and fentanyl analogues. With 17 additional teams added in FY 2022 and 59 new Concealed Human/Narcotic teams in FY 2023, the CBP Canine Training Program maintains the largest and most diverse law enforcement canine training program in the country.
- CBP employs sophisticated targeting using advance electronic shipping information, actionable intelligence, and information sharing partnerships which are critical components of CBP's ability to quickly identify, target, and deter the entry of narcotics, including precursor chemicals used to produce synthetic opioids such as fentanyl and methamphetamine.

Recently, all the multilayered enforcement procedures applied by CBP at the POEs produced the largest interdiction of fentanyl in CBP history. On April 17, 2023, CBP officers at the Otay Mesa, California, POE seized 352 kilograms (776.03 pounds) of fentanyl concealed within a shipment of fresh green beans within a commercial box truck destined for Los Angeles. The shipment was targeted by CBP officers for examination prior to its arrival based upon targeting and analysis. Upon arrival, an NII X-ray scan revealed anomalies within the shipment and a CBP canine alerted to a trained odor. A physical examination by CBP officers led to the discovery of 308 packages of fentanyl commingled within the boxes of green beans.

On March 13, 2023, CBP initiated Operation Blue Lotus, an enforcement operation utilizing focused and enhanced analytics and intelligence developed through port enforcement actions designed to disrupt fentanyl trafficking. This operation, led by the OFO in collaboration with the USBP, HSI, and other federal/state partners identified new targets and encouraged robust

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information and intelligence sharing to drive both U.S. and Mexican enforcement operations on the Southwest border. Operation Blue Lotus and its U.S. Border Patrol counterpart, Operation Four Horsemen, were executed in a phased approach utilizing local field assets augmented by national resources. Operation Blue Lotus and Four Horsemen stopped nearly 10,000 pounds of fentanyl during their two-month run and led to 284 arrests.

Question#:	18
Topic:	Right to Asylum
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Does anyone have a right to asylum? If there is a right to asylum, where is the grant of that right found in statute?

Response: As a general matter, under section 208(a)(1) of the INA, any noncitizen who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of their status, may apply for asylum. We continue to call on Congress to work in a bipartisan manner to fix our broken and long-outdated immigration and asylum system. In the meantime, DHS will continue to operate within its authorities to implement a humane, lawful, and immigration system that aligns with our values as a nation.

Under section 208 of the INA, DHS has the authority to grant asylum to noncitizens, who have applied for asylum in accordance with the requirements in section 208 of the INA and implementing regulations, who meet the definition of a refugee as described in INA section 101(a)(42), and who are not subject to bars to asylum. Because asylum is a discretionary benefit, DHS is not required to grant asylum to a noncitizen, even if the non-citizen meets the definition of a refugee and is otherwise eligible for asylum. *See* 8 C.F.R. § 208.13(b)(1)(i); *Matter of Pula*, 19 I&N Dec. 467, 471 (BIA 1987). In exercising this discretion, the adjudicator must weigh the positive and negative discretionary factors and may deny asylum or refer the applicant to immigration court in the exercise of discretion based on a determination that the negative factors outweigh the positive factors in the totality of the circumstances.

While the grant of asylum is discretionary, the United States must comply with its non-refoulement obligations under Article 33 of the United Nations Refugee Protocol through the statutory withholding of removal provision in section 241(b)(3) of the INA, which provides that a noncitizen may not be removed to a country where their life or freedom would be threatened on account of one of the protected grounds listed in Article 33 of the Refugee Convention. The United States has also implemented its non-refoulement obligations through regulations implementing the Convention Against Torture at 8 C.F.R. 208.16(c), 208.17, 208.18, 1208.16(c), 1208.17, and 1208.18. Immigration judges, rather than USCIS asylum officers, have the authority to grant withholding of removal in immigration court. DHS is committed to following and implementing all laws and regulations relating to asylum.

Question#:	19
Topic:	Deny Asylum
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Is a grant of asylum to those who meet the requirements fully in the discretion of the Secretary?

Response: A grant of asylum to eligible noncitizens whose asylum applications fall within the jurisdiction of DHS is fully in the discretion of the Secretary. *See* INA § 208(b)(1) (“The Secretary of Homeland Security...*may* grant asylum to [a noncitizen] who has applied for asylum in accordance with the requirements and procedures established by the Secretary of Homeland Security ...” [emphasis added]). Section 451(b)(3) of the Homeland Security Act of 2002, 6 U.S.C. § 271(b)(3), provides for the transfer of adjudication of asylum and refugee applications from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services, now USCIS.

As noted above, because asylum is a discretionary benefit, DHS is not required to grant asylum to a noncitizen, even if the noncitizen meets the definition of a refugee and is otherwise eligible for asylum. *See* 8 C.F.R. § 208.13(b)(1)(i); *Matter of Pula*, 19 I&N Dec. 467, 471 (BIA 1987). In exercising this discretion, the adjudicator must weigh the positive and negative discretionary factors and may deny asylum or refer the applicant to immigration court in the exercise of discretion based on a determination that the negative factors outweigh the positive factors based on the totality of the circumstances.

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Question: During your tenure, to how many applicants who met the requirements to be considered for asylum did you deny asylum?

Response: If USCIS is unable to approve an asylum application and the noncitizen is in the United States without valid status or authorization, USCIS will forward (or refer) the asylum case to an immigration court. A referral is not a denial of the asylum application. After USCIS

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refers a case to an immigration court, the immigration judge will evaluate the asylum claim independently and is not required to rely on or follow the decision made by USCIS.

If a noncitizen has valid legal status or authorization in the United States but is found ineligible for asylum, they will be issued a Notice of Intent to Deny (NOID). The NOID will state the reason(s) that the noncitizen is ineligible for asylum and provides 16 days to respond and explain in writing why the claim should be granted or to submit new evidence to support the claim. If USCIS receives a timely response, the asylum officer will carefully consider the response and make a final decision to approve or deny the claim. If the response to the NOID fails to overcome the reasons for denial as stated in the NOID, or the noncitizen fails to respond, the officer will issue a final denial. A noncitizen cannot appeal the asylum officer's final denial. If a noncitizen's claim is denied, they may reapply for asylum; however, they must show changed circumstances that materially affect their eligibility for asylum.

From February 2, 2021, through April 11, 2023, USCIS referred or denied 30,995 affirmative asylum applications. This number includes individuals who were served a denial or referral for any reason and is not limited to denials or referrals due to discretionary factors (i.e., non-mandatory bars).

Question: Have you turned anyone away because of lack of capacity? Because of the overwhelming backlog? Why or why not?

Response: The United States must comply with its non-refoulement obligations under Article 33 of the United Nations Refugee Protocol through the statutory withholding of removal provision in section 241(b)(3) of the INA, which provides that a noncitizen may not be removed to a country where their life or freedom would be threatened on account of one of the protected grounds listed in Article 33 of the Refugee Convention.

Question#:	20
Topic:	Asylum Claim
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: In the proposed Rulemaking on Circumvention of Lawful Pathways, this Department of Homeland Security admitted that most asylum applicants will ultimately be found ineligible for asylum, but "are likely to spend many years in the United States prior to being ordered removed." And, DHS asserted, "[t]he practical result of this growing backlog is that those deserving of protection may have to wait years for their claims to be granted, while individuals who are ultimately found not to merit protection may spend years in the United States before being issued a final order of removal." And we know, given your enforcement priorities and guidelines, it is unlikely that any of these applicants will be removed at all.

If we know that our lax asylum standards are a pull-factor for illegal immigration, why do none of your proposed rule makings or enforcement efforts actually make it more burdensome to assert an asylum claim?

Response: Congress sets the legal standards for asylum eligibility, including the standards that apply when screening for a credible fear of persecution, defined in section 235(b)(1)(B)(v) of the Immigration and Nationality Act, codified at 8 U.S.C. § 1225(b)(1)(B)(v), as "a significant possibility, taking into account the credibility of the statements made by the alien in the support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208." Legislative history regarding the credible fear standard demonstrates that it "is intended to be a low screening standard for admission into the usual full asylum process." 142 CONG. REC. S11,491-02 (daily ed. Sept. 27, 1996) (statement of Sen. Hatch). Various factors implicate migration flows, but legal standards for adjudicating asylum have been long settled. To be granted asylum under 8 U.S.C. § 1158, the appropriate burden of proof is a preponderance of the evidence that the applicant meets the refugee definition found at §101(a)(42) of the INA, 8 U.S.C. 1101(a)(42). Both the credible fear standard and the standard for adjudicating asylum are established by statute and case law and, respectively, cannot be changed by rulemaking or enforcement efforts.

Question#:	21
Topic:	Credible Fear Standard
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How does the new guidelines for the credible fear standard help to end what even your Department of Homeland Security admits is a pull factor for illegal immigration?

Response: On May 16, 2023, DHS and DOJ published the Circumvention of Lawful Pathways (CLP) rule to incentivize individuals to use lawful, safe, and orderly pathways to enter the United States, or otherwise to seek asylum or other protection in another country through which they travel. The rule builds upon efforts to combine lawful pathways with consequences for failure to use them, by placing certain conditions on asylum eligibility for those who fail to use those lawful pathways.

The CLP rule imposes a rebuttable presumption of ineligibility for asylum upon certain noncitizens who enter the United States from Mexico at the Southwest land border or adjacent coastal borders without authorization and without having availed themselves of existing lawful pathways, unless they meet limited exceptions, or they rebut the presumption of asylum ineligibility by demonstrating exceptionally compelling circumstances detailed in the rule. Noncitizens who are subject to and do not rebut the presumption of asylum ineligibility may be eligible for protection from removal where there is a reasonable possibility that they will face persecution or torture in the country of removal. Individuals who are unable to establish a reasonable possibility of persecution or torture in the country of removal may be removed from the United States.

Question#:	22
Topic:	Detaining Asylum Applicants
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Under 8 USC §1225(b)(1), an alien awaiting an asylum determination is subject to mandatory detention. Section 1225(b)(1)(B) declares the alien "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."

Are you currently detaining all asylum applicants?

Response: Noncitizens can pursue any form of relief or protection from removal for which they are statutorily eligible, including asylum, statutory withholding of removal, and protection under the Convention Against Torture. While a noncitizen's pursuit of relief or protection from removal does not necessarily result in release from ICE custody, detention may also not be warranted based on an individualized assessment. Custody decisions are made on a case-by-case basis and based on different factors. The detention capacity is limited by several factors, including bedspace availability and safety limitations. Any individual determined to pose a threat to national security or public safety is detained.

Where detention is mandated by statute, ICE will generally detain the noncitizen absent a court order prohibiting detention or some other legal impediment. Notably, under 8 U.S.C. § 1225(b)(1)(B), a noncitizen subject to expedited removal who has been referred for a credible fear interview shall be detained pending the credible fear determination by an asylum officer and any review of that determination or further consideration of the asylum application by an immigration judge. But because a noncitizen subject to expedited removal is an applicant for admission, he or she may be released on parole under 8 U.S.C. § 1182(d)(5)(A) for urgent humanitarian reasons or significant public benefit.

Question: What must Congress do to get you to detain those awaiting their asylum adjudication? Please tell us what you need to do the job you have been statutorily required to do.

Response: As previously mentioned, noncitizens can pursue any form of relief or protection from removal for which they are statutorily eligible, including asylum, statutory withholding of removal, and protection under the Convention Against Torture. ICE believes that it can advance its interests without having to detain noncitizens who are not subject to mandatory detention or otherwise a public safety and/or flight risk and by prioritizing low-risk noncitizens for Alternatives to Detention programs or other release mechanisms.

ICE has always had limited bedspace compared to the number of noncitizens amenable to detention. As such, the agency has always had to make custody determinations that prioritize public safety, national security, and flight risk.

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Topic:	Detaining Asylum Applicants
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Primary:	The Honorable Mike Lee
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Question: If you do not have detention space for these aliens to await the outcome of their asylum claim, what do you do with them?

Response: ICE's non-detained docket comprises noncitizens awaiting immigration court hearings as well as those with final orders of removal. While ICE detains noncitizens as necessary, most noncitizens subject to removal are monitored outside the detention setting through a variety of mechanisms.

Noncitizens released by ICE on an order of recognizance (OREC) are subject to conditions of release and reporting requirements based upon the individual facts and circumstances. Noncitizens released on OREC are determined not to be a public safety, national security, or flight risk threat.

A noncitizen subject to a final order of removal may also be released on an order of supervision (OSUP) because ICE is unable to effectuate removal due to various reasons. For example, there are various factors that may prevent individuals from removal such as challenges in procurement of travel documentation from their country of origin, medical conditions, pending case litigation, or the ongoing process of obtaining the required travel documents. Once travel documents have been issued by the respective consulate of their countries or if there are no pending applications or appeals, the order of removal will be carried out. This release mechanism is used when a noncitizen is released post-final order with a personal obligation to go to ICE field offices for reporting or to surrender for removal. Noncitizens released by ICE on OSUP are subject to conditions of release and reporting requirements based upon the individual facts and circumstances.

Question#:	23
Topic:	Detention Space
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Why not? Do you need more detention space?

Response: ICE continues to evaluate bedspace availability and use existing detention beds and Alternatives to Detention programs according to ever-changing operational requirements and budgetary constraints. ICE adjusts its detention capacity and detained population to account for shifting migration patterns, including influxes of noncitizens along the Southwest border. At present, however, ICE’s access to its inventory of beds is more limited than usual due to various court orders limiting the intake of noncitizens at individual facilities, state laws prohibiting ICE from housing noncitizens in certain states and limiting immigration housing, hiring and retention challenges, and higher detention costs due to inflation.

Question: Have you asked for it? Please attach the budget in which you have asked for more, not less detention space.

Response: The President’s FY 2024 Budget Request sought funding for an Average Daily Population (ADP) of 25,000 and 9,000 beds from contingency funding to address evolving bedspace needs, for a total request of 34,000 beds, the same number funded previously.

Question: Did your budget ask for a reduction in funding for detention space?

Response: The President’s FY 2024 Budget Request reflects the budgetary priorities consistent with the Administration’s focus on ensuring a safe, humane, and orderly immigration system. The President’s FY 2024 Budget Request also represents a consistent approach by the Administration in prioritizing noncitizens who pose significant risks to public safety for ICE custody. As a result, the President’s FY 2024 Budget requests funding for an ADP of 25,000 adults and 9,000 beds from contingency funding, for a total request of 34,000 beds, the same number funded previously.

Question#:	24
Topic:	Deterrence
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: If you were to implement the statutorily mandated detention requirements for those claiming asylum, would that serve as any deterrent to frivolous immigration claims? It is a lot less attractive to sit in detention for four years awaiting adjudication of a claim that it is to spend four years freely living inside the United States, is it not?

Response: Under our immigration laws, individuals can request asylum or other form of relief from removal. Individuals who are not eligible for a form of relief from removal are ordered removed. In FY 2022, the United States expelled (under the Title 42 public health order) or removed (under Title 8 immigration authorities) over 1.4 million individuals – more than any other prior year. While a noncitizen’s pursuit of relief or protection from removal does not necessarily result in release from ICE custody, detention may also not be warranted based on an individualized assessment. Custody decisions are made case-by-case based on different factors, and detention capacity is limited by several factors, including bedspace availability and safety limitations.

At the same time, we are implementing efficiencies in the asylum process while maintaining appropriate procedural safeguards and security. In May 2022, we began implementing the Asylum Processing Rule, which allows asylum officers, as opposed to only immigration judges, to consider in the first instance the asylum applications of noncitizens found to have a credible fear of persecution or torture. This rule aims to ensure that noncitizens who are eligible for asylum are granted relief quickly and provides DHS with the ability to promptly remove noncitizens who do not qualify for asylum or related protection. These reforms are especially important considering those seeking asylum under the current process often wait several years before receiving a decision. When the rule is fully implemented and resourced, the timeframe for hearing and deciding these asylum claims will shrink from several years to several months for most applicants. Already, initial cases placed through this process have concluded within a few months, demonstrating the potential of this new process.

As a complement to these efforts, and in response to the unprecedented surge in migration across the hemisphere, DHS and DOJ finalized Circumvention of Lawful Pathways in May 2023 to further incentivize the use of new and existing lawful processes and disincentivize dangerous border crossings between POEs by placing a new condition on asylum eligibility for those who fail to avail themselves of the new lawful processes.

Question#:	25
Topic:	Title 42
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Who is currently being expelled under Title 42?

Response: While it was in place, noncitizens subject to the Centers for Disease Control and Prevention's (CDC) Title 42 public health order who could be expelled to their country of last transit or country of origin were expelled.

Question: How many immigrants have entered the country either through a port of entry or who have been encountered between ports of entry have been expelled under Title 42 since January of 2021?

Response: This statistical data can be found at CBP's data portal:

[https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics.](https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics)

Question#:	26
Topic:	Not Expelled Under Title 42
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: How many entrants have not been expelled under Title 42?

Why are these people not being detained?

Response: This statistical data can be found at CBP’s data portal:
<https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

Question: How did they evade expulsion under Title 42?

Response: Noncitizens subject to the CDC’s Title 42 public health order who were able to be expelled to their country of last transit or country of origin were expelled. DHS was not able to expel certain noncitizens based on the agreements that the United States government has with foreign governments. Mexico has been an important partner in accepting certain foreign nationals via Title 42 from certain countries. However, USBP encountered migrants from over 140 countries in FY 2023 through February, and the U.S. government did not have arrangements or the logistical support necessary to expel every subject encountered pursuant to Title 42.

Question: Were each of these people facing “an acute vulnerability” or are they all seeking protection under the Convention Against Torture?

Response: Individuals covered by the CDC Order may be excepted from the Title 42 public health order on a case-by-case basis based on a totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests.

Question: Why are these people not being detained?

Response: Migrants processed under Title 8 processing pathways may be referred to ICE Enforcement and Removal Operations (ERO) for disposition as to their custody status for the remainder of their immigration proceedings. Migrants may be processed for a Notice to Appear and released on their own recognizance if ICE does not have the capacity or ability to detain the migrant. Each subject’s individual circumstances were taken into consideration when determining whether release was appropriate for that individual, as well as the capacity at the given facility at that time. All subjects are screened and vetted for criminal history and national security risks prior to being released. USBP coordinates closely with non-governmental organizations and ICE ERO in order to ensure an orderly and humane process.

Question#:	27
Topic:	DHS Lawyers
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Are there not lawyers at the Department of Homeland Security competent enough to defend you against potential impeachment?

Response: In a publicly available opinion, DOJ’s Office of Legal Counsel (OLC) recently validated DHS’s authority to contract for private counsel under the current circumstances.² OLC concluded “that DHS may contract with and pay for private counsel to assist DHS in representing itself and the Secretary in an impeachment proceeding aimed at decisions or actions within the scope of the Secretary’s official duties and unaccompanied by any allegations of personal misconduct.”

² *Retaining Private Counsel to Represent the DHS Secretary in Impeachment Processes* (Jan. 4, 2023), available at <https://www.justice.gov/olc/opinions>.

Question#:	28
Topic:	Collecting Information
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: What intelligence information is DHS Office of Intelligence and Analysis (DHS I&A) collecting?

Response: I&A collects (overtly or through publicly available sources) information, intelligence, and counterintelligence to support national and departmental missions. These missions reflect I&A's responsibilities under the Homeland Security Act of 2002 and as an element of the U.S. Intelligence Community (IC), and are memorialized in its Attorney General-approved Intelligence Oversight Guidelines, which are publicly available at <https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf>. Examples include countering the proliferation of weapons of mass destruction, transnational organized crime, cyber threats, counterintelligence, terrorism, threats to critical infrastructure and key resources, significant threats to the nation's economic security, major disasters and other catastrophic acts, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.

Question: How is information collected by DHS I&A maintained? Is there a database? If so, is it searchable?

Response: I&A uses IC and DHS information technology infrastructure to process, disseminate, and store "raw" and "finished" intelligence information in accordance with the Systems of Record Notice for I&A Enterprise Records System (73 FR 28128). Different systems are used to collect, store, and transmit information based on the nature of the reporting, classification, and intended customer. All of these systems are searchable.

Question#:	29
Topic:	Collection Partners
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: Who is DHS I&A collecting intelligence from?

Response: I&A collects intelligence from Federal, state, local, territorial, Tribal, and private sector partners, as well as publicly available sources and individuals engaging I&A in a voluntary and overt manner with access to threat information or other information that meets a DHS or IC collection requirement. I&A does not use clandestine means to collect intelligence.

Question: What private partners have you received information from?

Who are these private partners, specifically?

Response: I&A works with a range of private sector critical infrastructure stakeholders to identify and help mitigate threats to the United States.

Private sector partners include those companies who own and operate the nation's critical infrastructure and voluntarily engage with the Department to share information bi-directionally on threats to the security and resilience of their infrastructure. Presidential Policy Directive (PPD)-21, *Critical Infrastructure Security and Resilience* (Feb. 12, 2013), organizes critical infrastructure into 16 sectors, which include the chemical, commercial facilities, communications, critical manufacturing, dams, defense industrial base, emergency services, energy, financial services, food and agriculture, government facilities, healthcare and public health, information technology, nuclear, transportation systems, and water and wastewater systems sectors.

Question: Is the Southern Poverty Law Center one of your private partners?

Response: I&A does not partner with the Southern Poverty Law Center; the Center's publicly available publications are sometimes used as references along with other materials for all-source analysis of terrorism threats.

Question: Are factors like religious affiliation and attendance of Latin mass considered as threat assessment factors?

Response: No.

Question: Has the department had any successes from this intelligence gathering that you can share with us? Has it helped protect the border? Stopped a terrorist attack? Protected a federal

Question#:	29
Topic:	Collection Partners
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
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courthouse from attack? What success can you share with us to help justify our continuing to grant DHS intelligence authorities?

Response: Yes, I&A intelligence activities are valuable to informing and giving decisional advantage to policymakers and operational partners across government at all levels and among private sector critical infrastructure. I&A is the primary intelligence element of the intelligence community statutorily charged with sharing intelligence and information with state, local, Tribal, territorial, and private sector partners. I&A's collection and reporting has provided information to these and federal partners across a range of threats, including cyber and economic security, counterintelligence, transnational organized crime, irregular migration, and terrorism. Raw serialized intelligence reporting has been analyzed and used by DHS and the IC to identify and counter threats, including by detecting cyber intrusions to critical infrastructure, enhancing transnational criminal and terrorism watchlist records, describing smuggling and money laundering tactics, forecasting migration surges, revealing malign foreign investments, and increasing awareness of terrorist targets, tactics, and techniques. If you would like further information, I&A is available to provide a classified briefing on specific examples.

Question#:	30
Topic:	Executive Order 14019
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Mike Lee
Committee:	JUDICIARY (SENATE)

Question: As head of DHS, you were directed in President Biden's Executive Order No. 14019, issued on March 7, 2021, to submit a strategic plan to the Assistant to the President for Domestic Policy, Susan Rice, outlining the ways in which your agency would comply with the Executive Order. Assuming that you submitted such a plan, will you please forward that plan to this subcommittee?

Response: Currently, there is no final DHS plan responsive to the Executive Order No. 14019. Additionally, the draft plan is a matter of current litigation (*AFL v. USDA*, et al., 1:22-cv-3029 (D.D.C. 2022)) whereby DHS has asserted the deliberative process privilege and the Executive Communications Privilege and, therefore, the plan is not available for release.

Question: Please also provide a complete report of the specific line-item amounts spent by your agency in FY 2021, FY 2022 and FY 2023 for implementation of your Agency's Plan.

Response: Because this matter is in active litigation and there is no final plan, DHS is unable to provide additional information at this time.

Question: Please identify any third party, non-governmental organizations who received funding, directly or indirectly, from your agency for implementation of the Plan, the amounts received and the purposes for which the funding / grants were made, as well as any follow up reports of the expenditures required, requested, or received by the Agency.

Please provide the amounts the Agency's current appropriations request includes for implementation of the Plan for FY 2024, together with all relevant documentation related to programs for the Plan under Executive Order 14019.

Response: There are no appropriations requests from DHS or third party, non-governmental organizations that have received funding, directly or indirectly, from DHS as the plan has not yet been finalized.

Question#:	1
Topic:	Sanctuary City
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What is your understanding of what is a sanctuary city or sanctuary jurisdiction?

Response: “Sanctuary city” and “sanctuary jurisdiction” are not official terms used by the federal government and have no set legal definition. However, U.S. Immigration and Customs Enforcement (ICE) understands these terms generally refer to state and local jurisdictions that limit their involvement in the enforcement of U.S. federal immigration laws.

Question#:	2
Topic:	Enforcing Immigration Laws
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: As a primary official charged with enforcing our federal immigration laws, what is your view of jurisdictions that expressly decline to share information with ICE or that decline to enforce detainers?

Response: In recent years, coordination with ICE has decreased, with some jurisdictions electing to minimally coordinate or some jurisdictions ceasing to coordinate altogether. This reduction in the overall level of coordination has had many impacts including increased ICE presence in communities, rather than in jails, to apprehend removable noncitizens with serious criminal records. ICE recognizes that some state and local jurisdictions are concerned that coordinating with federal immigration officials will erode trust in local immigrant communities and compromise public safety at the local level, making it harder for these jurisdictions to serve these populations.

Question: Does it concern you that there are jurisdictions which cover 140 million Americans that prevent DHS from enforcing our federal immigration laws?

Response: A lack of coordination has many impacts, including requiring ICE officers to make arrests in less-secure environments and increasing risks to public safety and national security. ICE's interior enforcement efforts are focused on those who pose a threat to public safety and national security.

Question: Do you agree that the inability of ICE to apprehend illegal immigrants from sanctuary jurisdictions creates public safety and national security risks in our communities? Why or why not?

Response: When jurisdictions elect to limit their coordination with ICE or cease coordinate altogether, it can pose challenges to ICE's ability to fulfill its critical public safety and national security mission. Lack of coordination may lead to noncitizens who have been convicted of serious crimes, have served their sentences, and may pose public safety threats being released into the community.

Question#:	3
Topic:	ICE Detainers
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: How many ICE detainers have been issued since January 2021?

In how many cases have jurisdictions declined to honor an ICE detainer?

Please provide a state-by-state breakdown.

Is ICE continuing to issue detainer requests to sanctuary jurisdictions, i.e. those that either refuse to honor detainer requests or fail to share information with ICE?

Response: ERO, as part of its mission to identify and arrest removable noncitizens, issues immigration detainers against noncitizens who have been arrested for criminal activity and taken into custody by federal, state or local law enforcement, including within “sanctuary” jurisdictions. Detainers are a critical public safety tool because they focus enforcement resources on removable noncitizens who have been arrested for criminal activity. Detainers increase the safety of all parties involved (ERO personnel, law enforcement officials, the removable noncitizens, and the general public) by allowing an arrest to be made in a secure and controlled custodial setting as opposed to at-large within the community.

“Sanctuary city” and “sanctuary jurisdiction” are not official terms used by the federal government and have no set legal definition. However, ICE understands these terms generally refer to state and local jurisdictions that limit coordination with federal officials seeking to enforce U.S. immigration laws. ERO does not have any existing policy on specifying detainers placed in “sanctuary” jurisdictions. Detainers are placed the same nationwide, regardless of state or local cooperation and pursuant to ICE Policy 10074.2: Issuance of Immigration Detainers by ICE Immigration Officers. ICE continues its practice of issuing detainers within jurisdictions who refrain from or limit their coordination with the agency.

Question: Has DHS tracked the number of cases in which an ICE detainer has been declined and the illegal immigrant subsequently committed a crime? If so, what is the number of cases?

Response: ERO does not statistically track, on a recurring basis, if a noncitizen subsequently committed a crime after a detainer was declined. From January 1, 2021 through April 15, 2023, of the 9,566 declined detainers¹ by a law enforcement agency (LEA), 2,723 noncitizens were re-encountered by local LEAs after their detainers were declined based on the immigration query information received by the ICE Law Enforcement Support Center. Based on the data available

¹As of April 15, 2023.

Question#:	3
Topic:	ICE Detainers
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

to ICE ERO, ICE is unable to determine if another crime was committed or if the noncitizen was re-arrested on an older charge or conviction.

Question: Please provide a breakdown based on crime including violent felonies, sexual assaults, and drug trafficking.

Response: Please see below breakdown of Most Serious Convictions associated with the declined ERO detainers for the 2,723 noncitizens re-encountered by an LEA since January 1, 2021.

ERO Detainers "Declined by LEA²" by Most Serious Conviction from January 1, 2021 through April 15, 2023

Most Serious Conviction	Fiscal Year			Total
	1/1/2021-9/30/2021	2022	2023	
Total	1,169	1,286	268	2,723
Arson	7	6	-	13
Assault	96	136	16	248
Burglary	27	25	2	54
Damage Property	2	11	-	13
Dangerous Drugs	46	57	6	109
Extortion	2	1	1	4
Family Offenses	6	18	3	27
Flight – Escape	1	1	-	2
Forgery	8	6	2	16
Fraudulent Activities	10	9	2	21
Gambling	-	-	1	1
General Crimes	4	9	1	14
Homicide	4	2	-	6
Detainers with no Most Serious Conviction listed	747	660	188	1,595

²ICE statistically tracks “declined” by LEA in the ICE system of record when a detainer is lifted, and the reason given is declined by LEA.

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Topic:	ICE Detainers
Hearing:	Oversight of the Department of Homeland Security
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Immigration	18	33	6	57
Invasion of Privacy	1	5	-	6
Kidnapping	1	6	2	9
Larceny	18	38	6	62
Obscenity	1	-	-	1
Obstructing Judiciary, Congress, Legislature, Etc.	8	11	3	22
Obstructing the Police	10	19	-	29
Public Peace	8	7	1	16
Robbery	28	29	2	59
Sex Offenses (Not Involving Assault or Commercialized Sex)	10	5	2	17
Sexual Assault	9	11	4	24
Stolen Property	10	10	-	20
Stolen Vehicle	20	30	1	51
Threat	6	6	-	12
Traffic Offenses	41	86	15	142
Weapon Offenses	20	49	4	73

Question: Please provide a state-by-state breakdown.

Response: Please see below State-by-State breakdown of declined ERO detainers for the 2,723 Convicted Criminal noncitizens re-encountered by an LEA since January 1, 2021.

ERO Detainers "Declined by LEA³" Convicted Criminals by State from January 1, 2021 through April 15, 2023

State	Fiscal Year	2022	2023	Total
	1/1/2021-9/30/2021			
Total	1,169	1,286	268	2,723

³Ibid.

Question#:	3
Topic:	ICE Detainers
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

ALABAMA	1	-	-	1
ARKANSAS	2	1	-	3
CALIFORNIA	725	909	141	1,775
COLORADO	18	4	3	25
CONNECTICUT	3	18	6	27
DISTRICT OF COLUMBIA	-	1	-	1
FLORIDA	4	15	-	19
GEORGIA	2	3	-	5
ILLINOIS	14	26	5	45
INDIANA	1	2	-	3
KANSAS	1	1	-	2
KENTUCKY	1	4	1	6
LOUISIANA	-	1	-	1
MARYLAND	22	9	3	34
MASSACHUSETTS	22	46	16	84
MICHIGAN	1	2	-	3
MINNESOTA	19	81	16	116
NEBRASKA	2	4	-	6
NEVADA	2	2	1	5
NEW JERSEY	8	11	7	26
NEW MEXICO	6	11	10	27
NEW YORK	186	32	10	228
NORTH CAROLINA	24	20	4	48
OHIO	2	-	-	2
OREGON	18	5	2	25
PENNSYLVANIA	9	11	1	21
RHODE ISLAND	-	1	4	5
SOUTH CAROLINA	3	2	-	5
SOUTH DAKOTA	1	-	-	1
TENNESSEE	-	1	1	2
TEXAS	1	3	-	4
UTAH	2	2	1	5

Question#:	3
Topic:	ICE Detainers
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

VIRGINIA	14	40	29	83
WASHINGTON	54	11	3	68
WISCONSIN	-	2	1	3
WYOMING	1	4	3	8
NO STATE ⁴	-	1	-	1

⁴No State means there was no state facility information listed on the detainer.

Question#:	4
Topic:	Additional Resources
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: In light of the over 140 million Americans who live in sanctuary cities, does ICE allocate additional resources to these communities and states to ensure their citizens are not at risk from dangerous, criminal illegal immigrants?

Response: On April 15, 2016, with dedicated Congressional funding, ICE ERO implemented 10 Mobile Criminal Apprehension Teams (MCATs) to take on at-large enforcement work that outpaced local workforce deployment, serviced outlying localities, or irregularly targeted areas, and reduced detailing personnel to conduct at-large enforcement operations. ICE has not received any enhancement from Congress to those resources whose capabilities continue to be strained. ICE is seeking to expand the program by allocating 10 additional MCATs to address this need and to allocate additional resources to communities where resources are limited.

ICE makes enforcement decisions on a case-by-case basis to focus on the greatest threats to homeland security in a professional and responsible manner informed by their experience as law enforcement officers. One of the most important ICE mandates is the enhancement of public safety and the security of the American public. ERO protects the homeland through the arrest and removal of noncitizens who undermine the safety of our communities and the integrity of our immigration laws. ERO enforces the United States' immigration laws in a fair and effective manner and treats everyone encountered with dignity and respect. Targeted enforcement actions are conducted through an organized, methodical investigative approach to the identification, location, and arrest of removable noncitizens in the United States.

Question#:	5
Topic:	Drug Smuggling
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Just last month, the North Carolina Department of Health and Human Resources reported a 22% increase in overdose deaths in North Carolina during 2021. Out of the 4,041 North Carolinians who lost their lives, over 77% of the overdose deaths were related to fentanyl. So my question to you Secretary Mayorkas, do you believe that President Biden's failed border policies are helping to fuel the fentanyl overdose crisis in the United States?

Response: The U.S. Department of Homeland Security (DHS) is developing a comprehensive plan that expands and synergizes efforts built among United States Government Departments and Agencies to tackle the manufacturing and distribution of fentanyl by transnational criminal organizations (TCOs). The plan will directly support the National Security Council's *Strategic Implementation Plan (SIP) to Commercially Disrupt the Illicit Fentanyl Supply Chain* and encompasses many of the core priorities outlined in the SIP.

A recent example of DHS efforts to combat TCO smuggling of fentanyl was Operation Blue Lotus (OBL). OBL was conducted by U.S. Customs and Border Protection (CBP) and ICE's Homeland Security Investigations (HSI) and entailed providing additional workforce in the form of temporary duty assignments and a surge of resources to combat fentanyl smuggling in southern California and southern Arizona. The operation was conducted from March 13, 2023 through May 10, 2023. OBL and a similar operation conducted during this time period by the U.S. Border Patrol titled Operation Four Horsemen resulted in the seizure of 3,244 kilograms of fentanyl, 2,491 kilograms of other narcotics, and 225 arrests. DHS intends to conduct further narcotic enforcement operations on the border in order to disrupt TCO and drug trafficking organizations' (DTOs) attempts to flow drugs into the United States.

Question: Do you believe that DHS can do more to secure the border and halt narcotics from being smuggled into the United States?

Response: Combating narcotics smuggling, both at land and sea borders as well as international mail facilities, express consignment centers, and shipping facilities, remains a top priority of DHS. HSI coordinates with DHS offices and agencies, collaborates with external law enforcement partners, and the private sector to combat narcotics trafficking. Synthetic opioids, such as fentanyl and its analogues, present new challenges given they are easier to produce, transport, and distribute. These drugs are manufactured through chemical synthesis and are not affected by growing seasons since they do not require an agricultural base. New challenges require new solutions and unique approaches.

One such unique approach is HSI Operation Hydra, which targets the TCO chemical supply chains responsible for acquiring the raw materials needed to manufacture synthetic drugs, such

Question#:	5
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Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

as fentanyl and methamphetamine. Operation Hydra aims to degrade TCOs' ability to acquire chemicals through interdiction and remove key TCO chemical brokers through criminal prosecution. These efforts have led to substantial results. In Fiscal Year (FY) 2022, Operation Hydra interdicted 453,328 kilograms of chemicals used in the production of illicit drugs, raising the total weight of operation chemical interdictions to 1,026,549 kilograms since its inception in FY 2020. In FY 2023, Operation Hydra seized 240 kilograms of a fentanyl precursor destined for a target of investigation. This seizure prevented the manufacture of thousands of kilograms of fentanyl powder at the average domestic seizure purity level and will serve as physical evidence in support of prosecution.

Operation Chain Breaker is another HSI led investigation, created in October 2021 and conducted under the Organized Crime and Drug Enforcement Task Force that targets Chinese pill press manufacturers and the Mexican TCOs utilizing pill press equipment to facilitate the mass production of fentanyl pills being smuggled into the United States, exacerbating the fentanyl crisis domestically. The investigation specifically targets a network of brokers who appear to supply machines and components to Mexico-based DTOs producing large quantities of fentanyl, which is subsequently imported into the United States. Through this and other efforts HSI has seized over 1,298 pill presses and components in FY 2023.

On March 13, 2023, CBP and HSI launched Operation Blue Lotus to facilitate and increase fentanyl interdictions at and between ports of entry and develop criminal cases along the Southwest Border (SWB). To enhance operational efforts, the HSI Innovation Lab and the CBP National Targeting Center provide advanced analytic support. CBP's Office of Intelligence, via the Southwest Border Intelligence Coordination Center, is providing analytical support to Operation Blue Lotus as well. Initial operation locations are Southern California and Southern Arizona. Since March 13, 2023, approximately 300 HSI Special Agents have rotated through temporary duty assignments to the Arizona and San Diego areas of responsibility in support of counter-fentanyl operations.

Ultimately, initiatives such as Operation Blue Lotus aim to curtail the flow of illicit fentanyl into the United States from Mexico while simultaneously illuminating the TCOs. Through a whole-of-government approach, CBP and HSI work with federal, state, and local law enforcement partners as well as with the Government of Mexico to intercept fentanyl where it crosses the border, disrupt TCO activity, enhance operational effectiveness, and influence future efforts on both sides of the SWB.

HSI investigates TCOs responsible for the importation, distribution, and money laundering activities associated with narcotics trafficking. HSI's unique immigration and customs authorities position it to target and combat these nefarious actors. HSI continues to establish stronger cooperation with international and domestic express consignment carriers to interdict

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more illicit substances and production materials, educate companies on safeguarding against the sale and distribution of dual-use chemicals that could be used to produce illicit fentanyl, and strengthen global engagement with the chemical industry. Enhancement of resources, personnel, and capacity is needed at all levels to combat the increase of illicitly produced narcotics.

Question: How often does DHS update the strategy to target drug cartel routes at the Southern Border?

Response: DHS offices and agencies, including HSI, continuously coordinate efforts with federal, state, local and Tribal partners to prioritize a whole-of-government approach to address, update, and evolve joint strategy efforts. In December 2022, HSI introduced its strategy for combating illicit opioids as an agency-wide effort to coordinate and maximize its response to the opioid crisis in the United States. HSI engages with other DHS offices and agencies to execute the strategy and disrupt the supply of illicit opioids at every point in the drug supply chain. HSI drives operations, initiatives, and actions across the government as an integrated approach to dismantle TCOs that have become more geographically diverse and are utilizing a wide range of illicit means to accomplish their goals.

Question#:	6
Topic:	Intercepting Narcotics
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: How many DHS officers are currently at the Southern Border that solely work on intercepting narcotics? What tools and resources do they currently need that they may not have to halt the drug cartels from conducting their nefarious work?

Response: As of March 25, 2023, there are 7,839 CBP officers and 16,289 Border Patrol agents on the SWB. CBP officers and agents do not solely work on intercepting narcotics; they perform these functions as a part of CBP’s mission of securing our borders and facilitating international trade and travel.

Working with federal, state, Tribal, and local partners, CBP is investing additional personnel, technology, and other resources along the SWB to detect and seize fentanyl. For example, CBP and our partners launched Operation Blue Lotus on March 13, 2023, a two month surge operation targeting fentanyl smuggling.

Question: What tools and resources do they currently need that they may not have to halt the drug cartels from conducting their nefarious work?

Response: There are several resources and tools that can help CBP’s Office of Field Operations (OFO) combat TCOs along the SWB, including:

- Additional staffing for inbound and outbound operations, including CBP officers, intelligence research specialists, and canines trained to detect fentanyl in the inbound environments and firearms and ammunition in the outbound environments.
- Additional outbound facilities and equipment including pop up/active vehicle barriers to stop southbound port runners, and the installation of outbound license plate readers.
- Updated information technology infrastructure and additional technology support staff.
- Continued investment in forward operating labs and presumptive testing capabilities at ports of entry, and mail and express consignment locations.
- Enhanced communication technology such as updated radios to communicate more effectively with federal, state, and local partners.
- Additional non-intrusive inspection (NII) systems of all sizes and types including small handheld systems used by CBP officers.

In FY 2023, CBP was provided \$30 million to build outbound operations capacity with investment in 18 CBP officers, radio-frequency identification/QR code readers for outbound truck lanes, NII equipment, infrastructure including vehicle inspection stations, and Automated Commercial Environment electronic export manifest capability.

Question#:	6
Topic:	Intercepting Narcotics
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

The FY 2024 President’s Budget includes \$305 million in support of NII systems to identify, procure, and deploy enhanced inspection capabilities to interdict emerging threats in the land and mail environments. Specific focus areas include Civil Works Activities for Drive Through NII Deployments, Enhanced Narcotic Detection with a primary focus on fentanyl detection, Inspection Technology at Mail and Express Consignment Facilities, Chemical Analysis to enable interdiction of opioids, and NII System Integration with select trade and travel tools.

Question#:	7
Topic:	Unmanned Aerostats
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Do you believe that unmanned aerostats play a significant role in helping hinder drug smuggling efforts at the Southern border?

Response: The use of aerostats increases situational awareness and provides the U.S. Border Patrol (USBP) with the ability to prevent, detect, identify, track, and respond to irregular migration events and those engaging in the smuggling and trafficking of persons and narcotics.

Unmanned aerostats continue to hinder general aviation smuggling at the U.S. southern border, 35 years after their introduction. Beginning in 1988, the first aerostats went up along the southern border and forced a major change in air smuggling tactics, specifically direct flights from Mexico into SWB states and flights from Colombia direct to Florida. The long-range detection technology on the aerostats enabled U.S. interdiction teams to posture for the cross-border flights and successful interdictions wreaked havoc on cartel cross-border air smuggling. As a result, airborne drug smugglers flew their narcotics to landing strips on the Mexico northern border and moved their loads primarily via ground into the United States. In the Florida corridor, air smuggling shifted to the Bahamas, Jamaica, Haiti, and the Dominican Republic with follow on shipments often via non-commercial maritime or consolidated loads in commercial maritime.

Question: How many aerostats does DHS currently have actively providing aerial assistance to CBP officers on the ground?

Response: At present, DHS is flying 13 aerostats providing intelligence, surveillance and reconnaissance support for CBP border security operations. These systems include four aerostats in the Rio Grande Valley Sector providing USBP land domain surveillance; eight Tethered Aerostat Radar System aerostats along the SWB, Florida Straits and Puerto Rico, providing CBP Air and Marine Operations (AMO) air and maritime domain awareness; and one aerostat at South Padre Island, TX, providing USBP and AMO land and maritime domain awareness.

Question#:	8
Topic:	Dismantling Drug Networks in the U.S.
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What is DHS doing to find and dismantle drug cartels and networks operating within our country?

Response: HSI has more than 6,000 special agents assigned to 237 cities throughout the United States and 93 overseas locations in 56 countries. HSI is focused on disrupting and dismantling TCOs that exploit the trade, travel, and financial systems of the United States. HSI is uniquely positioned for this mission as the sole investigative agency possessing both customs and immigration authorities, as well as traditional criminal and civil law enforcement authorities. HSI maximizes the impact of its unique authorities by partnering with federal, state, local, tribal, and foreign agencies to combat TCOs operating in the United States and abroad. HSI seized more than 1.8 million pounds of narcotics in FY 2022 using its unique border authorities, international partnerships, and expertise in conducting large scale complex investigations.

HSI has introduced the HSI Illicit Opioid Strategy, an agency-wide strategy to combat illicit opioids, which aligns with the framework developed by the Office of National Drug Control Policy in the National Drug Control Strategy. The Strategy focus is wide-ranging authorities and investigative expertise on four principal goals:

- Reduce the international supply of illicit opioids;
- Reduce the domestic supply of illicit opioids;
- Attack the enablers of illicit opioid trafficking: illicit finance, cybercrime, and weapons smuggling; and
- Conduct outreach with private industry.

HSI is currently supporting numerous large-scale efforts around the United States, including:

Operation Chain Breaker: Targets, among other investigative pillars, Chinese companies shipping pill press equipment to the United States and the U.S. persons receiving this equipment. Seizures made pursuant to this initiative have directly impacted drug cartels' ability to mass produce tens of millions of fentanyl pills annually.

Project Monroe: Teams special agents with data professionals and criminal analysts to leverage DHS' significant data holdings, and combine it with the investigative, intelligence, and interdiction power of HSI and its partners, to disrupt and dismantle drug cartels.

Question#:	8
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Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Express Consignment Carrier (ECC) Program: Areas of emphasis for enhanced targeting and investigative activities include ECC facilities which process approximately 17.6 billion international and domestic packages a year and are vulnerable to exploitation by drug cartels.

Border Enforcement Security Task Force (BEST): HSI leads 88 BEST units at key border and interior U.S. locations, to identify, investigate, disrupt, and dismantle TCOs. BEST combines a full range of federal, state, local, tribal, and international law enforcement resources into a comprehensive approach to combat drug smuggling and trafficking.

Operation Blue Lotus: On March 13, 2023, DHS implemented a surge operation in areas where the highest amounts of fentanyl being smuggled into the United States were encountered, specifically Southern California and Southern Arizona. Dubbed Operation Blue Lotus, this joint surge operation by CBP and HSI, working with federal, state, and local law enforcement partners as well as the Government of Mexico, included the detail of additional personnel and resources to these areas to interdict fentanyl and other synthetic drugs and investigate the drug cartels responsible for these smuggling operations.

HSI Mexico's Transnational Criminal Investigative Unit (TCIU): HSI Mexico facilitates HSI's requests for collateral investigations related to illicit opioid smuggling. This is primarily accomplished through HSI Mexico's TCIU, which is comprised of over 40 investigators from the Mexico Attorney General's Office with the ability to investigate and prosecute individuals involved in transnational criminal activity in Mexico. The TCIU has successfully disrupted criminal enterprises in Mexico that also engage in illegal activity in the United States.

Operation Expanded Impact: Human smuggling organizations are often affiliates or wholly owned subsidiaries of drug cartels and transnational gangs. Operation Expanded Impact is an HSI led enhanced investigative effort which deploys additional personnel to support DHS enforcement efforts along the SWB and with partner agencies across Latin America.

DHS Office of Intelligence and Analysis (I&A) has strong relationships at headquarters level and throughout the Americas with DHS Attachés, CBP Joint Security Program, the National Targeting Center, and the I&A-HSI Joint Task Force, among a host of other analyst-to-analyst connections. Armed with DHS-unique data and backed by Operational Component experts' perspective, I&A analysts provide accurate and timely intelligence on the prevailing drug threats to the Homeland.

Question: Are you working with the DEA, and with local and state partners to tackle this issue?

Response: HSI participates in several federal and state led task forces including the High Intensity Drug Threat Areas (HIDTA), the Organized Crime and Drug Enforcement Task Force

Question#:	8
Topic:	Dismantling Drug Networks in the U.S.
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(OCDETF), and the Joint Terrorism Task Forces. HSI leads a number of these interagency task forces including many that focus directly on the financial and money laundering crimes that accompany drug trafficking activity.

HSI also leads BESTs. In 2012, Congress codified the BEST task forces organized under HSI to target the threat of transnational crime and spillover violence from TCOs operating in the United States.

The BEST model is a comprehensive response to the growing threat to border security, public safety, and national security. This includes border security at land, maritime, international airports, international mail facilities and express consignment centers. The primary mission of BEST is to combat emerging and existing TCOs by employing the full range of federal, state, local, Tribal, and international law enforcement resources in the fight to identify, investigate, disrupt, and dismantle these organizations at every level of operation. BEST eliminates the barriers between federal and local investigations (access to both federal and state prosecutors), closes the gap with international partners in multinational criminal investigations, and creates an environment that minimizes the vulnerabilities in our operations that TCOs have traditionally capitalized on to exploit our nation's land and sea borders.

In response to the current opioid crisis, including the overwhelming availability of fentanyl smuggled into and distributed throughout the United States, HSI has begun expanding BEST and focusing their efforts on these criminal networks. There are currently 88 BESTs located across the United States, Puerto Rico, and the U.S. Virgin Islands. They partner with over 200 federal, state, local, and Tribal law enforcement agencies, including CBP, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Marshals Service, and United States Postal Inspection Service.

Question#:	9
Topic:	Money Laundering
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: An underlining issue when it comes to drug trafficking is money laundering. What is DHS doing to go after individuals that launder monetary funds for drug networks and cartels?

Response: As the principal investigative arm of DHS, HSI is uniquely positioned to identify, disrupt, and dismantle TCOs, including DTOs, by targeting their illicit financial and money laundering networks that exploit the trade, travel, and finance sectors of the United States.

To strengthen the United States anti-money laundering framework, HSI recently established the Cross-Border Financial Crime Center, a law enforcement coordination center designed to foster cooperation between federal law enforcement agencies, partner nation authorities, U.S. regulatory organizations, banks and financial institutions, and financial technology companies to promote collaboration on cross-border financial crime. The establishment of the Center directly supports the prosecution, disruption, and dismantlement of TCOs, strengthens the financial and fintech industry against illicit activity, and enhances communication between government and private sector partners. The four pillars of the Center are to:

- Support the prosecution, disruption, and dismantlement of TCOs, professional money laundering organizations, and other criminal actors engaged in illicit cross-border financial activity.
- Strengthen the anti-money laundering infrastructure of the United States by educating private sector stakeholders on trends and techniques used to facilitate illicit cross-border financial activity.
- Enhance information sharing between the United States Government and the private sector regarding techniques and trends used in crimes involving illicit cross-border financial activity.
- Increase cooperation between domestic and foreign law enforcement agencies with respect to combating such crimes.

In addition to the creation of the Center, HSI's Financial Crimes Unit (FCU) is combating narcotics-related money laundering through several programs that support HSI's investigations. In 2013, HSI FCU partnered with the Treasury Executive Office for Asset Forfeiture (TEOAF) to debut a major case initiative aimed at providing priority funding and professional support services to investigations targeting third-party money launderers. Within HSI, this initiative became known as the Third-Party Money Laundering (3PML) Program. As part of this initiative, TEOAF secured contracts for forensic accountants and open-source researchers to be used by the law enforcement agencies contributing to the Treasury Forfeiture Fund. TEOAF-funded contractors are shared between HSI, Internal Revenue Service-Criminal Investigation,

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and the United States Secret Service. These contractors are embedded in field offices and headquarters units, and the scope of their work is limited to 3PML investigations. FCU oversees the 3PML Program, and with TEOAF's participation, designates which cases are to receive related funding and investigative support. Examples of 3PML targets include attorneys, accountants, real estate agents, and tax professionals involved in third-party money laundering.

The Financial Intake Team (FIT), a new initiative by the FCU, provides direct financial case support to HSI Special Agents in the field. The FIT program serves as a force multiplier by providing forensic accounting and intelligence support for a broad spectrum of HSI financial investigations. The support provided by FIT allows for the identification of additional targets and an expansion of the overall picture of the TCO network. Like the 3PML program, the overall goal of FIT assistance is to enhance HSI investigations through forensic accounting and open-source intel support in an effort to broaden investigations, expand the number of indictable individuals, and identify and expand the potential for seizures and forfeitures.

FCU oversees HSI's Cornerstone Program, which is the primary outreach mechanism for HSI's financial investigations equities. HSI builds partnerships by sharing law enforcement typologies and methods with the businesses and financial institutions that manage the systems that terrorists and criminal organizations seek to exploit. With FCU oversight, HSI's designated field Cornerstone representatives provide training to the private sector on how to identify and prevent the exploitation of the United States' financial system by TCOs and DTOs.

In addition, HSI partners with federal law enforcement entities to develop best practices to identify, detect, and dismantle criminal organizations utilizing digital assets. Current best practices include:

- Developing and implementing training and outreach programs within HSI as well as to public and private sector partners to identify typology and methodologies to target.
- Working with regulators to develop guidance for financial institutions.
- Enhancing operational efficiencies by developing technological solutions including the use of blockchain analytics tools to investigate illegal activity.
- Utilizing advanced analytical tools to aggregate data and build out criminal networks and connections for exploitation by law enforcement.
- Establishing new partnerships and capitalizing on existing ones to ensure a unified and comprehensive approach to stopping the use of digital assets for illicit purposes.

The Trade Transparency Unit (TTU), in coordination with FCU, is HSI's primary headquarters component that supports trade-based money laundering investigations. The unit has developed

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Hearing:	Oversight of the Department of Homeland Security
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training and investigative programs, and a network of private and public sector contacts to assist HSI special agents in their investigations.

Question#:	10
Topic:	Digital Assets
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What role do digital assets play in financial transactions between drug cartels and Chinese companies who sell fentanyl precursors?

Response: HSI has observed operational trends indicating that drug cartels are leveraging digital assets to obtain funds or move funds out of the United States. However, it is difficult to ascertain the exact role played by digital assets in the large-scale procurement of fentanyl precursors. It is likely that cryptocurrencies play a role in the transactions, but the use of front companies by large organizations also makes it likely that traditional forms of payment and false invoicing may continue to be utilized.

Question: What is DHS currently doing to track and stop the use of digital assets for illicit purposes?

Response: HSI has several methods to monitor and analyze the use of digital assets in criminal investigations. Many offices engage in undercover methods to seek out and contact threat actors using cryptocurrencies in a variety of areas to include narcotics smuggling, child exploitation, terrorism, and financial crimes. Engaging with these actors in an undercover capacity allows HSI agents to reveal cryptocurrency addresses used for illicit transactions and exploit those data points to follow the assets on their respective blockchains.

Agents and analysts utilize several blockchain analytic tools procured through the HSI Cyber Crimes Unit (CCU). HSI's CCU has contracts with leading blockchain analysis companies for tools and support that provide invaluable insight into the users and exchanges involved in cryptocurrency transactions which allows investigators to "follow the money" and use the legal process to reveal the true identities of those exploiting cryptocurrencies for anonymity.

FCU partners with federal law enforcement entities within the U.S. Departments of Justice and Treasury to develop best practices, as described above, to identify, detect, and dismantle criminal organizations utilizing digital assets for illicit purposes.

Question#:	11
Topic:	Recruiting Through Social Media
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: There have been various news reports of transnational criminal organizations (TCOs) using social media platforms like TikTok, Snapchat, and Meta to recruit Americans to assist with drug smuggling and human trafficking operations. Is DHS working with social media companies to address this matter? If so, what progress has been made?

Response: Criminal organizations in the 21st century do not limit themselves to a single crime and have evolved to utilize technology to disguise their illicit enterprises. Likewise, investigative efforts must be technologically savvy and broad in scope to fully identify and dismantle these enterprises. Rather than narrowly focusing on a single element of the TCO, HSI combats TCOs by using its unique and broad investigative authorities to enforce over 400 federal laws to investigate a myriad of crimes.

TCOs and their illicit drug clients are increasingly tech-savvy. Many have adopted emerging technologies to replace hand-to-hand drug sales with anonymous cryptocurrency purchases facilitated through dark net marketplaces. These transactions may involve foreign vendors but always result in the shipment of drugs to or within our country. To keep pace with rapidly evolving criminal techniques, HSI created the Cyber Crimes Center (C3) in 1997 to provide investigative assistance, training, and equipment to support domestic and international investigations of cyber-related crimes for DHS. The C3 supports HSI's mission through the programmatic oversight and coordination of investigations of cyber-related criminal activity and provides a range of forensic, intelligence, and investigative support services across all HSI programmatic areas. C3 brings together highly technical assets dedicated to conducting trans-border criminal investigations of cyber-related crimes within the HSI transnational crime portfolio and authorities.

C3 performs an essential role in detecting, investigating, and preventing the sale and distribution of opioids and other illicit drugs on social media and the dark web. With specialized capabilities, cyber analytics, trained cyber investigators and analysts, C3 supports HSI online undercover investigations targeting market site operators, vendors, and prolific buyers of opioids and other contraband on social media the dark web. The C3 also provides critical support on tracing and identifying illicit proceeds derived from criminal activity on the dark web and investigating the subsequent money laundering activities. Additionally, C3's Computer Forensics Unit and the HSI Computer Forensic Program are critical tools in combating the flow of drugs into the United States. From the efforts of our Computer Forensic Agents and Analysts in the field to seize, process, and analyze digital evidence, through the advanced technical solutions, such as decryption and accessing secure data, digital forensics play an ever-increasing role in investigating complex multinational narcotics organizations. The Computer Forensic Unit also

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provides forensic training and support to our state, local, Tribal, federal, and international law enforcement partners.

Human traffickers come from a wide variety of backgrounds and demographic categories. Human traffickers can be relatives, friends, individuals who are politically connected, individuals operating alone, or those in loosely affiliated groups, family-based networks, gangs, criminal enterprises or TCOs. HSI investigates American and non-citizen traffickers and, HSI uses all legal tools available (to include search warrants, subpoenas, and Mutual Legal Assistance Treaties) to compel social media companies to provide information and data relevant to ongoing criminal investigations. While HSI has investigated traffickers who use social media to facilitate their criminal enterprise, the identified trend pertains to traffickers using social media platforms to recruit and communicate with victims and commercial sex buyers as opposed to recruit American human traffickers.

Additionally, it should be noted that human trafficking and human smuggling are often used interchangeably in error. These are distinct crimes. Human trafficking does not require crossing a border. Human trafficking victims have been exploited by their trafficker for commercial sex acts or forced labor (sex trafficking and labor trafficking) using force, fraud, or coercion. Immigration status or citizenship is not relevant to human trafficking. By contrast, human smugglers engage in crimes against the United States by bringing people into the United States, or unlawfully transporting and harboring people already in the United States, in deliberate evasion of immigration law. Human smuggling may involve elements of violence (e.g., hostage taking, kidnapping, extortion, physical and sexual assault); however, the presence of these aggravating factors alone does not constitute human trafficking. It is important to note that human smuggling situations may transition to human trafficking if the elements of force, fraud, or coercion are introduced in furtherance of a labor, service, or commercial sex act, or if a minor is compelled to engage in a commercial sex act. Instances of child sex trafficking may intersect with the production and distribution of child sexual abuse material (CSAM) if the perpetrator producing the CSAM is doing so for a commercial gain or to promote their child sex trafficking venture.

Question: Has DHS calculated the number of Americans who were recruited by TCOs to assist with drug smuggling or human trafficking through social media platforms?

Response: Law enforcement has no way to calculate the number of Americans who have been recruited by TCOs through social media platforms to assist with drug smuggling, human smuggling, or human trafficking; however, HSI has observed from its investigative efforts that social media and instant messaging apps have increasingly been introduced to drug trafficking transactions initiated on dark net marketplaces. Today, many dark net vendors post their social media and/or instant messaging contact information alongside their vendor information to

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provide the buyer a more direct method of contact. This trend has likely taken hold due to the ease and accessibility of social media apps while offering nearly the same level of anonymity as the dark net. These apps also remove the “user error” aspect of more complicated technology and provide a level of encryption which further hampers traditional law enforcement techniques.

Question#:	12
Topic:	Bed Space
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What is your agency's position on reducing detention space?

Response: The FY 2024 budget request represents a consistent approach by the Administration in prioritizing detention beds for those noncitizens who pose a significant risk to public safety or national security, who pose a flight risk that cannot otherwise be mitigated, and when required by law, while prioritizing low-risk noncitizens for Alternatives to Detention programs, and establishing a two-year emergency SWB contingency fund to support border operations and provide additional operational flexibilities.

Question: Does the agency support maintaining or expanding existing bed space? Please be specific about the number of beds you are requesting this year.

Response: ICE requests the number of beds it needs to fulfill its critical public safety and national security mission while maintaining a safe and secure environment for those in its custody. ICE has requested funding in its FY 2024 budget for 25,000 beds. Additionally, another 9,000 beds would be available to ICE through the SWB contingency fund. The fund will ensure ICE can maintain necessary bedspace to meet changing mission requirements.

Question#:	13
Topic:	Referred to ICE
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: How many asylum seekers have been referred to ICE for removal due to their failure to appear for their asylum hearing before an immigration judge? Of these, how many have been apprehended and removed? Please provide data for the past five calendar years.

Response: ICE makes enforcement decisions on a case-by-case basis to focus its limited resources on the greatest threats to homeland security in a professional and responsible manner informed by their experience as law enforcement officers.

Please see below data regarding ICE removals of noncitizens with *In-Absentia* orders:

FY 2019 – FY 2023 ICE Removals with *In Absentia* Orders⁵

Case Action	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023 (partial)
E - In Absentia - Ordered Excluded / Deported / Removed	9,609	7,235	2,953	3,324	2,118

⁵ FY 2019 – FY 2023 data is updated through March 28, 2023. ICE Removals include Returns. Returns include Voluntary Returns (VRs), Voluntary Departures, and Withdrawals Under Docket Control. ICE Removals include noncitizens processed for Expedited Removal (ER) or VR that are turned over to ERO for detention.

Question#:	14
Topic:	Wait Times
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Do you agree that lengthy wait times for an asylum court hearing create the risk that an illegal immigrant will not show up for their hearing? Why or why not?

Response: DHS respectfully defers to EOIR on matters related to the length of the immigration court process. However, DHS continues to call on Congress to act in a bipartisan way to address our broken and outdated immigration and asylum system.

Question#:	15
Topic:	Current Penalties
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Do you believe that the current penalties for absconder are sufficient? Please explain.

Response: A noncitizen who fails to appear at an immigration court hearing may be issued an *in absentia* removal order. ICE may, in its discretion, arrest noncitizens with final orders of removal and execute those orders, barring a stay or other impediment to removal. In addition, a noncitizen who fails to comply with instructions to report to an ICE field office within the given timeframe for further processing may also become a priority for enforcement action.

Question#:	16
Topic:	Work Authorization
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: How many asylum seekers currently have work authorization? How many do you anticipate will be eligible for work authorization during the course of this fiscal year?

Response: U.S. Citizenship and Immigration Services (USCIS) describes the employment authorization category for those individuals with pending asylum applications as the (c)(8) employment authorization category. As of April 10, 2023, there were approximately 1,237,000 individuals with valid employment authorization documents that were filed under the (c)(8) employment authorization category. In FY 2023 to April 10, 2023, USCIS has received 496,000 (c)(8) employment authorization applications. Through the end of FY 2023, USCIS estimates it will receive an additional 450,000 applications seeking employment authorization based on the (c)(8) category.

Question#:	17
Topic:	Filing Fees
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: I am concerned about the proposed rule published by DHS regarding filing fees at USCIS, particularly for North Carolina's H-2A and H-2B employers. Not only are they being asked to pay 300% more, but they also being asked to pay a \$600 asylum fee.

What is your justification for increasing filing fees for H-2A and H-2B employers?

Response: The proposed rule contains a lengthy explanation of the need for DHS to adjust USCIS fees, including the fee for employers to petition for seasonal workers. In sum, USCIS conducted a comprehensive biennial fee review and determined that its costs have increased considerably since its last fee adjustment in 2016 due to inflation, expanded humanitarian programs, higher demand, increased processing times, and a need for more USCIS employees. If DHS does not adjust USCIS fees, it will not have the resources to provide adequate service to benefit requestors or be able to keep pace with the incoming benefit request workload, and USCIS processing times and backlogs will not improve. DHS intends for the rulemaking to provide the funding required for USCIS to maintain and improve service levels. Furthermore, DHS is authorized by law to charge fees to applicants and petitioners to ensure that it can fully recover USCIS operating costs.

Individual form fees are based upon the relative resources required to adjudicate the specific benefit request. With respect to H-2A and H-2B petitions, the proposed fees better reflect the complexity of the work and the staff needed to complete it. *See* U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 88 FR 402 at 495-498 (Jan. 4, 2023), for more information on separating fees for Form I-129.

Question: How did DHS consider affordability to employers when considering these increases?

Response: As stated in the proposed rule and the accompanying small entity impact analysis, DHS analyzed the impacts on employers who file petitions with USCIS. USCIS also acknowledged and carefully considered the size of the fees and their implications and effects on small entities.

Question: Why do you believe it is fair to ask North Carolina small businesses to pay for our broken borders which have resulted from President Biden's policies?

Response: For the proposed rule, DHS analyzed how the fees may economically impact small entities. *See* 88 Fed. Reg. at 453. Note that USCIS fees are collected to recover its operating

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Topic:	Filing Fees
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costs in processing immigration and naturalization benefit requests, which does not include border enforcement. Fee increases are not limited to petitioners from any one state.

Question#:	18
Topic:	Employment Based Visas
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: I remain focused on ensuring our immigration system is working correctly. That's why I have been vocal about ensuring that USCIS does not waste any employment-based visas.

How many employment-based visas did USCIS approve and issue in FY22? How many employment-based visas went unused in FY22?

Response: No employment-based immigrant visas went unused in FY 2022. USCIS, along with its partners at the U.S. Department of State (DOS) and (to a much lesser extent) EOIR (which uses some immigrant visas) approved and thereby used 275,250 employment-based immigrant visas in FY 2022. A visa is “used”, meaning subtracted from the annual limit, when DOS issues an immigrant visa to a noncitizen through consular processing or when a noncitizen acquires Lawful Permanent Resident status upon approval of their application for adjustment of status, either with USCIS or EOIR. The agencies used all the available employment-based immigrant visas apart from 6,396 EB-5 visas in the newly-created reserved subcategories which were not used and which carried over to FY 2023 under § 203(b)(5)(B)(i)(II) of the Immigration and Nationality Act (INA). All data is from the Report of the Visa Office 2022.⁶

Question: What is the total number of employment-based visas which are available in FY23? How many have been approved and issued at this time?

Response: DOS has estimated that the employment-based immigrant visa annual limit will be 197,000 visas for FY 2023. In addition, as noted above, 6,396 EB-5 visas in the new reserved subcategories carried over from FY 2022 to FY 2023. In total, approximately 203,396 employment-based immigrant visas are available in FY 2023.

Through the end of the second quarter, USCIS, DOS, and EOIR have combined to use more than half of the available employment-based visas. USCIS alone approved almost 50,000 employment-based adjustment of status applications in the first quarter and continues to prioritize this workload.

Question: Has USCIS calculated an estimate of how many employment-based visas may go unused in FY23?

⁶The Department of State Report of the Visa Office is available at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports/report-of-the-visa-office-2022.html>.

Question#:	18
Topic:	Employment Based Visas
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
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Response: USCIS and its partners at DOS and EOIR anticipate using more than half of the available visas before the end of the second quarter. USCIS is approving adjustment of status applications in the employment-based preference categories at a steady rate and is committed, with its partners at DOS who are also processing a high volume of visas, to using all the available employment-based immigrant visas in FY 2023.

We note that both agencies publish monthly reports, and while this data is preliminary, it does allow the public to track our progress.⁷ USCIS has not estimated how many employment-based immigrant visas may go unused in FY 2023, as the three agencies are on track to use all the available visas, with the exception of some visas in the EB-5 reserved subcategories which will carry over to FY 2024 under INA § 203(b)(5)(B)(i)(II).

Question: What measures has the agency taken during FY23 to prevent the loss of any employment-based visas this fiscal year?

Response: We refer you to our response to your office on July 7, 2022, for a description of the many measures that USCIS took, with its partners, to ensure the use of all the employment-based immigrant visas in FY 2022. In FY 2023, USCIS and its partners remain dedicated to using all the available employment-based immigrant visas and have continued many of the measures employed during FY 2022. There are two new measures that have been implemented in FY 2023:

- Employment-based adjustment of status applications in EB-1 through EB-3 will generally be adjudicated by the USCIS Field Operations Directorate (FOD); EB-4 applications will be adjudicated by both FOD and USCIS Service Center Operations Directorate (SCOPS), depending on the specific subcategory, and applications in EB-5 will be adjudicated by SCOPS at the California Service Center.
- USCIS has expanded premium processing availability for all filers of Form I-140, Immigrant Petition for Alien Workers.

Since the agencies have already used more than half of the available visas and the annual limit is significantly lower in FY 2023 than in FY 2022, there is not at this time a need for USCIS to take any measures beyond continuing its current efforts.

⁷DOS Monthly Immigrant Visa Issuance Statistics are available at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/immigrant-visa-statistics/monthly-immigrant-visa-issuances.html>. Monthly data concerning USCIS adjudications of employment-based adjustment of status applications is available at <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data> in the reports titled “FY22 Appropriations Reporting Requirement.”

Question#:	19
Topic:	Disinformation Governance Board
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Secretary Mayorkas, on August 24, 2022, you announced that the DHS would not move forward with the Disinformation Governance Board. Who initiated the idea of implementing the Disinformation Governance Board?

Can you confirm that the Disinformation Governance Board is not in place? If the program is in place, what is DHS doing to terminate the Disinformation Governance Board?

Response: The Disinformation Governance Board is no longer in place. Consistent with the recommendation of the Homeland Security Advisory Council, the Secretary terminated the Disinformation Governance Board and revoked its charter effective August 24, 2022. The Department does not intend to reconstitute the Governance Board or replicate its functions.

Question#:	20
Topic:	Crackdown Through Other Avenues
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Have you directed the DHS to monitor and crackdown on "disinformation" through other avenues? Has President Biden directed you to spearhead efforts to censor, manipulate, or track American's free speech who he may not agree with?

Response: The Department does not censor speech, nor has President Biden ever requested that it do so.

The Department is charged with safeguarding the United States against threats to its security, including those exacerbated by disinformation. As part of its mission, DHS has worked across multiple administrations to address disinformation that threatens our homeland security and the security of the American people. This work is conducted by DHS Component Agencies pursuant to their respective authorities and consistent with privacy, civil rights, and civil liberties safeguards, as well as other applicable laws.

Addressing disinformation that threatens the homeland and providing the public with accurate information in response to such disinformation are critical to fulfilling DHS's congressionally mandated missions. On May 18, 2022, Secretary Mayorkas tasked the nonpartisan Homeland Security Advisory Council (HSAC) to stand up a subcommittee to conduct a thorough review and assessment of those efforts.⁸ The HSAC Subcommittee on Disinformation Best Practices and Safeguards (the Subcommittee), led by former Secretary of Homeland Security Michael Chertoff and former Deputy Attorney General Jamie Gorelick, completed its work in late August 2022. On August 24, 2022, the HSAC deliberated and approved the Final Report in a public meeting. The Subcommittee concluded that disinformation threatens the homeland and that it is critical that the Department take steps to address this threat.

DHS Component agencies work diligently to mitigate the harms of disinformation in their respective mission areas. Examples of such efforts include working to combat human smuggling, protecting critical infrastructure, and responding to malign foreign influence efforts.

⁸The HSAC comprises leaders from the public, private, and nonprofit sectors and from past Democratic and Republican administrations.

Question#:	21
Topic:	QHSR
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: October 31, 2022, by The Intercept, quotes from a draft copy of DHS's Quadrennial Homeland Security Review, which reportedly describes how "in the coming years, the department plans to target 'inaccurate information. Does DHS plan to monitor Americans free speech on social media platforms on major policy issues?"

Can you please provide a final copy of the DHS Quadrennial Homeland Security report that The Intercept highlighted?

Response: DHS transmitted the Third Quadrennial Homeland Security Review to Congress and released it to the public on April 20, 2023.

As addressed in the Quadrennial Homeland Security Review to Congress, "The world today is more interconnected than at any time in our Department's 20-year history. Ubiquitous cutting-edge technologies and our globalized economy have enabled tremendous economic progress and advancements for Americans; they also increasingly bring threats and challenges directly into our communities--to our schools, hospitals, small businesses, local governments, and critical infrastructure. Those who wish to harm us exploit the openness that defines our modern world. They do so through economic and political instability, through illicit trade and investment flows, through the exploitation of rapidly evolving technologies that connect us, and through disinformation spread around the world by the click of a mouse." Addressing disinformation that threatens the homeland and providing the public with accurate information in response to such disinformation are critical to fulfilling DHS's congressionally mandated missions. DHS offices and agencies work diligently to mitigate the harms of disinformation in their respective mission areas. Examples of such efforts include working to combat human smuggling, protecting critical infrastructure, and responding to malign foreign influence efforts.

Question#:	22
Topic:	Modernization Requests
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Secretary Mayorkas, during your time as secretary, have you or your staff worked with tech companies like Twitter, Meta, Instagram, or Google to file moderation requests to control online discussions? If so, what action have you taken to stop moderation requests? Have you removed staff who engage in online moderation requests?

Secretary Mayorkas, during your time as secretary, have you or your staff worked with tech companies like Twitter, Meta, Instagram, or Google to remove online posts made by American users? If so, what steps have you taken to prevent this type of action?

Response: DHS remains committed to conducting all activities, including those pertaining to disinformation, in a manner that complies with the law and protects individuals' privacy, civil rights, and civil liberties. With respect to disinformation, DHS does not compel or pressure social media companies to take action concerning specific posts or actors on social media.

Question#:	23
Topic:	Trademark Violation
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Last year, North Carolina's State Anticounterfeiting Task Force worked with local law enforcement to seize over \$200,000 worth of snacks and candies that were infused with THC. These counterfeit products included Weedtarts, Stoneos, Gas Heads, Skittles, and Cheetos. Not only do these types of products highlight a potential trademark violation, but also raise concerns on a health side.

What is HSI doing to address trademark infringement when it comes to THC infused snacks and candies that are using legitimate labels?

Response: In October 2022, the HSI-led National Intellectual Property Rights Coordination Center (IPR Center) convened a meeting to discuss potentially infringing packaging on THC edibles. The IPR Center meeting included CBP and the FDA. The IPR Center has ongoing conversations with right holders in this area.

As these products are often adulterated versions of legitimate food products, enforcement falls to the FDA. In general, these products are not being imported into the United States. They are being produced domestically.

Whether or not the packaging infringes existing trademarks is a complex legal issue. In many cases, the packaging uses similar colors, pictures, and words that are changed to represent the product as including THC. Packaging is sometimes imported to the United States and infringing packaging is subject to seizure and forfeiture.

Question: Has HSI seen a rise of trademark violations when it comes to THC infused snacks and candies?

Response: HSI has not conducted research into this specific area.

Question: The copycat THC snacks like Kirspiyz Treats, Cap'N Crunch, and Gas Heads are also being sold online. Has HSI reviewed any online platforms to see if these types of products infringe a trademark protection?

Response: The IPR Center has existing relationships with e-commerce platforms related to intellectual property rights enforcement under the auspices of the E-Commerce Working Group (ECWG). Formed in 2017, the ECWG brings together the four largest e-commerce platforms in the U.S. market to share data on counterfeiting and trademark violators. The IPR Center has engaged with ECWG members to proactively monitor their respective platforms for potentially infringing packaging.

Question#:	23
Topic:	Trademark Violation
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: If not, do you commit to reviewing online platforms for potential trademark violations?

Response: HSI relies on its partners in the ECWG to monitor their respective platforms and report trademark violations to HSI.

Question: Are there any additional trademark violation trends that DHS is seeing that Congress should be aware of?

Response: CBP continues to see a rise in the volume of counterfeit handbags, wallets, watches, jewelry, and wearing apparel. The luxury goods market continues to contain the most counterfeited commodities. Of the 4,257 seizure cases in Quarter 1 of FY 2023, 74 percent of these were express consignment shipments. IPR interdictions continue to be most prominent in the small package environment, including express and postal shipments. The top countries and areas from which the inauthentic goods originated during the first two quarters of FY 2023 were China, Hong Kong, Turkey, Thailand, and the Philippines.

Question#:	24
Topic:	Foreign Government Involvement
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: In recent years, there has been growing concern about the involvement of foreign interests - and particularly of foreign sovereign wealth funds - in funding U.S. patent litigation. Currently, such parties are allowed to fund patent litigation with few restrictions and there is no nationwide requirement that such funding be disclosed to the judge or opposing party.

Does the involvement of foreign governments in funding domestic patent litigation raises U.S. national and economic security concerns?

If so, do you think that it would be appropriate to adopt a rule that at least requires disclosure when foreign interests - and particularly foreign governments - are involved in funding suits against U.S. companies?

Response: DHS plays an active role in protecting U.S. national and economic security by screening foreign investments for national security risk, including transactions involving advanced technology, via the Committee on Foreign Investment in the United States and the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. However, any assessment of whether a specific instance of patent litigation raises national or economic security concerns would depend on the particular facts. With regard to whether current rules regarding disclosure concerning such litigation provide for insufficient transparency to assess the relevant facts, the Department respectfully defers to the U.S. Patent and Trademark Office and the U.S. International Trade Commission.

Question#:	25
Topic:	IPR Center
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: The DHS website states that "predatory and illegal intellectual property trade practices affect every aspect of our lives ranging from the economy to health and safety." Given the bipartisan and seemingly resolute interest in making material and effective improvements to our nation's ability to materially reduce China's theft of U.S. IP, can you share any plans you might have for how DHS and the IPR Center might play a larger and more effective role?

Response: The IPR Center stands at the forefront of the U.S. Government's response to global intellectual property theft. It uses the expertise of its member agencies to share information, develop initiatives, coordinate enforcement actions, and conduct investigations related to intellectual property (IP) theft. Through this strategic interagency partnership, the IPR Center protects the public's health and safety, the U.S. economy, and the nation's war fighters.

The IPR Center partners employ a strategic approach to combat IP theft. This approach includes:

- Investigation – Identifying, disrupting, prosecuting, and dismantling criminal organizations involved in the manufacture and distribution of counterfeit products.
- Interdiction – Using focused targeting and inspections to keep counterfeit and pirated goods out of U.S. supply chains, markets, and streets.
- Outreach and Training – Providing training for domestic and international law enforcement to build stronger enforcement capabilities worldwide.

The IPR Center has recently expanded its efforts to protect the U.S. Government and defense supply chains from counterfeits under Operation Chain Reaction. Operation Chain Reaction operates as an HSI-led task force with 17 partner agencies. Recent initiatives have included exploring vulnerabilities related to counterfeit medications and medical devices within government supply chains. As a part of those efforts, and predicated on geopolitics, supply chain challenges, and the passage of the CHIPS and Sciences Act, the IPR Center initiated a Semiconductor Working Group to identify and address threats to the industry through counterfeiting and other illicit activity.

Question: Might part of any such plan include ensuring that the IPR Center has the tools and enhanced resources it needs?

Response: Resources and tools are key to implementing any strategy to counter IP theft. HSI leads the IPR Center and shoulders all expenses for facilities out of the HSI budget. The IPR Center would benefit from specific, reoccurring appropriated funds. These funds would not only help HSI, but all partner agencies.

Question#:	25
Topic:	IPR Center
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What specific work is DHS doing in coordination with the White House Intellectual Property Enforcement Coordinator (IPEC), to implement anti-counterfeiting and anti-piracy initiatives in the Joint Strategic Plan on IP?

Response: The IPR Center works closely with the Intellectual Property Enforcement Coordinator (IPEC) office on both the Joint Strategic Plan and Outreach and Training initiatives. The IPEC is a key partner in raising awareness on the dangers of counterfeits to consumers and rights holders with the public and industry partners.

Question#:	26
Topic:	Advertising Threats
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: The FTC recently ordered social media companies to detail how they review advertising on their platforms, specifically what measures they take to filter out scams, frauds, and counterfeits that account for \$1.2 billion in annual fraud. What is the DHS' role in thwarting advertising threats that can target U.S. citizens?

Response: DHS has no statutory authority to regulate advertising or to order social media companies to review their practices concerning advertising.

Question#:	27
Topic:	Federal Employee Alerts
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Scams and fraud are not the only way online advertising is posing a threat to U.S. citizens. For example, a recent report found a \$121 million in ads on piracy sites contain malware, including ransomware and viruses that enable the theft of financial data. What is the DHS doing to alert and guide federal employees to be cautious with the sites they visit, such as piracy sites, and the ads that they click on?

Response: The Cybersecurity and Infrastructure Security Agency's (CISA) Stakeholder Engagement Division's Awareness program focuses on the general public and critical infrastructure community to increase awareness of the latest challenges, threats, and best practices via campaigns run throughout the year and with special emphasis during cybersecurity awareness month. Additionally, CISA employees are an important resource in not only amplifying important cybersecurity awareness messaging but actions that can be taken. CISA subject matter experts also help develop tip sheets and other awareness material on actions federal employees and the general public can take to reduce risk. A recent blog post example can be found at the link below:

<https://www.cisa.gov/news-events/news/4-things-you-can-do-keep-yourself-cyber-safe>

Question#:	28
Topic:	VPN Chaining
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Shady website operators sometimes harvest the Internet connections of their users so others can use them to create so-called "VPN chaining." This issue has both law enforcement and national security implications because when used by bad actors, it enables them to avoid detection or, if detected, the wrong individual is identified.

Is DHS working with law enforcement on how to ensure that IP connections are not exploited by bad actors? And if so, how?

Response: CISA regularly partners with law enforcement to mitigate risks that cyber threat actors pose to U.S. networks. These partnerships include threat information exchange and sharing situational awareness of the operational landscape. Together, CISA and interagency partners consider current and historical threat data, including cyber incident reporting and adversary threat hunting and threat monitoring data, to prioritize support and resources. Joint cybersecurity advisories represent an important way that CISA and law enforcement collaborate to alert the public to high profile cyber threats and provide guidance on how to defend against them. CISA will continue to work with law enforcement to protect America from malicious cyber actors and their evolving tactics.

Question#:	29
Topic:	Cyber Performance Goals
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Last year, CISA published Cross-Sector Cyber Performance Goals (CPGs) intended to highlight foundational cybersecurity practices that will put even small and medium-sized businesses on a path towards better cybersecurity.

What is the process used by CISA to develop the CPGs and to ensure that they follow an approach consistent with the NIST Cybersecurity Framework?

Response: In July 2021, President Biden signed National Security Memorandum (NSM)-5: *Improving Cybersecurity for Critical Infrastructure Control Systems*. This memorandum required CISA, in coordination with the National Institute of Standards and Technology (NIST) and the interagency community, to develop baseline cybersecurity goals that are consistent across all critical infrastructure sectors. Accordingly, CISA’s resulting Cybersecurity Performance Goals (CPGs) are intended to supplement the NIST Cybersecurity Framework (CSF), particularly for small and medium sized organizations seeking assistance in prioritizing investment toward a defined subset of high-impact security outcomes, whether due to gaps in expertise, resources, or capabilities or to enable focused improvements across suppliers, vendors, business partners, or customers. While the CPGs are intended to inform near and medium-term investment, CISA still encourages organizations to ultimately seek to be fully aligned to the CSF. To that end, each goal in the CPGs is mapped to a corresponding subcategory from the NIST CSF. In our most recent v1.0.1. release, CISA has also grouped the Goals according to each of the related CSF Functions (Identify, Protect, Detect, Respond, and Recover).

CISA developed the CPGs based on extensive feedback from stakeholders with the goal of creating a final product that reflects input from a wide range of groups including federal agencies, the private sector, and international partners. We achieved this goal via written comments, workshops, listening sessions, and focused discussions with experts across a variety of disciplines. The feedback we have received throughout this process has been invaluable, which is why we will maintain an open request for input as organizations begin to use the CPGs in practice and as we build out cybersecurity goals specific to individual critical infrastructure sectors in the coming months.

Following the release of the CPGs, CISA has taken—and will continue taking—input and welcomes feedback from partners from across the critical infrastructure community.

Question#:	30
Topic:	War in Ukraine
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What cyber threats, particularly new threat or tactics, have you seen in war in the Ukraine? Are there lessons can we learn from Russia's actions for future conflicts?

How would you compare Russia and China's cyber capabilities? What are you seeing from China related to the war in Ukraine? Is China supporting Russia in any way?

Response: Russian state-sponsored cyber operations related to Russia’s invasion of Ukraine have included distributed denial-of-service attacks, deployment of destructive malware against Ukrainian government and critical infrastructure organizations, and a destructive attack against a satellite communications network that serves Ukraine and other European countries. Additionally, some cybercrime groups have publicly pledged support for the Russian government. These Russian-aligned cybercrime groups have threatened to conduct cyber operations in retaliation for perceived cyber offensives against the Russian government or the Russian people. Some groups have also threatened to conduct cyber operations against countries and organizations providing support to Ukraine. Other cybercrime groups have recently conducted disruptive attacks against Ukrainian websites, likely in support of the Russian military offensive.

CISA is working with interagency, international, and private-sector partners to draw lessons from Russia’s cyber operations and to disseminate these findings to critical infrastructure organizations through its Shields Up campaign. CISA is engaging these partners to develop joint products addressing vulnerabilities and vulnerability exploitation activities; to communicate threat intelligence information with partners; to coordinate with entities on observed activities; and to facilitate unclassified and classified briefs for key sectors on updated threat intelligence related to ongoing geopolitical tensions.

Since January 2022, CISA has produced several advisories, alerts, and other products related to threats to U.S. organizations stemming from Russian state-sponsored cyber activity. Many of these products were produced jointly with our federal and international partners.

We have made all of these products available in a one-stop-shop website at www.cisa.gov/shields-up. The website includes CISA’s latest guidance and products to help organizations of every size adopt a stronger cybersecurity posture. This includes steps organizations can take, a list of free cybersecurity services and tools, and our guidance on how organizations can prepare themselves to mitigate the impact of potential foreign influence operations. As new reporting or threats emerge on potential Russian threats, CISA will ensure the resources on our “Shields Up” website are updated, as well as engage our government and critical infrastructure partners on recommended mitigation actions.

Question#:	30
Topic:	War in Ukraine
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
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Similar to “Shields up”, CISA coordinates with government and private sector partners to share information on known threats and activity emanating from other nation state threat actors. CISA develops cybersecurity advisories that provide cyber threat information and mitigation guidance and recommendations to both restricted audiences in a particular sector and to entities world-wide. Many of these products leverage information from private sector partners or are developed and distributed jointly with interagency partners including the FBI and the National Security Agency.

Russia and China both have the capability to cause catastrophic harm via cyber means to achieve their strategic objectives. But each nation state differs in their priorities and approach to cyber operations. Russia is technically capable and has demonstrated its willingness to target critical infrastructure, such as attacks on the Viasat satellite network and the Ukrainian energy grid. China is highly sophisticated, extremely well-resourced, and engages in espionage often against government and industry targets. However, any future conflict in Taiwan could change China’s approach and increase their willingness to engage in destructive attacks against critical infrastructure.

CISA has a dedicated website on known Chinese threats, tactics, and activities that the U.S. Government has publicly attributed. This website provides an overview of CISA’s assessment of the Chinese government’s malicious cyber activities. The overview leverages publicly available, open-source intelligence and information regarding this threat and includes a complete list of related CISA advisories, many of which are jointly authored with other U.S. Government agencies. Additionally, this website provides instructions on how to report related threat activity. As new reporting or threats emerge on potential Chinese threats, CISA coordinates with government and private sector partners to create new advisories so that the cyber community is informed of threats, intent, tactics, and detection and mitigation guidance.

Question#:	31
Topic:	CIRCIA Rulemaking
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Almost exactly a year ago, Congress passed a cyber incident reporting bill for critical infrastructure. There is now a rulemaking underway by CISA to implement the law. The law requires covered companies to report incidents to CISA within 72 hours and to report payment of ransomware within 24 hours of making payment.

Can you provide an update on where CISA is in the CIRCIA rulemaking process? When do you think we will have a final rule that actually puts this legislation into place?

Response: CISA is hard at work on the Notice of Proposed Rulemaking (NPRM) with the goal of meeting the statutorily mandated publication deadline.

CISA recognizes the importance of these regulations and is striving to balance the desire to proceed as expeditiously as possible with the need to ensure CISA is designing a regulatory program that can achieve its mission. We are working to create a program that will not unduly burden the regulated community and that is harmonized, to the extent practicable, with other existing Federal cyber incident reporting requirements.

Implementation of the mandatory reporting required under Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) will begin upon the effective date established in the Final Rule once it is published. The statute requires the Final Rule be published 18 months after publication of the NPRM, which should be no later than September 15, 2025.

Certain aspects of CIRCIA, such as the Joint Ransomware Task Force, the Ransomware Vulnerability Warning Pilot Program, and the Cyber Incident Reporting Council, have already been established and are underway.

Question: What is your assessment of how federal agencies are using CISA to ensure adequate information sharing and incident reporting?

Response: Federal agencies use CISA as a place to share operational cyber information and request feedback on that information to better protect their infrastructure and understand the overall risk picture. Federal agencies also use various CISA resources to share information directly with each other.

Information currently reported to CISA is often incomplete because information necessary to understand attack details, including whether or not the attack was successful, may only be determined after deeper forensic examination by the affected entity. Federal agencies can enhance incident reporting by continuing to provide CISA with updated information, providing

Question#:	31
Topic:	CIRCI Rulemaking
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

additional detailed information that would contribute to CISA's efforts to gather and analyze threat intelligence, and assessing impacts of cybersecurity incidents to national and economic security as well as impacts to national critical functions.

Question#:	32
Topic:	Sharing Threat Information
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Do you think federal agencies do a good job sharing cyber threat information with each other? If not, what should be done to improve that sharing?

What is your assessment of the efficacy of the cyber threat information sharing between the DHS/CISA and the private sector?

Response: CISA facilitates—and is working to improve—cyber threat information sharing both among federal agencies and between the federal government and non-federal entities. CISA is the designated hub for the sharing of cyber threat indicators and defensive measures between the federal government and private sector pursuant to the Cybersecurity Information Sharing Act of 2015 (CISA 2015). This law grants liability protections, privacy protections, and other protections to organizations that share cyber threat indicators and defensive measures in accordance with CISA 2015’s requirements. As mandated by CISA 2015, DHS certified the operation of the Automated Indicator Sharing (AIS) service in March 2016 and released a series of guidance documents, in conjunction with DOJ, to help private and public sector entities share cyber threat indicators with the Federal Government.

While some Federal agencies have created sector-based cyber threat information sharing communities to exchange data among themselves (e.g., Healthcare and Public Health Sector and Financial Services Sector), few cross-sector Federal sharing communities exist outside of CISA’s AIS sharing platform. In addition to AIS, CISA shares Cyber Threat Intelligence (CTI) with Federal Agencies through various mechanisms, to include the Joint Cyber Defense Collaborative (JCDC) which hosts fora to bring technical subject matter experts together to share critical insights on advanced persistent threats. While CISA has successfully operated its CISA 2015-compliant machine-to-machine sharing service and continues to evolve and improve the capability, participation challenges remain. In many cases, Federal Agencies lack the tools, policies, resources, and expertise to generate and share CTI from their internal environments with external partners at machine speed. Additionally, for those who do engage AIS (to include Federal and non-Federal entities), many find it challenging to meet and maintain mandatory security requirements and standards necessary to participate. Further, in deploying the AIS capability, CISA encountered many statutory requirements that presented implementation challenges at odds with how stakeholders share information today.

To this end, CISA has focused on partnering with the vendor community who manage many Federal and non-Federal entities’ threat sharing solutions, to drive interoperability using common, cybersecurity community-driven CTI standards. CISA has rebuilt and evolved its AIS infrastructure to include major updates, enhancements, and improvements to increase the quality of information available through its machine-to-machine sharing platform. In addition, the

Question#:	32
Topic:	Sharing Threat Information
Hearing:	Oversight of the Department of Homeland Security
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Agency is partnering with large sector-focused information sharing hubs (Information Sharing and Analysis Centers, Information Sharing and Analysis Organizations, etc.) to scale sharing across the national cyber threat information sharing ecosystem. CISA recognizes that it may take some time for the vendor community to fully adopt and integrate these new standards into their proprietary threat sharing solutions but is committed to working collaboratively to achieve maximum vendor-agnostic interoperability to support the timely sharing of accurate, relevant, and actionable CTI. Moreover, CISA has learned through its numerous engagements that both Federal and non-Federal entities desire tailored, customer-driven channels to support localized sharing groups that foster greater trust. These and related findings continue to drive and inform the Agency's vision for the future.

To address many of these issues, CISA understands it must evolve its overall approach to cyber threat information sharing. In addition to the planned 2023 rollout of significant updates and enhancements to its current cyber threat sharing platform technology, CISA endeavors to launch a new comprehensive suite of cyber threat intelligence services it hopes will eventually lead to the collective maturation of the Federal Government's cyber threat information sharing capability. Overall, CISA is committed to continuing to lead in this important mission-critical focus area and will continue to meet current and future related threat information sharing objectives established by and with its partners and those envisioned for CISA in the recently released National Cybersecurity Strategy.

Question#:	33
Topic:	Expand Workforce
Hearing:	Oversight of the Department of Homeland Security
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What actions is DHS taking to expand our cybersecurity workforce and fill the expanding gap between jobs and the number of qualified applicants experienced enough to apply?

Response: To expand the cybersecurity workforce and fill existing gaps CISA has taken the following actions:

- Developed and implemented the Federal Cyber Defense Skilling Academy: The Federal Cyber Defense Skilling Academy is focused on providing training for current federal employees from non-cyber fields to develop the necessary cyber skills to enter the cybersecurity workforce.
- Conducted recruiting and outreach efforts that include:
 - Conducting 15 recruiting events in the next 60 days, with additional future events planned.
 - Outreach and recruiting events at universities, including Historically Black Colleges and Universities (HBCUs).
 - Outreach and recruiting events at professional conferences, including Black Hat USA and the Grace Hopper Conference.
 - Leveraging professional social media and job sites such as LinkedIn, ClearanceJobs, and DICE.
 - Conducting information sessions with various partners in the public and private sectors.
- Conducting advanced market research that includes:
 - Identifying programs at colleges and universities, including HBCUs, and Latino and Native American serving institutions.
 - Assessing populations in non-metropolitan statistical areas for possible groups with needed cyber skills.
 - Leveraging data and information from sites such as:
 - LinkedIn Talent Insights
 - Cyberseek
 - National Center for Education Statistics
 - Centers of Academic Excellence in Cybersecurity
 - Military installation with a focus on military spouses
 - Salary.com (along with U.S. Department of Labor and U.S. Census Bureau) to assess how competitive government pay is with private sector pay.

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Topic:	Expand Workforce
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- Developed and implemented the CISA Workforce Framework that uses and expands on the NIST National Initiative for Cybersecurity Education Framework to assess needed knowledge, skills, abilities, and competencies across the workforce. In addition to assessing the knowledge, skills, abilities, and competencies the CISA Workforce Framework provides a foundation for the development of CISA-specific assessments to ensure that we are getting the best and right talent needed to meet the Nation’s cybersecurity missions.
- Secretary Mayorkas and Director Easterly both participated in the White House’s National Cyber Workforce and Education Summit in July 2022, alongside senior government leaders, private sector executives, and thought leaders from the cybersecurity and education sectors. During this Summit, participants discussed numerous initiatives across the public and private sectors that would create and prioritize new skills-based pathways to cybersecurity jobs, tap into historically untapped talent, and invest in America’s future cyber resiliency.

Question#:	34
Topic:	Chinese Nationals
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Marsha Blackburn
Committee:	JUDICIARY (SENATE)

Question: Estimates indicate that border apprehensions of Chinese nationals have increased 900% compared to the same period last year. There have been 4,271 arrests of Chinese nationals along the southern border between October and March, which is a 12-fold increase from the same period a year earlier. Recent video footage has shown a busload of Chinese nationals being released to a non-governmental organization in Brownsville, Texas, left with Notices to Appear rather than being detained.

What kind of biometric data are you collecting before admitting them to the United States?

Response: Every noncitizen who arrives at the border and is processed by CBP is subject to screening and vetting of their biographic and biometric information across a suite of law enforcement and intelligence databases. Any noncitizens who pose a risk to our national security or public safety are referred to ICE or other government agencies for detention. CBP data includes rolled impressions of all 10 fingers, a photograph, and an iris capture. DNA samples are collected and submitted to the DOJ Combined DNA Index System in accordance with law and regulations.

Question: Have you obtained information from the People’s Republic of China’s databases about whether any of these Chinese nationals have criminal records?

Response: USBP utilizes every avenue possible to ensure that subjects encountered are properly vetted. Though DHS does not have any official criminal information sharing relationships with the People’s Republic of China, individuals encountered at and between our ports of entry are screened against law enforcement and national security information, including appropriate INTERPOL notices and alerts.

Question: Can you guarantee that none of these individuals are murderers, rapists, or known terrorists?

Response: DHS screens and vets all noncitizens who are seeking entry into the United States. They undergo screening and vetting that incorporates law enforcement and national security information to determine if they pose a threat to national security or public safety. This includes vetting against the Terrorist Screening Dataset, also known as the “terrorist watchlist,” which holds identity information that represents a spectrum of derogatory information. In the event of a match, DHS takes appropriate enforcement action based on the specific facts of each situation, which may include placing the individual into removal proceedings. Anyone who poses a national security or public safety threat is detained and not released into the United States.

Question#:	34
Topic:	Chinese Nationals
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Marsha Blackburn
Committee:	JUDICIARY (SENATE)

Question: Can you guarantee that none of these individuals are here to engage in espionage against the United States?

Response: DHS screens and vets all noncitizens who are seeking entry into the United States. They undergo screening and vetting that incorporates law enforcement and national security information to determine if they pose a threat to national security or public safety. DHS takes appropriate action based on the specific facts of each case, including potential coordination with the FBI's National Counterintelligence Taskforce in cases where there are espionage concerns. Anyone who poses a national security or public safety threat is detained and not released into the United States.

Question#:	35
Topic:	Children Trafficked
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Marsha Blackburn
Committee:	JUDICIARY (SENATE)

Question: Under the Biden Administration, the smuggling of women and children transformed from a \$500 million industry into a \$13 billion industry. Secretary Becerra testified last week before the Senate Finance Committee that the Biden Administration lost track of over 85,000 unaccompanied migrant children who were released into the United States.

How many of these children are now being trafficked?

Response: DHS is committed to preventing human trafficking and follows established policies to care for unaccompanied children in its custody. Both the Homeland Security Act (HSA) of 2002 and the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 transferred the authority to provide for the care and custody of unaccompanied children (UC) to the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). ICE ERO transfers UCs into the care and custody of ORR, pursuant to the TVPRA and HSA. The UC sponsor vetting process is conducted by HHS/ORR, and per the HSA, ORR is responsible for releasing unaccompanied children to a sponsoring adult. DHS does not have further information to respond to your question.

Please note that the terms “human trafficking” and “human smuggling” are often used interchangeably in error. These are distinct crimes. Human trafficking does not require crossing a border. Human trafficking is a crime of exploiting another person for forced labor or commercial sex acts, typically through force, fraud, or coercion, or by inducing a minor under 18 into commercial sex. Immigration status or citizenship is not relevant to human trafficking investigations. Approximately half of all human trafficking victims identified and assisted by HSI in FY 2022 were United States citizens.

Question: How many of these children were put into the sex trade?

Response: Under the TVPRA, HHS, not DHS, is the agency tasked with the care and placement of UCs. DHS has no role in the placement and release of UCs to sponsors, and does not have data on that population and therefore does not have data on how many unaccompanied migrant children have been put into the sex trade.

Question: What is your plan for ending the Biden Administration's sexual assault epidemic at the southern border?

Response: DHS investigates all viable tips and allegations of sex trafficking and forced labor regardless of the age, citizenship, or demographics of the potential victims.

Question#:	35
Topic:	Children Trafficked
Hearing:	Oversight of the Department of Homeland Security
Primary:	The Honorable Marsha Blackburn
Committee:	JUDICIARY (SENATE)

Migrants smuggled are often subjected to dangerous and exploitative conditions. These migrants are often subjected to unsafe and inhumane conditions, such as being crowded into unventilated trucks/trailers, boats, or stash houses for long periods without food, water, or access to sanitation facilities. Smuggled migrants are also at risk of violence, extortion, and other forms of abuse by smugglers or criminal groups who may exploit their vulnerable situation. Sometimes, they are abandoned in remote areas or left to fend for themselves in unfamiliar surroundings. Additionally, there is a limited body of detainee reporting where it was reported that an assault was perpetrated by a foreign law enforcement or immigration official or their purported associate.

The Human Smuggling Unit (HSU) mission is to work collaboratively with internal and external partners to disrupt and dismantle transnational criminal organizations by providing the highest level of support to HSI operational field components. HSU uses expert intelligence, interdiction, investigative and prosecutorial resources to aggressively investigate, disrupt, and dismantle the highest priority transnational human smuggling organizations and affiliated networks, thus supporting the national strategy to combat terrorism and international organized crime. HSU manages and oversees several counter-human smuggling programs and projects in coordination and collaboration with CBP Counter Networks Division, DOJ – Human Rights and Special Prosecutions Section, the Intelligence Community, the U.S. Department of Defense, DOS, International Narcotics and Law Enforcement Affairs, INTERPOL, and the DHS Office of Intelligence and Analysis.

HSI focuses on a multidisciplinary approach to casework, specifically with regard to victim-related crimes. HSU also follows this approach. HSU works closely with investigators, criminal analysts, prosecutors, and our domestic and international partners to bring together the expertise needed to combat human smuggling comprehensively. In cases where human smuggling results in victimization, such as violence, extortion, and/or exploitation, HSI VAP (Victim Assistance Program) provides a critical resource to these HSI investigations and criminal prosecutions by ensuring that victims of federal crime have access to the rights and services to which they are entitled by law, as well as the assistance they need to navigate the aftermath of a crime so that they can participate actively and fully in the criminal justice system process. VAP provides victims with federally mandated assistance and access to a wide range of local resources. VAP conducts trauma-informed forensic interviews of victims and witnesses in support of HSI investigations, including victims identified in human smuggling investigations.