

Question#:	1
Topic:	Border Wall Land
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: In December 2018 and March 2019, I asked you for a copy of Customs and Border Protection's (CBP) plan for the President's miles of border barriers, which you identified as 1,100 miles, and a list of landowners of the underlying land that has been identified as not under federal government control. After these hearings, my office was informed that the Department of Homeland Security (DHS) Office of Legislative Affairs has not authorized release of a copy of the plan to me, even though you agreed at the March 6, 2019 hearing to make sure I received a copy.

Please provide a copy of the plan you referenced at the December 12, 2018 and March 6, 2019 hearings for the 1,100 miles of the President's border wall.

Response: Infrastructure, in the form of barriers and supporting roads have been used by U.S. Border Patrol for nearly 30 years. While they have evolved in form, they have consistently functioned as the most effective way to accomplish needed impedance and denial (I&D). The operational impact of these barriers is profound with the most significant examples of their successes occurring in San Diego, California; Tucson and Yuma, Arizona; as well as El Paso, Texas. Field Commanders continue to advocate for a border wall and the enduring capability it creates to impede and/or deny attempted illegal entries, while allowing additional time to affect a law enforcement resolution. To support this continued need, in 2017, U.S. Customs and Border Protection (CBP) developed a decision support tool to prioritize the locations identified by field commanders as necessary to construct border barrier. The decision support tool combines both qualitative and quantitative data to prioritize the locations that would benefit from I&D, in this case, through border wall system. The methodology and locations prioritized as a result of applying the decision support tool were provided as part of CBP's Border Security Improvement Plan (BSIP) to Congressional Appropriators in January 2018. On June 28, 2019, DHS provided the BSIP to Judiciary Committee staff. This document details CBP's priorities for border wall system investments as requested.

Question: Please provide a list of landowners who have been identified so far in the 316 miles of land that you stated at the March 6, 2019 hearing are part of CBP's 700 priority miles of border barriers but are not currently owned by the federal government.

Response: Until such time as CBP has been funded to complete detailed project formulation to determine the exact alignment of border wall segments, we cannot accurately determine exactly which parcels of land will be required to construct border barrier and the associated ownership for each parcel.

Question#:	2
Topic:	ICE Analysis
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: At the hearing, I asked you about the factual basis for your claim that alternatives to family detention, including the Family Case Management Program, do not work. I noted that the DHS Office of the Inspector General issued a report in November 2017 stating that participants of the Family Case Management Program complied with ICE check-ins and appointments 99 percent of the time and attended court hearings 100 percent of the time.

Please provide me a copy of the ICE report or analysis that you referred to at the hearing that supports your claim that the Family Case Management Program was not successful.

Response: From January 2016 to June 2017, U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) ran the Family Case Management Program (FCMP), a community-based Alternatives to Detention (ATD) pilot initiative that employed specially trained case managers to encourage compliance with immigration obligations for alien families. In June 2017, after completing a top-down review of the pilot year, ICE terminated the program in order to invest those resources into pre-existing and more cost-effective ICE ATD programs. Additionally, as instructed by Congress, ICE has recently incorporated many of the FCMP case management principles into its traditional ATD program. These principles were incorporated into the current ATD – Intensive Supervision Appearance Program (ATD – ISAP III) through a contract modification known as Extended Case Management Services (ECMS), which will provide similar services at approximately 50 locations nationwide (much broader geographic availability than the 5 sites where FCMP operated).

Between Fiscal Year (FY) 2014 and May 2019, ICE expanded the number of aliens enrolled in traditional ATD from 23,000 to more than 100,000 and has been able to enroll more participants in part because it was able to reinvest the money that would have been spent on a much smaller number of FCMP enrollees. FCMP costs \$38.47 per family, per day (or roughly \$16.73 per individual), while traditional ATD – ISAP III costs approximately \$4.40 per individual, per day, and ECMS costs approximately \$7 per family, per day. During the FCMP pilot, the program enrolled approximately 950 heads-of-household (HoH) and ended up costing more than \$17 million during the pilot period, and resulted in only 15 removals from the United States, as opposed to more than 2,700

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from ATD – ISAP III during the same period. Additionally, while “compliance rates”¹ for FCMP were in the high 90th percentile (similar to other forms of ATD), because the program ran for such a short time, this only represents the fact that most participants showed up only for their first court hearing (and possibly second). It does not speak to whether participants would have been successful over the long term, as typically those who are enrolled in ATD become far more likely to abscond as their cases near conclusion.

During the FCMP pilot, only 65 participants completed the program, 41 of which were terminated due to non-compliance. As of June 2019, two years after the program was terminated, nearly 800 of the approximately 950 former FCMP HoH enrollees have active cases still pending and remain in the United States. Specifically, more than 150 of the active cases are subject to a final order of removal. Of those, more than 50 percent were ordered removed *in absentia* after failing to appear for their final hearing.

Because immigration cases may take years to conclude, the vast majority of these cases are still awaiting outcomes and would therefore still be enrolled in FCMP, which would have cost approximately \$26.5 million between June 2017 and the present if enrollments remained limited to the initial group of participants.

¹ ICE also notes that widely reported “compliance rates” above 90 percent refer to whether an alien attended a specific, scheduled check-in or court hearing, and do not describe success across the entire immigration process.

Question#:	3
Topic:	Family Case Management Program Restart
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you stated that ICE is planning to appropriately apply Fiscal Year 2019 funding to restart the Family Case Management Program. Please explain in detail the steps DHS has already taken and plans to take to restart the Family Case Management Program.

By when does ICE plan to restart the Family Case Management Program and how many participants will it have?

Will ICE engage qualified non-profit organization to manage the Family Case Management Program to maximize the effectiveness of the program? In the past, community-based organizations with longstanding experience and technical experience in serving immigrants and refugees were contracted to provide case management services.

Response: As instructed by Congress, ICE recently incorporated many of the FCMP principles into its traditional ATD program. These principles were incorporated into the current ATD – ISAP III through a contract modification and are known as ECMS. The same services are available through the ECMS modification as were available under FCMP with two distinct differences: ECMS is available in a higher number of locations² and at a fraction of the cost.³ ECMS is run out of existing ATD sites using specialized case managers who can provide participants with appropriate referrals to community organizations to assist with living arrangements, vocational services, community support networks, medical and mental health services, and more.

With additional funding, ICE will expand these case management principles across more of the non-detained ATD population and continue to identify and deploy other robust case management concepts.

² FCMP was available in only 5 metropolitan areas while ECMS is available in any location in which ICE ERO has a C-site, which is in approximately 50 cities across the United States.

³ While FCMP was available for approximately \$38 per HoH, per day, ECMS services are available for less than \$7 per HoH, per day. This leads to a significant cost reduction for the government while achieving comparable outcomes.

Question#:	4
Topic:	Pardon Offer
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: I asked you at the hearing about multiple news reports in April 2019 that indicated President Trump offered to pardon you if you went to jail for following his desired policy of blocking entry of asylum seekers to United States. Specifically, I asked if President Trump had ever offered or suggested that he would pardon you if you were to implement his legally suspect immigration policies, including denying entry to asylum seekers, even if you perceived it to be a joke.

Please answer the question: Has President Trump had ever offered or suggested that he would pardon you if you were to implement his legally suspect immigration policies, including denying entry to asylum seekers, even if you perceived it to be a joke?

If yes, please provide details of the incident, including who else was present when the incident occurred.

Response: I am not going to comment on conversations with the President. As I have stated on many occasions – including under oath before Congress – I have not been asked to do anything illegal by the President or anyone at the White House.

Question#:	5
Topic:	Deterring Border Crossings
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: In December 2018, you testified before this Committee and said that, "from your perspective," when "we apprehend families and they are either not detained at all . . . or they're detained for just a short period of time . . . it creates an incentive for other families to cross."

What fact-based evidence can you point to that shows detaining families is an effective way to deter border crossings by other migrants?

Response: Pursuant to the *Flores* Settlement Agreement (FSA) and court decisions interpreting it, children accompanied by their parents generally cannot be in immigration detention for more than approximately 20 days. After this time, the Department of Homeland Security (DHS) must usually release migrant families into the interior of the United States while they await their immigration hearing. On average, this wait is 1,300 days. Many of these families ultimately abscond, failing to appear for the removal proceedings and remaining in the country subject to a final order of removal.

CBP encounters of family units have significantly increased over the years. When CBP processes detainees, officers and agents conduct interviews with the detainee to understand the journey undertaken from the detainee's home country to the U.S. In these interviews, migrants from El Salvador, Guatemala, and Honduras have repeatedly stated to CBP officers and agents that they know that traveling as a family unit will allow an expedited release from immigration custody into the United States. Migrant smugglers are exploiting this loophole to encourage more family units, particularly from El Salvador, Guatemala, and Honduras, to seek illegal entry to the United States at the U.S. Southwest border. The significant increase in family units and those fraudulently claiming to be family units, coupled with the anecdotes of what detained migrants tell CBP officers and agents, are among the examples of why loopholes in U.S. immigration laws are being exploited. We are concerned the lives of vulnerable populations are being put in danger as they make the journey to our borders.

Question: NBC news reported that government emails revealed that DHS did not keep track of the thousands of families it had separated. That indicates that the government had no intention of reuniting these families. The government has taken more than a year to reunite about 2,800 children with their parents under court order, and there are potentially thousands more separated children who still need to be identified. Despite all of this, the President has recently stated that *ending* the family separation policy was "a disaster" that resulted in more families coming into the country.

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In your view, do you believe policies, like the family separation policy, that are intended to deter migration by punishing immigrants for entering this country, are effective?

If so, please explain how these policies address the humanitarian concerns at the border.

Response: CBP disagrees with the assertion that family separation is, or was, a means to punish immigrants. Family separation is consistent with DHS authorities. The humanitarian crisis at the border is one of volume – there are simply more aliens arriving at the border than DHS has resources to accommodate. Any policy that is consistent with legislative and executive authority, while protecting vulnerable populations, and that deters others from making the dangerous journey, thus lowering the volume of migrants at the border, should be considered. An immigration system with integrity includes the ability to detain families together, in a safe and appropriate setting, until the conclusion of their immigration proceedings or as otherwise appropriate.

Question#:	6
Topic:	Children Detained
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: ICE reported that from June 2018 to March 2019, it had detained more than 9,000 immigrant children age 5 and under, and the longest length of time these children had been detained was 72 days.

What criteria does DHS consider in determining whether to send a child, particularly a young child, to a family detention center?

Response: A child can be sent to a Family Residential center (FRC) when accompanied by an alien parent or legal guardian. Non-criminal, non-violent family units are accepted for placement in ICE FRCs. ICE has approximately 2,500 family detention beds, of which 96 are permanently dedicated to male head of household family units. In placing families in FRCs, ICE considers among other things, the family unit composition (gender of the parent and children), the criminal history of the parents, and the availability of bedspace.

Question: Please identify the number of tender age children age 5 or under who were detained between 21 to 72 days.

Response: Between June 1, 2018 and March 31, 2019, there were 581 juveniles ages 5 or younger who were detained in ICE custody for 21 to 72 days. The count of 581 represents juveniles booked into FRCs with a parent or legal guardian.

Question: For every child age 5 or younger who was detained for more than 60 days, please explain the circumstances justifying this length of detention.

Response: There were two children detained over 60 days in ICE custody during this time frame; both were detained with their parents. One minor's custody time was extended (64 days in custody) due to the father's request for multiple reviews of his asylum claim. The second minor's custody time was extended (66 days in custody) due to ongoing litigation.

Question#:	7
Topic:	Reunifications
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Please explain what steps you taken to ensure that the children and parents who were previously separated by DHS but have not yet been reunited are identified and reunited as quickly as possible.

Response: Information regarding the U.S. government's reunification efforts is publicly available in status reports filed with the court in *Ms. L v. ICE*, No. 18-428 (S.D. Cal. Filed February 26, 2018).

Question#:	8
Topic:	Root Causes
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: On March 30, 2019, the U.S. State Department, at the direction of the President, cut off \$450 million of foreign aid to Honduras, El Salvador, and Guatemala. This aid was intended to help mitigate the root causes of migration to our country. Foreign policy experts have criticized this decision as effectively "shooting yourself in the foot." These countries have struggled for years with violence, poverty and insecurity, and are grappling with a drought. At a prior hearing, you said that it is "absolutely essential" to address root causes of migration in Northern Triangle countries, and at the last hearing, you agreed that addressing these root causes with foreign aid is part of the multipronged approach that is needed to deal with the situation at the border.

Do you believe that the May 1, 2019 White House supplemental request for funding accurately reflects DHS's views regarding the importance of addressing the root causes of migration?

What steps have your offices taken to address the root causes of migration in Northern Triangle countries?

How much of the foreign aid appropriated for programs in Honduras, El Salvador, and Guatemala are currently being provided to these countries? At the hearing, you agreed to obtain this information and provide it to the Senate Judiciary Committee.

Response: DHS does not control or decide the amounts or types of U.S. foreign assistance for Central America and we respectfully refer you to the Department of State (DOS).

However, DHS partners with DOS and other entities that comprise the U.S. Government (USG) interagency on a number of initiatives in the region, including some that require foreign assistance. The USG interagency collaboration to provide support to our partners in Central America is based on a holistic approach aimed at tackling the socioeconomic and political factors acting as push and pull factors for irregular migration.

As an example, DHS partners with DOS to engage with our Central American partners to increase their capacity to bolster their asylum processing systems, improve their border security, and combat migrant smuggling and human trafficking networks.

DHS signed several agreements and arrangements with its partners in El Salvador, Guatemala, and Honduras in 2019 to allow for the provision of assistance under the

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formerly mentioned lines of effort. These agreements and arrangements include: Asylum Cooperative Agreements (ACAs), Border Security Arrangements (BSAs), and Biometric Information Sharing Agreements.

The purpose of the Asylum Cooperative Agreement (ACA) is to facilitate cooperation between the United States and our partner nation governments to expand the latter's current system for offering humanitarian protections. In doing so, these agreements provide migrants with more opportunities to seek protection in the region and eliminate the need to make the dangerous 1,000+ mile journey to the United States.

The purpose of the BSA is to promote CBP and ICE cooperation with their counterparts in the region -- to include police/border security, immigration, customs, and Transnational Criminal Investigative Units (TCIUs) -- to improve partner countries' capacity to provide border security as well as counter migrant smuggling through the support of criminal investigations. The purpose of the Biometric Information Sharing Arrangement is to promote enhanced border security cooperation through the expansion of information collection and sharing.

Question#:	9
Topic:	Foreign Aid Use
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: At the hearing you stated that foreign aid to Honduras, El Salvador, and Guatemala were frozen because of "[c]oncerns that it was not being applied effectively to actually meet the purposes of the legislation and the appropriation."

Please provide details of what those concerns are, when they were identified, who identified them, and what the factual bases are for those concerns.

What plan is currently in place to evaluate the use of this foreign aid and release this aid as appropriated by Congress?

Response: DHS respectfully refers you to DOS for answers to questions regarding U.S. foreign assistance.

Question#:	10
Topic:	Criminality and Gang Affiliation
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: On February 20, 2019, the government reported in *Ms. L v. U.S. Immigration and Customs Enforcement* that 249 children were separated from their parents between June 28, 2018 and February 5, 2019. This was after Judge Sabraw ordered an end to family separations with rare exceptions. The government stated that 225 of those 249 cases were separations based on a parent's alleged "criminality, prosecution, gang affiliation, or other law enforcement purpose."

On May 2, 2019, USA Today reported that there 389 children who have been separated from their parents between June 28, 2018 and April 2019, and one-fifth of these newly separated children are younger than 5 years old. This indicates a 56-percent increase in the number of family separations since February 2019. The article identifies one father who had his 2-year-old daughter taken from him for nearly a month despite having a birth certificate with both their names and no prior criminal record.

Please identify the specific details of the "criminality" that has been used as a basis for separating families.

Response: U.S. Border Patrol (USBP) adheres to the preliminary injunction in the *Ms L v ICE* case and CBP guidance provides guidelines under which a parent/legal guardian can be separated from his or her child. USBP has separated parents from their children for having convictions of a variety of violent misdemeanors and felonies to include domestic violence, rape, child abuse/neglect, armed robbery and murder.

When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and his or her alien minor child(ren)), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP's June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE* are met. With the appropriate approvals, CBP officers can separate where a parent/legal guardian is being referred for a felony prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors, or the parent/legal guardian has a communicable disease. Unverified claims of parent-child relationships are also processed under the Interim Guidance. See also, response to Question 16. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

To ascertain whether an alien has a criminal history in the United States, CBP conducts a biographic search of the National Crime Information Center (NCIC) Interstate Identification Index (III) through the TECS system. Additionally, CBP conducts a

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biometric search of the FBI Integrated Automated Fingerprint Identification System (IAFIS). Based on what has been reported to both NCIC/III and IAFIS, CBP will determine whether the criminal history rises to a level which would warrant a separation of a parent from a child under the June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE*.

Based on the original guidance issued for compliance with the *Ms. L v. ICE* injunction issued on June 27, 2018, states in part, “Any questions on what constitutes a violent misdemeanor or felony should be directed to the local Office of Chief Counsel.”

Question: Please identify the specific details of how CBP has determined a parent’s “gang affiliation” that has been used as a basis for separating families.

Response: Through collaboration with numerous domestic and international law enforcement partners, USBP is able to identify and/or verify an alien’s gang affiliation. Many times, aliens will claim prior or current gang affiliation. Although gang affiliation alone is not specifically identified as a reason for family separation, the potential risk to the child’s safety is prioritized and separation is generally authorized. In addition, ICE cannot house known gang members in their family residential centers because they are a safety risk to other residents, nor will those aliens be authorized for alternatives to detention.

When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and his or her minor child(ren)), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP’s June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE* are met. With the appropriate approvals, CBP officers can separate where a parent/legal guardian is being referred for a felony prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors, or the parent/legal guardian has a communicable disease. Unverified claims of parent-child relationships are also processed under the Interim Guidance. See also, response to Question 16. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

Regarding whether an alien has a “gang affiliation”, CBP uses the criminal history data gathered from the NCIS III system and IAFIS.

CBP tracks the following reasons for the separation of a family:

- At the request of ICE, ERO,

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- Criminality of Parent/Legal Guardian – Child Safety Concerns,
- Long Term Medical Emergency – Family Separated,
- Prosecution of Parent/Legal Guardian.

Attached is an April 1, 2019 muster reminding CBP Officers on the use of these reasons for family separation.

Question: Has DHS provided training to every CBP officer on what types of criminal history would justify separating a child from her or his parent under child welfare principles?

Response: Yes, CBP has provided training to every CBP Officer on what types of criminal history would justify separation. In instances where a separation is warranted, a CBP Office of Field Operations (OFO) senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). Additionally, the Office of Chief Counsel is generally brought in to provide guidance.

The Border Patrol Academy does not provide formal training regarding family separation nor does it currently have criteria in place at the Academy to determine parental fitness. Although no training specific to family separation exists, the reasons for separation as outlined in the *Ms. L. v. ICE* preliminary injunction have been communicated to the field.

Question#:	11
Topic:	Determination Process
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Who, specifically, in CBP is making these determinations of whether a parent should be separated from her or his child after they cross the border into the United States?

Response: In Border Patrol sectors, the Chief Patrol Agent of each sector is the approving official after reviewing all relevant facts and known information for each separation. This approval may not be delegated below the Watch Commander position.

For subjects encountered at a Port of Entry, in instances where a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). Additionally, the Office of Chief Counsel is generally brought in to provide guidance.

Question: What training, if any, has DHS provided to these CBP officers on how to determine whether separation is appropriate?

If training is provided:

How many CBP officers have been trained been trained so far?

When was this training created?

In what format (*e.g.*, in person, on-line, etc.) is this training provided?

What child welfare experts or pediatric medical specialists were consulted to develop this training?

In what ways were their recommendations incorporated into the training?

If such training is not provided, please explain why.

Response: No formal training is provided at the basic academy. However, the guidelines for reasons that will warrant separation are found in the *Ms L. v. ICE* preliminary injunction. This information has been disseminated to all officers at the field level in the form of a memo and muster, which both support the *Ms L. v. ICE* litigation.

Question: Has DHS allocated staff and resources to develop a training?

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Has DHS provided training to every CBP officer on how to determine the “best interests of a child”?

Response: The Border Patrol Academy and Field Operations Academy provide training to all new officers and agents regarding all “at-risk” populations as part of the Transport, Escort, Detention, and Search policy. However, issues regarding the separation of families are not directly covered during basic instruction. CBP field leadership is responsible for ensuring compliance with applicable laws, regulations, local policies and guidance addressing this topic

Question#:	12
Topic:	Guidelines
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: What guidelines or internal policy memoranda currently exist for CBP officials regarding how to determine whether a child and parent should be separated? Please provide a copy of these documents.

Response: The guidelines for reasons that will warrant separation are found in the *Ms L. v. ICE* preliminary injunction. This information has been disseminated to all agents at the field level in the form of a memo and muster.

When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and his or her minor alien child(ren)), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP's June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE* are met. With the appropriate approvals, CBP Officers can separate where a parent/legal guardian is being referred for a felony prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors, or the parent/legal guardian has a communicable disease. Unverified claims of parent-child relationships are also processed under the Interim Guidance. See also, response to Question 16. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

Question#:	13
Topic:	Separation Documentation
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Has DHS provided training to every CBP officer on how to document the reasons for separation?

Response: Yes, CBP provides training to every CBP Officer on how to document the reasons for separation. CBP provides detailed documentation of family separation related to the following separation reasons:

- At the request of ICE ERO,
- Criminality of Parent/Legal Guardian – Child Safety Concerns,
- Long Term Medical Emergency – Family Separated,
- Prosecution of Parent/Legal Guardian.

Question#:	14
Topic:	Oversight
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

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

Response: In Border Patrol sectors, the Chief Patrol Agent of each sector is the approving official after reviewing all relevant facts and known information for each separation. This approval may not be delegated below the Watch Commander position.

For subjects encountered at a Port of Entry, in instances where a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the Immigration and Customs Enforcement/Enforcement Removal Operations (ICE ERO) local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). Additionally, the Office of Chief Counsel is generally brought in to provide guidance.

Question: What avenues do parents have to immediately challenge invalid separations?

Response: There is not a means for the parent to immediately challenge the decision to separate a parent/legal guardian from a child. If there is not an immediate safety or security of the child concern (e.g., parent/legal guardian is likely to abuse the child), the parent/legal guardian is informed of the reasons for the separation and can address any concerns at the time of separation.

As part of the processing procedures, an informational sheet is provided to parents/legal guardians that have been separated from their child(ren). The informational sheet provides contact information for ICE/ERO and the Department of Health and Human Services (HHS). Using the relevant contact information, parents/legal guardians can provide additional information related to their separations for ICE's consideration and request information about their child's location and condition from HHS/ORR.

Question#:	15
Topic:	Transfers to HHS
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: The government reported in *Ms. L v. U.S. Immigration and Customs Enforcement* that it has a process in place for tracking family separations since June 26, 2018.

What details about reasons for separation does DHS provide the Department of Health and Human Services (HHS) when DHS transfers custody of a separated child to HHS?

Response: DHS and HHS have entered into a Memorandum of Understanding which outlines what information needs to be provided to HHS at the time of transfer of custody. When a family separation occurs, CBP notifies HHS that a separation has occurred and the name, date of birth, Alien registration number and location of the parent. Information related to the child is also transmitted to ERO as a means to facilitate reunification. HHS is not a law enforcement agency and CBP can only relay limited information regarding the parent's criminality.

CBP provides detailed reasons for family separation during the following instances:

- At the request of ICE ERO,
- Criminality of Parent/Legal Guardian – Child Safety Concerns
- Long Term Medical Emergency – Family Separated,
- Prosecution of Parent/Legal Guardian.

Attached is an April 1, 2019 muster reminding CBP Officers about the instances when family separation is applicable.

Question: Are these details sufficient to distinguish one case from another, or are the details limited to general categories such as “criminal history”? If it is the latter, please provide a list of the categories.

Response: Each case involving a family separation is reviewed and authorized on its individual merits. The information relayed to HHS and ERO is sufficient to distinguish separate cases.

Yes, these details are sufficient to distinguish one case from another. CBP provides detailed reasons for family separation during the following instances:

- At the request of ICE ERO,

Question#:	15
Topic:	Transfers to HHS
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
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- Criminality of Parent/Legal Guardian – Child Safety Concerns,
- Long Term Medical Emergency – Family Separated,
- Prosecution of Parent/Legal Guardian.

Attached is an April 1, 2019 muster reminding CBP officers about the instances when family separation is applicable.

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

Response: Each case involving a family separation is reviewed and authorized on its individual merits. The facts of each case to include biographical data of parents and minors as well as the reasons for separation are documented in the electronic system of record.

When CBP encounters an alien family unit (consisting of either one or two alien parents/legal guardians and his or her minor alien child(ren)), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in CBP's June 27, 2018 *Interim Guidance on Preliminary Injunction in Ms. L v. ICE* are met. With the appropriate approvals, CBP Officers can separate where a parent/legal guardian is being referred for a felony prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal conviction(s) for felonies or violent misdemeanors, or the parent/legal guardian has a communicable disease. Unverified claims of parent-child relationships are also processed under the Interim Guidance. See also, response to Question 16. Additionally, CBP will not separate two-parent families unless both adults meet the criteria to require separation from the child(ren).

In Border Patrol sectors, the Chief Patrol Agent of each sector is the approving official after reviewing all relevant facts and known information for each separation. This approval may not be delegated below the Watch Commander position. The justification for family separation is documented within the electronic system of records along with all available evidence supporting the decision.

In instances where a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). Additionally, the Office of Chief Counsel is generally brought in to provide guidance.

Question#:	15
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Question: Does DHS promptly and routinely provide information supporting the reasons for separation to:

The attorney for the parent, if and when one files a notice of representation?

Response: CBP does not provide supporting reasons to an alien's attorney. If there is not an immediate safety or security of the child concern (e.g., parent/guardian is likely to abuse the child), the parent/legal guardian is informed of the reasons for the separation and can address any concerns at the time of separation.

Question: The attorney for the child, if and when one files a notice of representation?

The independent child advocate, if one is appointed by HHS?

Response: CBP does not provide supporting reasons to an alien's attorney.

Question#:	16
Topic:	New Separations
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: On February 20, 2019, the government filed a report in *Ms. L v. U.S. Immigration and Customs Enforcement* that stated:

"some of these 245 cases [of new family separations] reflect a situation in which CBP separated a child from an accompanying adult because, based on the information available to CBP at the time of apprehension, and in light of the short period of time in which CBP must make a processing determination, CBP did not have information to indicate that the adult was the parent or legal guardian of the child. However, since the time of apprehension, Defendants have developed additional information that shows that the child was, in fact, separated from his or her parent or legal guardian."

For the separations referenced in the government's statement above, how much time did CBP wait before separating the child from her or his parent?

Response: CBP prioritizes the safety and security of all aliens in our custody, particularly those from an at risk population such as minors. CBP evaluates parentage based on the information available to it at the time of the encounter.

Question: What information or type of evidence does CBP require a parent to provide to avoid being separated from her or his child?

Response: CBP prioritizes the safety and security of all aliens in our custody, particularly those from an at risk population such as minors. Accordingly, CBP reviews all available evidence in order to determine whether a custodial relationship exists. CBP takes several steps to evaluate parent-child relationships to determine if they are genuine, including the review and authentication of documents, as well as interviews and observation of the relationship between the parent and child. Where these steps are unable to resolve an existing doubt about parentage, CBP will generally separate a child from an adult. CBP makes these determinations based on the evidence before them at the time. Absent evidence to the contrary, aliens that present themselves as a family will be processed as such.

Question: How many of the 245 new cases of family separation involved a child accompanied by a family member who was not the parent or legal guardian?

Response: CBP operations defines individuals in a Family Unit as consisting of an alien child accompanied by an alien adult that is either the parent or legal guardian. Individuals not meeting that criteria would not be classified as a Family Unit, accordingly

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no family separation could (or has) occur between a child and a non-parent and non-legal guardian.

Question: For the cases where a child was accompanied by a family member who was not the parent or legal guardian, how many of those children were later reunited with the family member?

Response: HHS is responsible for the placement of unaccompanied alien children with appropriate sponsors, including other adult relatives.

Question#:	17
Topic:	CBP OIG Report
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

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

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

Response: I cannot speak to who may have made any such statement to the Office of Inspector General (OIG) nor am I aware of what that person was referring to specifically. Of course, immigration decisions should not be made to avoid paperwork, particularly where children are involved. CBP operates in a complex environment where there are many operational realities that evolve rapidly in the field. Field leadership often has to make a number of decisions related to transport timing, detention decisions and referrals for prosecution. These are complex decisions in light of circumstances that may be quickly changing. Operational decisions are often different across different areas of responsibility. There are hundreds of ports and border patrol stations each with their own unique environment that is considered by field leadership as they address these questions. Moreover, it is impossible to know when a person is referred for prosecution how long those legal proceedings will take, and when DHS has in its custody, a UAC, it has a statutory obligation to transfer custody of that UAC to HHS within 72 hours of determining the individual is a UAC absent exceptional circumstances.

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

Response: CBP agents and officers will continue to process migrants in a responsible manner. In a rapidly changing and complex environment, CBP field leadership takes all factors into account when it comes to processing decisions.

Question#:	18
Topic:	Binary Choice
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: The Trump administration is reportedly considering a new version of its family separation policy that they are calling a "binary choice" program. Under this program, parents are given the "binary choice" of having their children detained with them indefinitely or being separated from their children.

Please identify the names and offices of anyone within DHS who has researched, discussed or considered the possibility of a "binary choice" program or policy.

What steps, if any, have been taken to prepare for or implement such a "binary choice" program or policy?

Response: DHS does not discuss or comment on internal deliberations or any pre-decisional information.

Question: What steps has CBP taken to help children who were separated from their parents deal with the trauma and harm of that separation?

Response: The government has stipulated in litigation to certain actions that relate to this question. See *Ms. JP., et al., v. Barr, et al.*, No. 18-cv-06081-JAK (C.D. Cal.), ECF Nos. 297 and 298. Over the course of FY2019 and into FY2020, CBP undertook a significant effort to bolster the agency's medical capabilities along the Southwest border, to include bringing onboard professionals with expertise in caring for minor children. CBP is employing a family practitioner model that pairs advanced practice providers (i.e. Physicians Assistants or Nurse Practitioners) with medical support personnel at the CBP facilities. Top pediatricians with HHS and other medical experts have observed and validated this model, indicating that it provides the appropriate care and scope of practice for CBP facilities. Additionally, CBP consulted with internal and external pediatric subject matter experts, as well as court-appointed pediatric consultants to inform the agency's approach to caring for children in our custody. Finally, CBP has engaged a number of Pediatric Advisors who provide oversight and quality management of CBP's medical efforts to care for minor children.

Question#:	19
Topic:	Humanitarian Relief
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: For Fiscal Year 2019, CBP was appropriated an additional \$415 million for humanitarian relief, specifically for medical care, transportation, food and clothing, and other humanitarian needs along the southwestern border.

Please provide details on how CBP has spent these funds or plans to spend these funds on medical care, food, and clothing.

How much of these funds will be allocated to provide specialized pediatric medical care?

Response:

- \$40.2M for consumables (food/clothing) – As of 6/21/19, USBP has committed/obligated \$38.3M of the appropriated amount and fully expects to obligate the full amount early in 4Q.
 - Obligations: \$9.8M for such detainee care requirements as meals, snacks, drinks, showers/laundry services, clothing, footwear, Mylar blankets, diapers, baby formula, baby wipes, diaper rash cream, bottles, sanitary napkins, toiletries including toothbrushes, toothpaste, soap/body wash, shampoo, shower-in-a-bag kits, sanitizing supplies, and decontamination supplies.
 - Commitments: \$28.5M is currently committed for the Rio Grande Valley Centralized Processing Center (CPC) food contract (\$15M, July 2019 – June 2020) and \$12M for the El Paso CPC food contract (Period of Performance TBD upon award).
- \$128M for medical contract professionals (\$100.5M to USBP/\$27.5M to OFO) – USBP obligated \$43.9M of this funding on 5/20/19 to expand the coverage area on the current medical contract. In March 2020, CBP obligated an additional \$80M in carryover, reapportioned humanitarian funding from FY19 to the CBP Medical Contract. CBP OFO obligated \$6.3M of this funding in FY19 on BP’s medical services contract for support on the SWB. The remaining funding, \$21.2M was part of the O&S rescission for FY20 so OFO will not be receiving that funding.
- \$24.5M for transportation – USBP obligated this funding for additional hours on the existing transportation contract on 5/2/19 to support detainee movements between CBP locations and other locations such as hospitals, local jails and detention facilities as needed.

Question#:	20
Topic:	Tracking Asylum Seekers
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In its September 2018 report, DHS's Office of Inspector General discussed the link between CBP's process of "metering," where CBP agents limit the number of asylum seekers who can cross the U.S. border at ports of entry per day, and increases in people trying to cross the border between ports of entry where they were subjected to the zero tolerance and family separation policy. This process has left many migrants waiting in Mexico, including unaccompanied migrant children, who are particularly vulnerable to significant risks for trafficking, exploitation, and harm.

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

Response: CBP does not track this information.

Question#:	21
Topic:	Safety of Asylum Seekers
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

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

Response: CBP coordinates locally with the Government of Mexico's (GOM) National Migration Institute (INM) to arrange returns to Mexico, as happens with the repatriation of Mexican citizens on a daily basis.

Through an Interagency Agreement (IAA), the Department of State's International Narcotics and Law Enforcement Section (INL) provides CBP with funding to support the training of Mexican law enforcement officials to address border violence and transnational organized (TCO) crime. CBP continues to coordinate ongoing tactical trainings for GOM personnel to increase their capacity to carry out Border Violence Prevention and Anti-TCO functions, with the objective of:

- Strengthening joint U.S.–Mexico tactical planning efforts to effectively address TCO threats along the border;
- Increasing the number of and probability of success for U.S.–Mexico cross-border coordination and targeted operations along the border; and
- Improving information sharing and reporting of cross-border law enforcement operations against TCOs.

Also, under the CBP-INL Advisor Program, CBP is working to create a joint bi-national threat picture that, leading to disruption and eventual prosecution of targeted criminal network members. The effort assists GOM agencies in developing skills to enhance information flow and cross-component coordination in relation to irregular migration flows and the degradation of TCO operations. CBP Advisors liaise with and advise regional counterparts from Federal Police, INM, and Attorney General's Office (PGR) to share best practices and develop a common threat picture of irregular migration and other possible criminal activity throughout Mexico. Advisors assist in identifying, documenting, and targeting organizations that adversely impact the security of the U.S. Southwest Border. Advisors are creating a network in which various GOM agencies are communicating and sharing information that would normally be confined to their respective agencies. Specifically, CBP provides ongoing TDY support by placing individuals at locations such as the Federal Police Incident Command Center to foster further cooperation, advisory assistance, and information sharing.

Question: What guidance is given to CBP officials at ports of entry regarding metering?

Question#:	21
Topic:	Safety of Asylum Seekers
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Response: On April 27, 2018, CBP issued the attached Metering Guidance memo to its Southwest Border Field Offices addressing this topic.

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

Response: In the June 2019 joint declaration, the Government of Mexico committed to providing access to education and healthcare for persons returned under MPP.

Question#:	22
Topic:	UAC's Seeking Asylum
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: There have been reports of the difficulties unaccompanied migrant children are facing in seeking asylum through legal ports of entry, specifically at San Ysidro port of entry. Unaccompanied children are unable to even access CBP's "metering" system by adding their names to the list of those waiting to seek entry into the United States. This forces vulnerable children to remain at grave risk of harm and exploitation. In December 2018, robbers in Mexico brutally killed two unaccompanied Honduran teenagers-one of whom had been waiting two and a half weeks in Mexico to cross the border into the United States.

Are you aware of the challenges unaccompanied children are facing in seeking asylum at ports of entry?

Response: As the metering process is managed in Mexico and is not under the control of any U.S. Government entity, CBP cannot address the specific conditions regarding individuals allowed into any queueing line in Mexico.

Question: What steps is CBP taking to address this?

Response: CBP uses the following guidelines for inadmissible aliens seeking asylum at ports of entry:

- To be clear, CBP processes applicants for admission who are in the United States, denies inadmissible aliens admission and, refers aliens who seek protection to appropriate officials for claims to be heard,
- CBP is committed to our multifaceted national security mission set which includes the safe, secure, and orderly processing of all travelers as expeditiously as possible without compromising safety or security of the Homeland,
- Due to our operational capabilities, we are temporarily limiting entry into our facility,
- The number of inadmissible aliens CBP is operationally capable to process varies depending on overall port volume and enforcement actions,
- We are acutely aware of the challenges that all travelers face and we will continue to treat all applicants with dignity and respect throughout the CBP process,
- CBP only maintains custody of inadmissible aliens for the minimum time necessary to complete the inspection and for ICE ERO to accept custody,
- CBP prioritizes the processing of Unaccompanied Alien Children (UAC) and family units ahead of the processing of other cases in secondary inspection.

Question#:	22
Topic:	UAC's Seeking Asylum
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: What guidance is given to CBP officials at ports of entry regarding unaccompanied children seeking refuge the United States?

Response: CBP Officers are trained and continually reminded about the treatment of unaccompanied children (UAC) arriving in the United States. CBP uses the following guidelines regarding UACs seeking refuge:

- An inadmissible alien child traveling with a non-custodial adult relative - grandparent, aunt, uncle, or adult sibling – will be processed as a UAC,
- Per the CBP TEDS policy (implemented in 2015), CBP maintains family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern,
- Congress created DHS in 2002, and transferred to HHS-ORR the functions that previously were carried out by the INS regarding care of UAC and release to family members,
- The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and *Flores* Settlement Agreement (FSA) provide guidelines regarding the care and treatment of minors during CBP processing,
- The FSA was originally approved by the U.S. District Court for the Central District of California in 1997. Since 2014, the U.S. Government has been litigating actions related to implementation and enforcement of the FSA,
- On July 24, 2015, a ruling by the U.S. District Court for the Central District of California extended the FSA provisions to all minors in custody, not just those who are UAC,
- CBP has responsibility for short-term care and custody. Some of the relevant provisions of the FSA, as interpreted by the courts, relate to:
 - Separation of UAC/minors from unrelated adults,
 - Performing welfare checks consistent with current policy (every 15 minutes),
 - Providing meal services while in CBP custody,
 - Minors are to be detained in the “least restrictive” setting,
 - Ensuring the custodial location where minors are detained are within an acceptable, temperature range (66 to 80 degrees Fahrenheit),
 - Maintaining the custodial location is in a sanitary condition,
 - Contact with family members encountered with the minor.

Question#:	23
Topic:	Suspicious of Sexual Abuse
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Rep. Ted Deutch released documents from HHS showing that its Office of Refugee Resettlement received more than 4,500 complaints of sexual abuse against unaccompanied minors from October 2014 to July 2018. During that time, the Department of Justice received 1,303 complaints. These complaints included 178 allegations of sexual abuse by adult staff. The New York Times also reported on the problem of sexual abuse at the border, including at least five women who were sexually assaulted by on-duty Border Patrol agents and Customs officers. At the March 6, 2019 hearing, I asked you to provide a copy of the CBP policy that you stated makes it mandatory for CBP employees to report any suspicions they have of sexual abuse by their colleagues.

Please provide a copy of this policy.

Response: CBP Directive 1440-026A “Reporting Allegations of Employee Misconduct” specifically requires employees to report any suspicions they have about employees involved in sexual assault or abuse.

Question: Please provide a copy of the results of the investigations into the aforementioned five cases of sexual assault by CBP staff that you referenced at the March 2019 hearing.

Response: The five sexual assaults stemmed from two separate cases, both involving Border Patrol agents (BPAs).

In 2014, a Border Patrol agent assaulted three Honduran females near Mission, Texas. As law enforcement authorities sought to arrest him, the agent committed suicide. Accordingly, that case was not referred for prosecution.

In July 2016, two teenage sisters from Guatemala claimed a Border Patrol agent made them disrobe and improperly searched them following their apprehension in Presidio, Texas. That case was declined for prosecution due to a lack of physical evidence. Although prosecution was declined, a supplemental administrative review is pending.

Question#:	24
Topic:	Allegations
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Please provide the total number of allegations of sexual abuse perpetrated against migrants in DHS custody in the past five years, as well as the ages of the victims.

Response: CBP Office of Professional Responsibility (OPR) received 43 allegations of sexual assault perpetrated against migrants in the past five years. OPR does not have the ages of all complainants however, the ages range from age 8 to age 62.

Question: What is the DHS protocol for investigating sexual abuse allegations? Please provide a copy of any written guidance on this matter.

Response: CBP follows both CBP and DHS protocols for conducting investigations on sexual abuse allegations. Specifically, CBP adheres to the CBP Policy on Zero Tolerance of Sexual Abuse and Assault, the CBP Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in CBP Holding Facilities and the DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities.

Question#:	25
Topic:	AAP Recommendations
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: After two children died in CBP custody in December 2018, CBP announced that it would conduct medical assessments on all children in its custody. But the American Academy of Pediatrics (AAP) has pointed out that these additional medical checks may be inadequate without the expertise of pediatric specialists who can identify the more subtle signs of medical distress that children may exhibit. The American Academy of Pediatrics has access to 67,000 pediatric medical experts, and has reportedly offered CBP the use of AAP's expertise to train CBP personnel, review CBP facilities, and make recommendations.

Please describe in detail the medical screenings that CBP currently provides to children and explain how they are different from the medical screenings CBP had conducted on children prior to these two deaths.

Response: The CBP Interim Enhanced Medical Efforts Directive is an important first step in the development and incorporation of new medical practices both at and between the ports of entry. The Interim Directive outlines CBP's immediate response to the challenge of providing care to unprecedented numbers of unaccompanied alien children and family units along the Southwest Border (SWB). As CBP moves forward with a longer-term version of the directive, we look forward to gathering information on medical best practices in trauma and emergency situations from a variety of experts, including those familiar with the specific issues associated with children.

USBP agents have always provided access to emergency medical care to those in our custody. In response to the events in the El Paso Sector, the USBP has enhanced its medical capabilities in all southwest border locations.

Following the events in December, the USBP required that all juveniles in custody be medically assessed as a safety precaution. Since that time, USBP agents and contract medical support personnel located at USBP stations have been conducting health interviews and/or completing medical assessments on incoming juvenile aliens using existing best practices. In areas that currently have contracted medical services, Federal medical teams, and/or medically trained and certified BPAs, juveniles, are assessed by a health provider. In all USBP locations, agents engage in continual observance of those in our custody throughout their time in our short-term holding facilities and make appropriate decisions to ensure the safety of detainees. This heightened awareness will continue to serve an important role as even initial medical assessments may not identify those in our custody who may become sick later.

Question#:	25
Topic:	AAP Recommendations
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
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As of January 28, 2019, CBP began conducting health interviews for all aliens in OFO custody. Medical assessments will be conducted on every juvenile in custody under 18 years of age, and on all adult aliens in custody who answer positively to a “referral mandatory” question during the health interview. The medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State, and Local credentialed healthcare provider, or in exigent circumstances a CBP Emergency Medical Services (EMS) provider.

If an officer/agent suspects or a detainee reports that a detainee may have a contagious disease, the detainee should be separated, whenever operationally feasible. Officers/agents will not administer medical techniques, medications, or preparations unless they are qualified emergency medical technicians or paramedics rendering care, or in the case of a life-threatening emergency. When necessary a detainee may be transferred by emergency medical services for further medical treatment under the escort of at least one officer/agent.

As of June 21, 2019, contracted medical practitioners are deployed only to the Hidalgo and Brownsville ports of entry. The San Ysidro and Calexico ports of entry have an agreement with a local medical facility for on-site medical services on a per patient basis under existing ICE, Medical Payment Authorization Request (MEDPAR) web system billing. The medical screening is completed upon intake of the inadmissible applicant for admission into the secure area of Passport Control Secondary for processing.

All other ports of entry utilize tools developed for implementing the CBP TEDS policy in 2015.

If at any time while in CBP processing, there is a need to refer for medical treatment, CBP refers the person for medical treatment. This referral is conducted by either utilizing local EMS providers or CBP taking the person to a local medical practitioner.

Question: What percentage of these new medical screenings of children are conducted by pediatric medical experts, such as pediatricians or pediatric nurses?

Response: The contracted medical staff is experienced in family practice medicine to handle the wide ranging age demographic that we encounter. Our contract staff includes experienced family practitioner doctors, as well as mid-level medical providers who are licensed as nurse practitioner or physician assistants. This staff has a wealth of experience in family practice medicine and is qualified to identify acute illnesses and urgent care needs in children. Since the Border Patrol only has individuals in custody for

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Topic:	AAP Recommendations
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a short period of time, the providers are focused on identifying and addressing acute illnesses and immediate urgent needs for all individuals in its custody. If a patient is identified by these practitioners as needing additional care, that patient is transferred to the Emergency Department of a nearby hospital for additional evaluation. Pediatric care providers are better suited for longer-term care facilities, as opposed to addressing CBP's shorter term needs and wide ranging age demographic.

Contracted medical personnel conduct medical screenings on 100 percent of UACs.

Question: What training, if any, are provided to CBP staff, to help them identify common signs and symptoms of medical distress specifically in children?

Response: The USBP has approximately 1,251 agents trained as Emergency Medical Technicians (EMT) or paramedics throughout the nation. These agents are trained to respond to pediatric emergencies and are certified through the National Registry of Emergency Medical Technicians. Some stations have also posted signage in processing areas to assist agents in identifying sick children.

CBP's Office of Field Operations has a limited number of EMTs at its ports of entry as part of its relatively new EMS program. Participation in these training programs is voluntary. The CPR/AED instructors from above, fall under the field offices, and would conduct such training as directed, as staffing and operational tempo allow. The Field Operations Academy conducts basic First Aid training for the workforce at the POEs. Training is also available through the CBP Office of Human Resources Management (HRM) Occupational Safety and Health Branch (OSH) as available, and by local ports and field offices as opportunity and resources permit. Requirements for such training for workforce health and safety are set forth by HRM through the CBP OSH Handbook.

CBP policy states that if there are any questions regarding the medical condition of anyone in CBP custody, that the person is referred to a medical professional for treatment. All referrals to medical professionals are recorded in CBP's processing systems.

Question#:	26
Topic:	CBP Facilities
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: The New York Times reported egregious stories about the lack of proper medical care and basic standards of care at CBP facilities. In July 2018, the Center for Human Rights & Constitutional Law filed affidavits in court on behalf of migrants that described being detained in CBP facilities with foul-smelling water to drink, inedible food, and unsanitary conditions without access to showers. Moreover, the September 2018 DHS Inspector General's report found that hundreds of separated children were detained longer in CBP facilities than the 72-hour limit. There have also been reports of the lack of diapers, infant formula, and sanitary access to drinking water (for example, access to water is provided without cups or even soap for people to wash their hands when they are forced to drink from their hands).

What steps have you taken to ensure that all of the CBP facilities provide basic supplies like a bed, blankets, clean drinking water, soap, diapers, and infant formula?

Response: Supervisors are present to ensure all subjects are processed efficiently and according to existing standards. USBP continues to communicate with ICE and ORR on a regular basis to ensure unaccompanied alien children are transferred out of USBP custody as swiftly as possible.

The CBP TEDS policy (implemented in 2015) states that CBP facilities will adhere to the following guidelines/requirements:

Basic Hygiene Items: Detainees must be provided with basic personal hygiene items, consistent with short-term detention and safety and security needs. Families with small children will also have access to diapers and baby wipes, infant formula, snacks and meals.

Showers: Reasonable efforts will be made to provide showers, soap, and a clean towel to detainees who are approaching 72 hours in detention.

Restrooms: Detainees using the restroom will have access to toiletry items, such as toilet paper, and sanitary napkins. Whenever operationally feasible, soap may be made available.

Clean sheets and/or blankets must be provided to juveniles. When available, clean blankets must be provided to adult detainees upon request.

Question#:	26
Topic:	CBP Facilities
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

General: Food and water should never be used as a reward or withheld as punishment. Food provided must be in edible condition (not frozen, expired or spoiled).

Meal Timeframe: Adult detainees, whether in a hold room or not, will be provided with food at regularly scheduled meal times. All meal service must be documented in the appropriate electronic system(s) of records.

Snack Timeframe: Adult detainees, whether in a hold room or not, will be provided with snacks between regularly scheduled meal times.

Requests: When an adult detainee requests a snack or food before the next food service, officers/agents may grant the request on the basis of the circumstances.

Dietary Restrictions: Officers/Agents should remain cognizant of a detainee's religious or other dietary restrictions.

Functioning drinking fountains or clean drinking water along with clean drinking cups must always be available to detainees.

Restroom Facilities: Restroom accommodations will be available to all detainees and a reasonable amount of privacy will be ensured. If the detainee is suspected of being an internal carrier of a banned substance, restroom use may be monitored.

Privacy: Officers/Agents must make a reasonable effort to afford privacy to all detainees of the opposite gender consistent with the prohibition on voyeurism.

Question: CBP facilities have been nicknamed "iceboxes." What steps are you taking to ensure that CBP facilities are maintained at climate-appropriate temperatures that are comfortable for immigrants, including children, and not "iceboxes"?

Response: Temperatures at USBP facilities are routinely checked to ensure climate-appropriate temperatures are maintained. Blankets are also made available for use.

Since CBP facilities are predominately owned by either the General Services Administration (GSA) or local port authorities, port management works closely with the facility manager to arrange for correction of any facility issues that require attention, including situations involving the Heating, Ventilation, and Air Conditioning (HVAC) systems to ensure that the temperature is maintained between 66 and 80 degrees Fahrenheit.

Question#:	26
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Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Per the CBP TEDS policy (implemented in 2015): When it is within CBP control, officers/agents should maintain hold room temperature within a reasonable and comfortable range for both detainees and officers/agents. Under no circumstances will officers/agents use temperature controls in a punitive manner.

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

Response:

- CBP processes all aliens who arrive at a U.S. port of entry.
 - All administrative admissibility processing is separate from any referral for criminal prosecution;
 - CBP closely monitors the processing of cases to ensure that cases are processed expeditiously in accordance with the applicable law;
 - When CBP completes its administrative processing, the aliens are referred for custody with HHS or ICE ERO to await further interviews with U.S. Citizenship and Immigration Services (USCIS) and/or hearings before an IJ, as appropriate;
- Every effort must be made to hold detainees for the least amount of time required for their processing as operationally feasible,
- CBP maintains custody for the time necessary to complete its case processing and for the inadmissible alien to be transferred to HHS or ICE ERO.

CBP adheres to all federal laws, CBP policies and judicial rulings that govern the care and custody of aliens that are held in CBP facilities. The CBP Management Inspection Division, DHS OIG, the Government Accountability Office, DHS Civil Rights and Civil Liberties among others have investigatory and audit authority over CBP facilities. In addition, CBP conducts self-inspection audits to ensure compliance with all policies and procedures. Further, the judge overseeing the FSA has assigned an independent monitor to ensure compliance with regard to the conditions for minors.

Question#:	27
Topic:	Humanity of Immigrants
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: The New York Times reported that Border Patrol referred to immigrants crossing the border as "bodies," which is concerning because that suggests a culture that fails to recognize the humanity of immigrants. What steps are you taking to foster a culture where immigrants in CBP custody are treated humanely and with dignity and respect?

Response: At the basic academy, the principles of treating all aliens with the utmost respect and dignity is woven throughout the curriculum in all departments and reinforced in multiple scenarios during the tactics training portion. This process continues during the Post-Academy and Field Training programs once the trainees report to their permanent stations.

Additionally, CBP's core values are vigilance, service to Country, and integrity. The integrity of USBP is guided by high ethical and moral principles to treat all individuals humanely and with respect and dignity.

Question#:	28
Topic:	Children in Detention
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

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

Response: CBP concurs that prolonged detention of minors in a short term facility is detrimental to all parties but particularly with children. Multiple policies have been established ensuring expedited processing and proper treatment of children occurs.

In the National Standards on Transport, Escort, Detention and Search (TEDS) Policy 1.6 Treatment of Juveniles "Officers/Agents will consider the best interest of the juvenile at all decision points beginning at the first encounter and continuing through processing, detention, transfer, or repatriation. Officers/Agents should recognize that juveniles experience situations differently than adults." In TEDS Policy 1.8 Duration of Detention "Every effort must be made to promptly transfer, transport, process, release, or repatriate detainees as appropriate according to each operational office's policies and procedures, and as operationally feasible."

In the "Implementation Plan Enhanced Medical Directive Support Efforts", USBP's goal is to expedite transfer of persons in custody to ICE or HHS as appropriate, or to otherwise transfer or release persons from USBP custody, as expeditiously as possible.

In the "Enhanced Medical Support Efforts" 6.4.2, it states that CBP Juvenile Coordinator will work with the CBP CMO to incorporate review of CBP medical support efforts into ongoing compliance monitoring efforts related to the care and custody of juveniles.

Question#:	29
Topic:	Families Smuggled
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: At your March 6, 2019 hearing, you stated that less than 5 percent of immigrant families who cross the border enter through ports of entry. You also stated that those immigrant families entering between ports of entry are "in the hands of smugglers from very early in their journey" and "not making a decision to come to a port or not." But the September 2018 report by DHS's Office of the Inspector General found that CBP's practice of metering led immigrants who were denied entry at ports of entry to cross between ports of entry. The report explained:

"For instance, OIG saw evidence that limiting the volume of asylum-seekers entering at ports of entry leads some aliens who would otherwise seek legal entry into the United States to cross the border illegally. According to one Border Patrol supervisor, the Border Patrol sees an increase in illegal entries when aliens are metered at ports of entry. Two aliens recently apprehended by the Border Patrol corroborated this observation, reporting to the OIG team that they crossed the border illegally after initially being turned away at ports of entry. One woman said she had been turned away three times by an officer on the bridge before deciding to take her chances on illegal entry "

Please provide the basis for your statement that immigrant families entering between ports of entry are "in the hands of smugglers from very early in their journey" and "not making a decision to come to a port or not." How do you reconcile this statement with the DHS Inspector General's findings?

Response: It is well known that the majority of migrants from El Salvador, Guatemala and Honduras will hire human smugglers to make the 2,000 mile journey to the United States; a 2019 joint report between the Rand Corporation and the Homeland Security Operational Analysis Center ⁴reported that up to 67% of migrants from those countries employed a smuggler. Human smugglers and transnational criminal organizations make millions of dollars smuggling individuals and families into the United States, and with so much money at stake, these nefarious actors research and understand exactly where our Southwest border is weakest and direct their victims to those areas. Obviously, a location with a heavy law enforcement presence, such as an Office of Field Operations Port of Entry, would not be an ideal location for smuggling aliens into the country, thus encouraging smugglers to bring their victims across between the POEs.

⁴ Greenfield, Victoria A., Blas Nunez-Neto, Ian Mitch, Joseph C. Chang, and Etienne Rosas, Human Smuggling and Associated Revenues: What Do or Can We Know About Routes from Central America to the United States?. Homeland Security Operational Analysis Center operated by the RAND Corporation, 2019. https://www.rand.org/pubs/research_reports/RR2852.html.

Question#:	30
Topic:	AsylumBan
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: In November 2018, the Trump administration issued an "asylum ban" that which would deem anyone who crosses the southern U.S. border between ports of entry ineligible for asylum. Judge Tigar, a federal judge in San Francisco, temporarily blocked this policy.

What role did you play in developing the asylum ban?

Response: As this matter is currently in litigation, CBP refers questions to the DOJ.

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

Response: Agents and officers still refer all claims of fear of return to USCIS, as has always been CBP's policy.

Question#:	31
Topic:	MPP Policy
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: According to a recent report by CBS, as of June 14, 2019, 11,922 Central American asylum seekers have been subject to the Migration Protection Protocols (MPP)-otherwise known as the Remain in Mexico plan-which requires asylum seekers to remain in Mexico as they await the adjudication of their asylum application. Some of these migrants do not have their first court dates scheduled until June 2020 as there are very few judges assigned to MPP. Individuals are forced to wait for their hearings in some of Mexico's most dangerous cities.

Human Rights First identified a Honduran asylum seeker who was sent to Mexico under this policy without his epilepsy medication because CBP had confiscated it. The Trump Administration also stated that it plans to expand this policy in accordance with the deal that Trump and Mexican government officials recently reached. In that agreement, the Mexican government has promised to offer the migrants work authorization visas, healthcare, education, and jobs.

To date, how many adults and children have been subject to the MPP policy?

Response: As of August 19, 2019, a total of 35,122 aliens have been subject to MPP.

Question: Have any unaccompanied children, separated parents, or separated children been sent to Mexico under the MPP policy?

Response: CBP seeks to maintain family units for those enrolled in MPP. In some cases, subsequent to being placed into MPP with their families and return to Mexico, children cross the border to the United States unaccompanied. DHS referred these children to HHS.

Question: What is the process by which CBP is determining which individuals are subject to the MPP policy? Who makes the final decision regarding which individuals are sent to Mexico to await adjudication of their asylum claims?

What are the exact criteria used to determine which asylum seekers are sent to Mexico under the MPP policy?

Response: Pursuant to MPP, aliens arriving by land at a U.S.-Mexico port of entry, who are amenable to the process, and who in an exercise of discretion the officer determines should be subject to the MPP process, will be issued an NTA and placed into section 240 removal proceedings. They will then be transferred to await proceedings in Mexico.

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Topic:	MPP Policy
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Aliens in the following categories are not amenable to MPP: unaccompanied alien children; citizens or nationals of Mexico; aliens processed for expedited removal; aliens in certain special circumstances; any alien who is more likely than not to face persecution or torture in Mexico, or other aliens at the discretion of the Port Director.

If an alien who is potentially amenable to MPP affirmatively states that he or she has a fear of persecution or torture in Mexico, or a fear of returning to Mexico, whether before or after they are processed for MPP or other disposition, that alien will be referred to USCIS for screening following the affirmative statement of fear of persecution or torture in Mexico, so that the asylum officer can assess whether it is more likely than not that the alien will face persecution or torture if returned to Mexico. If USCIS assesses that an alien who affirmatively states a fear of return to Mexico is more likely than not to face persecution or torture in Mexico, the alien may not be processed for MPP. Officers retain all existing discretion to process (or re-process) the alien for any other available disposition, including expedited removal, NTA, waivers, or parole.

Mexico is a sovereign country that decides on how best to ensure the safety and wellbeing of migrants in its territory. On June 7, 2019, the United States and Mexican governments issued a joint declaration in which the Government of Mexico (GOM) committed to offering work permits, healthcare, and education to migrants subject to MPP.

Pursuant to Section 235(b)(2)(C) of the INA that allows for the return of certain aliens to a contiguous territory pending Section 240 removal proceedings before an IJ, DHS Secretary exercised this statutory authority because of the unprecedented crisis at the SWB. The influx of irregular migrants, with a high number of them posing as a family units, to the SWB has strained DHS resources to carry out its operational capabilities. Implementation of the MPP helps alleviate the stress this crisis has put on DHS.

Question: What steps does DHS take to ensure that vulnerable individuals, such as pregnant women, those with medical conditions and LGBTQ people, are protected from harm if they are sent to Mexico under the MPP policy?

Response: With certain exceptions, MPP applies to aliens arriving in the United States by land from Mexico (whether or not at a designated port of entry) who are not clearly admissible and who are placed in removal proceedings under INA § 240. This includes aliens who claim a fear of return to Mexico at any point during apprehension, processing, or such proceedings, but who have been assessed not to be more likely than not to face persecution or torture in Mexico. Unaccompanied alien children and aliens in expedited

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removal proceedings are not subject to MPP. Other individuals from vulnerable populations may be excluded on a case-by-case basis.

Question: Who at DHS made the decision to subject children to the MPP policy and what was the justification for that decision?

Response: As noted in the January 24, 2019 “Migrant Protection Protocols” press release (<https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols>):

“Historically, illegal aliens to the U.S. were predominantly single adult males from Mexico who were generally removed within 48 hours if they had no legal right to stay; now over 60% are family units and unaccompanied children and 60% are non-Mexican. In FY17, CBP apprehended 94,285 family units from Honduras, Guatemala, and El Salvador (Northern Triangle) at the Southern border. Of those, 99% remain in the country today.

Misguided court decisions and outdated laws have made it easier for illegal aliens to enter and remain in the U.S. if they are adults who arrive with children, unaccompanied alien children, or individuals who fraudulently claim asylum. As a result, DHS continues to see huge numbers of illegal migrants and a dramatic shift in the demographics of aliens traveling to the border, both in terms of nationality and type of aliens- from a demographic who could be quickly removed when they had no legal right to stay to one that cannot be detained and timely removed.

In October, November, and December of 2018, DHS encountered an average of 2,000 illegal and inadmissible aliens a day at the Southern border. While not an all-time high in terms of overall numbers, record increases in particular types of migrants, such as family units, travelling to the border who require significantly more resources to detain and remove (when our courts and laws even allow that), have overwhelmed the U.S. immigration system, leading to a “system” that enables smugglers and traffickers to flourish and often leaves aliens in limbo for years. This has been a prime cause of our near-800,000 case backlog in immigration courts and delivers no consequences to aliens who have entered illegally.”

Pursuant to the MPP, aliens arriving from Mexico who are amenable to the process, and who in an exercise of discretion the officer determines should be subject to the MPP process, will be issued an NTA and placed into section 240 removal proceedings. They will then be transferred to await proceedings in Mexico. Those families who are placed in the MPP process are processed together. Accordingly, after the officer determines the whole family is amenable to the process, the whole family is placed in the process in

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order to keep the family unit together. Aliens in the following categories are not amenable to the MPP: unaccompanied alien children; citizens or nationals of Mexico; aliens processed for expedited removal; aliens in certain special circumstances; any alien who is more likely than not to face persecution or torture in Mexico, or other aliens at the discretion of the Port Director.

Question#:	32
Topic:	Honduran Asylum Seeker
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: Are you aware of this Honduran asylum seeker who was sent to Mexico under the MPP policy without his epilepsy medication? Why was he selected to be subject to the MPP policy and why was he sent to Mexico without his epilepsy medication?

Response: Given the limited information provided in the question above, I am unable to identify or speak to the particulars of the aforementioned incident. However, CBP's interaction with detained individuals and our continued commitment to the safety, security, and care of those in our custody is memorialized in the CBP TEDS Policy.

Specifically, section 4.10 of the TEDS Policy provides the following:

Section 4:10 MEDICAL

Medication: Except for assistance with lifesaving emergency medical care which they feel comfortable rendering and are trained to render, officers/agents will not administer medical techniques, medications, or preparations unless they are qualified emergency medical technicians or paramedics rendering care. Medication prescribed in the United States, validated by a medical professional if not U.S.-prescribed, or in the detainee's possession during general processing in a properly identified container with the specific dosage indicated, must be self-administered under the supervision of an officer/agent. If a detainee is unable to self-administer their medications due to age or disability, officers/agents may assist the detainee. All detainee refusals of prescribed medication or medical assistance must be noted in the appropriate electronic system(s) of record.

Non U.S.-Prescribed Medication: Any detainee, not in general processing, with non U.S.-prescribed medication, should have the medication validated by a medical professional, or should be taken in a timely manner to a medical practitioner to obtain an equivalent U.S. prescription. Exceptions to this requirement may only be made by a supervisor in collaboration with a medical professional and based on expected duration of detention and/or elective nature of the medication. If such an exception is made, it must be recorded in the appropriate electronic system(s) of record.

Section 2:10 of the Transport, Escort, Detention, and Search Policy speaks to the transfer of detainee documents and medications.

2.10 TRANSFER OF DETAINEE DOCUMENTS AND MEDICATION

Question#:	32
Topic:	Honduran Asylum Seeker
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

When transferring a detainee, officers/agents must ensure that all appropriate documentation accompanies the detainee including all appropriate medical records and medication as required by the operational office's policies and procedures.

Aliens in the following categories are not amenable to the Migrant Protection Protocols (MPP):

- UACs,
- Citizens or nationals of Mexico,
- Aliens processed for expedited removal,
- Aliens in special circumstances:
 - Returning Legal Primary Residents (LPRs) seeking admission (subject to the Immigration and Nationality Act (INA) section 212);
 - Aliens with an advance parole document or in parole status;
 - Known physical/mental health issues;
 - Criminals/history of violence;
 - Government of Mexico or U.S. Government (USG) interest;
- Any alien who is more likely than not to face persecution or torture in Mexico, or
- Other aliens at the discretion of the Port Director.

To respond to a specific case, CBP would require a privacy release from the individual in question to conduct the appropriate research and provide an accurate response.

Question#:	33
Topic:	Agreement with Mexico
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: What are the exact terms of the agreement between the United States and the Mexican government regarding the MPP policy?

As noted in the public release:

“The United States will immediately expand the implementation of the existing Migrant Protection Protocols across its entire Southern Border. This means that those crossing the U.S. Southern Border to seek asylum will be rapidly returned to Mexico where they may await the adjudication of their asylum claims.

“In response, Mexico will authorize the entrance of all of those individuals for humanitarian reasons, in compliance with its international obligations, while they await the adjudication of their asylum claims. Mexico will also offer jobs, healthcare and education according to its principles.

“The United States commits to work to accelerate the adjudication of asylum claims and to conclude removal proceedings as expeditiously as possible.”

What steps has CBP taken to ensure the asylum seekers waiting in Mexico under the MPP policy remain safe and have access to the same types of resources that would be available to them in the United States? Does DHS ask all MPP returnees whether they fear return to Mexico in order to comport with their non-refoulement obligation?

Response: Then Secretary Nielsen instructed DHS employees to implement MPP in a manner that is consistent with applicable domestic and international legal obligations, including our humanitarian commitments. Consistent with non-refoulement principles, an alien who is potentially amenable to MPP and who affirmatively states that he or she has a fear of persecution or torture, or of a fear of return to Mexico, whether before or after they are processed for MPP, will be referred to a USCIS asylum officer for screening. If USCIS assesses that the alien is more likely than not to face persecution or torture in Mexico, the alien will not be returned to Mexico pursuant to MPP.

As stated in the U.S.-Mexico Joint Declaration, on June 7, 2019, the Government of Mexico (GOM) agreed to offer migrants returned to Mexico under MPP access to shelter, food, education, healthcare, and employment. GOM also committed to assisting in the expansion of MPP to new ports of entry. Finally, GOM agreed to increase migration enforcement along its southern border and well-known smuggling routes, including the deployment of National Guard elements. Additionally, Mexico is a sovereign nation, and DHS does not have authority to operate within Mexico. Migrants in MPP are provided a

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list of Pro Bono Legal Service Providers and have the opportunity to retain counsel at no cost to the U.S. Government, just as any migrant in removal proceedings would.

Question: In way ways is CBP ensuring that the asylum seekers waiting in Mexico under the MPP policy have meaningful access to counsel? How are they supposed to meet with their U.S.-licensed lawyers if they are in Mexico?

Response: Aliens placed in MPP are provided contact information of free or low-cost legal service providers using the Executive Office for Immigration Review’s (EOIR) existing pro bono listings. Upon return for their hearings, aliens have the opportunity to meet with counsel at the facility in advance of the hearing. DHS remains committed to ensuring that aliens have access to legal assistance of their choosing at no cost to the government, consistent with the law.

Question: What mechanisms does DHS plan to put in place to monitor whether the MPP migrants are receiving the benefits that the Mexican government has promised to provide these migrants?

Response: The United States and Mexico collaborate on MPP implementation. The United States does not have programs “to ensure that the Mexican government is providing jobs, health care, and education to individuals returned under MPP.” In conversations between our governments, Mexico has consistently asserted its commitment to provide these services and the United States accepts those commitments in good faith.

Question#:	34
Topic:	Judges Enlisted
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: As the MPP policy is expanded, how many more judges will be enlisted to handle the growing caseload and minimize the time period that migrants have to wait in Mexico?

Response: DHS communicates to DOJ what the anticipated caseload in each MPP location is and defers to DOJ on how to ensure that there is sufficient court capacity.

Question#:	35
Topic:	ICE Raids
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Mazie K. Hirono
Committee:	JUDICIARY (SENATE)

Question: What plans, if any, does DHS have to conduct raids that target parents and children for removal?

Response: ICE does not conduct indiscriminate raids or sweeps. ICE conducts targeted operations across the country based on intelligence-driven leads. While ICE does focus on identifying and removing public safety and national security threats, ICE also prioritizes fugitives and aliens who have illegally re-entered the United States, which is a felony. In fact, 90 percent of ICE's administrative arrests are arrests of aliens with criminal conviction(s), pending criminal charge(s), an outstanding final order of removal, or record of previous removal from the country.

Under the President's Executive Orders and pursuant to DHS guidance, ICE does not exempt classes or categories of removable aliens from potential enforcement. Therefore, regardless of criminal history, all those in violation of immigration laws are subject to arrest, detention, and, if subject to a final order of removal, removal from the United States.

ICE cannot confirm or deny the existence of pending law enforcement operations for reasons of operational security.