

Question#:	1
Topic:	Cross-Border Tunnels
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In its Fiscal Year 2017 report to Congress, titled Cross-Border Tunnels and Border Tunnel Prevention, the Department of Homeland Security indicated that 200 cross-border tunnels have been discovered in the United States, almost exclusively across the Southwest Border, since 1990. In your testimony, you note that "each U.S. Border Patrol Sector follows established protocols for coordination, confirmation, assessment, investigation, exploitation, and remediation" when it detects and investigates tunnels.

Given that transnational criminal organizations and drug cartels monitor and quickly adapt to U.S. enforcement strategies, does Customs and Border Protection anticipate an increase in the use of cross-border tunnels to smuggle narcotics, immigrants, and other contraband, as physical border security tightens?

Response: As physical border security tightens, we are anticipating that transnational criminal organizations and drug cartels will face greater difficulty using traditional above ground smuggling tactics. We are also anticipating that they will look for alternate methods to be successful.

We are actively preparing to combat an increase in cross border tunneling in the event those criminal organizations choose to increase their cross border tunnel efforts.

Question: Is Customs and Border Protection prepared to handle such an increase, both in terms of personnel and tunnel detection technology? If not, why not?

Response: We have been aggressively pursuing additional technologies to deploy to the U.S./Mexico border over the past few years. We have also been investing in our counter tunnel teams through training and equipment to make their responses faster and more efficient should an increase in cross-border tunnel detections occur. We are prepared to increase the number of counter tunnel personnel and the number of teams, if an increase in cross border tunnels becomes unmanageable by current personnel assigned to these duties.

Question#:	2
Topic:	Gang Threats in California
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In your prepared statement, you note that transnational criminal organizations (TCOs) "maintain influence over U.S.-based gangs as a way to expand their domestic distribution process. This means TCOs present a threat not only at our borders, but - through criminal networks and criminal alliances - also in the interior of our country." Additionally, the Drug Enforcement Administration's 2018 National Drug Threat Assessment asserts that "In many of the southernmost states, street gangs, especially the transnational Hispanic gangs, exploit the Southwest Border, predominantly in California and Texas, traversing into Mexico to work with cartels."

Which street, neighborhood, prison, and national gangs present the greatest threats in California? How is your agency working to combat these threats, both in California and along the Southwest Border?

Response: Southern California, especially the Los Angeles area, has numerous criminal street gangs, including 18th Street, La Mara Salvatrucha (MS-13), 38th Street, Bloods, and Crips. For years, these gangs have fought each other for territory in an attempt to increase their control of the lucrative drug trade. While incarcerated, most Hispanic gangs align under the Sureños umbrella for protection, which in turn answers to the Mexican Mafia (La Eme); La Eme is present in most, if not all, of California's penal institutes. Upon release from custody, this loose affiliation disappears as the gang members embrace and rejoin their respective gangs. Though many of the gangs have maintained traditional strongholds in certain areas, including various streets and neighborhoods, exact geographic presence is fluid as gang fights, leadership changes, and law enforcement activities can all have an effect.

Transnational criminal organizations serve as suppliers of the narcotics sold by the gangs at the street level throughout California and along the Southwest Border, which then use the profits to further their criminal activity.

U.S. Immigration and Customs Enforcement Homeland Security Investigations Gang Units continue to work with state and local law enforcement authorities to identify, arrest, and prosecute all gang members identified during enforcement operations regardless of an individual's immigration status or citizenship.

Question#:	3
Topic:	Ambassador Vacancy
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY (SENATE)

Question: In your prepared statement, you underscored the importance of the work of the Border Patrol liaisons within the U.S. Embassy in Mexico.

Given that the United States has not had a permanent Ambassador to Mexico since May of this year, please explain, how, if at all, this vacancy has impacted the type of investigations the Border Patrol liaisons are able to conduct.

Response: CBP has established excellent working relationships with relevant Mexican partners through the CBP Attaché and our Representatives to Mexico. The CBP Attaché's office along with CBP Representatives in strategic locations other than Mexico City (Monterrey and Hermosillo), has done an excellent job of ensuring CBP is able to continue its mission with the aid of its Mexican partners.

DHS and CBP have bi-national arrangements, oversight, and working groups to address border security issues and concerns.

Question#:	4
Topic:	Death Notification
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: In the early hours of December 8, 2018, Jakelin Caal Maquin, a seven-year-old girl from Guatemala who had arrived at the U.S. border with her father, died after being detained by the Border Patrol. She had been apprehended on the evening of December 6, and according to an initial diagnosis she died of dehydration, fever, and septic shock just over a day later.

Why was Congress not notified of the death of Jakelin Caal Maquin prior to the Senate Judiciary Committee hearing at which you testified on December 12, 2018?

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

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

Question: Were you aware of the death of Jakelin Caal Maquin prior to your testimony at the hearing?

Response: I was notified on the morning of December 8, 2018 as part of Border Patrol's usual practice of communicating a death in custody up the chain-of-command and to our Office of Professional Responsibility.

Question#:	5
Topic:	Facility Conditions
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: In light of Jakelin Caal Maquin's death while in Border Patrol custody, what is the Border Patrol doing to improve detention conditions and procedures to ensure the safety and wellbeing of all individuals and families in its custody?

Response: The U.S. Border Patrol prioritizes the health and safety of all persons in our custody, particularly vulnerable aliens such as minors. Accordingly, the USBP adheres to the guidance provided in the CBP National Standards on Transportation, Escort, Detention, and Search (TEDS) policy. Additionally, USBP continually assesses the conditions of all USBP hold rooms to ensure continuous operational capability and compliance with established, policy, law, judicial rulings, and settlement agreements such as the *Flores* Settlement Agreement.

The U.S. Customs and Border Protection Management Inspection Division (MID) conducts announced and unannounced inspections of USBP facilities to verify compliance with CBP policies related to short-term detention conditions such as TEDS.

In addition to internal assessments of hold room conditions, various external agencies such as the Department of Homeland Security Office of the Inspector General (OIG) continue to inspect our facilities.

On September 28, 2018, OIG released a report titled Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody. In the report, OIG made no recommendations and “did not encounter issues with temperatures or ventilation, access to emergency medical care, inadequate supervision, or access to telephones.” The OIG report verified that CBP facility conditions are well maintained and suitable for a short-term holding of illegal aliens.

The safety and well-being of all persons in our custody are a priority for CBP. In general, CBP’s short term holding facilities are under constant internal and external review. We will continue to review and address any conditions that develop and require remediation.

Question: A 2016 report by the Department of Homeland Security's Office of the Inspector General (OIG) found that Customs and Border Protection (CBP) Forward Operating Bases along the U.S.-Mexico border, including the one where Jakelin Caal Maquin was temporarily held, lacked safe drinking water. These Forward Operating Bases "are staffed by Border Patrol agents on temporary duty assignments from their

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permanent duty station." Are you aware of any inspections and any necessary corrective actions been undertaken to ensure that these facilities have safe drinking water?

Response: Water at the location at which Jakelin and her father were encountered, is tested monthly and a more comprehensive test is conducted annually. Persons at this location have always been provided commercially purchased bottled water. Any confirmed report of unsafe drinking water is immediately noticed to employees and the water is turned off. Mitigation efforts are immediately put in place and the water is not turned on until the water is confirmed safe for use.

The OIG assigned U.S. Border Patrol one recommendation in the final report "Conditions at CBP's Forward Operating Bases along the Southwest Border," February 8, 2016 and that was to establish a timetable for renovating FOB Papago Farms or to consider closing the facility ensuring that any decision concerning major repairs or renovation of the facility took into consideration the need for the Tohono O'odham Nation to repair and maintain the Papago Farms access road.

USBP's November 2018 Update: Federal Route 21 (FR-21), the primary access road to the Papago Farms FOB is on Tahono O'odham Nation (TON) tribal lands and maintained by the Bureau of Indian Affairs (BIA). The BIA acknowledged it is responsible for the maintenance of this road and that it receives appropriations from Congress to maintain BIA roads on tribal lands; however, the BIA also indicated that it does not have sufficient appropriated funds to maintain and repair FR-21. CBP is not generally permitted to use its appropriations to maintain or repair state, County or Federal roads on tribal lands; however, in the Fiscal year 2018 Consolidated Appropriations Act, Public Law 115-141, Congress provided temporary authority to CBP to transfer up to \$15 million to the BIA for non-federally owned tribal road maintenance. An interagency agreement was awarded by CBP to the BIA on September 14, 2018. The funding was fully advanced and acknowledged as collected by the BIA on September 18, 2018. The BIA is now in process of issuing a formal solicitation for bid to contract services required to execute the FR-21 road repair project. Upon BIA issuance of their contract award, the construction phase of the FR-21 road repair project is estimated to take 270 days to complete. This road repair has been deemed essential to support the larger initiative of renovating the Papago Farms FOB. As of December 2018, CBP Office of Facilities and Asset Management (OFAM) has taken ownership of this recommendation.

Question#:	6
Topic:	Protocol
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What is the protocol that Border Patrol agents are supposed to follow for individuals who become ill while in Border Patrol custody?

Response: The October 2015 CBP National Standards on Transport, Escort, Detention, and Search (TEDS) governs standards of CBP’s interaction with detained persons, including medical response. Please see following the standards cited. It incorporates best practices and reflects legal and regulatory requirements. U.S. Border Patrol Sectors and Stations may also develop guidance to allow for the uniqueness of each station, such as proximity to hospitals, availability of ambulances, contract medical personnel on site, and number of EMT trained Agents available to respond to a request.

TEDS Standards:

“Medical Emergencies: Emergency medical services will be called immediately in the event of a medical emergency (e.g., heart attack, difficulty breathing) and the call will be documented in the appropriate electronic system(s) of record. Officers/Agents must notify the shift supervisor of all medical emergencies as soon as possible after contacting emergency services.”

“Contagious Disease: 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, and all other appropriate precautions must be taken and required notifications made, according to the operational office’s policies and procedures.”

“Emergency Medical Services Transfer: If a detainee is transferred by emergency medical services for further medical treatment, at least one officer/agent shall escort or follow the emergency vehicle and remain with the detainee until medical authorities determine whether the situation will require hospitalization or continued medical care.”

“Hospitalization: If the detainee is hospitalized,

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officers/agents will follow their operational office's policies and procedures, and document the hospitalization in the appropriate electronic system (s) of record. At a minimum, the discharge summary, treatment plans, and prescribed medications from any medical evaluation should accompany the detainee upon transfer or repatriation.”

Question: Are medical staff, including staff trained in pediatric care, available at all Border Patrol facilities to ensure the safety and wellbeing of those held in Border Patrol custody?

Response: The U. S. Border Patrol has established a contract, utilizing its operational funds, to have mid-level medical providers (Nurse Practitioners/Physician Assistants) and EMTs on site to medically screen and provide onsite low acuity treatment to all detainees at designated Border Patrol sectors/stations that receive the highest volume of juveniles.

A majority of the mid-level practitioner contractors have significant experience in a family practice setting ranging from pediatric to geriatric patient encounters. Currently, this contract's footprint screens approximately 75-80 percent of all unaccompanied alien children that cross the southwest Border. In the Rio Grande Valley Sector, where the Border Patrol has seen the highest volume of unaccompanied alien children and juveniles in family units, all detainees at McAllen station, Weslaco station, and the Ursula temporary holding facility are being screened and provided with low acuity treatment as needed by medical professionals. In RGV, all unaccompanied alien children are also provided with a mental health screening.

At designated stations within the El Paso, Yuma and Laredo Sectors, where these Border Patrol Sectors process the vast majority of juveniles that are encountered, unaccompanied alien children are being given a medical and mental health screening as well as provided limited low acuity treatment, as needed. Any ailments that fall outside of their scope of practice, require specialized equipment, or need a higher level of response are referred to local hospitals.

The Trafficking Victims Protection Reauthorization Act of 2008 and the 2002 *Flores* Settlement Agreement cover additional legal requirements regarding the care, processing, and detention of minors.

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Finally, the Border Patrol has approximately 1,300-trained EMT's in its workforce who respond to medical emergencies throughout the United States during the course of their primary law enforcement duties.

Question#:	7
Topic:	Translators
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Are translators available at all Border Patrol facilities, and are all documents signed by individuals in Border Patrol custody provided in a language that they understand?

Response: DHS/CBP/U.S. Border Patrol uses a contract with Interpreters and Translators Incorporated to interpret for persons who do not speak English or Spanish. Border Patrol contact the appropriate interpreters based on the subject's self-identified language via telephone. The agent provide the interpreters with the exact questions or statements to be conveyed. In turn, the interpreter provides these questions or statements to the subject in their language and translates their response back to English for the agent. This process is vital for the processing agents to gather important biographical and case information, and ensure subjects are fully advised of each form they are signing while completing administrative and criminal case paperwork.

Question#:	8
Topic:	Limiting Asylum-Seekers
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: An OIG report released on September 27, 2018, detailed CBP's policy of "metering" individuals seeking asylum at ports of entry. Through the metering process, individuals or families seeking asylum at ports of entry are turned away and told that they will not be processed or that they will have to wait days or weeks in order to be processed. This report noted:

While the stated intentions behind metering may be reasonable, the practice may have unintended consequences. 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.

The OIG report added that "[t]he fact that both aliens and the Border Patrol reported that metering leads to increased illegal border crossings strongly suggests a relationship between the two."

In your assessment, do you agree 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"? Please provide an explanation for your response.

Response: the U.S. Border Patrol cannot comment on the reasoning persons seeking admission into the United States make regarding how they choose to make entry into the U.S. Many factors have led to the rise in apprehension rates along the southern border. The Border Patrol will continue to make every attempt to apprehend all persons who enter illegally between the designated ports of entry.

Question: In your assessment, do you agree that "the Border Patrol sees an increase in illegal entries when aliens are metered at ports of entry"? Please provide an explanation for your response.

Response: The U.S. Border Patrol cannot directly attribute that the rise in apprehensions across the southern border is due to 'metering' at the ports of entry. Numerous "push and

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pull” factors are contributing to increases in apprehensions of people entering illegally between the ports of entry.

Question: Do the above findings from the OIG report correspond to any anecdotal evidence you have received from Border Patrol agents regarding the relationship between "metering" and the volume of U.S.-Mexico border crossings between ports of entry?

Response: The U.S. Border Patrol cannot directly attribute the rise in apprehensions across the southern border to ‘metering’ at the ports of entry. Numerous “push and pull” factors are contributing to increases in apprehensions of people entering illegally between the ports of entry.

Question: Has the Border Patrol collected or otherwise obtained any data regarding the relationship between "metering" and the volume of U.S.-Mexico border crossings between ports of entry?

Response: The U.S. Border Patrol is unable to provide data, as there are no indicators for “metering.”

Question#:	9
Topic:	Border Patrol Agents' Work
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: In your assessment, has this "metering" policy made Border Patrol agents' work between ports of entry more difficult? Please provide an explanation for your response.

Response: The U.S. Border Patrol cannot directly attribute that the rise in apprehensions across the southern border is due to 'metering' at the ports of entry. Numerous "push and pull" factors are contributing to increases in apprehensions of people entering illegally between the ports of entry. The increase in apprehensions of family units and unaccompanied alien children has negatively affected USBP operations. Increases in apprehensions, especially those of large groups of 100 or more aliens, has caused stations across the southern border to pull Border Patrol agents away from important border security operations due to the need for additional staffing to perform detainee watch and care, transportation, case processing, and hospital watch duties.

Question#:	10
Topic:	Court Order
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

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

On December 7, the U.S. Court of Appeals for the Ninth Circuit upheld a federal district court's order temporarily blocking the Trump Administration's "asylum ban" from going into effect. The panel opinion said the Administration's new rule was directly at odds with federal immigration law and would give only "the hollowest of rights" to asylum seekers.

Is the Border Patrol complying with this court order?

Response: Yes, the U.S. Border Patrol completes all aspects of the administrative processing of each person apprehended, and turns them over to the appropriate agencies responsible for determining the outcome of claims for asylum and credible fear.

Question: To your knowledge, have Border Patrol agents been advising asylum seekers that crossing the border outside a port of entry would preclude them from applying for asylum?

Response: U.S. Border Patrol agents have been conducting case processing as per policy, regulation, and court order, and are not allowed to provide legal advice. This applies to all types of cases.

Question: How is the Border Patrol handling asylum seekers who are found outside ports of entry?

Response: The U.S. Border Patrol completes all aspects of the administrative processing as expeditiously as possible for each person apprehended, and turns them over to the appropriate agencies responsible for determining the outcome of claims for asylum and credible fear.

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Question: Are these individuals and families still able to seek asylum in the United States, as this court order requires?

Response: U.S. Border Patrol has no direct knowledge. The Border Patrol's role in the asylum cases is limited to ensuring aliens are processed and any alien's fear claim is referred for adjudication.

Question#:	11
Topic:	Migration Reasons
Hearing:	NARCOS: Transnational Cartels and Border Security
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Migration Policy Institute President Andrew Selee, who testified on the second panel at the December 12 hearing, stated: "While there is no single study that has successfully explored the mix of reasons that Central Americans leave their homes to embark on a dangerous journey north, available evidence suggests that the rise in the number of Central American asylum-seekers is tied both to violence and impunity, in other words, the need to seek protection and the inability to obtain it within their own countries." Do you agree with that conclusion? Please explain the sources that have informed your response.

Response: I believe that conclusion to be false. A report was recently released by USC's [Center for Risk and Economic Analysis of Terrorism Events \(CREATE\)](#) in collaboration with the Institute for Defense Analyses (IDA). This 12-month study on immigration from El Salvador, Guatemala, and Honduras to the United States, found that juvenile migrants are primarily motivated by economic opportunities and reunification with family members, while economics have motivated adult migrants. The study found mixed evidence on the impact of crime and violence on migration from these countries.

For further reference, please view this link for the study:
https://create.usc.edu/sites/default/files/northern_triangle_migrant_report.pdf