

Question#:	1
Topic:	Fraudulent Family Units
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Department of Homeland Security argues that the Flores Agreement "has incited smugglers to place children into the hands of adult strangers so they can pose as families and be released from immigration custody after crossing the border, creating another safety issue for these children." It's now well-known my Oversight staff has revealed that smugglers kidnap children and pair them with an unrelated adult, posing as a "family member" for purposes of crossing the border. Smugglers and other bad actors understand doing so avoids detention and guarantees release into the interior.

Has there been an increase in the number of fraudulent family units crossing the border since the 2015 federal district court ruling? And if so, by what percentage has that number increased?

Response: The U.S. Border Patrol (USBP) does not have this data from 2015 because we began tracking fraudulent claims to a parent/child relationship on April 19, 2018. From then through July 31, 2018, USBP separated 121 fraudulent family unit aliens.

Question#:	2
Topic:	Verified Family Units
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Has CBP been able to discern the number of family units that consist of verified related family members, as opposed to groups falsely presenting themselves as family units?

Response: The U.S. Border Patrol have that capability now to determine those FMUAs that were fraudulent as opposed to just related family members.

Question#:	3
Topic:	Family Units Apprehended
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Of the total number of family units apprehended by CBP, how many of those units did not consist of verified family members?

Response: USBP began tracking fraudulent claims to a parent/child relationship on April 19, 2018. From then through July 31, 2018, USBP has separated 121 fraudulent family unit aliens due to family claims being fraudulent.

Question: Of the total number of family units apprehended, how many consisted of one or more dangerous criminals?

Response: Since April 19, 2018, there have been 10 individuals in family units classified as criminal aliens. USBP defines criminal alien as, “an alien convicted of a crime, whether in the United States or abroad, so long as the conviction is for conduct which is deemed criminal by the United States.”

Question: And what is the current status of those individuals?

Response:

Latest ERO Actions for Criminal Alien Family Units Apprehended

Latest ERO Action in Removal Case	Number of Individuals
Enrolled in ATD	6
ICE Removal	1
ICE Release - OREC	1
ICE Release - OSUP	1
CBP Release - OREC	1

Question#:	4
Topic:	UACs Returned
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many unaccompanied children (UAC) are ever returned to their home countries? What percentage of total UAC apprehended are returned to their home countries?

Response: The influx of Unaccompanied Alien Children (UAC) across the United States' Southwest Border began in 2014 and has primarily consisted of individuals from the Northern Triangle countries of Guatemala, El Salvador, and Honduras. The large numbers of arriving UACs have challenged the existing capabilities of federal departments and agencies that are responsible for processing, transporting, detaining, and ultimately removing the incoming UACs who are subject to a final order of removal.

Once UACs are apprehended and then released into the interior of the United States, UACs will generally remain in the country. They often fail to appear for their removal hearings before an immigration judge, and fail to depart the United States if ordered removed. In fact, only 3.54 percent of UACs from countries other than Mexico encountered at the Southwest Border in Fiscal Year (FY) 2014 had been removed or returned as of the end of FY 2017. In FY 2017, U.S. Immigration and Customs Enforcement (ICE) removed only 3,598 UACs from the United States. For FY 2018 year-to-date, ICE removed 5,387 UACs from the United States.¹

¹ FY 2018 year-to-date data is current through September 22, 2018. Removal counts are based on the designation of UACs at the time of initial book-in, and aliens may be over the age of 18 or have otherwise ceased to qualify as a UACs at the time of removal. Further, these figures represent the removal counts of those identified as UACs in FY 2009 to FY 2018, who were later removed. The vast majority of "UAC removals" are age-outs. For example, of UACs removed by ICE in FY 2016, only 21 percent were under the age of 18 at the time of departure. Of the UACs removed by ICE in FY 2017, only 18 percent were under the age of 18 at the time of departure.

Question#:	5
Topic:	Referring for Prosecution
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: On April 6, 2018 Attorney General Jeff Sessions announced a new "zero-tolerance policy" for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry. On June 20, President Trump issued Executive Order 13841, effectively ending the Administration's zero-tolerance initiative.

Is CBP still referring any cases for prosecution under Section 1325 to the Department of Justice for illegal entry?

Response: Yes. As federal immigration officers, USBP agents continue to uphold their duty to execute the law as written. Since 8 U.S.C. § 1325(a) has not been amended or repealed, USBP agents continue to refer for prosecution aliens who have violated this statute in accordance with law, policy, Executive Order and court imposed restrictions.

Question: Are there any cases of family units that CBP is still referring to the Department of Justice for prosecution for illegal entry?

Response: No. CBP may refer a parent for prosecution for illegal entry, 8 U.S.C. 1325, if the parent is excluded from the class in *Ms. L v. ICE*.

Question#:	6
Topic:	Policy Memo
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: You testified that the guidance you received from DHS Secretary Nielsen on May 4, 2018 instructed CBP to pursue "100 percent prosecution[s] for all amendable adults." When I asked you whether there was any kind of guidance or systems in place to ensure that children separated as a result of these prosecutions "can be matched to their parents," you didn't answer the question directly and instead simply said that "our focus was on prosecuting all amenable adults."

Will you provide an un-redacted copy of the May 4, 2018 "zero tolerance" policy memo from Secretary Nielsen?

Response: DHS is unable to provide the un-redacted material at this time as it is part of the deliberative process.

Question#:	7
Topic:	Reunification Guidance
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: At the moment CBP began separating parents from their children pursuant to the "zero tolerance" policy, did your agents have any guidance or instructions detailing measures to ensure the eventual reunification of the families separated as a result of this new policy? If so, please provide an un-redacted copy of any such guidance or instructions.

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

- the parent/legal guardian is subject to criminal prosecution;
- evidence of abuse that would indicate that the child's safety is at risk; and
- the familial relationship cannot be verified

This list is not exhaustive and the operational decision to separate a family unit is made after taking the safety and wellbeing of the child or children into account. The TEDS Standards and the general parameters listed above have not changed since June 26, 2018

Further, the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 requires that, absent exceptional circumstances, CBP transfer children from non-contiguous countries to ORR custody within 72 hours of determining that the child is an unaccompanied minor. The release of Unaccompanied Alien Children (UACs) into the U.S. in the care of a parent, relative or sponsor able to assume care and welfare of the child, is the responsibility of the U.S. Department of Health and Human Services.

Question#:	8
Topic:	First Learning of Zero Tolerance Policy
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: When exactly did your agency first learn of the Department of Justice's decision to implement the "zero tolerance" policy, and how did it learn of it?

Response: Though CBP was in discussion with the DHS components and the Department of Justice on a myriad of options for handling increasing migration numbers, CBP was informed of the Attorney General's zero tolerance policy when it was announced on April 6, 2018.

Question#:	9
Topic:	Children in CBP Custody
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: You testified that CBP reunified more than 500 children in its custody following the President's June 20, 2018 Executive Order. Does the CBP still have any separated children in its custody? If so, how many children?

List the reasons why each child is still in CBP's custody, and why they have not been reunified with their parents or guardians.

Response: CBP no longer has any children in its custody who were separated as a result of the Zero Tolerance policy.

Question#:	10
Topic:	Standard of Proof
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What is the standard of proof used in the CBP's consideration of whether to separate a parent in determining whether "a parent poses a danger to their child, has a criminal history, or has a communicable disease"? What evidence does the government rely on to make such assessments? What formal tests or analyses does the government rely on to make such decisions? What opportunities do parents have to respond to such concerns?

Response: CBP prioritizes the safety and wellbeing of minors in our custody, and ensures that any separation of a minor from his or her parent or legal guardian is made in accordance with the standards of *Ms. L v. ICE*, the TVPRA, and other legal requirements. As such, CBP agents evaluate each situation based on the totality of the circumstances to determine whether it may be necessary to separate a parent or legal guardian from his or her child. As an example, agents conduct alien interviews and look for verbal and non-verbal cues that would indicate a threat to the child's wellbeing. Criminal history checks on the parent are conducted to ensure that there are no indications of a violent past. Although there is no set standard of proof, the totality of the circumstances for each case is examined to make a determination as to whether the parent is unfit or poses a danger to the child, has a communicable disease, or has a criminal history.

Question#:	11
Topic:	Guidance Provided
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What guidance is provided by CBP to field officers relating to the treatment of families undergoing the reunification process?

Response: CBP does not reunify families who have been separated and have been referred on to HHS and ICE. Under the *Homeland Security Act of 2002* and the TVPRA, the placement of Unaccompanied Alien Children (UACs), the release of UACs into the U.S. in the care of a parent, relative or sponsor able to assume care and welfare of the child, is the responsibility of the U.S. Department of Health and Human Services.

Question#:	12
Topic:	Toxic Stress
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What training is now being provided to CBP officials regularly interacting with parents and children who were separated regarding the toxic stress these individuals endured and how that stress manifests?

Response: U.S. Customs and Border Protection (CBP) is responsible for aliens in our facilities for the duration of their custody with CBP which is generally, not longer than 72 hours. The agency works expeditiously to transfer all UACs to HHS within this timeframe, absent exceptional circumstances, so that UACs can receive proper, long-term care.

CBP agents and officers both receive training on the proper processing, treatment, and referral of aliens who express a fear of return to their home countries consistent with current policies regarding credible fear claims. This training is introduced during basic training in the CBP Academies, and is reinforced by the operational offices through post academy training and the periodic issuance of memoranda and policy reminders/musters.

CBP provides training on juvenile and family units, including training on the *Flores* Settlement Agreement and the TVPRA, and the National Standards on Transport, Escort, Detention, and Search. The general standards cover Treatment of Juveniles (Section 1.6) and Family Unity (Section 1.9) and is publicly available and posted on CBP's web site at: <https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf>

Question#:	13
Topic:	Deportees Reunited
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Sheldon Whitehouse
Committee:	JUDICIARY (SENATE)

Question: What is CBP doing, if anything, to identify, locate, and reunite the parents who were separated from their children and subsequently deported?

Response: CBP is not involved in the reunification process. DHS and HHS have worked closely with the Northern Triangle governments and non-government organizations to develop an interagency process for reunifying parents who are no longer in the United States with their children.

Question#:	14
Topic:	Consultation with CBP
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Was U.S. Customs and Border Protection consulted before the announcement of the zero- tolerance policy on April 6, 2018?

Response: Though CBP was in discussion with the DHS components and the Department of Justice on a myriad of options for handling increasing migration numbers, CBP was informed of the Attorney General's zero tolerance policy when it was announced on April 6, 2018.

Question: When was U.S. Customs and Border Protection first consulted regarding the zero- tolerance policy?

Response: There is no exact date when CBP was included in discussions with DHS and DOJ regarding immigration enforcement options related to the zero tolerance policy. The dramatic rise in illegal immigration from the northern triangle countries in this decade, including the danger to children brought from those countries, has been a growing concern.

Question#:	15
Topic:	Concerns About Policy
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Have you, at any point, expressed any concerns about the policy or its implementation? Please describe the nature of any such concerns; how, when, and to whom they were communicated; and what, if any, response you received.

Response: No. CBP worked closely with DHS Components and U.S. Department of Justice (DOJ) liaisons to prepare for the implementation of the zero tolerance policy after its announcement by DOJ on April 6, 2018 and prior to its effective date of May 5, 2018.

Question: Were changes to the policy or its implementation made in response to any concerns you raised? If so, please describe them.

Response: While continuing its collaboration with DOJ, CBP incorporated the necessary adjustments to maintain enforcement of its mission while adhering to the governing laws in place.

Question#:	16
Topic:	Plans in Place
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: When the zero-tolerance policy was instituted, what plan was in place to facilitate reunification of families after the conclusion of criminal proceedings?

Response: Under the *Homeland Security Act of 2002*, the U.S. Department of Health and Human Services is responsible for the reunification of Unaccompanied Alien Children (UACs) with parents or legal guardians whom DHS has released from its custody. Therefore, CBP does not issue guidance related to the reunification of families. However, as a matter of standard practice any separation is documented in the alien registration file to ensure that ICE and HHS are properly informed to facilitate reunification. This information is generally relayed to HHS when a placement request for the separated minor is made through the UAC portal, an HHS system. Additionally, on April 19, 2018, USBP made updates to the electronic system of record that allowed agents to document when a separation had occurred for rapid retrieval of this information.

Question#:	17
Topic:	Forms
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Please provide a blank copy of all forms you are aware of that have been given to migrant parents separated from their children at any point since the announcement of the zero- tolerance policy, including but not limited to forms related to voluntary departure, adjudication or waiver of asylum claims, family reunification, available legal resources, and/or separated children. Please include all versions used from April 6, 2018 to present, including prior iterations, translated versions, etc.

Response: A *Next Steps for Families* help sheet, which is attached and can be found at https://www.dhs.gov/sites/default/files/publications/18_0615_CBP_Next-Steps-for-Families.pdf, was created in both English and Spanish languages and provided to migrant parents in custody of DHS CBP to facilitate reunification with children that may have been separated from them. The type of forms individuals receive during immigration processing depends on the type of removal proceeding the individual was subject to, including expedited removal, a reinstated order of removals, or removal proceedings pursuant to section 240 of the Immigration and Nationality Act.

Question#:	18
Topic:	Asylum Process
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Please describe the process by which families who present at the border seeking asylum, both at points of entry and elsewhere, are received.

Response:

- During processing, whether at a port of entry or between ports, aliens who are subject to expedited removal, are asked specific questions regarding any fear they may have of returning to their country of origin. Aliens in expedited removal who express a fear are referred to a U.S. Citizenship and Immigration Services asylum officer for a credible fear interview, and if the alien establishes credible fear, he or she will be issued a notice to appear before an immigration judge. Aliens also may be placed directly into removal proceedings pursuant to issuance of a notice to appear. Such aliens may affirmatively seek asylum before an immigration judge.
- CBP agents and officers do not make asylum eligibility determinations, weigh the strength of the claims, or make credibility determinations concerning aliens' statements. Asylum determinations are made by U.S. Citizenship and Immigration Services (USCIS) officials or an immigration judge.
- We comply with the required procedures to ensure that the rights of aliens are protected, particularly those of aliens who express a fear of return.

Question#:	19
Topic:	Delaying Asylum Seekers
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Are families who present at the border seeking asylum being turned away due to lack of resources? If so, how many?

Response: CBP's Office of Field Operations (OFO) processes all persons who apply for admission at Ports of Entry (POE) and does not turn away anyone who is seeking asylum. At times, due to operational capacity or the need to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the United States. Upon reaching the U.S. side of the border, all individuals are processed.

Question: What, specifically, are the resource constraints that are constraining or delaying the processing of asylum seekers at ports of entry?

Response: We must balance resources to focus on the agency's core missions of safeguarding the border while promoting legitimate travel and trade. CBP's capacity to process asylum seekers at POE varies based upon case complexity, available resources, medical needs, translation requirements, holding space, overall port volume, and ongoing enforcement actions.

In general, our Nation's air, land, and sea ports of entry are in need of improvements and modernization to enhance DHS efforts to secure our borders and facilitate legitimate travel, trade, and commerce. The majority of the Land Port of Entry (LPOE) inspection facilities CBP operates have surpassed the useful lifecycles for which they were designed. Additional pressures are placed on this aging infrastructures by the growth in commercial trade and travel, continuously increasing security requirements, and the burgeoning demand for 24-hour operations. Until these facilities are fully modernized, CBP's pursuit of its critical mission will continue to be affected by substandard and outdated facilities.

To support CBP's evolving mission more effectively and to identify ongoing needs, CBP, in consultation with the U.S. General Services Administration (GSA), develops an annual plan outlining the investments required to modernize our LPOEs. CBP and GSA update the capital investment plan annually, taking into account the changing conditions at the LPOE, and any other factors discovered in the course of projects already under way.

This plan is included in the annual report DHS submits to the Committees on Appropriations and Homeland Security. The report also includes an overview of Public Private Partnership agreements that CBP has developed to leverage legislative authorities

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to supplement funds appropriated by Congress. To date, the donations it helped generate have only allowed CBP to address a small fraction of its growing infrastructure needs.

Through CBP's Strategic Resources Assessment framework, CBP has identified \$4 billion in required investment over a five year period to meet current requirements. However, appropriations for LPOE projects over the last decade have averaged just \$200 million per year, proving not just insufficient to reduce the backlog of needed projects, but in fact contributing further to the backlog and forcing two-thirds of the LPOE inventory beyond its useful life.

Modernized facilities are key to sustaining operations. It is critical that LPOE facilities receive the requisite infrastructure improvements.

Question#:	20
Topic:	Meritorious Claims
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: What protections are in place to ensure that migrants with meritorious asylum claims are not removed?

Response: CBP carries out its mission of border security while adhering to U.S. and international legal obligations for the protection of vulnerable and persecuted persons. CBP understands the importance of complying with the U.S. laws and international treaties allowing people to seek asylum on the grounds that they fear being persecuted in the country to which they will be returned because of their race, religion, nationality, membership in a particular social group, or political opinion, and obligate the U.S. not to return individuals to a country where they would be persecuted on account of one of those grounds or tortured. CBP takes its legal obligations seriously. As such, CBP has designed policies and procedures to protect vulnerable and persecuted persons in accordance with legal requirements. CBP Officers and Agents do not determine an individual's eligibility for asylum. USCIS officials or immigration judges make those determinations, depending on the procedural posture of the alien's case.

CBP officers and agents receive training on the proper processing, treatment, and referral of aliens who express a fear of return. This training begins in the CBP Field Operations and Border Patrol Academies, and is reinforced through post Academy training and the periodic issuance of memoranda and policy reminders/musters.

Question#:	21
Topic:	Family Unit Asylum Claims
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Of those immigrant parents who were separated at the border from their children, how many made asylum claims?

Response: From April 19, 2018 through July 31, 2018, 1,087 separated adults expressed a fear to the U.S. Border Patrol of returning to their home countries. From May 1, 2018, through August 13, 2018, there were six immigrant parents who claimed a fear of return to the Office of Field Operations.

Question: Will the administration issue guidance to ensure that those family units seeking asylum at the border have the opportunity to adjudicate their claims for relief without risking family separation?

Response: Protocol related to family units seeking asylum has not changed during the implementation of Attorney General's zero tolerance policy on May 5, 2018 by DHS or through the establishment of Executive Order *Affording Congress the Opportunity to Address Family Separation* on June 20, 2018. Few circumstances require an individual to be barred from seeking asylum. Generally speaking, individuals referred for prosecution under the zero tolerance policy, in violation of 8 U.S.C. § 1325, are subject to the findings of the criminal prosecution. Once an individual is in an ICE facility, the USCIS screening takes place prior to any removal from the U.S.

Question#:	22
Topic:	Remaining Linked
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Please describe, in detail, all steps that U.S. Customs and Border Protection takes to ensure that parents and children remain linked throughout the immigration process, including all protections in place to ensure that a parent does not get deported without his or her children absent a waiver of reunification made with informed consent.

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

Question#:	23
Topic:	Referral Guidance
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: When the zero-tolerance policy was in effect, government statistics compiled by the Transactional Records Access Clearinghouse indicate that less than one-third of adults apprehended were referred for criminal prosecution.

What guidance were CBP agents given as to how to determine which cases to refer for criminal prosecution? Please provide copies of any written guidance.

Response: Under the Attorney General's zero-tolerance policy, CBP referred for prosecution, to the extent law and resources allowed, those adult aliens who were found to have a criminal history, were participating in smuggling activity, or violated 8 U.S.C. § 1325(a).

Question: Of the 9,216 adults referred for criminal prosecution in May, how many were apprehended with children and how many without children?

Response: For the month of May 2018, the U.S. Border Patrol referred 13,689 adults for prosecution nationwide. Of those referrals, only 116 were apprehended in a family unit.

Question: To the extent that adults apprehended with children were prosecuted at a higher rate than adults without children, please explain why.

Response: As provided in prior response, for the month of May 2018, USBP referred 13,689 adults for prosecution nationwide. Of those referrals, only 116 were apprehended in a family unit.

Question#:	24
Topic:	CBP Designee
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In a recent telephonic hearing on the status of reunifications, U.S. District Judge Dana Sabraw observed that "[f]or every parent that is not located, there will be a permanently orphaned child and that is a hundred percent the result of the administration. . . . The reality is there are close to 500 parents that have not been located. Many have been removed from the country without their child. All of this is the result of the government's separation and failure to track and reunite." Judge Sabraw concluded that it was "absolutely essential" for the government to select a single individual or team to guide reunification across the federal agencies involved and report back to the court in a week.

Who is the U.S. Customs and Border Protection designee to lead the agency's family reunification efforts?

Response: The U.S. Department of Health and Human Services (HHS) and Immigration and Customs Enforcement (ICE) have primary responsibility for the reunification of eligible adults and children. CBP works collectively across agencies in the reunification effort, working across agencies to ensure the timely reunification of all eligible adults and children. There is no single designee for the agency.

Question#:	25
Topic:	Lankford-Coons Letter
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: At the hearing, I noted that Senator Lankford and I have sent questions to administration officials requesting basic information and regular updates on family separations and reunifications. You committed to getting us a timely response to this broad and bipartisan request for information. I am including a copy of our letter. Please respond to the questions contained therein as soon as possible. If you do not have information that is responsive to these questions, please identify the officials that would have the requested information.

Response: A response to your letter with Senator Lankford was sent on August 24, 2018.

Question#:	1
Topic:	Implementing Zero-Tolerance
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: There have been reports of particularly traumatizing ways in which parents were separated from their children. For example, The Washington Post reported that some parents were taken to court and told by CBP officials that they would see their children when returned from court, but upon their return, they discovered that their children had been taken away from them and placed in federal shelters. The Washington Post also reported that some parents were told that their children were being taken for a bath, but their children were never returned to them.

What training or guidance, if any, was given to CBP officers in how to implement the "zero-tolerance" policy and family separations?

Response: For many years, all Border Patrol agents have received training related to the separation of minors from adults with whom they are apprehended, as such separations may occur for a number of reasons (as recognized in the Preliminary Injunction issued by the district court in the *Ms L. v ICE* case). The Border Patrol Academy basic training curriculum includes four hours of training devoted to screening for trafficking victims, child safety, and determining familial relationships within the e3 Processing lesson. There is also Performance and Learning Management System PALMS (online) training regarding *Reno v. Flores*. It is required for all CBP employees who come into contact with Unaccompanied Alien Children (UACs).

Border Patrol Academy basic training curriculum also contains a training on human trafficking.

Border Patrol Post-Academy Training covers the basic processing of juveniles and families during the Search, Detention, and Arrest course.

Question: Under that training or guidance, would the CBP actions reported in The Washington Post be permitted or tolerated? If not, what actions are being taken to investigate and address these allegations?

Response: Regarding the above scenario, these actions would not be allowed. CBP has and continues to expect agents and officers to be professional and transparent with parents regarding the location of their children. Absent specific information about the allegations, including names and dates, CBP is unable to conduct an investigation into any such allegations to determine whether misconduct occurred. However, CBP takes all allegations of employee misconduct seriously. Under a uniform system, allegations of misconduct are documented and referred to the DHS Office of Inspector General (OIG)

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Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

for independent review and assessment. Some cases are retained by the OIG for investigation while others are referred back to CBP for appropriate handling. If misconduct is substantiated, appropriate corrective action will be initiated.

Question: Prior to implementing the "zero-tolerance" policy and separating families, who, if anyone, did CBP consult with to properly account for the best interests of the children being separated?

Response: For many years, the USBP has implemented several enforcement strategies along the southwest border. The Zero Tolerance Prosecution Initiative is not a unique and has been implemented before, albeit on a smaller scale. Those operations have resulted in family separation as well.

USBP prioritizes the safety and welfare of all aliens in our custody, particularly those from a vulnerable population such as children. This prioritization must also take into consideration CBP's obligation to carry out our duties and enforce immigration law between the ports of entry. Accordingly, USBP relies on the guidance provided in the Immigration and Nationality Act, the Trafficking Victims Protection Reauthorization Act, the Homeland Security Act and numerous internal policies and standard operating procedures in order to properly account for the best interests of children separated from their parents.

There was no consultation prior to ZTP as CBP policies that were already in place, accounted for the best interests of all migrants in our custody, to include children without their parents. In 2015, CBP published its National Standards on Transport, Escort, Detention, and Search (TEDS) policy, the agency-wide policy that sets forth the first nationwide standards which govern CBP's interaction with detained individuals. This policy governs CBP's commitment to the safety, security, and care of those in our custody. The TEDS policy is grounded firmly in the experience and policies of the Office of Field Operations and the United States Border Patrol. It incorporates best practices developed in the field, and it reflects key legal and regulatory requirements. The TEDS policy states in part that "CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation." In cases where a juvenile must be separated from a parent or legal guardian, arrangements are made to transfer custody of the juvenile to the Department of Health and Human Services, Office of Refugee Resettlement (ORR), in accordance with the Homeland Security Act of 2002.

Question#:	2
Topic:	Consulting with Experts
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Did CBP consult with any child welfare or medical experts to determine the impact that separating a child from her or his parent would have on that child? If so, with whom did CBP consult and how did that affect CBP's response to this crisis created by the "zero-tolerance" policy?

Response: There was no consultation prior to ZTP as CBP policies that were already in place, accounted for the best interests of all migrants in our custody, to include children without their parents. Under the current TEDS policy, CBP officers and agents must take into account the best interest of the child. Under very distinct circumstances, CBP is required to separate children from adults they are arriving – namely when the child's well-being is in question. CBP works closely with HHS to ensure that appropriate medical attention is administered to all.

Question#:	3
Topic:	Medical and Mental Health Care
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Medical and mental health experts have warned of the "toxic stress" created by forcibly separating families that can result in long-term consequences, such as adverse brain development, mental illness, and substance abuse.

How is CBP ensuring that separated children in CBP custody receive adequate medical and mental health care?

Response: With some exceptions for UACs from contiguous countries, as provided under the TVPRA of 2008, CBP refers UACs including those separated from their parents, in its custody to HHS. While children remain in CBP custody, CBP provides immediate medical care when necessary, but CBP works expeditiously to transfer UACs in its custody to HHS within 72 hours of determining the child is a UAC, absent exceptional circumstances, so that UACs can receive proper shelter and care. CBP's Transport, Escort, Detention and Search policy (TEDS) is publicly available and posted on CBP's web site. Section 4.10 deals with many of these issues.

Question: What kind of training in child development and trauma-informed care is currently being provided to CBP officials who interact children who are separated from their parents?

Response: CBP is currently conducting a pilot program to provide medical and mental health treatment for UAC, including those separated from their parents. The pilot is occurring in four high traffic USBP sectors: Rio Grande Valley, El Paso, Laredo, and Yuma. Medical staff are contracted in each location to conduct mental health screening, triage, and referral. UAC that require treatment beyond the scope of contracted service available at each location are referred to a local facility for further medical/mental health assessment and/or care. USBP agents benefit from working alongside medical professionals and are able to observe best practices in dealing with the challenges of UAC medical and mental care.

CBP works expeditiously to transfer all UACs to HHS within the statutorily mandated 72-hour timeframe, absent exceptional circumstances, so that UACs can receive proper care in a program designed to meet their needs. CBP also recognizes the importance of thoroughly training our frontline officers and agents regarding the treatment of children during the time that they are in CBP custody.

In coordination with the CBP Office of Training and Development (OTD), officers and agents receive extensive training related to juvenile treatment and screening. All Border

Question#:	3
Topic:	Medical and Mental Health Care
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Patrol Agents receive training related to the separation of minors from adults with whom they are traveling, as such separations may occur for a number of reasons including when a familial relationship cannot be determined, if the adult traveling with the minor has a communicable disease, if the adult has a criminal history, or when the general well-being of the child is in question.

Additionally, the Border Patrol Academy basic training curriculum includes training devoted to screening for trafficking victims, child safety, and determining familial relationships within the e3 Processing lesson. Additionally, the Border Patrol Academy provides juvenile and family unit training regarding the *Flores* Settlement Agreement and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). The Border Patrol Academy covers the U.S. Customs and Border Protection National Standards on Transport, Escort, Detention, and Search. The general standards covers Treatment of Juveniles (Section 1.6) and Family Unity (Section 1.9).

The CBP Officer Basic Training Program (CBPOBT) has not changed since the implementation of the zero tolerance policy. Officer training is derived from existing CBP Policy.

CBP recognizes the importance of thoroughly training our frontline officers.

Question#:	4
Topic:	Prior to Zero-Tolerance
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: During the hearing, I asked Mr. Albence about the Department of Homeland Security's (DHS) long-term plan for the children who were separated from their parents by DHS.

Prior to implementing the "zero-tolerance" policy and separating families, what guidance or directives, if any, did CBP receive regarding the reunification of the parents and the children who were separated under that policy?

Response: Under the Homeland Security Act of 2002 and the TVPRA, the Department of Health and Human Services is responsible for the care and placement of UACs who are in federal custody by reason of their immigration status. CBP works closely with HHS to provide necessary information related to the UAC transferred to HHS custody.

It should also be noted that Mr. Albence does not work for CBP and is an employee of ICE. ICE also works closely with HHS to unite UACs with parents if the parents are still in ICE custody.

Question#:	5
Topic:	Families Reunited
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In implementing the "zero-tolerance" policy, what steps did CBP take to ensure that families could be reunited as quickly as possible? For example, did CBP inform the parents where their children were going to be sent?

Response: Under the Homeland Security Act of 2002, the Department of Health and Human Services (HHS) is responsible for the care and placement of UACs who are in federal custody by reason of their immigration status. CBP would inform the parents that their child is being referred to HHS for placement. CBP would hand out a tear sheet, a one-pager that has all appropriate numbers and instructions for assisting their personal efforts to reunify.

CBP has consistently followed protocol that has always been in place to separate adults from children under certain limited circumstances. Though CBP provides information to separated individuals, reunification of adults with children who have been determined to be UACs is generally coordinated by the Department of Health and Human Services (HHS).

Starting April 19, 2018, a systems change was implemented that allows separations to be tracked in the database. Records could then be pulled to show which adults/children could be linked and tracked accordingly. This data was supplied to HHS and ICE for the reunification effort.

Question: How did CBP keep track of the family units to ensure that the records of parents and their children were connected?

Response: Starting April 19, 2018, a systems change was implemented that allows separations to be tracked in the database. Records could then be pulled to show which adults/children could be linked and tracked accordingly. This data was supplied to HHS and ICE for the reunification effort.

Question#:	6
Topic:	Turned Away
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: When I visited the border at McAllen, Texas last month, I was troubled to see CBP officers standing in the middle of the bridge, preventing asylum seekers who were attempting to enter the country legally and obtain asylum from accessing the entry point.

Why are immigrants who attempt to gain entry to the United States legally are being turned away at our ports of entry?

Response: CBP does not turn individuals away from ports of entry and its policies specifically prohibit officers from doing so. CBP's Office of Field Operations (OFO) processes all persons who apply for admission at POEs and does not turn away anyone who is seeking asylum. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the POE. Upon reaching the U.S. side of the border, all individuals are processed. Any adult traveler who, upon arriving in the United States at a POE, requests asylum or expresses a fear of return to their home country or country of last residence is referred to USCIS asylum officers who conduct detailed screenings for potential asylum eligibility. CBP does not decide the merits of any asylum claim or application.

Question: What is CBP's practice and policy regarding turning back asylum seekers at ports of entry (POEs)?

Response: CBP does not turn individuals away from ports of entry and its policies specifically prohibit officers from doing so. CBP's Office of Field Operations (OFO) processes all persons who apply for admission at POEs and does not turn away anyone who is seeking asylum. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the POE. Upon reaching the U.S. side of the border, all individuals are processed. Any adult traveler who, upon arriving in the United States at a POE, requests asylum or expresses a fear of return to their home country or country of last residence is referred to USCIS asylum officers who conduct detailed screenings for potential asylum eligibility. . CBP does not decide the merits of any asylum claim or application.

Question#:	7
Topic:	Average Wait
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: How long is the average wait to get processed at a Port of Entry, and how do you monitor this wait?

Response: Border wait times for commercial vehicles, passenger vehicles, and pedestrians are provided to the traveling public at <https://bwt.cbp.gov>. OFO strives to process cases in an expeditious manner and there are several factors which may affect how long case processing takes. These factors include, for instance, availability of translation services, traffic volume, and enforcement activity occurring at the POE. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the POE. Upon reaching the U.S. side of the border, all individuals are processed.

Upon completion of inspection, the adult aliens who request asylum or express a fear of persecution or torture or a fear of return are referred to ICE/ERO for detention; and to USCIS asylum officers who conduct a detailed screening for potential asylum eligibility.

Question#:	8
Topic:	Asylum Seekers Processed Daily
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: How many asylum seekers are processed daily at Ports of Entry?

Response: For the Southwest Border, CBP saw on average 90 asylum seekers per day at the POEs from May 1, 2018, through August 13, 2018.

Question: What is the capacity at POEs to process people?

Response: CBP's capacity to process at ports of entry varies based upon case complexity, available resources, medical needs, translation requirements, holding space, overall port volume, and ongoing enforcement actions.

In general, our nation's air, land, and sea ports of entry are in need of improvements and modernization to enhance DHS efforts to secure our borders and facilitate legitimate travel, trade, and commerce. The majority of the Land Port of Entry (LPOE) inspection facilities CBP operates have surpassed the useful lifecycles for which they were designed. Most were constructed in a pre-North American Free Trade Agreement and pre-9/11 environment with different operational and security challenges. Additional pressures are placed on these aging infrastructures by the growth in commercial trade and travel, continuously increasing security requirements, and the burgeoning demand for 24-hour operations. Until these facilities are fully modernized, CBP will continue to be affected by substandard and outdated facilities in the pursuit of its critical mission.

To support CBP's evolving mission more effectively and to identify ongoing needs, CBP, in consultation with the U.S. General Services Administration (GSA), develops an annual plan outlining the investments required to modernize our LPOEs. CBP and GSA update the capital investment plan annually, taking into account any changes in DHS's mission and strategy, the changing conditions at the LPOEs, and any other factors discovered in the course of projects already under way.

This plan is included in the annual report DHS submits to the Committees on Appropriations and Homeland Security. This annual report provides an updated plan for all federal LPOE projects to address critical LPOE efficiencies, the projected funding needs (design, construction, rent, staffing and outfitting), and CBP's methodology to prioritize capital investments (which factors in operational and workload considerations, and, safety and site deficiencies). Additionally, the report includes an overview of Public Private Partnership agreements. In order to sustain operation in the current budgetary environment, CBP has developed a comprehensive funding strategy that leverages legislative authorities and public-private partnerships to supplement funds appropriated

Question#:	8
Topic:	Asylum Seekers Processed Daily
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

by Congress. CBP views these authorities as an opportunity to engage with stakeholders and communities to identify solutions for border management needs and generate mutual benefits. Although CBP welcomes this expanded authority, to date, the donations it helped generate have only allowed CBP to address a small fraction of its growing infrastructure needs.

Through CBP's Strategic Resources Assessment framework, CBP has identified \$4 billion in required investment over 5 years in order to meet current requirements. However, appropriations for LPOE projects over the last decade have averaged just \$200 million per year, proving not just insufficient to reduce the backlog of needed projects, but in fact contributing further to the backlog and forcing two-thirds of the LPOE inventory beyond its useful life.

Modernized facilities are key to sustaining CBP's operations. The implementation of the LPOE modernization plan would allow the agency to continue to fulfill its mission now and into the future, while enhancing economic competitiveness of the Nation. For these reasons, it is important that LPOE facilities receive the requisite infrastructure improvements.

CBP officials are required to balance the resources necessary to both facilitate entry for the hundreds of thousands of travelers who arrive daily to the U.S. while also enforcing our nation's immigration laws in a safe and orderly manner. When necessary to facilitate orderly processing while maintaining security and the health and safety of officers and the public, this obligation can require port access controls to allocate inspection resources efficiently and to maintain safe and appropriate conditions within port facilities.

Question: How many personnel are stationed at each port to process asylum seekers?

Response: CBP Officers at the ports of entry perform inspections to ensure that all persons and the goods they bring with them can lawfully enter the country. CBP front-line officers are cross-trained to perform all three inspection functions (customs, immigration, and agriculture), while simultaneously preventing the entry of terrorists and terrorist weapons and facilitating legitimate trade and travel. All CBP Officers are trained to process asylum seekers. For specific staffing numbers, we refer you to the 2017 Annual Report on Staffing, FY 2017 Report to Congress, issued October 6, 2017.

Question: How much time does it take to process an asylum request at the border?

Response: CBP strives to process the traveling public in an expeditious manner and there are several factors which affect how long it may take. These factors include, for instance,

Question#:	8
Topic:	Asylum Seekers Processed Daily
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

availability of translation services, traffic volume, and enforcement activity occurring at the POE. Upon completion of inspection, the adult aliens who request asylum or express a fear of persecution or torture or a fear of return are referred to ICE/ERO for detention; and to either USCIS asylum officers who conduct a detailed screening for potential asylum eligibility.

Question#:	9
Topic:	Processing Families
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Do you currently have a protocol to process families that arrive at the Port of Entry, including prioritizing families, children, or pregnant women on a humanitarian basis?

Response: The protocol regarding the processing of asylum seekers at the border has not changed. CBP strives to process cases in an expeditious manner and there are several factors which affect how long case processing takes. These factors include, for instance, availability of translation services, traffic volume, and enforcement activity occurring at the POE.

CBP policy is to process all applicants for admission, including those determined to be inadmissible in an expeditious manner. To maximize the flow of legitimate trade and travel, applicants for admission who do not have proper documentation are processed separately from those who do, and resources at ports of entry are managed to process all travelers as expeditiously as possible.

CBP prioritizes the inspection of those inadmissibles applicants for admission who are high-risk (e.g. unaccompanied Alien Children, Pregnant Women).

Question#:	10
Topic:	Designated Ports
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Do you have "designated" ports where asylum seekers get processed? Advocates have reported that in some ports people are being told to go to designated ports. If CBP is designating ports for asylum processing, please provide a complete list of these designated ports.

Response: CBP does not have designated ports for asylum seekers. Individuals who may seek asylum or other forms of protection may present themselves at any port of entry.

Question#:	11
Topic:	Port Director Discretion
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Do Port Directors have the discretion to decide whether to prioritize commercial/pedestrian/tourist traffic over asylum seekers? If so, what are the criteria on which they base this decision?

Response: CBP policy is to process all applicants for admission, including those determined to be inadmissible in an expeditious manner. To maximize the flow of legitimate trade and travel, applicants for admission who do not have proper documentation are processed separately from those who do, and resources at ports of entry are managed to process all travelers as expeditiously as possible.

Question#:	12
Topic:	Sufficient Space
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What additional resources are necessary to ensure that immigrants can access ports of entry and seek asylum?

Response: Any inadmissible alien who indicates an intention to apply for asylum or expresses a fear of return, or a fear of persecution or torture will be referred to USCIS for credible fear or reasonable fear screening. Aliens admitted or who entered without inspection may affirmatively seek asylum from USCIS in many instances.

In general, our nation’s air, land, and sea ports of entry are in need of improvements and modernization to enhance DHS efforts to secure our borders and facilitate legitimate travel, trade, and commerce. The majority of the Land Port of Entry (LPOE) inspection facilities CBP operates have surpassed the useful lifecycles for which they were designed. Most were constructed in a pre-North American Free Trade Agreement and pre-9/11 environment with different operational and security challenges. Additional pressures are placed on these aging infrastructures by the growth in commercial trade and travel, continuously increasing security requirements, and the burgeoning demand for 24-hour operations. Until these facilities are fully modernized, CBP will continue to be affected by substandard and outdated facilities in the pursuit of its critical mission.

To support CBP’s evolving mission more effectively and to identify ongoing needs, CBP, in consultation with the U.S. General Services Administration (GSA), develops an annual plan outlining the investments required to modernize our LPOEs. CBP and GSA update the capital investment plan annually, taking into account any changes in DHS’s mission and strategy, the changing conditions at the LPOEs, and any other factors discovered in the course of projects already under way.

In an effort to ensure immigrants can access ports of entry and seek asylum, CBP respectfully requests Congress approve the President’s FY 2019 Budget request of \$276 million for the Calexico LPOE.

This plan is included in the annual report DHS submits to the Committees on Appropriations and Homeland Security. This annual report provides an updated plan for all federal LPOE projects to address critical LPOE efficiencies, the projected funding needs (design, construction, rent, staffing and outfitting), and CBP’s methodology to prioritize capital investments (which factors in operational and workload considerations, and, safety and site deficiencies). Additionally, the report includes an overview of Public Private Partnership agreements. In order to sustain operation in the current budgetary environment, CBP has developed a comprehensive funding strategy that leverages

Question#:	12
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Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
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legislative authorities and public-private partnerships to supplement funds appropriated by Congress. CBP views these authorities as an opportunity to engage with stakeholders and communities to identify solutions for border management needs and generate mutual benefits. Although CBP welcomes this expanded authority, to date, the donations it helped generate have only allowed CBP to address a small fraction of its growing infrastructure needs.

Through CBP's Strategic Resources Assessment framework, CBP has identified \$4 billion in required investment over 5 years in order to meet current requirements. However, appropriations for LPOE projects over the last decade have averaged just \$200 million per year, proving not just insufficient to reduce the backlog of needed projects, but in fact contributing further to the backlog and forcing two-thirds of the LPOE inventory beyond its useful life.

Modernized facilities are key to sustaining CBP's operations. The implementation of the LPOE modernization plan would allow the agency to continue to fulfill its mission now and into the future, while enhancing economic competitiveness of the Nation. For these reasons, it is important that LPOE facilities receive the requisite infrastructure improvements.

Question: Is there sufficient space in facilities at the ports of entry at the border for families, women, children, and other vulnerable populations to take shelter as they wait to make their asylum claim?

If there is not sufficient space at ports of entry to provide shelter to vulnerable populations as they wait to file their asylum claims, is there overflow space that can be used?

Where is that overflow space?

Response: Ports of Entry vary widely in their capacity and structural limitations, including the availability of overflow space.

CBP strives to process cases in an expeditious manner and there are several factors which affect how long case processing takes. These factors include, for instance, availability of translation services, traffic volume, and enforcement activity occurring at the POE. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico being permitted to enter the POE.

Question#:	12
Topic:	Sufficient Space
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Are there any capacity issues with overflow space for asylum seekers?

Response: Ports of Entry vary widely in their capacity and structural limitations, including the availability of overflow space.

CBP's office of Field Operations (OFO) processes all persons who apply for admission at POEs and does not turn away anyone who is seeking asylum. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the POE. Upon reaching the U.S. side of the border, all individuals are processed.

Question: Are there any CBP regulations or policies that prevent CBP from providing shelter or space at the border for asylum seekers?

Response: No. CBP policy is to process inadmissible applicants for admission in an expeditious manner. CBP prioritizes the inspection of those inadmissible applicants for admission who are high-risk (e.g. unaccompanied Alien Children, Pregnant Women). Under current law and regulations, inadmissible applicants for admission are subject to mandatory detention and referral to ICE ERO for custodial space; and may be paroled either to meet a medical emergency or as necessary for a legitimate law enforcement objective. All CBP facilities are designed for the short term intake, holding, and/or processing of aliens as defined in 6 U.S. Code § 211 which states: "the term "short-term detention" means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence." CBP facilities are not designed, equipped, nor funded for the long term detention of any population.

Question#:	13
Topic:	Sufficient Personnel
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: Are there sufficient personnel at the points of entry at the border to perform the initial credible fear interviews and process asylum claims?

Response: Any alien who claims a fear of return will be referred to USCIS asylum officers who conduct detailed screening for potential asylum eligibility.

Question#:	14
Topic:	Administration Policy
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Cory A. Booker
Committee:	JUDICIARY (SENATE)

Question: What guidance has CBP received from the administration regarding the processing of asylum seekers at the border?

Response: The Administration has not provided additional or new guidance to CBP on processing of asylum seekers at the border. Processing of asylum seekers at the border is dictated by a number of statutory provisions, with which DHS fully complies.

Question: Has there been any policy or guidance limiting the number of asylum claims CBP can process?

Response: No. CBP does not process asylum claims, and no new policy or guidance been issued. USCIS and EOIR implement the statutory provisions governing claims for asylum or other protection. Additionally, resource and space constraints may dictate the number individuals that can be processed at a given moment at ports of entry.

Question#:	15
Topic:	Tracking System
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: In a letter resigning from the Homeland Security Advisory Council in protest over DHS's family separation policies and treatment of refugees, former member Elizabeth Holtzman wrote that, "seizing children from their parents in violation of the constitutional rights of both is bad enough, but doing so without proper records to enable family reunification shows utter depravity on the part of government officials involved."

Why did CBP fail to establish a viable system to track parents and children who were separated at the border with the implementation of the zero tolerance policy?

Response: Family Unit records are stored in the Enforcement Integrated Database (EID). Starting April 19, 2018, a systems change was implemented that allows family separations to be tracked in CBP's database. Records could then be pulled to show which adults/children could be linked and tracked accordingly. This data was supplied to HHS and ICE for the reunification effort.

CBP continues to refine its systems and processes to accurately maintain records.

Question#:	16
Topic:	Deleting Entries
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Why did CBP delete entries for family units separated, making it extremely more difficult to eventually reunify them?

Response: CBP did not delete entries for family units separated. The records in question are referred to as Family Unit Records and are stored in the Enforcement Integrated Database (EID) and maintained according to the DHS/ICE-11 System of Record Notice (SORN). When the Border Patrol changes a Family Unit designation, including noting that individuals are no longer treated as a family unit, the record is altered to reflect that change. However, the records are not removed and the underlying system maintains information both about the original designation and the change.

Question: Are such deletions still taking place?

Response: There have been no ‘deletions’ of records, only removal of the “family unit” designation within the electronic system. Both the original designation and the change are reflected in CBP’s system.

Question#:	17
Topic:	Children Detained Longer Than 72 Hours
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Since the zero tolerance policy was established, how many children have been detained at a CBP processing center for longer than 72 hours?

Response: For the time period of April 19, 2018 through July 31, 2018, the U.S. Border Patrol recorded 12,561 juveniles in CBP custody longer than 72 hours. This represents 36 percent of juveniles in custody during this time period.

Question#:	18
Topic:	Average Time Detained
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Since January 2017, what is the average time that adult asylum seekers have been detained at CBP processing centers?

Response: On the SWB, the average time adult asylum seekers have been detained at the POE is 48.5 hours and the average time adult asylum seekers have been detained between the borders was 67.2 hours

Question#:	19
Topic:	Child Welfare-Oriented Training
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: I have asked DHS officials multiple times about what specific child welfare-oriented training has been provided for CBP agents and officers regarding the separation of families but I have been provided no such information.

Please provide complete information on child welfare-oriented training provided to CBP agents and officers regarding the separation of families since the implementation of the zero tolerance policy.

Response: CBP works expeditiously to transfer all UACs to HHS within the statutorily mandated 72-hour timeframe, absent exceptional circumstances, so that UACs can receive proper care in a program designed to meet their needs. CBP also recognizes the importance of thoroughly training our frontline officers and agents regarding the treatment of children during the time that they are in CBP custody.

In coordination with the CBP Office of Training and Development (OTD), officers and agents receive extensive training related to juvenile treatment and screening. All Border Patrol Agents receive training related to the separation of minors from adults with whom they are traveling, as such separations may occur for a number of reasons including when a familial relationship cannot be determined, if the adult traveling with the minor has a communicable disease, if the adult has a criminal history, or when the general well-being of the child is in question.

Additionally, the Border Patrol Academy basic training curriculum includes training devoted to screening for trafficking victims, child safety, and determining familial relationships within the e3 Processing lesson. Additionally, the Border Patrol Academy provides juvenile and family unit training regarding the *Flores* Settlement Agreement and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). The Border Patrol Academy covers the U.S. Customs and Border Protection National Standards on Transport, Escort, Detention, and Search. The general standards covers Treatment of Juveniles (Section 1.6) and Family Unity (Section 1.9).

The CBP Officer Basic Training Program (CBPOBT) has not changed since the implementation of the zero tolerance policy. Officer training is derived from existing CBP Policy.

CBP recognizes the importance of thoroughly training our frontline officers.

Question#:	20
Topic:	Additional Resources Established
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: With zero tolerance policy implementation, were any additional mental health and child welfare resources established at CBP processing centers, shelters, or detention facilities?

Response: No, not during the implementation of zero tolerance. U.S. Border Patrol facilities are only meant as a transitory location in a short term holding facility and are not built nor funded to provide the level of care that HHS is designed to provide. In mid-August, additional resources were specifically allocated to address mental health issues at four Southwest Border Patrol sectors. This was a measured and piloted response to requests or inquiries made directly to our Commissioner. Also, please be aware that limited mental health screening is now included in the standard medical screening conducted by CBP.

Question#:	21
Topic:	CBP Guidance
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: When did CBP officials issue guidance to CBP agents and officers to carry out the zero tolerance policy? Please provide documentation of all such guidance.

Response: CBP issued guidance on May 4, 2018 via email.

Question#:	22
Topic:	POE Resources
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: When the administration rolled out the zero tolerance policy and began separating families, Secretary Nielsen stated on multiple occasions that families should go to ports of entry to apply for asylum rather than between ports. On May 8, before the Senate Appropriations Committee, she declared, "in terms of separating, I would just make one more plea to everyone who can help me message: if you are fleeing and you need to come to the United States, please come to ports of entry...we will process your claim there."

However, this Administration has consistently undercut protections for asylum seekers. We have heard of cases where asylum seekers have been turned away from ports of entry and made to wait for days in dangerous conditions to access ports. DHS further recently issued guidance making it virtually impossible for those fleeing domestic violence or gang violence to seek asylum in the U.S.

If DHS was aware that ports of entry would face increased pressure from asylum seekers as a result of the zero tolerance policy, why did it not request any new funding for its already understaffed Office of Field Operations in the FY19 budget?

Response: CBP works to balance competing priorities maintaining our frontline and trade and revenue personnel versus sustaining programs and investments that act as force multipliers. CBP is also self-critical and develops business transformation initiatives that streamline processes and identify efficiencies that save man-hours and return CBP Officers to frontline duties. This allows CBP to fulfill its mandatory and non-discretionary missions in the most effective and efficient manner possible.

Question: Will DHS reconsider its position on POE resources?

Response: All ports of entry must balance resources to focus on the agency's core missions of safeguarding the border while promoting legitimate travel and trade. CBP's capacity to process at ports of entry varies based upon case complexity, available resources, medical needs, translation requirements, holding space, overall port volume, and ongoing enforcement actions.

In general, our nation's air, land, and sea ports of entry are in need of improvements and modernization to enhance DHS efforts to secure our borders and facilitate legitimate travel, trade, and commerce. The majority of the Land Port of Entry (LPOE) inspection facilities CBP operates have surpassed the useful lifecycles for which they were designed. Most were constructed in a pre-North American Free Trade Agreement and

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pre-9/11 environment with different operational and security challenges. Additional pressures are placed on these aging infrastructures by the growth in commercial trade and travel, continuously increasing security requirements, and the burgeoning demand for 24-hour operations. Until these facilities are fully modernized, CBP will continue to be affected by substandard and outdated facilities in the pursuit of its critical mission.

To support CBP's evolving mission more effectively and to identify ongoing needs, CBP, in consultation with the U.S. General Services Administration (GSA), develops an annual plan outlining the investments required to modernize our LPOEs. CBP and GSA update the capital investment plan annually, taking into account any changes in DHS's mission and strategy, the changing conditions at the LPOEs, and any other factors discovered in the course of projects already under way.

In an effort to ensure immigrants can access ports of entry and seek asylum, CBP respectfully requests Congress approve the President's FY 2019 Budget request of \$276 million for the Calexico (CA) LPOE.

This plan is included in the annual report DHS submits to the Committees on Appropriations and Homeland Security. This annual report provides an updated plan for all federal LPOE projects to address critical LPOE efficiencies, the projected funding needs (design, construction, rent, staffing and outfitting), and CBP's methodology to prioritize capital investments (which factors in operational and workload considerations, and, safety and site deficiencies). Additionally, the report includes an overview of Public Private Partnership agreements. In order to sustain operation in the current budgetary environment, CBP has developed a comprehensive funding strategy that leverages legislative authorities and public-private partnerships to supplement funds appropriated by Congress. CBP views these authorities as an opportunity to engage with stakeholders and communities to identify solutions for border management needs and generate mutual benefits. Although CBP welcomes this expanded authority, to date, the donations it helped generate have only allowed CBP to address a small fraction of its growing infrastructure needs.

Through CBP's Strategic Resources Assessment framework, CBP has identified \$4 billion in required investment over 5 years in order to meet current requirements. However, appropriations for LPOE projects over the last decade have averaged just \$200 million per year, proving not just insufficient to reduce the backlog of needed projects, but in fact contributing further to the backlog and forcing two-thirds of the LPOE inventory beyond its useful life.

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Modernized facilities are key to sustaining CBP's operations. The implementation of the LPOE modernization plan would allow the agency to continue to fulfill its mission now and into the future, while enhancing economic competitiveness of the Nation. For these reasons, it is important that LPOE facilities receive the requisite infrastructure improvements.

Question#:	23
Topic:	Restricting Access
Hearing:	Oversight of Immigration Enforcement and Family Reunification Efforts
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Is DHS currently planning to restrict access for asylums seekers at any POE? If so, please provide detailed information.

Response: No. CBP does not turn individuals away from ports of entry and its policies specifically prohibit officers from doing so. CBP's Office of Field Operations (OFO) processes all persons who apply for admission at POEs and does not turn away anyone who is seeking asylum. At times, due to operational capacity or as necessary to facilitate orderly processing and maintain the security and safety of the traveling public, individuals may need to wait in Mexico before being permitted to enter the POE. Upon reaching the U.S. side of the border, all individuals are processed.

Next Steps for FAMILIES



STEP 1

- ❖ You are currently in the custody of the U.S. Department of Homeland Security (DHS) Customs and Border Protection (CBP).
- ❖ You have been charged with the crime of illegal entry into the United States.

STEP 2

- ❖ Within the next 48 hours, you will be transferred to the custody of the U.S. Department of Justice (DOJ) and will be presented before a judge for having violated this law.
- ❖ While this process is occurring, your child or children will be transferred to the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR), where your child will be held in a temporary child shelter or hosted by a foster family.
- ❖ DHS and HHS can take steps to facilitate reunification with your child(ren).

STEP 3

How do I locate my child(ren)?

Action 1 - Call U.S. Immigration and Customs Enforcement (ICE) Call Center.

- If calling from outside of an ICE detention facility, call 1-888-351-4024.
- If calling from an ICE detention facility, call using speed dial 9116# on the free call platform.
- Available Monday - Friday, 8am to 8pm EST. Language assistance is available.

Action 2 - Call the ORR Parent Hotline.

- If calling from outside of an ICE detention facility, call 1-800-203-7001.
- If calling from an ICE detention facility, call using speed dial 699# on the free call platform.
- Please provide the child's full name, date of birth, and country of origin. It is helpful to give the child's A number, or alien registration number, to the operator if you have it.
- Available 24 hours a day, 7 days a week, in Spanish or English.

Action 3 - Friends, family, ORR staff, and legal representatives can assist you by emailing:

- ICE at Parental.Interests@ice.dhs.gov
- ORR at information@ORRNCC.com

STEP 4

- ❖ After your court hearing, you will be transferred to ICE custody.
- ❖ While you are in ICE custody:
 - ICE will work with ORR to schedule regular communication (via telephone and/or video teleconferencing) with your child(ren).
 - ICE will provide access to legal self-help materials.



PASO 1

- ❖ Usted está actualmente en la custodia del Departamento de Seguridad Nacional de los Estados Unidos (DHS) Oficina de Aduanas y Protección Fronteriza (CBP).
- ❖ Usted está acusado del delito de entrar a los Estados Unidos ilegalmente.

PASO 2

- ❖ Dentro las próxima 48 horas, usted va a ser transferido a la custodia del Departamento de Justicia de EE. UU. (DOJ) y vas a aparecer antes de un juez por haber violado la ley.
- ❖ Mientras que ocurre este proceso, su hijo o hijos serán transferidos al Departamento de Salud y Servicios Humanos de EE. UU. (HHS) Oficina de Reubicación de Refugiados (ORR) donde su hijo será puesto en un refugio para niños o será cuidado por una familia sustituta.
- ❖ DHS y HHS pueden tomar los pasos necesarios para facilitar la reunificación con sus hijos.

PASO 3

¿Como ubico mis hijos?

Acción 1 - Llame el Centro de Llamadas del Servicio de Inmigración y Control de Aduanas de EE. UU. (ICE)

- Si usted llama fuera de un centro de detención de ICE, llame 1-888-351-4024.
- Si usted llama desde un centro de detención de ICE, llame usando la marcación rápida 9116# en la plataforma de llamadas gratuitas.
- Accesible lunes-viernes, 8am a 8pm EST. Asistencia para hablar en su idioma está disponible.

Acción 2 - Llame la Línea para Padres del ORR.

- Si usted llama fuera de un centro de detención de ICE, llame, llame 1-800-203-7001.
- Si usted llama desde un centro de detención de ICE, llame usando la marcación rápida 699# en la plataforma de llamadas gratuitas.
- Por favor proporcione el nombre completo de su hijo, la fecha de nacimiento, y su país de origen. También infórmele al operador el "A number", o número de extranjero de su hijo si lo tienes.
- Disponible 24 horas al día, 7 días a la semana, en inglés o español.

Acción 3 - Amigos, familia, empleados de ORR, y su representación legal pueden asistirlo a través de mandando u email a:

- ICE at Parental.Interests@ice.dhs.gov
- ORR at information@ORRNCC.com

PASO 4

- ❖ Usted va a ser transferido a la custodia del ICE después de su audiencia en la corte.
- ❖ Mientras en el cuidado y custodia de ICE:
 - ICE va a trabajar con ORR para designar comunicación fija (vía teléfono y/o video teleconferencia) con sus hijos.
 - ICE dará acceso a materiales de autoayuda legal.