Question#:	1
Topic:	DACA Extension
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: USCIS has stopped taking any new DACA applications, but will permit current DACA recipients whose benefits expire any time in the next six months to ask for a two-year extension of those benefits. All recipients who wish to extend must apply by October 5, and current DACA recipients could continue to benefit until as late as 2020.

For example, a current DACA recipient whose benefits expire on March 3, 2018, can still apply for a two year extension of DACA (and a two year extension of her work permit). As long as she submits her application by October 5, and she is otherwise qualified, USCIS will likely grant her two more years of DACA, beginning on whatever date it approves her application. If USCIS approves her application for a two year extension on December 18, 2017, the DACA recipient will be covered by DACA until December 18, 2019. If it approves her application on March 3, 2018, she will be covered by DACA until March 3, 2020.

How many current DACA recipients applied by October 5th to extend their status for another two years? What is the approval rate for that group?

Response: Please see the Renewal Status DACA Dataset available on USCIS's website at https://www.uscis.gov/daca2017.

Question#:	2
Topic:	DACA Recipients Working
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many DACA recipients are working now? If you don't know exactly how many are working, can you tell me how many are authorized to work, and have Employment Authorization Documents, or EADs?

Response: As of October 18, 2017, approximately 708,000 individuals have or had an Employment Authorization Document expiring on or after September 5, 2017.

Question#:	3
Topic:	DACA Terminations
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: During the hearing, you testified that approximately 2,000 DACA beneficiaries have had their status terminated due to criminal and gang related activity. Preliminary data released to my office by Citizenship and Immigration Services shows that 2,021 individuals did in fact have their status terminated for criminal and gang related activity.

Can you provide the exact number of crimes committed by this class? Please be specific with the crimes committed by this class, providing both offense categories and the aggregate number of offenses committed within each category.

Of the 2,021 individuals whose status has been terminated due gang related activity, what specific gangs were those individuals associated with?

Response: USCIS does not electronically track in its systems the underlying reasons for termination of deferred action under DACA. Compiling that data would require a manual review of individual files, and the categorization can be subjective. However, please see the DACA Terminations Related to Criminal and Gang Activity dataset available on USCIS's website at https://www.uscis.gov/daca2017.

Question: Of the 2,021 individuals whose status has been terminated due gang related activity, what specific gangs were those individuals associated with?

Response: Please see attached spreadsheet.

Question#:	4
Topic:	Deportations
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Of the 2,021 criminal aliens whose DACA status was terminated, what number were removed to their country of origin? What number do you estimate were released into and remain in the United States?

Response: Please see below for post-termination outcomes for the 2,127 Deferred Action for Childhood Arrivals (DACA) recipients who have had their status terminated by U.S. Citizenship and Immigration Services as of November 22, 2017.[1]

Post-Termination Outcomes for DACA Terminations

Post-Termination Outcome	Aliens
Removed from the United States	562
In U.S. Immigration and Customs Enforcement (ICE) Custody	90
Released from ICE Custody	535
No Record of Removal, Detention, or Release from ICE Custody	940
Total	**2,127**

[1] Data termination data was provided to U.S. Immigration and Customs Enforcement by U.S. Citizenship and Immigration Services on November 22, 2017. This represents the latest available outcome for each unique alien after termination from DACA. The U.S. Department of Homeland Security is unable to statistically report on the number of aliens who remain in the country.

Question#:	5
Topic:	Information Sharing I
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Ineffective information sharing between local law enforcement and DHS, or between DHS components, can enable otherwise ineligible applicants to receive DACA benefits. For example, criminals or applicants under criminal investigation can and have received discretionary DACA benefits simply because USCIS is unaware of derogatory information when adjudicating an application. Has USCIS developed any formal procedures and protocols to ensure effective information sharing including any resulting from the Joint Coordination Working Group's review of the Department's investigation notification procedures conducted in 2015 and 2016? Please explain.

Response: The Joint Coordination Working Group's review resulted in the development of several formal procedures and protocols that begin to ensure effective information sharing between DHS components and local law enforcement. The following actions have been completed to date:

- On October 11, 2015, USCIS operationalized an automated derogatory-based information sharing notification procedure with local, state, and federal law enforcement agencies using real-time biometric encounter activity. This procedure notifies USCIS when DACA requestors are arrested or watchlisted by civil or law enforcement organizations at the local, state, and federal level after USCIS has granted deferred action.
- On October 19, 2016, USCIS operationalized an automated identity-based information sharing notification procedure with local, state, and federal law enforcement agencies using real-time biometric encounter activity. This procedure notifies USCIS when historical fingerprint cards associated with DACA requestors are digitized and made available for review for the first time after USCIS has granted deferred action.
- On July 28, 2017, USCIS operationalized an automated lookout information sharing notification procedure with state, federal, and international law enforcement, civil, intelligence, and military agencies using real-time biographic name-based lookout activity. This procedure notifies USCIS when biographic suspect lookout records associated with DACA recipients who apply to naturalize are issued for review after USCIS has granted deferred action.

USCIS regularly makes contact with ICE, CBP and various local law enforcement agencies to acquire additional information, such as arrest reports, narratives or intelligence, to have a complete understanding of the totality of the circumstances of the derogatory activity.

Question#:	6
Topic:	Biometric Entry-Exit
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: When you last testified before this Committee in July, you told us that "CBP is making significant progress toward implementation of a biometric exit system in accordance with the Comprehensive Biometric Entry/Exit Plan provided to Congress in April 2016." Will you provide an update on this progress?

Response: CBP has deployed demonstrations to seven airports across the nation, partnered with two airlines to integrate biometrics with the airline boarding process and one cruise line for biometric disembarkation, launched a pilot with TSA at a security checkpoint, enabled mobile devices to collect biometrics, and solidified plans to deploy in the land border pedestrian environment. We continue to focus on our public-private partnerships with airlines and airports to increase our biometric capability for FY18 and FY19.

CBP is accelerating the deployment of a biometric exit system by building upon existing operational platforms and using proven biometric technologies. CBP will have the back-end infrastructure and services in place to support stakeholder implementation and integration of front-end biometric cameras at all air and sea ports of entry by the second quarter of FY 2018 to enable a seamless boarding process.

Question: At that same hearing, you also mentioned that you planned to have "biometric air exit technical demonstrations" at five additional airports by September. Has that happened-are all five new airports now enrolled?

Response: Expanding on the success of the on-going demonstration at Hartsfield-Jackson Atlanta International Airport, CBP implemented demonstration projects at six additional airports starting in June 2017: Washington Dulles International Airport, Houston George Bush Intercontinental Airport, Chicago O'Hare International Airport, Las Vegas McCarran International Airport, Houston William P. Hobby Airport, and John F. Kennedy International Airport. In addition, CBP launched airline partnership projects with an airline at Boston Logan International Airport as well as a partnership with TSA at JFK to test facial biometric matching.

Question#:	7
Topic:	New Border Security Personnel
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many new border security personal have you been able to recruit and hire since the beginning of this new administration?

Response: Since FY17 pay period #8 (1/8-1/21) through the end of the 4th quarter of FY17, CBP recruited and hired 439 Border Patrol Agents and 781 CBP Officers, 21 Air Interdiction Agents, and 16 Marine Interdiction Agents.

Question#:	8
Topic:	Reduce Overstays
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What are you doing to reduce the number of overstays who arrive here on visa-free travel, and what information does your agency share with the Department of State so that consular officers can avoid issuing visas to people who might be planning to overstay?

Response: U.S. Customs and Border Protection (CBP) supports a number of efforts aimed at reducing the number of overstays arriving on visa-free travel, which includes sharing information with the Department of State so that consular officers can avoid issuing visas to people who have previously overstayed their lawful terms of admission under the Visa Waiver Program (VWP). Overstays, regardless of whether they are traveling to the United States under the VWP or with a visa, are automatically identified the day their period of admission expires if CBP has no indication of the traveler having departed. These figures are generated using CBP's Arrival and Departure Information System using travel data from CBP records and commercial carrier manifests. This data is correlated against other Department of Homeland Security systems to eliminate individuals who have received extensions of stay, changes of nonimmigrant status, or adjusted status and remain lawfully in the United States. The overstay lists are next run through CBP's Automated Targeting System, which applies U.S. Immigration and Customs Enforcement (ICE)-defined criteria to prioritize the records. This information is then provided daily to ICE for appropriate action.

CBP is taking several steps to increase travelers' awareness of their admission status and authorized period of stay. First, CBP writes the class of admission code and the "Admit Until Date" on the stamp in the traveler's passport. Additionally, this past May, CBP launched a new online capability for VWP travelers, a simple button on a CBP webpage that says, "How much longer may I remain in the US", to look up their compliance with their current admission. CBP has also started sending email notifications to VWP overstays to advise them that they have overstayed their authorized period of admission and their permission to utilize the Visa Waiver Program is no longer valid.

Overstays, when confirmed, are noted in systems shared with the Department of State. These systems are accessed at consular offices when individuals apply for subsequent visas, and lookouts placed within these databases indicate status of current or historical visas as to the traveler's compliance with the length of time associated with the terms of those previous visas. Similar information is available to the consular offices for individuals who had previously traveled under the VWP and overstayed. Furthermore, select overstay information is made available to requesting Department of State consular

Question#:	8
Topic:	Reduce Overstays
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

offices for all travelers originating from a particular region of interest to individual consular posts.

Question#:	9
Topic:	Asylum Reform I
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: As you know, the number of credible fear interviews and asylum filings has skyrocketed. What legislative reform is needed to reduce the number of false or fraudulent asylum claims?

Response: DHS stands ready to provide technical assistance on any legislative text Congress drafts to combat false or fraudulent credible fear claims and asylum filings.

Question#:	10
Topic:	White House Consultation
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Was your Department consulted by the White House before the decision to rescind the Deferred Action for Childhood Arrivals program?

Response: The Attorney General sent a letter to the Department of Homeland Security (DHS) on September 4, 2017, articulating his legal determination that DACA "was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress' repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch." The letter further stated that because DACA "has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA."

Based on this legal analysis, DHS was faced with a stark choice: do nothing and allow for the probability that the entire DACA program could be immediately enjoined by a court in a disruptive manner, or instead phase out the program in an orderly fashion.

Question#:	11
Topic:	Information Sharing II
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: One concern expressed by many Senators during the hearing is that information individuals submitted in DACA applications may now be used by other governmental agencies, such as U.S. Immigration and Customs Enforcement, to facilitate deportations. The testimony provided indicated that the current policy is not to share DACA recipients' information with ICE. Have you received assurances that the information DACA applicants shared with the federal government will not be used to facilitate enforcement proceedings against DACA applicants or their families in the future, and that this policy will not change during the Trump administration?

Response: Under current policy, information provided in DACA requests will not be proactively provided to ICE and CBP for the purpose of immigration enforcement proceedings, unless the requestor poses a risk to national security or public safety, or meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS's Notice to Appear guidance (www.uscis.gov/NTA). This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Question#:	12
Topic:	University Students
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Will the administration issue guidance providing that university students with expired DACA status will be permitted to complete their studies without risk of deportation?

Response: Recipients of DACA, including those who are university students, are unlawfully present in the United States with their removal deferred. When their period of deferred action expires or is terminated, their removal will no longer be deferred.

Question#:	13
Topic:	Enforcement Priorities
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Given the limited resources and wide scope of responsibilities of the U.S. Citizenship and Immigration Services, what are your enforcement priorities as they relate to undocumented immigration?

Response: In faithfully executing the immigration laws of the United States, and in accordance with Executive Order (EO) 13768, *Enhancing Public Safety in the Interior of the United States*, the Secretary of Homeland Security has prioritized for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235(b) and (c), and 237(a)(2) and (4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225(b) and (c), and 1227(a)(2) and (4)), as well as removable aliens who:

a) Have been convicted of any criminal offense;

b) Have been charged with any criminal offense, where such charge has not been resolved;

c) Have committed acts that constitute a chargeable criminal offense;

d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;

e) Have abused any program related to receipt of public benefits;

f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or

g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Question: Would DACA enrollees generally qualify as a high enforcement priority?

Response: This issue is the subject of ongoing litigation, and, accordingly, the agency is unable to comment further at this time.

Question: Outside of committing a crime, under what circumstances would a DACA recipient who is working or attending school become an enforcement priority?

Question#:	13
Topic:	Enforcement Priorities
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Response: This issue is the subject of ongoing litigation, and, accordingly, the agency is unable to comment further at this time.

Question#:	14
Topic:	Individuals with DACA Status
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Please provide the total number of individuals with DACA status as of September 5, 2017, whose DACA status was set to expire by March 5, 2018?

Please provide the total number of DACA renewal applications received by October 5, 2017.

Response: Please see the Renewal Status DACA Dataset available on USCIS's website at https://www.uscis.gov/daca2017.

Question#:	15
Topic:	Economic Impact I
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: DACA applicants pay filing and administrative fees associated with an application ($495 per person). The Institute on Taxation and Economic Policy estimates that DACA- eligible individuals pay over $2 billion per year in state and local taxes, and that revoking temporary legal status from these individuals would result in a loss of over $800 million per year in state and local taxes. CATO estimates that the cost of deporting DACA recipients would be $60 billion in upfront costs to the government and a further reduction in economic growth of $280 billion over the next decade.

Has the administration performed any analysis of the economic impact of ending the DACA program on the U.S. economy? If so, please provide this analysis.

Has the administration performed any analysis of the economic impact of ending the DACA program on the families of recipients who will no longer be eligible for legal work permits? If so, please provide this analysis.

Response: The Attorney General sent a letter to the Department of Homeland Security (DHS) on September 4, 2017, articulating his legal determination that DACA "was effectuated by the previous administration through executive action, without proper statutory authority and with no established end-date, after Congress' repeated rejection of proposed legislation that would have accomplished a similar result. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch." The letter further stated that because DACA "has the same legal and constitutional defects that the courts recognized as to DAPA, it is likely that potentially imminent litigation would yield similar results with respect to DACA."

Based on this legal analysis, DHS was faced with a stark choice: do nothing and allow for the probability that the entire DACA program could be immediately enjoined by a court in a disruptive manner, or instead phase out the program in an orderly fashion.

Question#:	16
Topic:	DACA Risks I
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: When announcing that the DACA program was being rescinded, Attorney General Sessions stated that DACA "put our nation at risk of crime, violence and even terrorism." Do you have any data supporting Attorney General Sessions' claim that DACA puts our nation at risk of crime, violence, and/or terrorism?

Response: We defer to the U.S. Department of Justice regarding Attorney General Sessions' complete statement as the excerpt in the question does not fully reflect his remarks.

Question#:	17
Topic:	White House Memorandum
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Was your Department consulted before the release of the White House's "Immigration Principles & Policies" memorandum on October 8, 2017 (hereinafter the "Immigration Principles & Policies memo")? If yes, is the memo consistent with your Department's policy and enforcement priorities?

Response: The then-Acting Secretary on behalf of the Department offered her position on the White House's Priorities memorandum. It can be located in the Department's press release archives, available here: https://www.dhs.gov/news-releases/press-releases. *See Department of Homeland Security then-Acting Secretary Elaine Duke's Statement on Immigration Legislation: Priorities and Principles*, October 8, 2017.

Question#:	18
Topic:	Asylum Reform
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: The White House discusses nine reforms in the "Asylum Reform" section of the Immigration Principles & Policies memo. The stated purpose is to "correct[] the systemic deficiencies that created that backlog [of asylum applications]." Bullet i. reads "Significantly tighten standards and eliminate loopholes in our asylum system."

What "standards" do you suggest tightening, and what "loopholes" do you suggest eliminating?

Response: USCIS is committed to ensuring that applicants for asylum, including individuals screened through the credible fear process, are all evaluated in conformity with statutory and treaty requirements.

Question: What protections do you support to ensure that immigrants with meritorious asylum claims are protected from unlawful removal?

Response: All individuals subject to removal proceedings have the opportunity to have their protection claims evaluated to ensure that they are not removed under circumstances that would violate domestic or international legal obligations. Depending on what type of removal proceedings an individual is subject to, the process for such evaluation differs. Individuals subject to full removal proceedings under section 240 of the Immigration and Nationality Act may present their claims directly to an immigration judge, who will adjudicate them in the course of the removal proceeding. For certain individuals who are subject to streamlined removal proceedings, the credible fear and reasonable fear screening processes were designed by law to identify those with potentially meritorious protection claims so that they can be referred to proceedings before an immigration judge for a full evaluation, while those without meritorious claims can be expeditiously removed, as Congress directed. USCIS, along with the immigration judge corps, plays a key role in these screening processes, and is committed to ensuring that the United States complies with all domestic and international legal obligations.

Question#:	19
Topic:	Meritorious Valid Claims of Persecution
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In the "Expedited Removal" section of the Immigration Principles & Policies memo, the White House calls for expedited removal for all aliens except those with "meritorious valid claims of persecution."

In this context, what criteria will the government consider in determining whether a claim is a meritorious valid claim of persecution?

How will the administration ensure that sufficient time is afforded for investigation and adjudication of legal remedies during expedited removal proceedings?

Response: Expedited Removal (ER), authorized by section 235(b)[2] of the Immigration and Nationality Act (INA), is a valuable enforcement tool that enhances the ability of immigration officers to make the best use of limited agency resources. Aliens who are subject to ER, and who intend to apply for asylum or who express a fear of persecution or torture, are referred for an interview with an asylum officer in accordance with 8 C.F.R. § 208.30, INA § 235(b)(1)(A)(ii), and 8 C.F.R. § 235.3(b)(4). The inspecting officer cannot proceed with the expedited removal of such aliens and must refer them for an interview by an asylum officer in accordance with 8 C.F.R. § 208.30. The examining immigration officer must also record sufficient information to establish and record that the alien has indicated such intention, fear, or concern, and to establish the alien's inadmissibility. 8 C.F.R. § 235.3(b)(4). The immigration officer makes no qualitative determination regarding the claim of fear. The referring officer provides the alien with a written disclosure on Form M–444, Information About Credible Fear Interview, describing: (A) the purpose of the referral and description of the credible fear interview process; (B) the right to consult with other persons prior to the interview and any review thereof at no expense to the United States Government; (C) the right to request a review by an immigration judge of the asylum officer's credible fear determination; and (D) the consequences of failure to establish a credible fear of persecution or torture. 8 C.F.R. § 235.3(b)(4)(i).

[2] INA § 235(b)(1)(A)(i) provides: "If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 of this titl

e or a fear of persecution."

Question#:	19
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Asylum officers conduct credible fear interviews of aliens who indicate an intention to apply for asylum, or express a fear of persecution or torture, or a fear of return to his or her country. INA § 235(b)(1)(B); 8 C.F.R. §§ 235.3(b)(4), 208.30. Pursuant to 8 C.F.R. § 208.30(e)(2), an alien will be found to have a credible fear of persecution if there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, the alien can establish eligibility for asylum under section 208 of the INA or for withholding of removal under section 241(b)(3) of the INA. An alien will be found to have a credible fear of torture if the alien shows that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture. 8 C.F.R. § 208.30(e)(3).

If the asylum officer finds that the alien has a credible fear of persecution or torture, "the asylum officer will so inform the alien and issue a Form I–862, Notice to Appear, for full consideration of the asylum and withholding of removal claim in proceedings under section 240 of the Act." 8 C.F.R. § 208.30(f). If the asylum officer finds that the alien does not have a credible fear of persecution or torture, "the asylum officer shall provide the alien with a written notice of decision and inquire whether the alien wishes to have an immigration judge review the negative decision, using Form I–869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge. The alien shall indicate whether he or she desires such review on Form I–869. A refusal by the alien to make such indication shall be considered a request for review." 8 C.F.R. § 208.30(g). An immigration judge will then review the negative credible fear finding within seven days. INA § 235(b)(1)(iii)(III). "If the Immigration Judge agrees with the asylum officer that the respondent has not established a credible fear, the expedited removal order is given effect. If the Immigration Judge finds that a credible fear has been established, however, the expedited removal order is vacated, and if the alien is not a stowaway, [the U.S. Department of Homeland Security] may initiate section 240 removal proceedings in which the alien may apply for asylum and withholding. 8 C.F.R. § 1208.30(g)(2)(iv)(B)." *Matter of X-K-*, 23 I&N. Dec. 731, 733 (BIA 2005). However, the Executive Office for Immigration Review reports that over 50% of aliens who have been found to have a credible fear of persecution or torture historically do not apply for asylum in section 240 removal proceedings.

In Fiscal Year 2017, U.S. Citizenship and Immigration Services processed all credible fear cases within an average of 10.2 calendar days. The average processing time was well under 10 calendar days for credible fear cases processed at the Family Residential Centers.

Question#:	19
Topic:	Meritorious Valid Claims of Persecution
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

The number of aliens referred for credible fear processing has increased significantly in the past five years. Please see the chart below for additional information.

Fiscal Year	Subjected to Expedited Removal	Referred for a Credible Fear Interview	Percentage
2013	241,442	36,035	15%
2014	240,908	51,001	21%
2015	192,120	48,052	25%
2016	243,494	94,048	39%
2017	Unavailable	78,564	unavailable

Note: The "Subject to Expedited Removal" data includes apprehensions performed by U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and includes aliens determined inadmissible at ports of entry.
Source: U.S. Department of Homeland Security.

Question#:	20
Topic:	Due Process Rights
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: It is settled law that undocumented immigrants physically in the United States have due process rights. See Zadvydas v. Davis, 533 U.S. 678 (2001). How does a widespread expansion of expedited removal comport with due process if almost all immigrants would be denied a hearing before immigration judges or other due process procedures to explain their presence?

Response: *Zadvydas v. Davis* is inapposite to aliens in expedited removal proceedings under the Immigration and Nationality Act (INA) section 235. *Zadvydas* applies to aliens subject to administratively final orders of removal whose detention is governed by INA section 241. *Zadvydas* is a case of statutory construction of INA section 241(a)(6). Aliens subject to proceedings under INA section 235 are not similarly situated to aliens governed by INA section 241 and they do not possess the same due process rights.

Currently, the Secretary of Homeland Security uses expedited removal authority for those aliens (1) "who are physically present in the U.S. without having been admitted or paroled," (2) who are found "within 100 air miles of the U.S. international land border," and (3) who cannot establish that they have been physically present in the United States for the immediately preceding fourteen days. These are the regulations within Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877-01, 48880 (Aug. 11, 2004).

The regulations governing expedited removal require an alien to be given notice and an opportunity to respond to the charge of inadmissibility according to 8 C.F.R. § 235.3. The Department of Homeland Security complies with these regulations.

Question#:	21
Topic:	National Interest
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: The "Merit-Based Immigration" section of the Immigration Principles & Policies memo states, "The current immigration system prioritizes extended family-based chain migration over skills-based immigration and does not serve the national interest."

Is it the policy determination of your Department that family-based immigration "does not serve the national interest"?

Response: The then Acting Secretary, on behalf of the Department, offered her position on the creation of a merit-based immigration system. It can be located in the Department's press release archives, available here: https://www.dhs.gov/news-releases/press-releases. *See, Statement by then-Acting Secretary Of Homeland Security Elaine Duke On Legislation To Create A Merit-Based Immigration System*, August 2, 2017.

Question#:	22
Topic:	Diversity Visa Lottery
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: The Diversity Visa Lottery encourages immigration from countries with lower than average immigration to the United States. This program is very limited (50,000 visas per year). Why is the elimination of this program a priority for the administration?

Response: As the then-Acting Secretary stated before on behalf the Department, "the immigration system of the United States must encourage the admission of the best and the brightest from around the world." As was stated, a system that is merit-based "would better serve our national interest," including Americans workers and the American economy. *See, Statement by then-Acting Secretary Of Homeland Security Elaine Duke On Legislation To Create A Merit-Based Immigration System*, August 2, 2017, available at: https://www.dhs.gov/news-releases/press-releases.

Question#:	23
Topic:	Information Sharing III
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: When registering for DACA, DREAMers provided information to the government that could now be used to target them for deportation. The federal lawsuits challenging the Trump Administration's decision to end DACA argue that using this information that had been provided by DREAMers in good faith and in compliance with the law amounts to a "bait and switch." I agree. This is not only unjust, but I believe risks violating the Constitution's due process clause.

What steps is DHS taking to avoid this "bait and switch" problem and protect the people who applied for DACA?

Will you commit not to using information obtained in the DACA registration process to further or execute any deportations of people who have applied for DACA registration?

How will you wall all of this information to ensure it is not used for these purposes?

What steps is DOJ taking to ensure that DHS does not violate constitutional due process rights stemming from the decision to end DACA?

Did the Attorney General consider this "bait and switch" problem in issuing his letter opinion on the legality of DACA? To what extent did due process enter into the Attorney General's decision at all?

Response: Under current policy, information provided to the United States Citizenship and Immigration Services in Deferred Action for Childhood Arrivals requests will not be proactively provided to Immigration and Customs Enforcement (ICE) and Customs and Border Protection for the purpose of immigration enforcement proceedings, unless the requestor meets the criteria for the issuance of a Notice to Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

The U.S. Department of Homeland Security defers to the U.S. Department of Justice for answers to questions regarding its actions, statements, decisions, and policies.

Question#:	24
Topic:	Economic Impact II
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: When Attorney General Sessions announced that the Trump Administration had chosen to end DACA, among the debunked right wing talking points he used to justify the decision was that DACA, "denied jobs to hundreds of thousands of Americans by allowing those same illegal aliens to take those jobs." However, both the Center for American Progress (CAP) and the conservative CATO Institute project that the removal of DREAMers will result in lost jobs at great damage to our Nation's economy. CAP estimates that the loss of these workers could reduce the national GDP by $280 billion to $433 billion over the next decade, costing Hawaii $28.8 million in GDP every year. CATO estimates that immediately eliminating DACA and deporting its participants will cost the American economy $283 billion over 10 years.

What was the basis of Attorney General Sessions' claim that DACA denied hundreds of thousands of jobs to Americans?

What assessment if any did President Trump and the Administration make of the negative economic impact of ending DACA?

Did the Administration tale into account the overwhelmingly negative impact on the American economy of ending DACA when it chose to do so, or did they rely solely on the unsupported contentions cited by Attorney General Sessions at his press conference?

Response: Please refer to response for question 15.

Question#:	25
Topic:	Economic Impact III
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: A 2017 study by the Institute on Taxation & Economic Policy found that the 1.3 million young undocumented immigrants enrolled or immediately eligible for DACA contribute an estimated $2 billion a year in state and local taxes. Continuing DACA and ensuring all who are eligible for the program are enrolled would increase estimated state and local revenue by $425 million, bringing the total contribution to $2.45 billion, and increasing the effective tax rate for those enrolled to 9 percent.

Doesn't this tell you that, if the Administration was concerned about economic impact, it should be working to improve the implementation of DACA, not end it?

In his press conference announcing the decision to end DACA, Attorney General Sessions claimed that rescinding DACA "protects communities." However, according to the Institute on Taxation & Economic Policy, repealing DACA will reduce estimated state and local revenues by nearly $800 million, and drop the total contributions to just over $1.2 billion annually. How does ending DACA benefit our state and local communities economically?

In fact that same study showed that if we went the other direction and passed a path to citizenship instead of merely replacing DACA, we would see even more economic benefits for state and local communities. A path to citizenship could provide nearly $505 million in additional state and local taxes, increasing total contributions to at least $2.53 billion a year. To your knowledge, did the Trump Administration consider these economic benefits as part of its decision to end DACA or in support of the statement by AG Sessions that they ended DACA to "protect our communities"?

Response: Please refer to the response for question 15.

Question#:	26
Topic:	Immigration Priorities
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: After President Trump and AG Sessions decided to end DACA, DHS released a memo outlining how it would conduct an "orderly and efficient wind-down" of the program over the course of six months. Chilling words if I've ever heard them when subjecting 800,000 DREAMers of deportation from the only country they have ever known.

How will DHS prioritize its immigration priorities as to former DACA recipients?

Response: Deferred Action for Childhood Arrivals (DACA) is an exercise of prosecutorial discretion for a temporary period and may be terminated at any time by the Department of Homeland Security (DHS), with or without a notice of intent to terminate. DHS continues to exercise its enforcement discretion on a case-by-case basis.

Question: Will you conduct sweeps that target DREAMers for deportation?

Response: While U.S. Immigration and Customs Enforcement is not targeting DACA recipients, aliens who have been granted DACA and who are subsequently found to pose a threat to national security or public safety may have their deferred action terminated at any time and may be removed from the United States. This includes those who have been arrested or convicted of certain crimes, or those who are affiliated with criminal gangs.

Question: What criteria will you use as part of your orderly and efficient wind-down?

Response: On September 5, 2017, then-Acting Secretary Elaine Duke issued a memorandum rescinding the June 2012 memorandum establishing DACA.[3] Recognizing the complexities associated with winding down the policy, DHS will provide a limited window in which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below. Accordingly, effective immediately, U.S. Citizenship and Immigration Services (USCIS):

- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA initial requests and associated applications for Employment Authorization Documents (EADs) that have been accepted by USCIS as of September 5, 2017.

[3] https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca

Question#:	26
Topic:	Immigration Priorities
Hearing:	Oversight of the Administration's Decision to End Deferred Action for Childhood Arrivals.
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

- Will reject all DACA initial requests and associated applications for EADs received after September 5, 2017.
- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for EADs from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.
- Will reject all DACA renewal requests and associated applications for EADs filed outside of the parameters specified above.
- Will not terminate the grants of previously issued DACA or revoke associated EADs solely based on the directives in then-Acting Secretary Duke's memorandum for the remaining duration of their validity periods.
- Will not approve any new Form I-131 applications for advance parole under standards associated with the DACA policy, although it will generally honor the stated validity period for previously approved applications for advance parole. Notwithstanding the continued validity of advance parole approvals previously granted, U.S. Customs and Border Protection will—of course—retain the authority it has always had and exercised in determining the admissibility of any person presenting at the border and the eligibility of such persons for parole. Further, USCIS will—of course—retain the authority to revoke or terminate an advance parole document at any time.
- Will administratively close all pending Form I-131 applications for advance parole filed under standards associated with the DACA policy, and will refund all associated fees.
- Will continue to exercise its discretionary authority to terminate or deny deferred action at any time when immigration officials determine termination or denial of deferred action is appropriate.

Represented Gangs Related to DACA Terminations Based on Criminal and Gang Activity				
FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
18th Street Gang	MS 13	18th Street Gang	18th Street Gang	180 Gang
Brown Pride	Pharrolitos	Brown Pride	Dead End Locos	1800 Block Member
Surenos	Southside Blood	Grand Barrio Centrale	Delhi	18th Street Gang
	Sur 13	Harrison Gents	La Gran Familia Mexicana	Angelino Heights Surenos
	Tocas	Last Generation Korean Killers and Tre Duece	Looner Toker Krew	Cenizo Vato Locos
	United by Crime	Latin Kings	MS 13	Crips
		Lima Street Surenos	Nortenos	Diablos
		Maniac Latin Disciples	Orange County	East San Diego
		MS 13	Somos Pocos Peros Locos	Five Time
		Nortenos Pancho Villa Locos	South Side Varrio Wasco	Inland empire
		Oakland 30 Nortenos	Southside Gang	Latin Kings
		Southside Chandler	Surenos	MS 13
		Sur 13		Nortenos
		Surenos		Northerner
		Two Six		Oldies 13
		West Side Locos		Pacoima Van Nuys Boys
				Southside Crips
				Spanish Gangster Disciples

				Surenos
				Trinitarios
				Vatos Locos
				West Merced Nortenos