Question#:	1
Topic:	Priorities for Removal
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The latest official Department of Homeland Security estimate of the number of illegal immigrants in the country is 11.4 million. Pursuant to a series of memoranda published by DHS Secretary Johnson in November 2014, U.S. Immigration and Customs Enforcement removal officers are required to prioritize the removal of certain categories of illegal immigrants over others. In general, the November 2014 memos prioritize the removal of recent border crossers and certain types of serious criminals, while putting at the bottom of the priorities the bulk of the illegal immigrant population. Only a fraction of the 11.4 million population of illegal immigrants is a priority for removal under the November 2014 prioritization memoranda.

How many of those 11.4 million illegal immigrants remain priorities for removal under the memoranda issued by the Secretary of Homeland Security in November 2014?

Response: Neither ICE nor our sister agencies within DHS maintain this information. ICE reviews encounters for priority cases based upon the input streams across DHS's law enforcement programs.

Question#:	2
Topic:	Enforcement Against Aliens With Final Orders of Removal
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: According to the Department of Homeland Security, as of July 4, 2015, U.S. Immigration and Customs Enforcement (ICE) managed 925,193 individuals with a final order of removal on its national docket. Of that number, 913,821 are not detained - i.e. they are at liberty in the United States.

What is the current number of foreign nationals in the United States subject to a final order of removal and who are not currently being detained by U.S. Immigration and Customs Enforcement?

Response: As of May 21, 2016, there were 950,062 aliens with final orders of removal on U.S. Immigration and Customs Enforcement's (ICE) national docket. Of those aliens, 939,056 were on ICE's non-detained docket and 11,006 were on ICE's detained docket. Individuals on ICE's non-detained docket with final orders of removal are released under conditions designed to ensure their compliance with their immigration obligations.

Question: How many of such non-detained aliens with final removal orders are not priorities for removal under the Department's November 2014 executive actions?

Response: ICE cannot provide this information based on available case management data.

Not all aliens have an alert code in ICE's case management system that would allow ICE to determine whether they constitute a priority. This issue is corrected as these aliens' cases proceed with ICE, and deportation officers carefully review the facts of each case (i.e., immigration and criminal history) and then record this in ICE's case management system.

Question: How many times this year and last year has the Department learned about an alien with a final removal order who was in the custody of a state or local law enforcement agency, but who was not taken into ICE custody because the alien was not a priority for removal under the November 2014 memoranda?

Response: ICE does not track the data as requested and cannot make estimates based on available case management data.

Question#:	3
Topic:	Cook County PEP
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The previous head of your agency, John Morton, tried without success to get Cook County, Illinois, to cooperate with regard to detention of criminal aliens. Your agency's director is implementing the "Priority Enforcement Program" ("PEP") and insists that many jurisdictions are now going to cooperate with ICE on detainers. Yet, there's no proof that anything has changed. In fact, Cook County, Illinois continues to benefit from millions of dollars in grant funding to detain criminal aliens, yet they refuse to tell ICE when they apprehend or release them. They received $8.9 billion in community development grants even though the county continues to disregard federal laws**.** Has there been any progress with Cook County?

Response: At this time, Cook County does not participate in the Priority Enforcement Program (PEP). However, a number of cities and counties which previously did not work with U.S. Immigration and Customs Enforcement (ICE) are now doing so under PEP, and the Department of Homeland Security (DHS) is continuing its outreach to jurisdictions nationwide. In particular, a number of large counties have agreed to participate in PEP, including Fresno and San Diego Counties in California, and Hillsborough and Pinellas Counties in Florida.

Question: What other jurisdictions refuse to cooperate with respect to detainers generally? What other jurisdictions refuse to fully cooperate with PEP? With which jurisdictions is ICE still in discussions regarding cooperation with PEP?

Response: PEP is designed to allow ICE to tailor the program to fit the needs of each jurisdiction and achieve mutual law enforcement goals. As noted above, ICE and DHS continue to engage with those jurisdictions that had previously declined to accept ICE detainers, and many have begun to cooperate with the agency.

DHS believes a collaborative approach is the most effective strategy for engaging local communities, while maintaining community trust. The public identification of jurisdictions both participating and not currently participating in PEP would likely have a detrimental impact on the Department’s ability to secure the cooperation of local jurisdictions in PEP and could adversely impact law enforcement efforts. ICE will, however, separately arrange to provide Chairman Grassley’s office the information requested.

Question#:	4
Topic:	Reprogramming Funds
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In fiscal year 2015, your agency removed the fewest illegal immigrants in the past seven years. In the last three years alone, your agency released 86,288 individuals in the country illegally, of which 54% were discretionary releases.

Many in the administration cite the lack of resources available to apprehend and detain more than 400,000 illegal immigrants per year. Yet, while funding has increased, the number of removals are down. To add to this despicable situation, $113 million was taken from ICE in 2014 and given to other components of the Department. The excuse that there are not enough resources is laughable.

Mr. Homan: Did you have any input in the reprogramming of the $113 million in 2014?

Who made that decision?

What justification was made for that decision?

Response: In June 2015, the U.S. Department of Homeland Security submitted a Department-wide reprogramming request to the House and Senate Appropriations Committees. The Congressionally approved reprogramming transferred $113 million of U.S. Immigration and Customs Enforcement due to a notable decrease in the number of detention beds that were used due to a reduction in U.S. Customs and Border Protection apprehensions, an increase in jurisdictions refusing to honor ICE detainers, and removal efficiencies reducing the length of stay for certain categories of aliens. Additionally, transportation requirements for unaccompanied children and family units were lower than what ICE had originally forecasted.

The Department's clearer and more refined civil immigration enforcement priorities, which ICE began implementing in Fiscal Year (FY) 2015, placed increased emphasis and focus on the removal of individuals with criminal convictions, particularly convicted felons, and other public safety threats over non-criminals, notwithstanding the factors (noted above) that contibuted to fewer removals between FY 2014 and FY 2015. Throughout the course of FY 2015, ICE improved its ability to target individuals who threaten public safety and national security as demonstrated by the fact that 98 percent of individuals removed by ICE met the Department's civil immigration enforcement priorities. As these revised enforcement priorities continue to take hold, and state and local cooperation increases, ICE expects continued progress in ensuring its limited enforcement resources are appropriately focused in keeping our nation safe and secure.

Question#:	5
Topic:	287(g) Agreements
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: I recently sent a letter to Ms. Saldana about her comments that the agency is "begging" jurisdictions to stay in the 287g program, which allows state and locals to help with apprehending and detaining certain immigrants. Yet, the agency has been very slow to approve applications and has almost made it impossible for state and locals to participate.

Do you welcome 287(g) agreements?

Response: As of November 16, 2016, there are currently 24 287(g) Memoranda of Agreements (MOAs) in 16 states between U.S. Immigration and Customs Enforcement (ICE) and state and local law enforcement agencies. All MOAs utilize the Jail Enforcement Model, which authorizes participating state or local law enforcement agency personnel to identify and process, under ICE supervison, priority aliens arrested and booked into the participating law enforcement agency's jail facilities. Presently, ICE is reviewing several pending applications for participation in the 287(g) program and expects to make decisions in the near future.

Question: When 287(g) agreements are not in place, are your agents allowed in jails to help identify and remove people in the country illegally? If not, what are the reasons that jurisdictions oppose your presence in their jails?

Response: ICE enjoys a positive working relationship with the majority of state and local law enforcement agencies it interacts with on a daily basis. Cooperation with our state and local partners has increased since the implementation of the Priority Enforcement Program, as more jurisdictions that had previously refused to accept detainers are agreeing to work with ICE to honor detainers or provide notification prior to release of priority aliens. However, there are a number of locations where federal immigration officers/agents are not permitted, or have very limited access to jails. Some of these actions have been predicated on statutory changes or court decisions, and others have been at the discretion of officials (both elected and appointed) within these jurisdictions.

Question#:	6
Topic:	Protesting Removal of Family Units
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: This year, U.S. Immigration and Customs Enforcement (ICE) has carried out enforcement operations to remove unaccompanied minors and family units. In January, over two days, the agency focused on Georgia, Texas, and North Carolina. The operation targeted only adults and children who have already been ordered removed by an immigration judge. The January operation resulted in the detention of 121 people. So far, only 80 have been removed. On May 12, Reuters reported that ICE is planning an operation this month and in June to round up and deport potentially hundreds of Central American families and children found to have entered the country illegally and who have been issued final orders of removal. That report has generated a backlash from immigrant advocacy groups who attack ICE for conducting immigration "raids" targeting "children" and "families" allegedly fleeing crime and persecution in Central America. On May 18 the White House press secretary defended the operation as a means to deter the smuggling of children into the United States: "This should send a pretty clear signal to everyone, particularly individuals who are considering having their children smuggled into the country, that that's a really bad idea."

People who have a final order of removal have reached the end of the process in immigration court. ICE expends enormous resources in personnel, time, and money to apprehend and prosecute removable aliens.

What do you say to people who protest your agency taking action to remove family units with final removal orders?

Response: U.S. Immigration and Customs Enforcement (ICE) is focused on smart and effective immigration enforcement that prioritizes the removal of convicted criminal aliens, threats to public safety and national security, and recent border crossers. This includes individuals who, whether alone or with family members, have been apprehended at the border or ports of entry while attempting to unlawfully enter into the United States, recent border crossers, and individuals who have received a final order of removal on or after January 1, 2014.

Targeted enforcement actions are planned and conducted in a manner consistent with U.S. Department of Homeland Security enforcement priorities, controlling law, and regulation. We investigate priority aliens and target our arrest efforts toward specific individuals who have exhausted the immigration process. ICE strongly disagrees with the characterization of its targeted enforcement actions as “raids,” which implies a broad, non-targeted effort.

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Primary:	The Honorable Charles E. Grassley
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Each and every day, deportation officers seek and arrest aliens who are enforcement priorities. Our officers continue to accomplish their mission with accuracy, consistency, and professionalism.

ICE commends the actions of its deportation officers who undertake and effectuate such sensitive law enforcement actions with precision and all due care. Their actions emphasize the fact that our borders are not open to illegal immigration. Recent border crossers who were arrested at the border, have been ordered removed by an immigration court, have no pending appeal, and do not qualify for asylum or other relief from removal under our laws will be sent home. We must and we will enforce the law in accordance with our enforcement priorities.

Question#:	7
Topic:	Checks of Sponsors
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The surge of unaccompanied minors, as well as family units with children, arriving at the southern border continues. The numbers of children and family units arriving at the border in the first 6 months of this fiscal year greatly exceed the numbers arriving during the same period last year, and equal or exceed the numbers arriving during the same period in FY14, the year of the record-breaking surge. The steps taken so far by the Department of Homeland Security to address the problem have had zero effect, while other, potentially effective measures reportedly advocated from within the Department by U.S. Immigration and Customs Enforcement are not being taken.

Department of Homeland Security statistics show that apprehensions of unaccompanied minors arriving at the southern border through March of this year are 78% higher than the same period last year and on par with apprehensions for the same period in Fiscal Year 2014, which was the year that brought us the record-breaking surge.

Family unit apprehensions through March are up 131% over the same period last year and 62% over the same period in FY2014.

Recent reports have highlighted numerous failings of the Department of Health and Human Services (HHS) in adequately screening sponsors and monitoring minors upon release to a sponsor. These problems include not fingerprinting parents, not conducting immigration checks of sponsors, and not tracking these minors when they do not show up for their immigration hearings. I know that the departments and agencies working with these minors have had discussions on improving the response to the unaccompanied minor problems.

What suggestions have you made, or recommended be made, to HHS to improve its policies and procedures for screening sponsors and monitoring children?

Response: The Homeland Security Act of 2002 (HSA) and the Trafficking Victims Protection Reauthorization Act of 2008 transferred responsibility for the care and placement of unaccompanied children to the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR). U.S. Immigration and Customs Enforcement (ICE) coordinates extensively with ORR throughout the referral and transfer processes and has worked with ORR over the years to refine and improve shared processes and to resolve ongoing challenges. However, under the HSA, ORR has sole discretion regarding how and to whom it releases unaccompanied children.

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The Department of Homeland Security, Department of Justice, and HHS have engaged in interagency discussions to review policies and procedures, share best practices, and ensure the security and well-being of unaccompanied children. This review is ongoing, and improvements may be made, as appropriate.

Question: What do you think of fingerprinting of sponsors who take custody of the children?

Response: As an investigative law enforcement agency, ICE recognizes the value of fingerprint checks for purposes of verifying identity and checking criminal databases. The agencies are engaged in ongoing discussions to ensure that we are taking all appropriate measures to improve child safety and protect against human trafficking.

Question: What do you think of immigration checks of those who take custody of the children?

Response: ORR has sole responsibility and control over the process by which unaccompanied children are placed with sponsors, including the decision about whether to run background checks on sponsors. ICE coordinates with HHS during the placement process and provides HHS with immigration status information for those sponsors receiving fingerprint background checks, including parents in some instances.

Question#:	8
Topic:	Recalcitrant Countries
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What is the current list of countries ICE has determined are the most uncooperative in repatriating their nationals with final removal orders?

Response: As of May 27, 2016, there were 23 countries U.S. Immigration and Customs Enforcement (ICE) considers uncooperative: Afghanistan, Algeria, Burundi, Cape Verde, the People's Republic of China, Cuba, Eritrea, The Gambia, Ghana, Guinea, India, Iran, Iraq, Ivory Coast, Liberia, Libya, Mali, Mauritania, Morocco, Sierra Leone, Somalia, South Sudan, and Zimbabwe.

Question#:	9
Topic:	Haiti's Non-Cooperation
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: There was extensive discussion at the hearing about the case of Jean Jacques, the Haitian national who is charged with the murder of Casey Chadwick in Norwich, Connecticut in June 2015 - specifically, the issue of Haiti's non-cooperation in the repatriation of Mr. Jacques.

Has the Government of Haiti ever been sent an Annex 9 letter or issued a démarche for non-cooperation in the repatriation of its nationals?

Response: Prior to 2015, Annex 9 letters were not tracked. In late 2015, U.S. Immigration and Customs Enforcement (ICE) started an improved process of issuing and tracking Annex 9 letters. Improvements were made as to how travel documents were obtained from Haiti and since then, ICE has not encountered cases where we are compelled to release priority Haitian nationals in custody solely due to the lack of travel documents. As such, there has not been a need to issue an Annex 9 letter or a démarche to Haiti.

Question: Have DHS and/or State Department officials ever met with the Haitian Ambassador to the United States about Haiti's non-cooperation in the repatriation of its nationals?

Response: The U.S. Government has been coordinating with the Haitian government in Haiti and has had discussions with the Haitian embassy in Washington to ensure that the returns take place in an orderly manner.

For years, the Haitian government has cooperated in coordinating the return of Haitian criminals from the United States. On September 22, 2016, the U.S. Department of Homeland Security (DHS) expanded its Haiti-specific removal policies to include non-criminal Haitian migrants, in order to align policy with the practices DHS applies to migrants from other nations. On October 12, 2016 DHS temporarily suspended this new policy in the aftermath of Hurricane Matthew, which affected 1.4 million people in Haiti. The suspension lasted until November 3, 2016 with the first non-criminal removal flight to Haiti. The Haitian government is cooperating fully with the coordination of the removal flights.

Question: Has ICE at any time requested that visa sanctions under section 243(d) of the Immigration and Nationality Act be imposed on Haiti for non-cooperation in the repatriation of its nationals?

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Topic:	Haiti's Non-Cooperation
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Response: Secretary of Homeland Security has not notified the Secretary of State that Haiti has refused or unreasonably delayed accepting its nationals pursuant to this 243(d) as the Haitian government has generally coordinated with the U.S. Government.

Question: DHS regulations at 8 CFR 214.2(h)(5)(i)(F) and 214.2(h)(6)(i)(E) provide that a country's cooperation in repatriation of its nationals with final removal orders is a key factor in the consideration of that country's eligibility for inclusion on the H-2 eligible countries list. Has ICE at any time recommended that Haiti either not be added to, or be struck from, the H-2 eligible countries list? If so, was such recommendation followed? If not, why not?

Response: According to the regulations at 8 C.F.R. §§ 214.2(h)(5)(i)(F) and 214.2(h)(6)(i)(E), the Secretary of Homeland Security, in consultation with the Secretary of State, may designate countries whose nationals are eligible to participate in the H-2A and H-2B nonimmigrant worker programs after taking a number of factors into consideration. At this time, the Secretary of Homeland Security has not determined that Haiti is not meeting the standards set forth in the regulations, and therefore remains an eligible country on the H-2 eligible countries list.

Question#:	10
Topic:	Authority to Direct Sanctions
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Please clarify which agency, the Department of State or the Department of Homeland Security, has the authority to direct the imposition of visa sanctions under section 243(d) of the Immigration and Nationality Act on a recalcitrant country. Is it not the Secretary of Homeland Security who triggers the imposition of sanctions by notifying the Secretary of State that a particular country has been uncooperative?

Response: Under section 243(d), the Secretary of Homeland Security's invocation of such section triggers the discontinuance of visa issuance by the Secretary of State. (The Secretary of Homeland Security considers that step in consultation with the Secretary of State.) Such invocation would require notification by the Secretary of Homeland Security to the Secretary of State under section 243(d), that a specific country is denying or unreasonably delaying acceptance of its citizens, nationals, or residents, following a request to that country to accept such individuals. After receiving such notification, the Secretary of State in his discretion orders consular officers to discontinue the granting of certain nonimmigrant visas, immigrant visas, or both to that country.

Question#:	11
Topic:	Requested Imposition of Visa Sanctions
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many times since the imposition of INA 243(d) visa sanctions on Guyana in 2001 has ICE requested that sanctions be imposed on a country for non-cooperation with repatriation of its nationals?

On each of the occasions described in (d), why weren't the sanctions imposed? Please explain whether the impediment to imposition of the sanctions was:

refusal by DHS Headquarters to consider the request and transmit the finding of non-cooperation to State pursuant to INA 243(d); or

despite DHS Headquarters support, de facto State Department "veto" of the imposition of sanctions at some point in the interagency consideration of the matter.

Response: Since discontinuing issuance of certain visas in Guyana in 2001, the Secretary of Homeland Security gave notice under section 243(d) to the Department of State (DOS), thereby triggering discontinuance of visa issuance pursuant to that section, only once. That notice was sent in October 2016 relative to The Gambia, and the Secretary of State ordered the discontinuance of granting certain visas on October 3, 2016. The Gambia responded by issuing the eleven (11) requested travel documents on October 14, 2016, accepted the removal of the 11 individuals via commercial and/or chartered aircraft, and committed to continued documentation of Gambian nationals within 30-days of receipt of a request from ICE.

While The Gambia has issued travel documents for the 11 individuals and facilitated the repatriation of those individuals, it has not yet exhibited its' commitment to the continued documentation of Gambian nationals within thirty days of receipt of a request from ICE. The most recent request for six travel documents was submitted by ICE on October 18, 2016. As of December 29, 2016, the Gambia had failed to issue the six documents.

Through the notification of DOS on January 3, 2017, the Gambia is currently subject to discontinuation of visa issuance under INA section 243(d). Discontinuation of visa issuance continues until the Secretary of Homaland Secretary notifies the Secretary of State that the sanctioned country has accepted its national(s).

DHS and DOS work together to ensure that countries accept the return of their nationals through a variety of tools to gain compliance with the Departments' shared expectations. Responses to a country's recalcitrance are, in part, guided by a 2011 Memorandum of

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Understanding (MOU) between U.S. Immigration and Customs Enforcement (ICE) and the DOS Bureau of Consular Affairs. These responses include:

- issue a démarche or series of démarches;
- hold a joint meeting with the Ambassador to the United States, Assistant Secretary for Consular Affairs, and Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the subject country is not accepting the return of its nationals and that the U.S. Government intends to exercise authority under section 243(d) of the INA to encourage compliance;
- consider use of 243(d) of the INA; and
- call for an interagency meeting to discuss withholding of aid or other funding.

While this process sets forth a general protocol, specific steps—including the use of INA section 243(d)—are considered by DHS in consultation with DOS in light of the potential impact on U.S. national security and foreign and domestic policy interests.
As part of our interactions with DOS, ICE has regularly asked for assistance, including consideration of section 243(d). Together the Departments consider the best available tools for gaining cooperation, including the utility of invoking section 243(d). In response, ICE sent letters to DOS to specifically ask that such actions, including section 243(d), be discussed since informal requests had thus far failed to result in sufficient progress. Over the last two fiscal years, démarches have been issued to, inter alai, Cuba, St. Lucia, Iraq, Algeria, Bangladesh, Cabo Verde, Côte d'Ivoire, Eritrea, The Gambia (currently subject to visa discontinuation of visa issuance under INA 243(d)), Ghana, Guinea, Liberia, Mali, Mauritania, Niger, Sierra Leone, Morocco, Burundi, China, Afghanistan, Iran, Somalia, Zimabawe, India, and Senegal.

Question#:	12
Topic:	Sanctions on Guinea
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Mr. Homan: In your testimony at the hearing on May 20, you mentioned that ICE was "asking for visa sanctions" for Guinea. Has ICE recommended that 243(d) sanctions be imposed on Guinea? If so, to whom was such recommendation made and what was the response?

Response: In March 2016, a letter was sent from U.S. Immigration and Customs Enforcement (ICE) Director Sarah Saldaña to Department of State (DOS) Assistant Secretary for Consular Affairs Michele Bond, ICE under the auspices of the April 2011 ICE-DOS Memorandum of Understanding (MOU) on Repatriation, asking the DOS to explore temporary discontinuance of visas for Guinea.

In August 2016, with the assistance of the Government of Guinea (GoG), ICE secured travel documents for, and subsequently removed, eight Guinean nationals. Due to the current level of cooperation from the GoG, ICE is no longer recommending to the Department of Homeland Security (DHS), Secretary of Homeland Security, to seek DOS assistance with respect to Guinea under the April 2011 ICE-DOS MOU. ICE continues to monitor the level of cooperation from the GoG.

DRAFT

Question#:	13
Topic:	Use of Visa Sanctions
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Has the Department of State ever communicated to DHS, either formally or informally, at either the leadership or staff level, that the use of visa sanctions under section 243(d) of the Immigration & Nationality Act is a non-starter?

Response: The Department of State (DOS) has not communicated to the Department of Homeland Security (DHS) that discontinuing visa issuance under section 243(d) of the Immigration and Nationality Act (INA) is a non-starter. DOS has, however, communicated that use of section 243(d) could fail to have the desired effect, adversely affect the security of U.S. persons and facilities, or adversely impact bilateral relations, and therefore all avenues of approach should be considered to garner cooperation prior to pursuing such measures.

Measures to encourage countries to comply with their obligations to accept the return of their nationals, including the invocation of INA section 243(d), are considered by the Secretary of Homeland Security, in consultation with DOS. The use of section 243(d) authority must be considered in light of both the potential impact it could have on U.S. foreign and domestic policy interests, particularly with respect to adverse effects on bilateral relations with a foreign partner, and whether section 243(d) will be an effective tool in gaining the country's compliance.

DHS and DOS work together to ensure that other countries accept the return of their nationals through a variety of tools to gain compliance with the Departments' shared expectations. Responses to a country's recalcitrance are, in part, guided by a 2011 Memorandum of Understanding (MOU) that was entered into by U.S. Immigration and Customs Enforcement (ICE) and the DOS Bureau of Consular Affairs. They include:

- issue a démarche or series of démarches;
- hold a joint meeting with the Ambassador to the United States, Assistant Secretary for Consular Affairs, and Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the subject country is not accepting the return of its nationals and that the U.S. Government intends to exercise authority under section 243(d) of the INA to encourage compliance;
- consider use of 243(d) of the INA; and
- call for an interagency meeting to discuss withholding of aid or other funding.

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

While this process sets forth a general protocol, specific steps—including the use of INA section 243(d)—are considered by DHS in consultation with DOS in light of the potential impact on U.S. national security and foreign and domestic policy interests.

The agencies consider the best options available to gain cooperation. As part of our interactions with DOS, ICE has regularly asked for assistance, including consideration of section 243(d). DOS, in consultation with the Department of Homeland Security, has preferred to follow the escalating tools outlined in the MOU, to try to garner cooperation first. In response, ICE sent letters to DOS to specifically ask that such actions, including section 243(d), be discussed since informal requests had thus far failed to result in sufficient progress. Over the last two fiscal years, démarches have been issued to, inter alia, Cuba, St. Lucia, Iraq, Algeria, Bangladesh, Cabo Verde, Côte d'Ivoire, Eritrea, The Gambia, Ghana, Guinea, Liberia, Mali, Mauritania, Niger, Sierra Leone, Morocco, Burundi, China, Afghanistan, Iran, Somalia, Zimbabwe, India, and Senegal.

Question#:	14
Topic:	India
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The Memorandum of Understanding (MOU) between U.S. Immigration and Customs Enforcement (ICE) and the Department of State (DOS) on repatriation was signed in April 2011. It provides for the following steps, ultimately leading to the imposition of 243(d) sanctions:

- Issuing a demarche or series of demarches at increasingly higher levels;
- Holding joint meetings with the Ambassador to the United States, DOS Assistant Secretary for Consular Affairs and the Director of ICE;
- Considering whether to provide notice of the U.S. government's intent to formally determine that the country is not accepting the return of its nationals and that the U.S. government intends to exercise the provisions of Section 243(d) of the Immigration and Nationality Act to gain compliance;
- Considering visa sanctions under Section 243(d) of the Immigration and Nationality Act; and
- Calling for an inter-agency meeting to pursue withholding of aid or other funding.

An additional prong – the sending of a letter demanding that the 30-day target for production of travel documents pursuant to Annex 9 of the Convention on International Civil Aviation – appears in practice to go before the first demarche prong.

Over 5 years have passed since the signing of that MOU, but in no case have visa sanctions been imposed, despite the complete lack of any real progress with respect to the countries that are the worst offenders. India, for example, was served a diplomatic demarche on June 9, 2010, and Director Morton and DOS Assistant Secretary Jacobs met with Indian Ambassador Shankar on May 3, 2011. Yet despite the first two prongs having been satisfied for India, activity seems to have stalled indefinitely with respect to the third prong, i.e. "considering whether to provide notice of the U.S. government's intent to formally determine that the country is not accepting the return of its nationals." Why is that?

Response: With regard to the Government of India's issuance of travel documents (TDs) and their acceptance of the return of their nationals, in fact, significant progress has been made and the situation continues to improve.

- Historically, U.S. Immigration and Customs Enforcement (ICE) has experienced significant delays in issuances of TDs from India's Consulate General offices in

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Topic:	India
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

New York, New York, and Atlanta, Georgia. From January 2015 to October 2015, only 21 TDs had been issued between both offices. In October 2015, ICE participated in high-level bilateral dialogues and conducted meetings with these offices to discuss the delayed issuance of TDs, specifically in cases where the TD packets have contained Government of India identity documents and copies of passports. After in-person visits and persistent follow-up by ICE officials, within a 4-week period, the New York office issued 22 TDs, and the Atlanta office issued more than 25 TDs. From December 2015 to May 2016, these two consular offices collectively issued 66 new TDs.

- In addition, on March 29, 2016, the Department of Homeland Security and ICE officials participated in meetings with officials from the Government of India in Delhi, India. The meetings focused on the current state of removals to India and achieving increased cooperation from India.
- For the first time in ICE's history, India agreed to accept a charter flight. On April 4, 2016, ICE removed 54 Indian nationals via a Special High Risk Charter (SHRC) flight. This was a significant accomplishment. Of these aliens, 26 were deemed "failure to comply with removal" cases either because they failed to assist ICE in procuring a TD for their removal or had refused to board a commercial flight for removal. Both flights were completed with no issues by the Government of India.

Question#:	15
Topic:	Cuba
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Did ICE request that repatriation be included in the negotiations with Cuba to re-establish diplomatic negotiations? If not, why not? If so, what was the result of such discussions?

Did ICE request that an agreement on repatriation be a condition precedent to re-establishment of diplomatic relations with Cuba?

If the response to (j) is affirmative, what person or office made the decision not to make an agreement on repatriation a condition precedent to re-establishment of diplomatic relations with Cuba?

Response: The U.S. Department of State (DOS) led the discussions with Cuba. That said, U.S. Immigration and Customs Enforcement (ICE) attends the DOS-led U.S./Cuba migration talks and utilizes that forum to negotiate with Cuba on ways to remove Cuban nationals who are ineligible to remain in the United States. As a result of thse and other negotiations, the Government of Cuba has recently agreed to begin accepting the return of removable Cuban nationals. Specifically, Cuba has agreed to accept the return of Cuban nationals who enter or attempt to enter the United States after January 12, 2017 and who are placed, within a four-year period of their departure from Cuba, in a criminal or civil proceeding resulting in their removal. Cuba agreed to condiser the return of other Cuban nationals on a case-by-case basis. Cuba also agreed to allow ICE to replace Cuban nationals on the 1984 Cuban Repatriation List with other similar cases that arrived during the Mariel boatlift.

Question#:	16
Topic:	Chinese Nationals Removed
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The ICE pilot project agreement with the Chinese Ministry of Public Security signed in March 2015 provided for the Chinese government to send a team of officials to the U.S. to assist in confirming the Chinese nationality of certain removable aliens. How many cases were reviewed by the Chinese officials? How many were confirmed to be Chinese nationals? And how many of those aliens were actually removed?

Response: Eighty two Chinese nationals were interviewed.

Thirty individuals were confirmed to be Chinese nationals and travel documents were issued.

Twenty seven Chinese nationals have been removed.

Forty two cases remain pending identity verification before travel documents may be issued.

Ten individuals were denied travel documents because they were not mainland Chinese nationals.

Question#:	17
Topic:	Leverage Over Recalcitrant Countries
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In QFR responses to the Committee following the DHS oversight hearing in April 2015, the Department listed several steps, short of 243(d) sanctions, that could be taken to obtain leverage over recalcitrant countries:

- Pre-Certification of Biometrics (DHS and DOS)
  DHS has the authority to determine what information, evidence, or other documentation must be collected in order to establish eligibility for a visa, admissibility to the United States, and classification of an alien as an immigrant or non-immigrant. If appropriate and feasible, DHS will coordinate with DOS to issue guidance requiring uncooperative nations to certify their nationals' citizenship and biometric identifiers and verify additional biographic information as a prerequisite to issuing a visa.

- INA §§ 212(d)(3) and (d)(4)(A): Non-immigrant Discretionary Waivers (DHS)
  The U.S. Customs and Border Protection Admissibility Review Office (ARO) adjudicates non-immigrant discretionary waivers under INA § 212(d)(3){A) and INA § 212(d)(4){A). Inadmissible aliens apply for these discretionary nonimmigrant waivers. Adjudication generally requires an examination of the applicant's purpose for travelling to the United States and his or her risk of noncompliance with our nation's laws. However, if the inadmissible alien is a national of a country that denies or delays accepting its nationals for repatriation, the ability or the United States to take enforcement action in response to any immigration violations is greatly diminished. To limit the operational challenges of seeking to repatriate waiver recipients to countries that are uncooperative in repatriating their nationals after admission to the United States, the ARO could consider as an adverse factor in its adjudications whether the applicant is a national from a country that denies or delays accepting its citizens for repatriation.

- Suspension of Visa Referrals (DOS)
  Under the visa referral process, a DOS Foreign Service Officer or other U.S. Government (USG) employee at an Embassy may referfer a non-immigrant alien, allowing the alien's visa application to be expedited. Under this process, personal interviews and, in some cases, U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) registration requirements, may be waived. The visa referral system is intended to support U.S. national interests by furthering USG or Embassy/Consulate priorities. This visa policy, found at U.S. Department or State Foreign Affairs Manual Volume 9 - Visas, 9 FAM Appendix K, is inherently

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discretionary and thus can be restricted or suspended. For example, its use could be limited or discontinued for government officials and their dependents from countries deemed uncooperative in repatriation.

- Alignment of Visa Policies (DHS and DOS)
  INA § Section 221 (c) provides that the period of validity of an immigrant or nonimmigrant visa shall be based on the principle of reciprocity. In practice, Consular Affairs (CA) generally prescribes the maximum allowable visa validity periods as a means to facilitate legitimate travel while also reducing consular workload. At times, some countries fail to honor such visa validity reciprocity understandings. CA could revise the visa validity periods or some or all U.S. visa categories, or could focus first on the visa categories with the longest validity periods or those that most directly affect trade and remittances to a particular country.

  Furthermore, in 2003, the Secretaries or State and Homeland Security signed an MOU concerning the implementation of Section 428 of the Homeland Security Act of 2002. The MOU establishes how the two agencies share authority for visa policy and processing. However, since it has not proven to be as effective a resource for aligning visa policies as envisioned, the Secretaries have committed to redoubling the Departments' efforts to maximize the effectiveness of these measures in allowing the prompt removal or certain aliens.

What, if anything, has been done to implement any of these proposals?

Response: In exchanges with DHS and DOS possible drawbacks to implementing some of the measures under consideration.

For instance, ICE discussed implementing the process of adjudication of Nonimmigrant Discretionary Waivers under INA §§ 212(d)(3) and (d)(4)(A) with the U.S. Customs and Border Protection ARO.

Since the DHS oversight hearing in April 2015, the Secretary of Homeland Security gave notice under section 243(d) of the Immigration and Nationality Act (INA) to the Secretary of State, thereby triggering visa sanctions, effective October 3, 2016 against The Gambia. This was the first time since 2001, that the U.S. Government has imposed visa sanctions against an uncooperative country.

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The Gambia responded by issuing the eleven (11) requested travel documents for detained Gambians on October 13, 2016, accepted the removal of the 11 individuals via commercial and/or chartered aircraft, and committed to continued documentation of Gambian nationals within 30 days of receipt of a request from ICE.

While The Gambia has issued travel documents for the 11 individuals and facilitated the repatriation of those individuals, it has not yet exhibited its' commitment to the continued documentation of Gambian nationals within thirty days of receipt of a request from ICE. Specifically, six travel documents were submitted by ICE on October 18, 2016. As of December 28, 2016, the Gambia had not issued travel documents for these six individuals. Through the notification of DOS on January 3, 2017, the Gambia is currently subject to discontinuation of visa issuance under INA section 43(d). Discontinuation of visa issuance continues until the Secretary of Homaland Secretary notifies the Secretary of State that the sanctioned country has accepted its national(s).

In general, although imposition of section 243(d) remain an option as it was used in Gambia,, they are not the only available means to purse cooperation, as ICE continues to work with foreign governments and DOS (CA), utilizing a number of tools to encourage countries to comply with their international obligations to accept the return of their citizens who are not eligible to remain in the United States or any other country. With most nations, after an alien has received an administratively final order of removal the process for ICE begins with a request for travel documents to the appropriate foreign government. If a travel document is not issued, or the country does not agree to the return of its citizen, the ICE Executive Associate Director for Enforcement and Removal Operations will, in appropriate circumstances, send a letter to the nation's Embassy in the United States seeking cooperation with the removal process. If a country in question is a party to the Convention on Internatinal Civil Aviation, ICE may send a letter to the government referencing certain standards promulgated by the International Civil Aviation Organization (ICAO) in Annex 9 to that Convention, which, *inter alia*, provide for the issuance of travel documents to facilitate the return of a contracting state's nationals within 30 days of a request for such documents. Other tools that have yielded positive results include convening a joint meeting between ICE, DOS CA, and the Ambassador of the uncooperative nation, or DOS, working with ICE, issuing a démarche to the Embassy. ICE seeks the assistance of DOS to issue démarches; however, it is ultimately DOS' responsibility to issue the démarche to the foreign government.

Specific U.S. Department of Homeland Security efforts to improve cooperation of recalcitrant countries include a letter dated September 19, 2014, from Secretary of Homeland Security Johnson to Secretary of State Kerry seeking assistance in efforts to

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explore measures that would be helpful in securing the prompt removal of dangerous individuals in accordance with INA removal provisions. On March 28, 2016, ICE sent DOS a letter regarding Guinea, requesting exploration of more aggressive actions to address the removal issue, including the temporary discontinuation of visa issuance under INA §243(d). On April 1, 2016, ICE Director Saldaña and DOS Assistant Secretary Bond met to discuss the Guinea letter, and at that meeting ICE Director Saldaña hand-delivered a similar letter for Cuba, seeking measures in accordance with the 2011 Memorandum of Understanding (MOU) between ICE and DOS CA.[1] On April 28, 2016, ICE Director Saldaña and DOS Assistant Secretary Bond jointly met with the Ambassador of Guinea to push Guinea on the need to be more compliant with the issuance of travel documents. On May 13, 2016, ICE sent a letter to DOS concerning removals to Liberia. On May 13, 2016, ICE also sent a letter to DOS requesting assistance in coordinating a high-level meeting with China on removal issues, but it did not specifically request invocation of INA § 243(d).

Within the past two fiscal years, ICE has worked with DOS to issue 20 démarches to Iraq, Algeria, Bangladesh, Cabo Verde, Côte d'Ivoire, Eritrea, The Gambia, Ghana, Guinea, Liberia, Mali, Mauritania, Niger, Sierra Leone, Senegal, Cuba, Morocco, Burundi, China, and St. Lucia.

In late 2015, ICE implemented a process for tracking the Annex 9 letters it issues. Prior to that time, Annex 9 letters were not systematically tracked. In Fiscal Year 2016, as of August 29, 2016, ICE issued a total of 150 Annex 9 letters to 23 countries.

ICE and the U.S. Department of Homeland Security will continue to consider all options that can be used to garner cooperation and work with DOS to implement appropriate measures.

[1] In 2011, ICE and DOS CA signed a MOU establishing ways in which DOS CA and ICE will work together to ensure that other countries accept the return of their nationals. The MOU, among other things, establishes a targeted average travel document issuance time of 30 days, and outlines measures to address those countries that systemically refuse or delay repatriation of their nationals.

Question#:	18
Topic:	Rodriguez v. Robbins
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Last year, the Ninth Circuit Court of Appeals, in Rodriguez v. Robbins, held that individuals in ICE detention who have been detained longer than six months must be granted bond hearings. The Department of Justice, with ICE's support, has petitioned the U.S. Supreme Court for review in Rodriguez. Mr. Homan, you mentioned your concern about the negative impact the Rodriguez v. Robbins decision is having on your ability to remove certain criminal aliens.

Recidivism is a significant issue for this population, given their criminal convictions.

Please provide the Committee any data you may have on how many criminal aliens released pursuant to Rodriguez have been re-arrested by law enforcement.

Response: The U.S. Supreme Court recently granted the government's petition for certiorari to review the U.S. Court of Appeals for the Ninth Circuit's decision in *Rodriguez v. Robbins*, and it heard arguments in the case on November 30, 2016. Of the 533 aliens released pursuant to *Rodriguez* in the U.S. Immigration and Customs Enforcement (ICE) Los Angeles area of responsibility from October 2012 to December 2013, ICE records indicate that 195 (approximately 37 percent) have been subsequently re-arrested by other law enforcement agencies – many of them multiple times – as of August 15, 2016. Crimes for which aliens were arrested range from drug and theft offenses to violent crimes like murder, rape, child cruelty, and spousal abuse.

Question#:	19
Topic:	San Francisco
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: According to a recent article describing consideration by the San Francisco Board of Supervisors of a proposal that spells out when law enforcement can turn over criminal suspects to federal immigration authorities, the Office of the Sheriff of the City and County of San Francisco "receives about five requests a week to notify ICE of a detainee's status" and, according to Sheriff Vicki Hennessy, "has not notified ICE in any of those cases."

Is the statement in the referenced article accurate?

Response: Yes.

On June 17, 2016, Mayor Edwin Lee signed into law an ordinance entitled, "Due Process for All and Sanctuary," unanimously passed on June 7, 2016 by the Board of Supervisors. This ordinance, which became effective on July 17, 2016, outlines specific guidelines under which law enforcement officials may respond to a federal immigration officer's notification request. Under the ordinance, law enforcement officials may not respond to a Request for Voluntary Notification unless the individual meets both of the following criteria:

(1) The individual either:

(A) has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request;

(B) has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request: or

(C) has been Convicted of three felonies identified in Penal Code sections 1192.7(c) or 667.5(c). or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence. arising out of three separate incidents in the five years immediately prior to the date of the notification request:

AND

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic

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violence, and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to respond to a notification request as permitted by this subsection (d), law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

Since the adoption of this new ordinance, San Francisco has not honored any Forms I-247N – Request for Voluntary Notification of Release of Suspected Priority Alien or Forms I-247D, Immigration Detainer – Request for Voluntary Action.

Question: Please provide data on:

The number of requests made by ICE to the Office of the Sheriff of the City and County of San Francisco to notify ICE of a detainee's status this fiscal year, in FY15, and FY14;

Response: U.S. Immingration and Customs Enforcement (ICE) tracks detainers, requests for notification, and requests for voluntary transfer issued to local law enforcement agencies (LEA) informing the LEA that ICE intends to assume custody of an individual in the LEA's custody. ICE may issue a detainer that requests the LEA maintain custody of a specified individual for a period not to exceed 48 hours beyond the time at which he or she would have otherwise been released (legacy Form I-247 (no longer utilized by ICE), Form I-247D (currently utilized by ICE) , or Form I-247X, or it may issue a request for the LEA to notify ICE, if possible, at least 48 hours prior to that individual's pending release from custody (Form I-247N or Form I-247X). Table 1 contains data regarding the number of detainers and requests for voluntary notification issued to the San Francisco County Jail or the San Francisco Sheriff's Office, as of June 30, 2016.

Table 1: Detainers and Requests Issued to San Francisco County Jail and Sheriff's Office

Detainers and Requests Issued	FY 2014	FY 2015	FY 2016 YTD	Total
I-247 - Immigration Detainer	499	204	0	703
I-247D - Immigration Detainer - Request for Action	0	18	5	23

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I-247N - Immigration Advisal - Request for Notification	0	43	153	196
I-247X - Request for Voluntary Transfer	0	0	7	7
Total	**499**	**265**	**165**	**929**

Please note that since local jurisdiction information regarding issued detainers is not automatically captured in ICE databases, additional detainers may exist that ICE was unable to map to a specific jurisdiction that were, in fact, issued to the San Francisco County Jail or Sheriff's Office.

Question: The number of requests listed in (i) that were rejected or otherwise not honored by the Office of the Sheriff; and

Response: Table 2 details the number of declined detainers and other requests for notification prior to scheduled release for the San Francisco County Jail and the San Francisco Sheriff's Office as of June 30, 2016. ICE began capturing this information through its databases on January 1, 2014. Note that the dates associated with these, declined detainers and disregarded requests are based on the dates when the detainer or request was declined or disregarded rather than the date when it was issued; therefore, the detainers and requests in Table 2 are not necessarily a sub-population of the detainers and requests issued in Table 1. It is important to note that ICE may not become aware that a detainer was declined or a request for notification was disregarded until after a subject has been released from the San Francisco County Jail or Sheriff's Office. Furthermore, many of the individuals for whom ICE has lodged a detainer or request for notification may also still be detained in the San Francisco County Jail, so the detainer or request for notification would still be active.

Table 2: Declined Detainers for San Francisco County Jail and Sheriff's Office Since January 1, 2014

Declined Detainers and Disregarded Requests	FY 2014	FY 2015	FY 2016 YTD	Total
I-247 - Immigration Detainer	282	72	2	356
I-247D - Immigration Detainer - Request for Action	0	2	2	4
I-247N - Immigration Detainer - Request for Notification	0	1	3	4
Total	**282**	**75**	**7**	**364**

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Question: The immigration and criminal history of each alien who is the subject of a rejected request described in (ii).

Response: To evaluate the criminal history of each alien whose detainer or request is declined or disregarded, ICE uses the criminality checkboxes on each of the respective forms. Table 3 contains data regarding the criminal history of aliens whose detainer was declined or request was disregarded by the San Francisco Jail or Sheriff's Office. Please note that one detainer or request may have multiple criminality checkboxes selected. Also, please note that the checkboxes were amended following the introduction of the Forms I-247D and I-247N.

Table 3: Criminal History for San Francisco County Jail and Sheriff's Office Declined Detainers and Requests Since January 1, 2014

Criminality Checkboxes	FY 2014	FY 2015	FY 2016 YTD	Total
Prior Felony	188	50	5	243
Violent Misdemeanor	85	35	2	122
Multiple Misdemeanors	22	16	0	38
Criminal Gang	0	0	2	2
Otherwise Poses a Significant Risk to National Security, Border Security, or Public Safety	28	21	1	50

Question: Does ICE consider the Office of the Sheriff to be an office that is cooperating with the Priority Enforcement Program (PEP)?

Response: As noted above, San Francisco has not honored a Form I-247N – Request for Voluntary Notification of Release of Suspected Priority Alien. ICE Enforcement and Removal Operations (ERO) San Francisco management and Office of the Principal Legal Advisor (OPLA) San Francisco management, including the Field Office Director (FOD) and the ICE OPLA Chief Counsel, met with Sheriff Hennessy on February 11, 2016, to discuss Priority Enforcement Program participation and to evaluate how ICE and the San Francisco County Sheriff's Office can work together on public safety issues. The FOD had several subsequent conversations with the Sheriff and provided direct points of

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contact for the Sheriff's Office to clarify operational questions. ICE understands the Sheriff is trying to find a path forward to cooperate with ICE.

Question: What does ICE intend to do to secure greater cooperation regarding such notifications from the Office of the Sheriff?

Response: ICE has taken a multiple engagement approach to its efforts in San Francisco County. ICE ERO San Francisco continues to engage relevant law enforcement partners, and other civic and private groups and organizations, to discuss a path forward on this issue. Recognizing that ICE must expand its outreach to encompass greater community engagement to better articulate the ICE mission and appropriately address misinformation about ICE operations, ICE ERO San Francisco has been conducting extensive community and law enforcement outreach with a diverse section of the community to find collaborative conduits by which ICE can more effectively communicate its message emphasizing public safety. ICE ERO San Francisco has recently engaged faith-based community organizations and is working with them to expand ICE outreach in the local community. Additionally, ICE has partnered with U.S. Citizenship and Immigration Services to conduct joint outreach, such as a recent Congressional Open House in San Jose, California, on May 24, 2016, and hopes to continue to work on future town hall meetings in the San Francisco Bay Area. These efforts are critical to improve public perception about ICE operations and its mission, and to foster a climate in which local law enforcement can feel confident in publicly working with ICE on all public safety initiatives.

Question#:	20
Topic:	Illegal Immigration Stats
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: For each Fiscal Year from Fiscal Year 2001 through Fiscal Year 2016 (YTD), please provide:

The total number of removals and returns conducted by ICE (or the legacy Immigration and Naturalization Service, as applicable) each fiscal year.

Please break down each set of data by criminal status, whether it stemmed from an interior or border apprehension, and by the type of removal or return conducted - i.e. whether the removal was conducted pursuant to section 240 of the Immigration and Nationality Act, section 235, or section 238, or through the alien Transfer Exit Program; or whether it was the result of a voluntary departure, a voluntary return, or a withdrawal.

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Response: Please see the attached charts.

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Total U.S. Immigration and Customs Enforcement (ICE) Departures (Removals and Returns) by Criminality

Fiscal Year	Departures			Removals			Returns		
	Total	Convicted Criminal	Non-Criminal	Total	Convicted Criminal	Non-Criminal	Total	Convicted Criminal	Non-Criminal
2001	***116,782****	*71,079*	*45,703*	**116,782**	71,079	45,703	**33,998**	5,450	28,548
2002	***122,587****	*71,686*	*50,901*	**122,587**	71,686	50,901	**24,977**	3,614	21,363
2003	***157,080****	*81,626*	*75,454*	**157,080**	81,626	75,454	**24,560**	3,264	21,296
2004	***175,106****	*89,852*	*85,254*	**175,106**	89,852	85,254	**25,721**	3,069	22,652
2005	***180,189****	*87,476*	*92,713*	**180,189**	87,476	92,713	**26,923**	3,653	23,270
2006	***207,776****	*92,263*	*115,513*	**207,776**	92,263	115,513	**26,626**	2,791	23,835
2007	**291,060**	102,024	189,036	**245,601**	96,990	148,611	**45,459**	5,034	40,425
2008	**369,221**	114,415	254,806	**264,541**	106,384	158,157	**104,680**	8,031	96,649
2009	**389,834**	136,343	253,491	**300,135**	126,923	173,212	**89,699**	9,420	80,279
2010	**392,862**	195,772	197,090	**304,750**	171,839	132,911	**88,112**	23,933	64,179
2011	**396,906**	216,698	180,208	**319,077**	189,859	129,218	**77,829**	26,839	50,990
2012	**409,849**	225,390	184,459	**346,487**	200,685	145,802	**63,362**	24,705	38,657
2013	**368,644**	216,810	151,834	**332,538**	198,573	133,965	**36,106**	18,237	17,869
2014	**315,943**	177,960	137,983	**301,427**	169,165	132,262	**14,516**	8,795	5,721
2015	**235,413**	139,368	96,045	**227,038**	135,071	91,967	**8,375**	4,297	4,078
2016 YTD - May 28, 2016	**155,125**	91,025	64,100	**150,257**	88,370	61,887	**4,868**	2,655	2,213

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* FY 2001 to 2006 Historical Departures do not include Returns. FY 2007 to 2016 year-to-date (YTD) Departures include Removals and Returns.
Note: Table is limited to ICE removals, which exclude certain Mexican and Canadian citizens apprehended at the border and removed by US Custo
Protection.

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ICE Departures (Removals and Returns) by Process Type

		Expedited Removal			Hearing			Non-Hearing		
Fiscal Year	**Fiscal Year Historical Total**	**Total**	**Convicted Criminal**	**Non-Criminal**	**Total**	**Convicted Criminal**	**Non-Criminal**	**Total**	**Convicted Criminal**	**Non-Criminal**
2001	***116,782****	-	-	-	-	-	-	-	-	-
2002	***122,587****	-	-	-	-	-	-	-	-	-
2003	***157,080****	-	-	-	-	-	-	-	-	-
2004	***175,106****	-	-	-	-	-	-	-	-	-
2005	***180,189****	-	-	-	-	-	-	-	-	-
2006	***207,776****	-	-	-	-	-	-	-	-	-
2007	**291,060**	**45,682**	4,774	40,908	**171,194**	48,996	122,198	**74,184**	48,254	25,930
2008	**369,221**	**35,185**	2,483	32,702	**247,820**	58,670	189,150	**86,216**	53,262	32,954
2009	**389,834**	**26,320**	1,960	24,360	**244,220**	64,553	179,667	**119,294**	69,830	49,464
2010	**392,862**	**34,998**	5,923	29,075	**222,638**	97,287	125,351	**135,226**	92,562	42,664
2011	**396,906**	**55,464**	13,337	42,127	**208,821**	104,159	104,662	**132,621**	99,202	33,419
2012	**409,849**	**97,323**	24,078	73,245	**160,496**	90,373	70,123	**152,030**	110,939	41,091
2013	**368,644**	**95,847**	27,092	68,755	**103,152**	66,710	36,442	**169,645**	123,008	46,637
2014	**315,943**	**75,623**	15,651	59,972	**75,881**	49,676	26,205	**164,439**	112,633	51,806
2015	**235,413**	**45,820**	10,992	34,828	**56,712**	35,607	21,105	**132,881**	92,769	40,112

Question#:	20
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2016 YTD through May 28, 2016	**155,125**	**28,432**	7,803	20,629	**37,211**	23,041	14,170	**89,482**	60,181	29,301
		Expedited Removal			**Hearing**			**Non-Hearing**		
Fiscal Year	**Fiscal Year Historical Total**	**Total**	**Convicted Criminal**	**Non-Criminal**	**Total**	**Convicted Criminal**	**Non-Criminal**	**Total**	**Convicted Criminal**	**Non-Criminal**
2001	***116,782****	**-**	-	-	**-**	-	-	**-**	-	-
2002	***122,587****	**-**	-	-	**-**	-	-	**-**	-	-
2003	***157,080****	**-**	-	-	**-**	-	-	**-**	-	-
2004	***175,106****	**-**	-	-	**-**	-	-	**-**	-	-
2005	***180,189****	**-**	-	-	**-**	-	-	**-**	-	-
2006	***207,776****	**-**	-	-	**-**	-	-	**-**	-	-
2007	**291,060**	**45,682**	4,774	40,908	**171,194**	48,996	122,198	**74,184**	48,254	25,930
2008	**369,221**	**35,185**	2,483	32,702	**247,820**	58,670	189,150	**86,216**	53,262	32,954
2009	**389,834**	**26,320**	1,960	24,360	**244,220**	64,553	179,667	**119,294**	69,830	49,464
2010	**392,862**	**34,998**	5,923	29,075	**222,638**	97,287	125,351	**135,226**	92,562	42,664
2011	**396,906**	**55,464**	13,337	42,127	**208,821**	104,159	104,662	**132,621**	99,202	33,419
2012	**409,849**	**97,323**	24,078	73,245	**160,496**	90,373	70,123	**152,030**	110,939	41,091

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2013	**368,644**	**95,847**	27,092	68,755	**103,152**	66,710	36,442	**169,645**	123,008	46,637
2014	**315,943**	**75,623**	15,651	59,972	**75,881**	49,676	26,205	**164,439**	112,633	51,806
2015	**235,413**	**45,820**	10,992	34,828	**56,712**	35,607	21,105	**132,881**	92,769	40,112
2016 YTD through May 28, 2016	**155,125**	**28,432**	7,803	20,629	**37,211**	23,041	14,170	**89,482**	60,181	29,301

* FY 2001 to 2006 Historical Departures do not include Returns. FY 2007 to 2016 YTD Departures include Removals and Returns. ICE is unable to further break down Hearing Type Information for this historic data. Process Type is derived from grouping on Case Categories, which is applied in ICE's case management system. Expedited Removal data includes any alien's case with a case category of Expedited Removal. Non-Hearing Data includes any alien's case with a case category of Visa Waiver Deportation/Removal, Administrative Deportation/Removal, or Reinstated Final Order. Hearing Data includes any alien's cases that fall into other case categories.

Note: Table is limited to ICE removals, which exclude certain Mexican and Canadian citizens apprehended at the border and removed by US Customs and Border Protection.

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ATEP Removals with an ICE Detention Stay from 11/18/2010 – 06/01/2013

	FY2011			FY 2012			FY 2013 through June 1, 2013		
	Convicted Criminal	Non-Criminal Immigration Violator	Total	Convicted Criminal	Non-Criminal Immigration Violator	Total	Convicted Criminal	Non-Criminal Immigration Violator	Total
Arizona Removals	1,366	2,519	3,885	1,427	956	2,383	77	195	*272*
California Removals	3,149	8,659	11,808	11,334	17,556	28,890	5,998	11,059	*17,057*
Texas Removals	4,059	16,835	20,894	12,843	41,434	54,277	8,544	27,092	*35,636*
Total	**8,574**	**28,013**	**36,587**	**25,604**	**59,946**	**85,550**	**14,619**	**38,346**	**52,965**

Note: The Alien Transfer and Exit Program (ATEP) began on November 18, 2010. Although there is continued local use of the program in El Paso, for purposes of operational reporting, ATEP concluded on June 1, 2013.

ICE is able to provide data from FY 2009 to 2016 YTD in response to the following requests.

Total ICE Removals by Interior vs Border

Fiscal Year	Total	Interior	Border
2009	**389,834**	237,941	151,893
2010	**392,862**	229,235	163,627
2011	**396,906**	223,755	173,151

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2012	**409,849**	180,970	228,879
2013	**368,644**	133,551	235,093
2014	**315,943**	102,224	213,719
2015	**235,413**	69,478	165,935
2016 YTD through May 28, 2016	**155,125**	43,067	112,058

Note: Table is limited to ICE removals, which exclude certain Mexican and Canadian citizens apprehended at the border and removed by US Customs and Border Protection.

1. The number of encounters.

ICE Encounters

Fiscal Year	Total
2009	**355,511**
2010	**766,015**
2011	**791,974**
2012	**729,245**
2013	**721,976**
2014	**602,992**
2015	**396,653**
2016 YTD through May	**235,228**

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Note: ICE is unable to further break down the data for fiscal years prior to 2010.

2. The number of detainers issued.

ICE ERO Detainers Issued by Criminality

Fiscal Year	Total Detainers		
	Total	Charged or Convicted of Crime	No Charges or Convictions
2009	**228,993**	-	-
2010	**290,847**	121,822	169,025

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2011	**316,170**	162,540	153,630
2012	**282,541**	175,718	106,823
2013	**212,455**	142,283	70,172
2014	**161,322**	106,395	54,927
2015	**96,892**	62,797	34,095
2016 YTD through May 28, 2016	**55,853**	50,299	5,554

Note: ICE is unable to further break down the data for fiscal years prior to 2010.

3. The number of arrests.

ICE ERO Administrative Arrests by Criminality

Fiscal Year	Total Arrests	Convicted Criminal	Non-Criminal Arrests
		Total	Total
2009	**297,898**	115,867	182,031
2010	**272,384**	143,082	129,302
2011	**288,392**	167,195	121,197
2012	**265,573**	171,925	93,648
2013	**232,287**	168,444	63,843
2014	**183,703**	134,734	48,969
2015	**119,772**	101,880	17,892

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2016 YTD through May 28, 2016	**72,416**	62,725	9,691

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4. The number of Notices to Appear (NTAs) issued.

I-862 Notices to Appear Issued by Criminality[2]

Fiscal Year	Total I-862 Notice to Appear	Convicted Criminal	Non-Criminal
2009	**176,545**	-	-
2010	**167,570**	83,689	83,881
2011	**162,627**	85,450	77,177
2012	**136,123**	85,021	51,102
2013	**96,554**	66,047	30,507
2014	**75,838**	50,901	24,937
2015	**42,989**	37,372	5,617
2016 YTD through May 28, 2016	**26,999**	23,161	3,838

5. The number of aliens turned over to ICE by CBP.

[2] *Note:* These figures reflect only ERO-issued NTAs, not total Charging Documents issued by ICE. I-860 (Notice of Order of Expedited Removal) have also not been included.

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ICE Initial Book-ins from CBP by Criminality

Fiscal Year	ICE Initial Book-ins from CBP	Convicted Criminal	Non-Criminal
2009	98,753	19,357	79,396
2010	91,722	26,670	65,052
2011	142,738	49,055	93,683
2012	221,201	77,695	143,506
2013	238,245	81,856	156,389
2014	264,144	62,080	202,064
2015	194,073	49,156	144,917
2016 YTD through May 28, 2016	151,076	30,274	120,802

6. The number of removal orders issued.

ICE defers to the Department of Justice/Executive Office for Immigration Review (EOIR).

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7. The number of aliens present in the United States with a final order of removal at the conclusion of the fiscal year. Please specify whether detained, non-detained, criminal, and non-criminal.

Aliens with Final Orders of Removal by Detention and Criminality[3]

Fiscal Year	Criminality	Detained With Final Order	Non-Detained With Final Order	Total
2009 (at year-end)	**Total**	**11,423**	**890,337**	**901,760**
	Criminal	5,673	115,058	120,731
	Non-Criminal	5,750	775,279	781,029
2010 (at year-end)	**Total**	**10,063**	**871,235**	**881,298**
	Criminal	5,862	122,559	128,421
	Non-Criminal	4,201	748,676	752,877
2011 (at year-end)	**Total**	**11,011**	**843,911**	**854,922**
	Criminal	6,665	130,263	136,928
	Non-Criminal	4,346	713,648	717,994

[3] These figures include individuals who cannot lawfully be removed at the present time due to certain protections afforded under the Immigration and Nationality Act, such as temporary protective status or withholding of removal; individuals who may be lawfully removed but who are no longer enforcement priorities; individuals who are enforcement priorities but who have been released under conditions (e.g., electronic monitoring, regular reporting requirements, bond) due to case-specific circumstances; and individuals who are enforcement priorities and are targeted for removal through ICE's increased at-large operations, such as fugitives with criminal convictions. These figures also include aliens whose removal ICE is coordinating and aliens whose departure ICE has been unable to confirm.

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2012 (at year-end)	**Total**	**14,528**	**842,640**	**857,168**
	Criminal	8,389	145,183	153,572
	Non-Criminal	6,139	697,457	703,596
2013 (at year-end)	**Total**	**13,842**	**858,662**	**872,504**
	Criminal	8,434	158,992	167,426
	Non-Criminal	5,408	699,670	705,078
2014 (at year-end)	**Total**	**13,607**	**883,249**	**896,856**
	Criminal	7,399	166,374	173,773
	Non-Criminal	6,208	716,875	723,083
2015 (at year-end)	**Total**	**11,044**	**920,063**	**931,107**
	Criminal	6,564	172,473	179,037
	Non-Criminal	4,480	747,590	752,070
2016 YTD through May 28, 2016	**Total**	**11,351**	**939,574**	**950,925**
	Criminal	6,235	175,923	182,158
	Non-Criminal	5,116	763,651	768,767

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8. The number of aliens present in the United States in active removal proceedings at the conclusion of the fiscal year. Please specify whether detained, non-detained, criminal, and non-criminal.

Aliens in Active Removal Proceedings by Detention and Criminality[4]

Fiscal Year	Criminality	Detained in Active Proceedings	Non-Detained in Active Proceedings	Total
2009 (at year-end)	**Total**	**18,532**	**497,097**	**515,629**
	Criminal	9,194	51,772	60,966
	Non-Criminal	9,338	445,325	454,663
2010 (at year-end)	**Total**	**21,953**	**515,519**	**537,472**
	Criminal	12,211	66,772	78,983
	Non-Criminal	9,742	448,747	458,489
2011 (at year-end)	**Total**	**19,462**	**546,343**	**565,805**
	Criminal	11,834	84,936	96,770
	Non-Criminal	7,628	461,407	469,035
2012 (at year-end)	**Total**	**17,875**	**577,891**	**595,766**
	Criminal	12,152	110,826	122,978
	Non-Criminal	5,723	467,065	472,788

[4] Defined as any active detained or active non-detained case, pending a final order with a case category of 2A, 2B, 5A, 8A, 8B, 8D, 8G, 8H, or 11 (defined below). This data can only be provided as a snapshot in time.

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2013 (at year-end)	**Total**	**16,943**	**639,032**	**655,975**
	Criminal	10,345	134,482	144,827
	Non-Criminal	6,598	504,550	511,148
2014 (at year-end)	**Total**	**14,942**	**781,761**	**796,703**
	Criminal	8,108	149,637	157,745
	Non-Criminal	6,834	632,124	638,958
2015 (at year-end)	**Total**	**19,038**	**844,867**	**863,905**
	Criminal	9,075	158,868	167,943
	Non-Criminal	9,963	685,999	695,962
2016 YTD through May 28, 2016	**Total**	**22,245**	**928,232**	**950,477**
	Criminal	9,336	163,906	173,242
	Non-Criminal	12,909	764,326	777,235

Case Category	Description
2A	Deportable – Under Adjudication by Immigration Judge
2B	Deportable – Under Adjudication by Board of Immigration Appeals
5A	Referred for Investigation – No Show for Hearing – No Final Order
8A	Excludable/Inadmissable – Hearing Not Commenced
8B	Excludable/Inadmissable – Under Adjudication by Immigration Judge
8D	Excludable/Inadmissable – Under Adjudication by Board of Immigration Appeals

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8G	Expedited Removal – Credible Fear Referral
8H	Expedited Removal – Status Claim Referral
11	Administrative Deportation/Removal

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9. The number of appeals filed by the Office of the Principal Legal Advisor (OPLA) (or its predecessor at the Immigration and Naturalization Service).

The Office of the Principal Legal Advisor (OPLA) is only able to partially respond to this query. In FY 2011, OPLA instituted an appellate review process where a dedicated division at headquarters reviews briefs submitted by OPLA prior to their filing with the Board of Immigration Appeals (BIA). Prior to that time, ICE has no data available to report. However, since that time, OPLA has been manually tracking the number of briefs reviewed for filing. The data reflected in this manual count is subject to human error and may be under-inclusive because some briefs may have been directly filed with the BIA outside of the newly established process. Also, the fiscal year ranges for the data correspond to the date of OPLA headquarters review, rather than the date of filing with the BIA, which could have some marginal impact on the accuracy of the data. And, OPLA does not categorize its appeal brief review efforts to capture "criminal status," interior versus border apprehension, or the type of removal or return conducted. Moreover, as EOIR maintains the official record of proceedings in immigration administrative proceedings, to include removal and bond cases, its metrics on the issues raised in this query would be the authoritative data set.

OPLA Briefs Filed in ICE Appeals

Fiscal Year	OPLA Briefs Filed in ICE Appeals
FY 2011	Approximately 723
FY 2012	Approximately 582
FY 2013	Approximately 386
FY 2014	Approximately 177
FY 2015	Approximately 338
FY 2016 (as of June 30, 2016)	Approximately 357

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10. The number of cases administratively closed based on the request of, or with the consent of, OPLA.

ICE does not statistically track the data as requested and cannot make estimates based on available case management data. As EOIR maintains the official record of proceedings in immigration administrative proceedings, to include removal and bond cases, its metrics on unappealed administrative closure orders issued by immigration judges would be the authoritative data set.

11. The number of cases terminated based on the request, or with the consent of, OPLA.

ICE does not statistically track the data as requested and cannot make estimates based on available case management data. As EOIR maintains the official record of proceedings in immigration administrative proceedings, to include removal and bond cases, its metrics on unappealed orders issued by immigration judges dismissing proceedings would be the authoritative data set.

12. The number of cases that OPLA refused to prosecute.

Given the available data, OPLA is only able to partially respond to this query. In developing this response, OPLA used the Principal Legal Advisor network (PLAnet), a dynamic case management system it employs for tracking case activity and attorney work product. As a dynamic system, the data reflected in PLAnet is subject to modification over time and does not remain static. Additionally, most data in PLAnet is manually entered by OPLA employees and is entered contemporaneously with the work performed. And, because FY 2014 was the first full fiscal year that PLAnet was in use by OPLA, earlier data cannot be reliably queried. OPLA produced the data below by conducting a search for data within PLAnet that includes indication of an NTA being rejected or an NTA not being filed. Please note that an NTA reviewed by OPLA may not culminate in the initiation of removal proceedings for a variety of reasons. For instance, the reviewing OPLA attorney(s) may determine that the charges proposed by the NTA-issuing official are legally insufficient. Or, in a case not otherwise determined to constitute an important federal interest for removal, OPLA may decline to pursue removal proceedings because

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a case is not an enforcement priority. And, in some cases, OPLA may identify equities that lead it to exercise prosecutorial discretion to decline to move forward with the case. Finally, please note that it may provide helpful context to consult the EOIR statistical yearbook for the number of cases initiated (i.e., NTAs filed) during each of the fiscal years included in this query. The yearbooks are publicly available at https://www.justice.gov/eoir/statistical-year-book.

NTAs Rejected by OPLA

Fiscal Year	Rejected NTAs
FY 2014	Approximately 12,000 Cases
FY 2015	Approximately 13,000 Cases
FY 2016 (through May 31, 2016)	Approximately 9,500 Cases

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13. The number of officers, agents, attorneys, and other personnel employed by ICE[5].

Data below is as of 5/28/16:

Job Group	Current Headcount
Attorney	1,078
Criminal Investigator	6,308
Deportation Officer	6,408
Other	6,028
Total	**19, 462**

***** "Other Personnel" includes both mission employees (including, but not limited to, Intelligence Specialists, Law Enforcement Specialists, and Legal Assistants) and support personnel.

[5] Data as of 10/29/16 from the National Finance Center via ICE Human Resource Reporting Repository. The data for "officers" excludes 94 Technical Enforcement Officers and 10 Immigration Enforcement Agents (IEA) who are law enforcement officers. The 10 IEAs are being transitioned into other occupations as part of ICE's elimination of the IEA position.

Question#:	21
Topic:	Visa Overstays
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Following this Subcommittee's hearing on January 20, 2016, entitled "Why is the Biometric Exit Tracking System Still Not in Place?," ICE received the following question for the record:

How many of the 416,500 aliens who overstayed their visa in FY 2015, and who were in the United States as of January 6, constitute enforcement priorities under the guidelines established by Secretary Johnson on November 20, 2014?

In response, ICE stated:

The November 2014 memorandum entitled "Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants," not only sets forth Department of Homeland Security (DHS)-wide civil immigration enforcement priorities focused on national security, border security, and public safety, but also establishes guidelines for the exercise of prosecutorial discretion. Aliens who overstay their terms of admission may be considered enforcement priorities within the Secretary's priorities framework, particularly pursuant to Priority 2(d), which prioritizes aliens who have significantly abused visa or visa waiver programs. A DHS Field Responsible Official considers, on a case-by-case basis, the totality of the circumstances in making a decision as to whether an alien has significantly abused such programs.

When U.S Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) receives a lead related to a potential visa overstay, the HSI Counterterrorism and Criminal Exploitation Unit individually reviews the lead and utilizes an internal prioritization process in order to categorize leads that are sent to the field for investigation. Remaining leads are then sent to ICE Enforcement and Removal Operations (ERO) for vetting at ERO targeting centers, where they are prioritized utilizing DHS's current enforcement priorities and referred to ERO field offices for action when appropriate.

The question asked ICE to quantify the number of aliens who overstayed their visas in Fiscal Year 2015 (who were still present in the United States on January 6 of this year) who constitute enforcement priorities under current the guidelines established by Secretary Johnson on November 20, 2014. Accordingly, please answer the question that was asked.

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Topic:	Visa Overstays
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Jeff Sessions
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Response: U.S. Immigration and Customs Enforcement (ICE) is unable to statistically report on the data requested. In order to provide this number, ICE would be required to manually review 416,500 records to determine whether the subject of each record meets an enforcement priority, has departed the United States, or has received an immigration benefit. Furthermore, if ICE were manually review each record, it would still likely lack sufficient information to discern whether a particular individual was an enforcement priority if that person had not yet come to the attention of ICE since their admission.

ICE invests a considerable amount of time and resources into vetting leads pertaining to nonimmigrant overstays and status violators in order to identify individuals who may pose national security and public safety concerns, and who may be in the United States in violation of law. ICE identifies those overstays and violators considered to pose the highest risk to national security and public safety and refers those leads to ICE Homeland Security Investigations field offices for additional investigation where warranted.

Additionally, ICE has systems in place to identify visa overstays if and when they are arrested for committing crimes in the United States. Through a federal information sharing capability between the Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI), ICE is notified when fingerprints submitted by law enforcement agencies to the FBI for criminal justice purposes match fingerprints that are contained in DHS's Automated Biometric Identification System. Those matches are then analyzed by ICE to determine whether the subject is an enforcement priority and whether ICE should pursue an enforcement action.

Question#:	22
Topic:	Priorities For Removal
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many of the estimated 12 million illegal aliens present in the United States today are priorities for removal under the guidelines established by Secretary Johnson on November 20, 2014?

Response: This is not information that ICE maintains. ICE reviews encounters for priority cases based upon the input streams across DHS's law enforcement programs.

Question#:	23
Topic:	Priority Enforcement Program
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Have any jurisdictions refused to participate in the Priority Enforcement Program? If so, which ones?

Response: An active outreach program led by the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) has resulted in more than 250 jurisdictions that had previously refused to accept detainers agreeing to participate in the Priority Enforcement Program (PE).

DHS believes a collaborative approach is the most effective strategy for engaging local jurisdictions and maintaining community trust. The public identification of jurisdictions both participating and not currently participating in PEP would likely have a detrimental impact on the Department's ability to secure the cooperation of local jurisdictions in PEP and could adversely impact law enforcement. ICE will, however, separately arrange to provide this information to the Chairman's offices.

Question#:	24
Topic:	Changing Migrant Demographics
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: In your testimony, you discuss the increased work of U.S. Immigration and Customs Enforcement (ICE) as a result of changing migrant demographics. What steps is ICE taking to adapt to these trends?

Response: Starting in spring 2014, U.S. Immigration and Customs Enforcement (ICE) shifted resources to respond to the influx of individuals, in particular family units and unaccompanied children from Central America, illegally crossing into the United States in the Rio Grande Valley area in South Texas.

Removals of nationals from non-contiguous countries require more ICE resources and take significantly more time than removals of Mexican nationals. As compared with Fiscal Year 2013 removals, there has been a decrease in the percentage of Mexican nationals and an increase in the percentage of nationals from non-contiguous countries, in particular from Northern Triangle countries (El Salvador, Guatemala, and Honduras). These removals require not only additional detention capacity, but also greater efforts such as securing a travel document from the countries of origin and coordinating the commercial or chartered removal flights. In response to this challenge, ICE has engaged diplomatically with all three Northern Triangle countries to expand and streamline removals to the region.

The Department of Homeland Security (DHS) is required to transfer an unaccompanied alien child to the care and custody of the Department of Health and Human Services (HHS) Office of Refugee Resettlement within 72 hours of determining that the child is unaccompanied, absent exceptional circumstances.[6] With the influx of unaccompanied children beginning in spring 2014, this requirement created another operational challenge for DHS. In response, on September 30, 2014, ICE awarded a contract for transportation services for unaccompanied children apprehended in the Rio Grande Valley. The ICE unaccompanied alien children transportation contractor, MVM, also coordinates with U.S. Customs and Border Protection and HHS for operational arrangements and estimated time of arrival notices. In order to ensure that the 72-hour transfer requirement is met, MVM works from the time of apprehension to manage total transportation time.

[6] *See* 8 U.S.C. § 1232(b)(3).

Question#:	25
Topic:	Steps Taken When a Foreign Country Refuses to Repatriate
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Please provide, in detail, the steps taken by ICE and the Department of State when a foreign country refuses to cooperate with the repatriation of its citizen. Include all possible steps.

Response: The Department of State (DOS) and Department of Homeland Security (DHS) work together to ensure that other countries accept the return of their nationals by pursuing a variety of tools to gain compliance with the Departments' shared expectations. Responses to a country's recalcitrance are, in part, guided by a 2011 Memorandum of Understanding (MOU) between U.S. Immigration and Customs Enforcement (ICE) and the DOS Bureau of Consular Affairs. They include:

- issue a demarche or series of demarches;
- hold a joint meeting with the Ambassador to the United States, Assistant Secretary for Consular Affairs, and Director of ICE;
- consider whether to provide notice of the U.S. Government's intent to formally determine that the subject country is not accepting the return of its nationals and that the U.S. Government intends to exercise authority under section 243(d) of the Immigration and Nationality Act (INA) to encourage compliance;
- consider discontinuing the granting of visas under section 243(d) of the INA; and
- call for an interagency meeting to discuss withholding of aid or other funding.

While this process sets forth a general protocol, specific tools—including the use of visa sanctions under INA § 243(d)—are considered by the DHS Secretary in consultation with DOS. Use of this authority must be considered in light of both the potential impact it could have on U.S. national security and foreign and domestic policy interests, particularly with respect to adverse effects on bilateral relations with a foreign partner, and whether visa restrictions will be an effective tool in gaining the country's compliance.

Concurrently, the two Departments will take other appropriate actions in addition to those discussed above , to include meetings by the DOS Assistant Secretary for Consular Affairs, other DOS representatives and ICE officials with in-country officials in recalcitrant countries to discuss repatriation issues and garner greater cooperation.

In furtherance of such collaboration, on March 11, 2015,DOS distributed an unclassified cable to all Chiefs of Mission reiterating the importance of ICE's mission, reminding the recipients of foreign governments' to accept their citizens for repatriation; educating them of potential consequences for foreign governments if they do not comply; and

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encouraging closer interagency cooperation abroad. DOS recently sent a similar cable again on August 24, 2016.

Additionally, on an individual basis when appropriate, ICE will cite to International Standards and Recommended Practices (SARP's) contained in Annex 9 to the Convention on International Civil Aviation, which, *inter alia*, provide for the issuance of travel documents to facilitate the return of a contracting state's nationals within 30 days of a request for such documents. Nearly 200 countries are parties to the Convention on International Civil Aviation. Nearly 200 countries are signatories to the Convention and have, therefore, agreed to follow the SARPs. In those instances when a country fails to issue a travel document for an individual where evidence of citizenship has been provided, ICE will submit an "Annex 9" letter to the country, referencing the the appropriate standards. A copy of the Annex 9 letter is also provided to DOS.

Question#:	26
Topic:	Tactics Used
Hearing:	Declining Deportations and Increasing Criminal Alien Releases - The Lawless Immigration Policies of the Obama Administration
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: During questioning, Mr. Homan mentioned the following tactics that might be used when countries refuse to repatriate their citizens: (1) the relevant U.S. Ambassador may approach the foreign government, and (2) visa restrictions may be imposed on the refusing country. Please provide statistics on how often these tactics were used over the past 5 years.

Response: ICE defers the answer to question (1) to U.S. Department of State. Regarding question (2), INA 243(d) visa restrictions were imposed on The Gambia on October 1, 2016, which is the only time they have been imposed in the last five years.