

Question#:	1
Topic:	Time and resources
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: As established at the hearing, ICE is removing fewer criminal aliens after being given more resources. Accordingly, I would like to get a better sense of what it is that ICE is spending its time and resources on. Therefore, for FY 2015, please answer the following:

How many total man-hours were spent training ICE personnel on the “enforcement priorities” established by Secretary Johnson on November 20, 2014? If you do not have precise numbers, please provide your best estimate.

Response: U.S. Immigration and Customs Enforcement (ICE) deployed its mandatory training module, “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” in January 2015. That month, approximately 14,000 ICE agents, officers, and attorneys completed the training, which focused on the priorities set forth in the Secretary’s November 2014 memorandum.

ICE deployed a second mandatory training module, “Priority Enforcement Program,” (PEP) in June 2015. Approximately 14,000 ICE agents, officers, and attorneys also completed this training. ICE also published for the field reference materials related to the revised enforcement priorities and PEP. Moreover, ICE Enforcement and Removal Operations (ERO) provided additional PEP training to managers in ICE ERO’s 24 field offices in August and September 2015. ICE ERO continues to provide PEP training to all new supervisors attending the Supervisory Leadership course in Dallas, Texas. Although ICE does not track this information, given the number of personnel trained, the agency estimates that it may have taken several thousand hours for the entirety of the workforce to be trained.

Question: How many total man-hours were spent on evaluating requests for stays of removal? If you do not have precise numbers, please provide your best estimate. Please also provide the total number of stays or removal granted.

Response: ICE is unable to provide an estimate on man-hours spent evaluating requests for stays of removal as such information is not recorded. ICE ERO field offices adjudicated approximately 8,500 requests for stays of removal in FY 2015. Stays may be granted for a variety of reasons, including allowing requisite time for an alien to get his or her affairs in order prior to self-removal, and Congressional private bill requests.

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Question: How many total man-hours were spent evaluating whether to exercise prosecutorial discretion of any kind for an alien? Of that number, how many man-hours were spent evaluating requests from aliens for prosecutorial discretion of any kind? If you do not have precise numbers, please provide your best estimate.

Response: ICE does not track the data as requested and cannot make estimates based on available case management data. In the normal course of conducting case management, ICE evaluates cases for both enforcement action and/or whether the exercise of prosecutorial discretion is appropriate on a case-by-case basis, reviewing and considering the facts of each individual case to inform such determinations.

Question: How many meetings did ICE personnel attend with non-profit organizations, attorneys representing aliens, or any other similar groups/individuals? If you do not have precise numbers, please provide your best estimate.

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

Question: How many phone calls did ICE personnel receive from, or make to, non-profit organizations, attorneys representing aliens, or any other similar groups/individuals? If you do not have precise numbers, please provide your best estimate.

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

Question: How many emails did ICE personnel receive from, or send to, non-profit organizations, attorneys representing aliens, or any other similar groups/individuals? If you do not have precise numbers, please provide your best estimate.

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

Question: How many enforcement decisions of any kind made by personnel in ICE's field offices – whether in the form of a declination of an administrative closure, a declination of a case termination, a declination of a stay of removal, or any similar action – were reviewed and/or overturned by personnel at ICE headquarters? Of those decisions to review or overturn, how many were initiated by a request from non-profit organizations, attorneys representing aliens, or any other similar groups/individuals?

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Response: ICE ERO headquarters received and reviewed 155 requests that were originally reviewed and adjudicated by ICE ERO field offices. These requests are reviewed by deportation officers and an appropriate law enforcement chain of command. Of the 155 requests reviewed by ICE ERO headquarters from aliens or their representatives, ICE ERO exercised prosecutorial discretion in 29 of the 155 requests.

Although not formally tracked, the ICE Office of the Principal Legal Advisor (OPLA) headquarters reviewed approximately 150 requests for prosecutorial discretion received from aliens or their representatives that were previously reviewed by OPLA field offices.

Question: How many man-hours were spent undertaking the headquarters-level review referenced in question (1)(g) above? If you do not have precise numbers, please provide your best estimate.

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

Question#:	2
Topic:	ICE OPLA
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: After this Committee held a hearing on July 21, 2015, I submitted a number of questions for the record, to which ICE did not provide reasonable responses. For example, I asked whether, since January 20, 2009, ICE has ever granted “prosecutorial discretion” in any manner to an alien charged with or convicted of a crime. In a lengthy non-responsive answer, ICE said that it is “unable to report the requested level of detail regarding the granting of prosecutorial discretion, as this information is not maintained in a systematically reportable manner.” This is not an accurate statement. ICE maintains multiple databases from which it can pull the requested information, including, but not limited to, the Principal Legal Advisor Network (PLAnet). PLAnet). Accordingly, please provide the requested information, in addition to these new specific data sets:

How many cases did the ICE Office of the Principal Legal Advisor (OPLA) administratively close in FY 2015? Please break down this number between cases involving aliens convicted of any criminal offense, and aliens not convicted of any criminal offense.

How many cases did ICE OPLA terminate in FY 2015? Please break down this number between cases involving aliens convicted of any criminal offense, and aliens not convicted of any criminal offense.

How many cases did ICE OPLA refuse to prosecute in FY 2015? Please break down this number between cases involving aliens convicted of any criminal offense, and aliens not convicted of any criminal offense.

Response: The U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (ICE OPLA) does not have the authority to administratively close removal proceedings once they are properly pending against an alien in immigration court. Rather, the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) possesses the authority to administratively close proceedings in the exercise of its independent judgement and discretion. *See generally Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012). ICE OPLA defers to EOIR for information regarding the number of cases an immigration judge administratively closed in FY 2015.

Additionally, under the Immigration and Nationality Act’s (INA) implementing regulations, ICE OPLA does not have the authority to terminate a removal proceeding once it is properly pending against an alien. This authority similarly rests with the immigration judge, who is a part of the EOIR. The immigration judge’s authority to

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dismiss or terminate a pending removal proceeding is found in 8 C.F.R. sections 1239.2(c) and (f).

In general, ICE OPLA does not refuse to prosecute cases but rather reviews most notices to appear (NTAs) prior to their filing with EOIR to ensure that they are legally sufficient and meet the Department of Homeland Security's (DHS) civil enforcement priorities as set forth in Secretary Johnson's November 20, 2014 memorandum entitled, "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants." If a case falls outside of DHS's civil enforcement priorities, ICE OPLA will generally not file the NTA. Also, ICE OPLA rejects NTAs that are not legally sufficient and returns them to the issuing agency for correction.

Based on unverified data currently available through ICE OPLA's records, there were approximately 13,000 cases in FY 2015 in which ICE OPLA rejected an NTA because it was legally insufficient or fell outside DHS's civil enforcement priorities. For context, the available data also reflects that there were more than 180,000 cases in FY 2015 where an NTA was issued or an initial master calendar hearing was held. Unfortunately, ICE OPLA's systems do not permit it to break down these statistics by whether the aliens in question have or have not been convicted of any criminal offense.

Question#:	3
Topic:	Alien encounter
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many aliens did ICE encounter in any way, but not take an enforcement action against, in FY 2015?

Of those, please specify how many were convicted of a criminal offense.

Of those, please specify how many had a final order of removal.

Please provide the same information requested in the Question above for each fiscal year since FY 2009.

Response: U.S. Immigration and Customs Enforcement (ICE) does not statistically track all aliens it does not take enforcement action against. DHS is currently exploring new statistical techniques and data collection strategies to better track aliens who are not subject to removal or return.

Question#:	4
Topic:	Aliens with criminal convictions
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many aliens with criminal convictions did ICE release from its custody as a matter of discretion in FY 2015?

Please provide the same information requested in the Question above for each fiscal year since FY 2009.

Response: Current law authorizes the release of certain aliens during the pendency of removal proceedings, including on bond and recognizance. *See* Immigration and Nationality Act (INA) § 236(a), 8 U.S.C. § 1226(a) (2016). Indeed, this detention authority providing for bond or other conditions of release has been a fixture of immigration law since the Immigration and Nationality Act of 1952. *See* former INA § 242(a). Congress created classes of individuals eligible for custody determinations as well as classes of individuals subject to mandatory detention under INA § 236(c). In instances where U.S. Immigration and Customs Enforcement (ICE) determines to continue detention in its discretion of an alien not subject to mandatory detention, such decisions are subject to review by the Department of Justice’s Executive Office for Immigration Review, which may redetermine bond amount imposed or order release without bond. Furthermore, in certain situations, an alien may be released pursuant to the requirements of legal precedent [e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001)].

Please see below for numbers of criminal aliens¹ released by ICE, consistent with controlling law and regulation, for Fiscal Years (FY) 2013, 2014, and 2015. ICE began tracking these releases in a statistically reportable manner in FY 2013.

Unique Criminal Aliens Released Pursuant to an ICE Custody Determination by Fiscal Year²

Fiscal Year	Individuals Released
2013	21,769
2014	17,360
2015	7,293

¹ ICE defines “criminal aliens” as aliens who have a criminal conviction.

² Releases are pursuant to an ICE custody determination under INA § 236(a).

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In March of 2015, ICE instituted enhanced oversight and release procedures with respect to discretionary custody determinations involving certain criminal aliens convicted of certain crimes, including senior manager review of discretionary release decisions for individuals convicted of crimes of violence. DHS is committed to making certain that both mandatory and discretionary releases are executed in a way that promotes public safety and protects our communities.

Question#:	5
Topic:	Final orders of removal
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: As of the date of your response to this question, how many aliens with final orders of removal remain in the United States?

Response: As of April 11, 2016, U.S. Immigration and Customs Enforcement (ICE) records indicate that there are 946,662 aliens with final orders of removal who may remain in the United States.³ This number includes individuals who cannot lawfully be removed at the present time due to certain protections afforded under the Immigration and Nationality Act, such as temporary protected 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 appropriate monitoring conditions due to case-specific circumstances, such as the requirements of *Zadvydas v. Davis*, 533 U.S. 678 (2001); and individuals who are enforcement priorities and are targeted for removal through ICE's increased at-large operations.

Question: Of those, please specify how many have ever been convicted of any criminal offense.

Response: As of April 11, 2016, of the aliens with final orders of removal who remain in the United States, 181,338 have been convicted of a felony, misdemeanor, or other offense.

Question: Of those, please specify how many are detained, by criminal status, and how many are not detained.

Response: As of April 11, 2016, of the 181,338 criminal aliens with final orders of removal who remain in the United States, 6,383 are detained, and 174,995 are not detained by ICE.

Question: Please provide the same information requested in the Question above for each fiscal year since FY 2009.

³ This figure is based on aliens who have an active case with ICE. Aliens with an active case with ICE include those who are in immigration proceedings, as well as those who have been ordered removed but whom ICE is still supervising on the non-detained docket, coordinating removal, and/or has been unable to confirm departure. Not included in aliens who have an active case with ICE are aliens with cases that are closed, and aliens that were removed by U.S. Customs and Border Protection, or not turned over to ICE.

Question#:	5
Topic:	Final orders of removal
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
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Response:

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Final Orders of Removal	901,760	881,298	854,922	857,168	872,504	896,856	931,107
Convicted of Criminal Offense	120,731	128,421	136,928	153,572	167,426	173,773	179,037
Detained ⁴	5,673	5,862	6,665	8,389	8,434	7,399	6,564
Non-Detained	115,058	122,559	130,263	145,183	158,992	166,374	172,473

⁴ Detained and non-detained data represent snapshot values for a given time. For this report, the end of fiscal year (YE) data was used to represent the fiscal year. The figures contained in this response for YE FY 2009 through FY 2015 are historical and remain static.

Question#:	6
Topic:	Removal proceedings
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: As of the date of your response to this question, how many aliens are currently in removal proceedings?

Response: U.S. Immigration and Customs Enforcement defers this response to the Department of Justice's Executive Office for Immigration Review as it has the most accurate information regarding cases currently pending on its docket.

Question: Of those, please specify how many have ever been convicted of any criminal offense.

Response: See response above.

Question: Of those, please specify how many are detained – by criminal status – and how many are not detained.

Response: See response above.

Question: Please provide the same information requested in the question above for each fiscal year since FY 2009.

Response: See response above.

Question#:	7
Topic:	Removed from the United States
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many individuals who were admitted to the United States as refugees, regardless of any subsequent adjustment of status and naturalization, have been removed from the United States for any reason since September 11, 2001? Please break down the data on these individuals by year, criminality, basis for removal, and nexus to national security concerns of any kind.

Response: The Immigration and Nationality Act's (INA) removal provisions do not distinguish between aliens admitted as refugees and those admitted pursuant to other statutes. Given this, U.S. Immigration and Customs Enforcement (ICE) databases are not configured to report specifically on refugee-centric removals.

Question#:	8
Topic:	Removable criminal aliens
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: In response to a letter that I sent with other members of the Committee in July, ICE said that it could not provide the number of aliens present in the United States who have ever been convicted of a criminal offense, because “it does not have sufficient information to determine alienage or criminality regarding all individuals present in the United States who may be aliens.” However – and understanding that it involves a slightly different set of data – in the Congressional Budget Justification that DHS submitted for FY 2013, ICE estimated that “1.9 million removable criminal aliens” were in the United States at that time. Please provide the total estimated number of removable criminal aliens present in the United States as of the day you respond to these questions.

Response: The Department of Homeland Security’s Office of Immigration Statistics is working to produce an estimate of the number of removable criminal aliens in the United States. At this time, there is not sufficient information to determine alienage or criminality regarding all individuals present in the United States who may be aliens.

Question#:	9
Topic:	Federal Bureau of Prisons
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: As you know, pursuant to United States Sentencing Commission Amendment 782, the Federal Bureau of Prisons is releasing thousands of prisoners from its custody before their original release dates, including thousands of criminal aliens.

1. How many aliens the Bureau of Prisons has already released pursuant to this amendment?

Response: United States Sentencing Commission (USSC) Amendment 782, which was passed in November 2014, lowered the sentencing guidelines applicable to base offense levels in the Drug Quantity Table.⁵ Since December 2014, U.S. Immigration and Customs Enforcement (ICE) has been working closely with the Department of Justice Bureau of Prisons (BOP) to identify foreign-born inmates both eligible and approved for such sentence reductions. A total of 1,772 foreign-born inmates were released on October 30, 2015 and November 2, 2015. Beyond this initial 2-day discharge in 2015, the remaining 4,191 releases will be spread out over the course of several decades through the year 2048. Please note these numbers are expected to fluctuate if federal judges grant more motions for sentence reductions. In addition, as federal judges decide appeals, the number of sentence reductions for foreign-born inmates is expected to change.

Question 2: How many aliens the Bureau of Prisons expects to release pursuant to this amendment?

Response: Please see response to Question 1.

Question 3: Of the aliens who have already been released, how many have been taken into ICE custody?

Response: In order to ensure that aliens amenable to removal from the United States would be remanded to ICE custody upon release, ICE worked with BOP to confirm active immigration detainers active were lodged on all aliens subject to removal who were released by BOP during the initial 2-day discharge in 2015. As such, all inmates released in the initial 2-day discharge were interviewed by ICE to confirm alienage,

⁵ For the applicable substances, quantities, and subsequent base offense levels in the Drug Quantity Table, please visit <http://www.ussc.gov/guidelines-manual/2012/2012-2d11>.

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criminal history, and removability, as well as to facilitate the completion of the necessary documentation to issue an administrative removal order, or alternatively, the issuance of a charging document to initiate removal proceedings. ICE will do the same for subsequent releases. While ICE intends to expeditiously pursue removal for all individuals with final orders, ICE assesses each case once the alien is remanded to ICE custody in order to make appropriate custodial decisions, to include application of prosecutorial discretion and, for post-order aliens, whether release is appropriate or required pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001).

ICE can confirm that, as of May 14, 2016, more than 90 percent of the foreign-born individuals released by BOP in the initial 2-day discharge have already been removed from the United States.

Question 4: Of the aliens who have already been released, how many have not been taken into ICE custody?

Response: ICE took *all* of the 1,772 foreign-born inmates who were released on October 30, 2015 and November 2, 2015 by BOP into its custody. Of the 1,772 individuals taken into ICE custody during the initial 2-day BOP discharge, ICE released only 22 individuals, including 17 who were released pursuant to *Zadvydas* *after* determining that there was no significant likelihood of removal in the reasonably foreseeable future. In addition, in making its initial custody determinations, ICE identified five individuals with significant medical conditions, rendering their detention and/or removal highly problematic. In these medical cases, ICE exercised prosecutorial discretion with regard to taking these individuals into custody. ICE is working cooperatively with U.S. Probation and Pretrial Services so that appropriate accommodations can be made for these individuals.

Question 5: For each alien who was not taken into ICE custody, can you please provide an explanation to us?

Response: Please see response to Question 4.

Question 6: Of the aliens that you expect the Bureau of Prisons to release in the future, how many does ICE anticipate taking into its custody? For each whom ICE will not take into its custody, please provide a detailed explanation.

Response: Please see response to Question 3.

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In addition, due to a recent change in BOP processes, BOP now offers ICE, instead of state or local jurisdictions, the first opportunity to take into custody a removable alien.

Question#:	10
Topic:	Family detention 1
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: What is ICE's current policy regarding access by attorneys to family detention facilities? Please provide a copy of the policy.

Response: Over the past several months, U.S. Immigration and Customs Enforcement (ICE) has implemented significant modifications regarding the manner in which attorney access in family residential centers is facilitated. In order to ensure consistency, ICE also on October 30, 2015 issued a standard operating procedure (SOP) applicable to legal access and legal visitation at all ICE family residential centers. The SOP is consistent with the existing Family Residential Standards and provides greater detail with regard to operational practices locally. A copy of the SOP is enclosed.

Question: Does ICE require that this policy be posted at its family detention facilities? If so, where in the detention facilities is the policy posted?

Response: Yes. The Family Residential Standards require family residential centers to post attorney access and visitation rules and hours in the visitor waiting areas and housing areas; provide residents written notification of visitation rules and hours in the resident handbook; and make the schedule and procedures available to the public, both in written form and telephonically. ICE has made the SOP public, and it is available at the following link:
<https://www.ice.gov/sites/default/files/documents/Document/2016/acfrcBriefingMaterialsMar2016.pdf>.

Question: Which ICE officials are responsible for implementing this policy at each of the family detention facilities? Do the officials check periodically to determine whether or not the policy is being followed?

Response: Compliance with the ICE Family Residential Standards is monitored by an extensive ICE presence in and oversight of the family residential centers, including a dedicated Detention Service Manager, who monitors daily operations as well as interaction between staff and facility residents. ICE also employs a variety of methods to monitor each family residential center. One such method is a robust independent compliance inspection program consisting of monthly audits conducted by independent consultants with expertise in child development and conditions of confinement. In all cases, appropriate corrective action is taken when needed.

Question#:	11
Topic:	Family detention 2
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: What role, if any, do contractors have in controlling attorneys' access to the family detention facilities?

How many attorneys have been banned from ICE family detention facilities to date? What are the duration of these bans? What is the justification for these bans? Have any bans been lifted?

Response: While U.S. Immigration and Customs Enforcement (ICE) contracts with other entities to assist with family residential center operations at each site, including managing visitor and attorney access to the facilities, contractors are required to comply with the Family Residential Standards and facility policies and processes. Their compliance is monitored by ICE staff.

With regard to bans, earlier this year, two attorneys were asked to leave a family residential center for violating existing policies. The first incident involved an individual who entered an unauthorized area, acted in a disruptive manner, and physically attempted to thwart an ICE supervisor from carrying out her duties. The second incident involved an individual who entered an unauthorized area, disrupted a staff briefing, and became hostile towards ICE staff. Future requests for access to the facility by these individuals will be considered on a case-by-case basis.

Generally, any visitor who exhibits inappropriate or unprofessional behavior, violates visitation policies, disrupts operations, or creates security issues may be asked to leave a family residential center in accordance with the Family Residential Standards. Any visitor's failure to abide by the visitation rules may result in immediate cancellation or termination of a visit and/or suspension of future visitation privileges. This process is necessary to ensure the safety, security, and good order of the facility, its staff, and residents.

Question#:	12
Topic:	Family detention 3
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: Please explain what role, if any, you or officials at ICE or DHS headquarters have in reviewing a determination to ban an attorney from an ICE family detention facility or to lift such a ban.

Response: Although the facility administrator may take immediate action to cancel or terminate a visit, a determination to suspend future visitation privileges is made by the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations (ERO) Field Office Director (FOD) with jurisdiction over that facility. The FOD is also responsible for considering requests to reinstate visitation privileges. ERO field office decisions concerning visitation privileges are also reviewed at the headquarters level, as appropriate.

Question#:	13
Topic:	Family detention 4
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: In the family detention context, is it ICE policy or practice to restrict or prohibit detained individuals' access to counsel during meetings at which the timing and conditions of their release are determined? Is it ICE policy or practice to have individuals in family detention—who have secured legal representation—sign documents or make decisions affecting their legal case or the terms of their custody and/or release outside the presence of their attorney? If so, which decisions, and which documents? Please explain.

Response: It is not U.S. Immigration and Customs Enforcement policy or practice to restrict or prohibit Family Residential Center residents' access to legal counsel. While a resident may be served with documentation outside the presence of his or her legal representative, a resident is not required to make legal decisions without the opportunity to consult with his or her legal representative.

Question#:	14
Topic:	Family detention 5
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: In the family detention context, what information do detained individuals receive from ICE regarding the possibility of bond as a condition of release?

Response: When U.S. Immigration and Customs Enforcement (ICE) serves a resident with a Notice to Appear, the ICE officer is also required to serve the resident a Notice of Custody Determination if the resident is detained pursuant to section 236 of the Immigration and Nationality Act. The Notice of Custody Determination explains the resident's initial custody determination and advises the resident of their right to seek a custody redetermination with the immigration judge. The Department of Justice's Executive Office for Immigration Review has programs that provide legal information to detained individuals. U.S. Immigration and Customs Enforcement defers to the Department of Justice's Executive Office for Immigration Review for more information in its programs.

Question: In the family detention context, what information do detained individuals receive from ICE regarding their right to seek a custody redetermination before an immigration judge?

Response: Residents who arrive at family residential centers generally fall into the Expedited Removal process or Reinstatement of Removal process. In both types of cases, individuals do not initially qualify for custody redetermination by an immigration judge.

However, if a resident, who is not an arriving alien, is processed for Expedited Removal and is determined by a U.S. Citizenship and Immigration Services (USCIS) asylum officer to possess a credible fear, the asylum office will issue a Notice to Appear, rendering them potentially eligible for release on bond or other conditions. As stated in the response to Question 8 above, such residents are provided with a Form I-286, Notice of Custody Determination, which advises them of their right to seek a hearing before an immigration judge to review ICE's custody determination.

Question: In the family detention context, what information do detained individuals receive from ICE regarding ankle monitors?

Response: Upon release, individuals who are enrolled in Alternatives to Detention with an ankle monitor receive a briefing on how the system operates and how to maintain and charge the device. Additionally, all Alternatives to Detention enrollees receive a

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pamphlet that explains the charging and messaging operations of the Global Positioning System ankle monitors as well as a handout with reporting instructions, location, and emergency contact information for their reporting office.

Question#:	15
Topic:	Noncitizen's ankle monitor
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: What written guidance do field offices-whether ICE or contractors-receive from DHS or ICE regarding the timing and circumstances under which a noncitizen's ankle monitor will be removed, and their supervision de-escalated?

Response: As a part of case management, U.S. Immigration and Customs Enforcement (ICE) recommends to the field that Deportation Officers conduct regular and recurring case reviews to make determinations on compliance. For those participants who are determined to be compliant with their release conditions, Deportation Officers should consider de-escalation of case management and the technology assigned.

Question#:	16
Topic:	Flores litigation
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Al Franken
Committee:	JUDICIARY (SENATE)

Question: What steps has ICE taken to come into compliance with the recent federal court order by Judge Dolly Gee in the Flores litigation?

Response: The Department of Homeland Security (DHS) continues to monitor and evaluate its processes in order to remain in compliance with the order of the district court pending appeal of the decision. DHS is processing families who assert a fear of return as expeditiously as possible to screen for credible fear and reasonable fear claims.

Question#:	17
Topic:	Family Case Management Program
Hearing:	Oversight of the Administration's Criminal Alien Removal Policies
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I understand that ICE has started a new alternative to detention initiative, the Family Case Management Program (FCMP), and that Geo Care, a private company, will serve as the umbrella provider for the program. ICE has stated that partnering with community-based organizations “will be a cornerstone of the FCMP.”

What steps will you take to involve local community organizations and service providers throughout the duration of the FCMP?

Response: GEO Care and U.S. Immigration and Customs Enforcement (ICE) recognize the expertise and experience of community-based immigration assistance organizations that have a long history of assisting recently-arriving populations. Building partnerships with these local community providers to promote compliance with immigration obligations has been a key focus from the inception of the Family Case Management Program (FCMP). GEO Care submitted its proposal with notice of intent letters and has since finalized formal partnerships with community-based social service organizations to provide holistic case management services. These services include:

- Assessments and individualized family service plans;
- Orientation and education to participants about their legal rights and responsibilities;
- Tracking and monitoring of immigration obligations (to include attendance at immigration court hearings);
- Referrals to legal services and community resources;
- Assistance with transportation logistics (if an emergency and needed only to attend a required ICE check-in, court appearance, or to further removal); and
- Safe repatriation and reintegration planning for participants who are returning to their home countries.

ICE is enrolling participants in five metropolitan areas, including Baltimore/Washington DC, Chicago, Los Angeles, Miami, and New York City/Newark. Each region has a mix of both GEO Care case managers and case managers from partnered community-based organizations (CBOs).

As of January 15, 2016, GEO Care has finalized Case Management partnerships with the following groups:

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- Baltimore/Washington DC – Bethany Christian Services;
- Chicago – Frida Kahlo Community Organization;
- Los Angeles – International Institute of Los Angeles;
- Miami – Youth Co-Op, Inc; and
- New York City/Newark – Catholic Charities NYC.

Additional partnerships to provide Know Your Rights presentations have also been finalized. These include:

- Baltimore/Washington DC – Bethany Christian Services, Catholic Charities Esperanza Center, and Immigration Solutions Group;
- Chicago – Frida Kahlo Community Organization;
- Los Angeles – International Institute of Los Angeles, Cinthia Rivera;
- Miami – Youth Co-Op, Inc, Guatemalan Maya Center; and
- New York City/Newark – Catholic Charities NYC and Lutheran Social Services of NYC.

Question: What plans are in place to monitor outcomes and the quality of services provided to immigrant families under the contract?

Response: Throughout the contract period, ICE Enforcement and Removal Operations (ERO) will evaluate the FCMP, including the contractor's delivery of FCMP deliverables, using a set of defined performance metrics. Ultimately, the success of the program will be judged based on the extent to which participants comply with their immigration obligations (to include attendance at all immigration court hearings and other ICE reporting requirements). These compliance rates will presumably be directly influenced by the quality of services provided to family units. Thus, it is in the best interest of ICE to ensure that GEO Care and all partnered CBOs perform their required services, as defined in the program statement of objectives.

Per the contract, the contractor is required to provide regular participant compliance reports to ICE including, but not limited to, ICE reporting dates, immigration court hearings, and services received by participants. FCMP case managers are also required to report any serious or emergent incidents, including loss of accountability of a participant's whereabouts, participant arrest on criminal charges or contact with law enforcement, or participant hospitalization. It is important to note that the contractor is contractually obligated to provide access to the set of defined program services but will not be responsible if, after reasonable efforts, FCMP participants fail to take advantage of services offered.

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Question: What steps are you taking to address the potential conflict of interest posed by contracting with a private company?

Response: ICE does not believe there is a conflict of interest. ICE has contracted and continues to contract with private companies to provide a variety of services related to alternatives to detention, delivery of healthcare, transportation, telephone access, legal access, etc. Any issues related to contract compliance or the need to take remedial action against a contractor is done in accordance with the Federal Acquisition Regulation. ERO closely monitors GEO Care's performance as a matter of contractual obligation.