Question#:	33
Topic:	Family Separation
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Although the government claims to have stopped the policy of family separation, I am worried it is still ongoing. Earlier this year, the government admitted in court that it separated 245 families between July 2018 and January 2019. We have not been provided updated data. Based on past testimony, I know the government justifies these separations on the basis that the parents either committed fraud or posed a danger to the child. My understanding is that these separations are often being made by one Border Patrol officer in the field, with little or no review. This means that Border Patrol officers may be wrongfully separating families - and there is nothing that parents can do about it.

How can parents challenge a border patrol officer's decision to take away their children?

Response: There is no mechanism in place for a parent/legal guardian to challenge the initial decision to separate their child. CBP adheres to the preliminary injunction in *Ms L v ICE*, which describes circumstances under which a parent can be separated from their child (*e.g.* where the parent is unfit or presents a danger to the child; where the parent has a criminal history; where the parent has a communicable disease; in cases of families apprehended in the interior of the country).

CBP provides separated parents and legal guardians with a tear sheet that identifies the basis of separation. It also provides an ICE email address to which additional information relating to the basis for separation can be provided. ICE reviews this information, and if it determines that the initial basis for separation was incorrect, or circumstances have changed such that separation is no longer warranted, ICE will work with HHS to facilitate reunification. CBP generally does not provide reasons for separation to the adult if doing so would create a risk to the child's safety or would not otherwise be in the child's best interests, and will not do so in situations in which CBP suspects fraud, smuggling, and/or trafficking.

Additionally, CBP documents the reasons for the separation in its electronic systems of records, and provides information about the separation to both ICE ERO and HHS ORR. ICE and HHS make the final determination to reunify or maintain separation.

Question: What is the process for reviewing such determinations?

Response: For the U.S. Border Patrol, the Chief Patrol Agent of each sector is the approving official after reviewing all relevant facts and known information for each separation. This approval may not be delegated below the GS-14 Watch Commander position.

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For the Office of Field Operations, in instances where a separation is warranted, a senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14).

Question: Has a Border Patrol agent ever been held accountable for wrongfully separating a family?

Response: No Border Patrol Agent has been formally disciplined for their role in separating a detained child from their parent/legal guardian. The decision to separate a parent/legal guardian from a child is a serious matter with several layers of review before approval. Available evidence of each individual case is analyzed to ensure that the decision meets the requirements in the *Ms. L v ICE* preliminary injunction and the June 20, 2018 Executive Order.

Question#:	34
Topic:	Reunification
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: In the event that a Border Patrol officer does wrongfully separate a family, it's important that we have a way to reunify them.

Is there a system in place that allows both the Department of Homeland Security and the Department of Health and Human Services to track children and parents who have been separated?

Response: DHS and HHS share information regarding separated parents (including information about the location of both parent and child) on a regular and recurring basis. DHS and HHS also work together to reunify families where reunification is deemed appropriatebased on new information or changed underlying circumstances (*e.g.*, where a family was separated solely because a parent was hospitalized, and the parent subsequently recovers, the family is reunified). The agencies also work together to reunify a parent and child for removal where reunification prior to removal was not previously assessed to be appropriate.

Question#:	35
Topic:	Solitary Confinement
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: A government whistleblower recently revealed that, under both the Obama and Trump Administrations, immigration detention officials were placing migrants in isolation to punish them for minor offenses and to segregate hunger strikers, LGBTQ detainees, and people with disabilities. In nearly a third of the cases, detainees were described as having a mental illness, which made them especially vulnerable to breaking down if locked up alone in a small cell.

What are you doing to limit the use of isolation in immigration detention, particularly for mentally ill or otherwise vulnerable detainees?

Are LGBTQ detainees more likely to be placed in solitary confinement?

Will you provide this Committee with rates of solitary confinement for LGBTQ detainees relative to the general population?

Response: ICE places vulnerable populations in administrative segregation—which is distinct from disciplinary segregation—as a last resort to ensure the safety of the detainee or others when no other housing options exist, or at the request of the detainee ("protective custody"). Further, with regard to disciplinary segregation, ICE detention standards prescribe an acceptable range of time in segregation that may be imposed for each infraction. Minor rule violations are handled in accordance with ICE detention standards at the discretion of the on-site detention officer and supervisory staff and do not result in disciplinary segregation.

If a detainee is diagnosed with, or suspected of having, a mental illness and commits a rule violation, ICE PBNDS 2011 and PBNDS 2011, Revision 2016, require a mental health professional provide consultation and input as to a detainee's ability to effectively participate in a disciplinary hearing as well as whether the mental illness had an impact on the offense. Further, under PBNDS 2011, if a detainee is found to be incapable of determining right from wrong, the facility cannot hold a detainee accountable for the suspected rule violation from a disciplinary standpoint (although those who present a danger to themselves or others may be placed in administrative segregation if necessary to ensure safety).

ICE has policies and directives covering the care provided to gender-nonconforming detainees (including transfers and segregation), and all placements into segregated housing must comply with applicable ICE detention standards. Because detainees have the option of self-reporting as lesbian, gay, bisexual, transgender, or intersex when they are placed into segregation, ICE maintains this information in the Segregation Review Management System (SRMS) for

individuals who wish to provide it to the agency, but it is unable to statistically report on this information across the entire detained population.

ICE provides several levels of oversight to ensure that detainees in our custody reside in safe, secure, and humane environments and under the appropriate conditions of confinement. In 2013, ICE issued Directive 11065.1, *Review of the Use of Segregation for ICE Detainees*[6] (Segregation Directive), requiring agency reporting, review, and oversight of every facility decision to place a detainee in segregated housing for over 14 days, and immediate reporting and review of segregation placements when heightened concerns exist based on a detainee's health or other factors. ICE utilizes SRMS to store, track, review, and manage data associated with segregation placements for detainees with special vulnerabilities.

The ICE Office of Professional Responsibility (OPR) also conducts independent reviews of ICE ERO segregation practices through its compliance inspections and Self-Inspection Program (SIP). Specifically, ICE OPR routinely reviews facility segregation issues during their facility compliance inspections, compares those findings with the case management records, and brings any discrepancies to the attention of facility management, local ICE ERO field office personnel, and ICE headquarters. In FY 2019, ICE OPR has also supplemented ICE ERO's Self Inspections workbook to include a section that enables ICE ERO to assess its compliance with the ICE Segregation Directive and corresponding national detention standards. Any practices identified by the SIP to be out of compliance are provided to ICE ERO headquarters to address with field office leadership for a timely remedy.

The decision of where to house a detainee is made on a case-by-case basis, considering several factors, such as (but not limited to) a detainee's expressed preference, the safety and well-being of the detainee or other detainees, and the detainee's risk classification level.

In FY 2018, 1,419[7] detainees were placed into administrative segregation; 95 (or 7 percent) of those detainees self-identified as lesbian, gay, bisexual, and/or transgender (LGBT). Since 2011, ICE has continued to explore less-restrictive housing options for LGBT individuals. In 2014, ICE established a first-of-its kind dedicated unit for transgender women in California. Following the success of its establishment, ICE opened a similar unit in the Cibola County Correctional Center (Cibola) in New Mexico in 2017. The transgender unit in Cibola can house up to 60 transgender women, with common areas, televisions, microwaves, a library, and access to outdoor recreation. ICE trained medical and detention staff within the facility on the best practices for the care of transgender individuals, hired a dedicated Custody Resource

[6] https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf
[7] This number reflects the count of detainees placed in administrative segregation within a fiscal year. An individual detainee may be placed in segregation multiple times within the fiscal year.

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Coordinator to ensure detainee access to care and services, and facilitated partnerships with local transgender organizations for peer support and other services and programming.

Additionally, in June 2015, ICE ERO issued *Further Guidance Regarding the Care of Transgender Detainees*[8] (Transgender Care Memorandum), which provides additional guidance on how to best care for transgender individuals in custodial settings. This guidance was the result of a six-month agency working group that examined transgender-related issues with LGBT subject-matter experts, sought input from ICE ERO field offices and transgender individuals, and visited various non-federal facilities across the country to observe best practices. The guidance is intended to complement existing DHS policies and standards (including the DHS Prison Rape Elimination Act Standards) and ICE PBNDS 2011.

The Transgender Care Memorandum touches multiple areas of the ICE detention lifecycle to better serve transgender individuals. For example, the memorandum resulted in updating applicable ICE data systems to record an individual's self-identification as transgender. Capturing this information enables ICE to identify the number and location of transgender detainees in custody nationwide, and to better monitor the cases and conditions under which detainees are being housed. Also, in support of the Transgender Care Memorandum and to further promote consistency in the care and treatment of this population, ICE ERO created an interactive training video that covers LGBT sensitivity and transgender detainee care. ICE also developed several tools to ensure an individual's gender identity can be identified earlier in the custodial life cycle.

[8] https://www.ice.gov/sites/default/files/documents/Document/2015/TransgenderCareMemorandum.pdf

Question#:	36
Topic:	Medina Death
Hearing:	The Secure and Protect Act: A Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Within the past year, two transgender female migrants have died in immigration detention or soon after leaving immigration detention. The latest was Johana Medina Leon, who died on June 1, four days after leaving an ICE detention facility. ICE is required by Congress to report on any deaths of migrants in detention, but it did not report Medina's death. ICE claimed it was not obligated to do so because Medina was no longer in ICE custody at the time of her death. She was, however, in ICE custody while her health deteriorated from April 11 to May 28, during which time she told agents at Otero County Processing Center that she needed medication. On May 28, Medina asked to be tested for HIV and received a positive result. On that same day, ICE said it had reviewed her case and released her from its detention on parole.

Why didn't Ms. Medina receive medical care when she requested it?

Response: Johana Medina Leon was booked into the Otero County Processing Center (OCPC) on April 14, 2019. According to OCPC's intake screening records, Ms. Medina Leon denied having any current medical, mental health, or dental problems. She also denied having any symptoms of communicable illness or chronic diagnoses, and denied taking any medications.

Ms. Medina Leon's medical records reflect that she completed sick call requests for evaluation of her medical concerns on April 15, May 11, May 13, and May 21, 2019. At each of these encounters, OCPC's nursing staff evaluated Ms. Medina Leon in a timely manner.

On April 15, 2019, Ms. Medina Leon submitted a sick call request and a registered nurse (RN) evaluated her on April 16, 2019. On May 11, 2019, Ms. Medina Leon submitted a sick call request; this sick call request was received by a licensed vocational nurse on May 12, 2019, and an RN evaluated her on May 13, 2019. Further, on May 13, 2019, Ms. Medina Leon submitted a sick call request and an RN evaluated her on the same day, May 13, 2019. On May 21, 2019, Ms. Medina Leon submitted another sick call request and an RN evaluated her on May 24, 2019. On that date, during Ms. Medina Leon's sick call evaluation with the RN, Ms. Medina Leon requested to speak to a provider and the RN referred her to the advanced practice provider (APP). There is no indication in the medical records that Ms. Medina Leon requested to see a physician while in ICE custody prior to May 24, 2019. Subsequently, on May 27, 2019, Ms. Medina Leon submitted a sick call request and a medical doctor evaluated her that same day.

On May 28, 2019, Ms. Medina Leon reported having chest pain with radiation to her left arm, shoulder, and back. She was hypotensive (low blood pressure), presented with hematuria (blood in urine), a potassium level of 2.7 (low), and her electrocardiogram (EKG) showed abnormal findings. As a result, OCPC staff transferred Ms. Medina Leon to the Del Sol Medical Center emergency department in El Paso, Texas, for further evaluation.

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Hearing:	The Secure and Protect Act: A Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
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Question: What actions did ICE take to provide Ms. Medina with medical care prior to her HIV diagnosis?

Response: Subsequent to her admission to OCPC on April 14, 2019, ICE performed an intake screening on Ms. Medina Leon. She was also evaluated by OCPC's medical staff as a result of her sick call requests dated April 15, May 11, May 13, May 21, and May 27, 2019.

After Ms. Medina Leon's sick call request on April 15, 2019, an RN evaluated her on April 16, 2019 for chronic gastritis and reviewed her request for a bland diet. The RN prescribed Ms. Medina Leon an antacid, anti-gas medications, and instructed her to return to the clinic in 6 hours if symptoms worsened or if she noticed no improvement within 24 hours. The APP did not evaluate Ms. Medina Leon, but added a bland diet and ranitidine at bedtime to her treatment regimen. In response to Ms. Medina Leon's sick call request dated May 11, 2019, an RN evaluated her on May 13, 2019 for gastritis, not eating well at the facility, and pain in her stomach. The RN documented Ms. Medina Leon's report that her antacid medication and ranitidine seemed to help, but briefly. The RN further noted that Ms. Medina Leon would continue with current orders and referred Ms. Medina Leon to an APP for further evaluation. In response to Ms. Medina Leon's sick call request dated May 13, the APP refilled Ms. Medina Leon's ranitidine and anti-gas medication on May 14, 2019, without a face-to-face encounter. Ms. Medina Leon's sick call request dated May 21, 2019, was addressed on May 24, 2019, when an RN evaluated Ms. Medina Leon for acid reflux, nausea, vomiting, weight loss, and lack of appetite.

On May 24, 2019, the RN also noted that this was Ms. Medina Leon's second visit to the clinic within 10 days and third evaluation within the month. The RN referred Ms. Medina Leon to the APP for further evaluation and to the commissary for elective over-the-counter medications. Lastly, in response to Ms. Medina Leon's sick call request dated May 27, 2019, an RN evaluated Ms. Medina Leon on the same day for a rash on her forehead and weight loss. The RN referred Ms. Medina Leon to a provider for further evaluation and instructed Ms. Medina Leon to avoid scratching or touching the affected area and to keep the area clean and dry.

Additionally, OCPC's medical doctor evaluated Ms. Medina Leon on May 27, 2019. On May 28, 2019, Ms. Medina Leon reported having chest pain with radiation to her left arm, shoulder, and back. She became hypotensive, presented with hematuria, had a low potassium level, and her EKG showed abnormal findings. As a result, Ms. Medina Leon was transferred to the Del Sol Medical Center emergency department in El Paso, Texas, for further evaluation.

Question#:	36
Topic:	Medina Death
Hearing:	The Secure and Protect Act: A Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: On what grounds did ICE parole Ms. Medina? Was she paroled before or after her positive HIV test? Did her diagnosis have anything to do with ICE's decision to release her?

Response: On May 28, 2019, ICE released Ms. Medina Leon on parole while she was still hospitalized at the Del Sol Medical Center. The decision to release Ms. Medina Leon on parole was made in accordance with ICE Directive 11002.1, *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*. This directive provides guidance to ICE personnel for exercising their discretion to consider parole of arriving aliens who have been found to have a credible fear of persecution or torture by U.S. Citizenship and Immigration Services.

Question#:	37
Topic:	Notify Congress
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Can you assure me that in the future you will inform Congress if a detainee dies shortly after leaving ICE custody and ICE is aware of the death?

Since you assumed the role of Acting Secretary, are you aware of any migrants who died within 15 days of leaving Department of Homeland Security custody?

Response: U.S. Immigration and Customs Enforcement (ICE) is committed to providing appropriate health care for everyone in its custody, consistent with current law and policy. Whenever a detainee passes away in ICE custody, ICE will formally notify Congress, non-governmental organization stakeholders, and the media, conduct comprehensive investigations into each case, and publish completed reports at https://www.ice.gov/death-detainee-report.

However, in most cases, ICE does not have visibility into what occurs after an alien is released from detention. While ICE makes DHS aware of significant incidents as necessary and appropriate, ICE has no official way of tracking or reporting on the health of those who are no longer in its custody.

Question#:	38
Topic:	Del Norte Processing Center
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: A May 30, 2019 report from the DHS's Office of Inspector General detailed dangerous overcrowding and inhumane conditions at the El Paso Del Norte Processing Center. One cell with a maximum capacity of 12 held 76 detainees. Another with a capacity of 8 held 41 detainees. The report described "detainees standing on toilets in the cells to make room and gain breathing space."

When did you become aware of the situation at El Paso Del Norte Processing Center?

Response: USBP is aware that on occasion, the El Paso Del Norte Processing Center can become overcrowded, especially with the recent influx of large groups. El Paso Sector/USBP is taking steps to relieve the overcrowding situation.

Question: How many other processing centers are experiencing overcrowding?

Response: The recent influx has affected processing centers throughout our southern border.

Question: What is your plan to alleviate these inhumane conditions?

Response: USBP has taken steps to alleviate overcrowding in processing centers. Temporary facilities are being utilized and processing times for aliens have improved in order to decrease the time subjects are being held in custody. This is beginning to alleviate the overcrowding situations at these locations.

Expanding physical capacity (buildings and infrastructure) at POEs is a challenge. Most POEs have a restricted footprint and were designed decades ago when port volumes were significantly lower. CBP continues to work to expand capacity through hiring additional CBP Officers. CBP has made tremendous strides in hiring new CBP officers for the southwest border through judicious use of recruitment and retention incentives, and continues to expand best practices for hiring, such “Fast-Track” hiring. On a daily basis, Port Directors work to maximize the available capacity to accomplish multiple mission requirements, including the processing of lawful trade and travel, to address our counter-narcotics mission, and the processing of individuals without travel documents. The number of inadmissible travelers CBP is operationally capable to process varies depending on overall port volume and enforcement actions. Because the mission ebbs and flows and changes, this number will also fluctuate from day to day. Importantly, CBP only holds individuals for the limited period of time necessary to complete processing and transfer to ICE ERO. Increasing the availability of additional custodial space at ICE ERO facilities along with transportation support is critical. Diverting agency resources from outside the Southwest Border is neither sustainable nor suitable as it places additional stresses on those areas, creating longer

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wait times at airports and slower cargo processing in those areas from where CBP officers are being diverted from.

Question#:	39
Topic:	CBP Medical Staff
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Given there have been six deaths of minors in the custody of U.S. Customs and Border Protection since December 2018, I am concerned about whether immigrants being held in CBP detention have access to sufficient medical care. In September 2018, the Department of Homeland Security Inspector General announced that it had conducted surprise visits to nine CBP facilities. It concluded that only three had trained medical staff to conduct medical screening and provide basic medical care.

Do you think that having trained medical staff at only three of nine facilities is sufficient?

Response: CBP does not operate long term detention facilities and the associate medical capabilities associated with those locations. CBP only maintains short term hold facilities and adheres to TEDS and other medical directives. Additionally enhanced medical support at facilities has been implemented across the southwest border in 2019 and 2020.

CBP has expanded the existing Loyal Source Government Services (LSGS) contract to provide medical screening, basic level, and low acuity medical services to all minors in CBP custody. LSGS currently operates in the busiest areas of the Southwest Border and intends to continue deploying new sites until the entire CBP footprint is covered on the Southwest Border. LSGS also provides low acuity medical support to any adult that is in medical need while in CBP custody. Over 187 LSGS personnel have already been deployed in 19 CBP stations and processing centers as well as two ports of entry, and CBP has requested that they immediately increase capacity to support CBP's facilities as quickly as possible.

The medical support capabilities at CBP's short-term holding facilities have changed significantly since 2018. CBP has significantly enhanced its medical support capabilities along the southwest border (SWB) in scope and scale. In addition, CBP regularly reviews processes to further enhance medical support for those in custody. CBP has had a medical support contract in place to provide medical support teams at priority locations beginning in 2015. The agency expanded the medical support contract beyond the RGV Sector to additional priority locations in Laredo, El Paso and Yuma Sectors in the summer of 2018. In May 2019, as the migrant crisis expanded, CBP began to accelerate expansion of the contracted medical support teams to priority locations along the SWB. Currently, CBP employs over 900 contracted medical professionals supporting SWB medical efforts with over 350 engaged on any given day at 58 facilities along the SWB. CBP utilizes operational risk management methodology to identify medical priority facilities based on a variety of factors, including volume, time in custody, demographics, and number of juveniles.

Question: What are you doing to address this issue?

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Response: CBP is developing a comprehensive policy that will expand the assessment of migrant health at the time migrants are taken into CBP custody and enhance the provision of appropriate medical care to sick and injured individuals in custody. In the meantime, CBP's Commissioner released an interim medical directive on January 28, 2019 to enhance protection of individuals in CBP custody, with a special emphasis on juvenile migrants. This directive ensures that CBP officers and agents conduct a detailed health assessment on all migrants under the age of 18 and those adult migrants who answer affirmatively to certain questions during a health interview.

CBP utilizes a family medicine, advanced practice provider approach as the core of its teams of medical professionals. These medical professionals are physician assistants and nurse practitioners who are trained, licensed, and credentialed to conduct assessments and provide care to the range of population in CBP custody, including children, pregnant women, and adults. These professionals are aided by certified health professionals, such as emergency medical technicians and certified nursing assistants. The clinical providers are additionally supported by regional and national medical directors (licensed physicians) and multiple pediatric advisors (board certified pediatricians and members of the American Academy of Pediatrics). Regionally employed pediatric advisors provide ongoing consultation to medical providers across the SWB.

CBP has a multi-phased process, designed to avoid no single points of failure, to identify and refer serious illness/injury/infection in persons in custody. Consistent with the CBP Enhanced Medical Support Efforts Directive, CBP utilizes the following three-phase initial intake assessment process:

- Phase 1 – Officers/Agents observe and identify potential medical issues for all persons in custody upon initial encounter, and persons brought in to custody are advised to alert CBP personnel or medical personnel of medical issues of concern. Persons identified with medical issues of concern will receive a health interview or medical assessment or be referred to the local health system for evaluation;
- Phase 2 – Health Interviews are conducted upon initial arrival at a CBP facility to identify potential illness, injury, or infection, with appropriate actions taken;
- Phase 3 – Medical Assessment, which is a more detailed medical evaluation, is conducted by a medical provider, as appropriate, to further determine or clarify potential illness, injury, or infection.

Question#:	40
Topic:	Unredacted Memo
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: When you were serving as Commissioner of Customs and Border Protection, I asked you twice to release the unredacted version of the April 2018 memo that you signed that appears to endorse the policy of family separation. You ignored these questions, in violation of your obligation to respond to questions from Congress.

Now that you are Acting Secretary, will you will commit to providing me with the full, unredacted memo within 10 days?

Response: Consistent with Supreme Court precedent and with longstanding practice of the Executive Branch under administrations of both political parties, DHS does not release internal agency deliberations as the protection of deliberative material allows for decision makers to receive candid and honest advice from their advisors and to consider all viewpoints and options in the decision-making process.

Question#:	41
Topic:	Watchlist
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: On March 8, I sent a letter to the Secretary of Homeland Security expressing my deep concern that the Department of Homeland Security was building a secret watch list targeting journalists and lawyers. This followed reporting by NBC San Diego that showed the Department had built secret dossiers on at least forty-seven journalists, attorneys, and activists. On June 10, the Department of Homeland Security responded to my letter by explaining that these people had all been present when a large number of migrants attempted to cross the border in October 2018. The letter said that the Department of Homeland Security had built dossiers on these individuals because "a number of journalist and photographers were identified by Mexican Federal Police as possibly assisting migrants in crossing the border illegally and/or as having some level of participation in the violent incursion events."

Was the Department of Homeland Security aware that it was building dossiers on members of the media?

For some people, the dossier said their only role was "media/photographer" or "journalist." Did the members of the media commit any violation outside of their lawful activity as a "media/photographer" or a "journalist?"

The letter explains why some members of the media were placed on the watchlist. But it doesn't give any explanation as to why lawyers were placed on the watchlist. Can you please explain that?

Response: CBP does not target journalists, lawyers, or activists solely based on their occupations. "DHS does not profile, target, or discriminate against any individual for exercising his or her First Amendment rights." Memorandum from the Acting Secretary, *Information Regarding First Amendment Protected Activities* (May 17, 2019). That memorandum provides guidance regarding when information can be maintained in DHS systems. All persons and baggage arriving in or leaving the United States are subject to inspection by CBP officers. CBP handles information identified during a border search, including attorney-client privileged information, in a manner that protects the sensitivity of the information. For example, CBP Directive 3340-049A, *Border Search of Electronic Devices*, includes special procedures for information officers identify as, or that is asserted to be, protected by the attorney-client privilege or attorney work product doctrine.

All persons, baggage, and other merchandise arriving in or leaving the United States are subject to inspection and search by CBP officers. Various laws, including 8 U.S.C. § 1357, 19 U.S.C. §§ 482, 1581, 1582 enforced by CBP, authorize such searches. As part of the inspection process, CBP officers must verify the identity of persons, determine the admissibility of travelers, and

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look for possible terrorists, terrorist weapons, controlled substances, and a wide variety of other prohibited and restricted items. Occasionally, CBP may inconvenience law-abiding persons in our efforts to detect, deter, and mitigate threats to our homeland caused by few individuals involved in illicit activities. We rely on the patience, cooperation, and understanding of travelers to ensure the effective protection of our borders.

Question#:	42
Topic:	Minimum Standards for Children
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: The Flores Settlement Agreement binds the government to meet minimum standards in its treatment and processing of migrant children. These baseline standards include providing food and water, clothing, medical and emergency care, educational and mental health services, and recreational activities. I am deeply concerned that children will face untenable conditions while in custody if Flores is overruled. Nonetheless, Senator Graham's proposed bill would not only extend the 20-day limitation to 100 days, but would eliminate all Flores protections for migrant children.

Has DHS consulted medical experts or experts in child psychology about the health and developmental impacts of removing this minimum standard of care? If so, who were the experts or doctors consulted? Will DHS submit to this Committee any analysis it conducted in making this decision, including any opinions received from experts in child psychology or well-being?

Response: DHS will continue to provide adequate care to all aliens in our custody, including children, consistent with existing guidelines and practices that have been in place for more than 20 years. DHS has issued a final rule that parallels the FSA and its standards. The final rule published in the Federal Register on August 23, 2019. *See* Apprehension, Processing, Care, and Cusotdy of Alien Minors and Unaccompanied Alien Children, 84 FR 44392 (Aug. 23, 2019).

Question: Has DHS consulted medical experts or experts in child psychology on the impact of keeping children detained longer than 20 days? If so, who were the experts or doctors consulted?

Response: Children in ICE custody are held with their parents or legal guardians in Family Residential Centers that provide medical and mental health services. ICE Health Service Corps provides oversight and monitors the care provided at these centers. Mental health status reports are completed and reviewed by clinical psychologists, social workers, and child and adolescent psychiatrists as required.

Question: Will DHS submit to this Committee any analysis it conducted in making this decision, including any opinions received from experts in child psychology or well-being?

Response: DHS will continue to provide adequate care to all aliens in our custody, including children, consistent with existing guidelines and practices that have been in place for 20 years.

Question#:	43
Topic:	Wait Times
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: In our last hearing, you acknowledged the practice of "metering," whereby CBP agents physically block immigrants from gaining access to ports of entry. You said, at the time, that in "most ports of entry... [t]here is no waiting at all."

What is the longest period that an asylum-seeker can be forced to wait at a port of entry, if they arrive today?

Is DHS prepared to process all asylum-seekers at the ports of entry within a week?

Will you commit to processing all immigrants at ports of entry within one month?

Response: Each POE has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers, including returning U.S. citizens. CBP must manage this limited space to best ensure the safety and security for travelers and our officers, while facilitating timely processing for U.S. citizens and lawful permanent residents, visitors with appropriate travel documents, and individuals without documents sufficient for admission or other lawful entry. This processing occurs in conjunction with inspections for drugs and prohibited items. Processing individuals without documents sufficient for lawful entry to the United States is particularly resource intensive. Due to the initiation of necessary sworn statements, consulate checks, and paperwork, it may take hours between when processing of a traveler commences before the processing of their case is complete. These checks are necessary, so that CBP can verify the identity of the traveler(s) being processed and complete all appropriate processing documentation.

For the safety of these individuals, other travelers, and CBP officers, CBP must ensure that the port of entry has sufficient capacity to process all individuals and to temporarily hold those travelers who are found to be inadmissible. In some cases, the port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, travelers without documents sufficient for lawful entry may be required to wait in Mexico before entering the port of entry.

CBP only maintains custody of inadmissible aliens for the minimum time necessary to complete the inspection and for another agency to accept their custody and care. In CBP custody, CBP generally prioritizes the processing of unaccompanied alien children and families ahead of the processing of other cases. As the shelter facilities in Mexico are not under the control of any U.S. Government entity, CBP cannot address specific conditions regarding the wait times of individuals allowed into any queueing line in Mexico.

Question#:	44
Topic:	Aid on the Border
Hearing:	The Secure and Protect Act: a Legislative Fix to the Crisis at the Southwest Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: The trial of humanitarian aid volunteer Scott Warren is currently ongoing for charges of harboring and transporting undocumented migrants after he provided two men with food, water, and a place to sleep. The Department of Justice's prosecution of Warren, who was working with a religious aid group, is shocking and will likely chill the work of activists aiding migrants in this humanitarian crisis.

What is DHS's official legal policy on humanitarian aid organizations that are providing aid on the border?

What is the process for making determinations regarding prosecution of individuals providing humanitarian aid to migrants at the border?

In response to Senator Tillis's question about border deaths on American soil, which amounted to 281 deaths last year and 68 deaths to date this year, you recognized the sad truth of immigrant deaths on the journey to the US.

Do you support the prosecution of humanitarian aid organizations, which will likely contribute to that number of deaths?

Response: Since this concerns an ongoing prosecution, DHS respectfully defers this to DOJ.