

Question#:	1
Topic:	Cargo Screening
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: According to your own agency, along the southwest border in FY 2018, 90 percent of heroin, 87 percent of methamphetamine, 88 percent of cocaine, and 80 percent of fentanyl were seized at legal ports of entry. In other words, the vast majority of hard drugs seized along our southern border came through ports of entry.

Can you tell us roughly what percentage of cargo at ports of entry the CBP is able to screen for drugs given current resources and technologies?

Response: The Non-Intrusive Inspection (NII) Systems include large scale (LS) and small scale (SS) systems that enable U.S. Customs and Border Protection Officers (CBPOs) and Border Patrol Agents (BPAs) to quickly and effectively examine large volumes of traffic at U.S. ports of entry (POEs). Currently, U.S. Customs and Border Protection (CBP) utilizes over 300 LS systems and over 4,000 SS systems across POEs. These systems are used to examine 98 percent of rail cars; 15 percent of arriving commercial trucks; one percent of passenger vehicles; and two percent of sea containers. CBP also scans over 99 percent of arriving commercial trucks, passenger vehicles, and sea containers for radiation with over 1,250 radiation portal monitors.

In Fiscal Year (FY) 2018 NII scans resulted in 2,076 seizures (attributed to LS NII), totaling 247,445 pounds of narcotics, \$1.2 million of currency, and six stowaways. Over 3,570 SS NII systems and handheld tools were also used to support CBP's layered enforcement strategy.

More than 98 percent of the seizures and the total weight of narcotics seized occurred in the passenger vehicle and commercial truck environment at southwest land POEs.

Question#:	2
Topic:	Barrier-Related Restrictions
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Will CBP commit that every dollar for barrier construction - whether obtained through an appropriation or the President's emergency declaration - will be subject to the barrier-related restrictions and conditions enacted in the FY 2019 Appropriations minibus? If not, why not?

Response: CBP is in compliance with the FY 2019 appropriation. With the funding sources under CBP control, it is anticipated the border barrier construction in the Rio Grande Valley will be completed, with the exception of prohibited locations.

Question#:	3
Topic:	Incentivizing Illegal Immigration
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Last time you were before this Committee you testified in response to my question that you "accept" the DHS Inspector General's conclusion in a September 2018 report that the practice of "metering" at ports of entry increases illegal crossings between ports of entry. More recently, the head of the Border Patrol union, Brandon Judd, argued that the Trump administration's Migration Protection Protocols are "incentivizing illegal immigration" by "punishing people who are trying to follow the laws" and present themselves at ports of entry.

Do you agree with Mr. Judd's views? If not, can you provide this Committee with data showing that his views are not supported by the facts?

Response: The Migrant Protection Protocols (MPP) was instituted to reduce the number of aliens exploiting the U.S. immigration system and to discourage non-meritorious asylum claims. Aliens subject to MPP will not be permitted to disappear into the United States before a court issues a final decision on their removal proceedings. Instead, they will await a determination in Mexico and receive appropriate humanitarian protections. This will allow DHS to more effectively assist legitimate asylum seekers and individuals fleeing persecution or torture, while migrants with meritless claims will no longer have an incentive to make the journey to the United States in the first place. Moreover, the MPP will reduce the extraordinary strain on our border security and immigration system, freeing up personnel and resources to better protect our country by restoring integrity to the American immigration system.

Question#:	4
Topic:	Daily Limits
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Additionally in December, when I asked you whether our ports of entry have daily limits on the number of asylum seekers it processes every day, you said that there weren't any hard daily limits, but that each port director determines that number based on a "discretionary balance" between their various "mission requirements" every day.

Has your agency conducted any official assessment at each port of entry to determine capacity and resource constraints over a period of time, and then analyzing whether those constraints matched up with the discretionary number of asylum applications each port director is processing over that same time period? If so, will you provide us with copies of such assessments?

Response: CBP has not conducted any official assessments at each port of entry to determine capacity and resource constraints over a period of time.

CBP's primary role is to inspect and process all aliens arriving at ports of entry, and to refer any claims of fear to a trained adjudicator. CBP ports of entry have a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. CBP must manage this limited space to best ensure safety and security for all 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. Ports of entry may implement queue management practices, which is a discretionary balance by the port director based on an assessment of their mission requirements. The POEs manage this on a daily basis through the discretion of their leadership team.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of law trade, and processing of all travelers, including returning U.S. citizens. CBP must manage this limited space to best ensure 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 documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary for CBP to verify the identity

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and document the asylum claim of these individuals seeking to enter the United States without proper 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 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, individuals without documents 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 custody. CBP generally prioritizes the processing of Unaccompanied Alien Children (UAC) and families ahead of the processing of other cases in secondary inspection. 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 ports of entry in Mexico.

Question: Can you ask each port director if they limit the number of asylum seekers each day - like the Hidalgo Port of Entry director confirmed to me he does at 48 each day - and provide those numbers to me?

Response: CBP's primary role is to inspect and process all aliens arriving at ports of entry, and to refer any claims of fear to a trained adjudicator. CBP ports of entry have a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. Because the mission ebbs and flows, each port of entry's processing capacity may fluctuate from day to day. The POEs' daily operations priorities are based on the informed discretion of their leadership team.

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and paperwork are complete. These checks are necessary for CBP to verify the identity and document the asylum claim of these individuals seeking to enter the United States without proper documentation.

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Question#:	5
Topic:	Asylum Seekers Declined
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: I understand CBP does not track the number of asylum seekers it declines to process or turns away every day at each port of entry. Would you commit to doing so going forward?

Response: CBP does not permit its officers to turn away any individual seeking asylum. However, CBP ports of entry have a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. CBP must manage this limited space to best ensure safety and security for all 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. Therefore, ports of entry may implement queue management practices, which is a discretionary balance by the port director based on an assessment of their mission requirements.

Question#:	6
Topic:	Smugglers Preference
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: The Trump Administration's border policies are playing right into the hands of smugglers who profit greatly when migrants cross illegally between ports of entry. A USA Today report last month found that because of "metering" under the Trump administration, migrants are "increasingly turning to criminal smuggling rings" to "help them reach vulnerable areas along the border that can be used as illegal entry points."

Do you agree that transnational smuggling organizations depend on migrants crossing the border illegally, and they strongly prefer that migrants not present themselves at ports of entry?

Response: CBP cannot comment on the preferences of human smugglers. Transnational criminal organizations (TCOs) are able to profit greatly from smuggling migrants into the United States. No matter whether migrants attempt entry at a POE or between POEs, they still make a treacherous journey north through Mexico. Often, they pay smugglers during this journey and put themselves in danger. TCOs also make money from, and prey on, the migrants through kidnapping for ransom, robbery, physical and sexual assault and the demand for payment to cross land controlled by cartels and TCOs, all common occurrences for migrants journeying north.

As the administration has made clear many times, this security and humanitarian crisis is driven by complex interplay of push and pull factors in the countries of origin. Solving the border crisis requires a holistic approach that includes not only sound queue management at overwhelmed ports of entry, but also increased border security measures between ports of entry like additional physical barriers and closure of gaping loopholes that attract migrants in current federal law.

We have intensified DHS actions to counter transnational organized crime, including a coordinated interagency effort to identify, arrest, and prosecute human smugglers. Additionally, we continue to collaborate with our foreign partners to disrupt and dismantle human trafficking and migrant smuggling networks and to support a coordinated effort to address the broad range of crimes perpetrated by transnational criminal organizations.

Question#:	7
Topic:	Tracking Agent Hours
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
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Question: In December I also asked you about CBP's plan for dragnet-style vehicle checkpoints in my home state, which you said were "an important border security tool." But I find it difficult to believe that these checkpoints will be an effective use of law enforcement resources. Border Patrol stations in Vermont are already understaffed and stretched thin.

At each checkpoint in Vermont, will you commit to keeping track of the agent hours expended and- critically - how many total cars are stopped and arrests are made?

Response: U.S. Border Patrol immigration checkpoints make immigration enforcement more efficient. A small number of agents can interact with a large cross-section of the public to locate individuals who are violating U.S. immigration law. Agent hours are always tracked via an internal reporting system. Currently, the volume of vehicle traffic passing through immigration checkpoints on the northern border is not tracked. However, USBP does track the total number of arrests attributed to checkpoint operations.

Question: Would you also commit to tracking how many of these arrests are based on immigration status and not some other criminal offense?

Response: USBP tracks the reason(s) for making all arrests at immigration checkpoints to include arrests based on immigration status violations.

Question#:	8
Topic:	Border Exception
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Lawsuits and FOIA requests show that CBP may have used the so-called "border exception" to search people and their belongings without a warrant. The exception has been invoked to search not only those seeking asylum, but also lawyers and journalists traveling across the border. The Committee to Protect Journalists reports that CBP has implemented its own standards as to when searches can take place under the "border exception." For example, a basic search can be conducted with or without suspicion, while an advanced search requires a reasonable suspicion.

Are there any written guidelines or memoranda detailing CBP's standards with respect to conducting searches under the so-called "border exception?" If so can you please provide me with copies of any such written guidelines or memoranda?

Response: CBP does not target journalists, lawyers or activists. All persons and merchandise transiting the border are subject to inspection. As the Supreme Court has explained, "searches made at the border pursuant to the long-standing right of the sovereign to protect itself by stopping and examining persons and property crossing into this country, are reasonable simply by virtue of the fact that they occur at the border." *United States v. Ramsey*, 431 U.S. 606, 616 (1977). In addition to the long-standing Supreme Court precedent recognizing border search authority, numerous federal statutes explicitly authorize searches of people and things entering the United States. *See e.g.*, 19 U.S.C. §§ 482; 1461; 1496; 1581; 1582.

CBP Directive 3340-049A, Border Search of Electronic Devices, provides guidance and standard operating procedures for searching, reviewing, retaining, and sharing information contained in electronic devices subject to inbound and outbound border searches. As noted in the publicly-available Privacy Impact Assessment Update for CBP Border Searches of Electronic devices, "CBP has imposed certain policy requirements above and beyond prevailing legal requirements, to ensure that the border search of electronic devices is exercised judiciously, responsibly, and consistent with the public trust."

The Directive describes, an advanced search is any border search of an electronic device "in which an Officer connects external equipment, through a wired or wireless connection, to an electronic device not merely to gain access to the device, but to review, copy, and/or analyze its contents."

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An Officer may perform an advanced search “[i]n instances in which there is reasonable suspicion of activity in violation of the laws enforced or administered by CBP, or in which there is a national security concern, and with supervisory approval at the Grade 14 level or higher (or a manager with comparable responsibilities).

Many factors may create reasonable suspicion or constitute a national security concern; examples include the existence of a relevant national security-related lookout in combination with other articulable factors as appropriate, or the presence of an individual on a government-operated and government-vetted terrorist watchlist.”

In a recent memo from the Acting Secretary dated May 17, 2019, it was stated, “DHS does not profile, target, or discriminate against any individual for exercising his or her First Amendment rights.” CBP does not profile, target, or discriminate against any individual for exercising his or her First Amendment rights.

Question#:	9
Topic:	Basic Search Restrictions
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Are there any restrictions as to whom CBP can stop to conduct a basic search?

Response: No. All persons and merchandise transiting the border are subject to inspection.

Question#:	10
Topic:	Advanced Searches
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: Can you give me an example of what CBP considers to qualify as "reasonable suspicion" in order conduct an advanced search?

Response: An Officer may perform an advanced search “[i]n instances in which there is reasonable suspicion of activity in violation of the laws enforced or administered by CBP, or in which there is a national security concern, and with supervisory approval at the Grade 14 level or higher (or a manager with comparable responsibilities).”

Many factors may create reasonable suspicion or constitute a national security concern; examples include the existence of a relevant national security-related lookout in combination with other articulable factors as appropriate, or the presence of an individual on a government-operated and government-vetted terrorist watchlist.

Question: For what purpose would the CBP ever find it necessary to conduct an advance search on a journalist or an attorney crossing the border?

Response: CBP Officers may conduct border searches of electronic devices subject to the requirements in the Directive. The Directive provides guidance for officers encountering information they identify as, or that is asserted to be, protected by the attorney-client privilege or attorney work product doctrine. Additionally, the Directive states that other possibly sensitive information, such as medical records and work-related information carried by journalists, shall be handled in accordance with any applicable federal law and CBP policy. That said, CBP does not exempt any class of persons from screening for possible immigration or other violations of U.S. law.

Question: If a CBP officer does conduct an advanced search on a journalist or attorney, what does CBP do with the information it collects? For example, does it share information with other government agencies, or hold the information in any kind of database?

Response: CBP policy recognizes that electronic devices encountered at the border may contain sensitive information, such as attorney-client communications or work-related information carried by journalists. Potentially sensitive information is handled in accordance with applicable federal law and CBP policy.

Officers encountering information they identify as, or that is asserted to be, protected by the attorney-client privilege or attorney work product doctrine must ensure the

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segregation of any privileged material from other information examined during a border search to ensure that any privileged material is handled appropriately. At the completion of CBP's review, copies of materials maintained by CBP and determined to be privileged will be destroyed, unless any materials are identified that indicate an imminent threat to homeland security or unless the materials must be maintained to comply with a litigation hold or other legal requirement. Furthermore, information that is determined to be protected by law as privileged or sensitive will only be shared with agencies or entities that have mechanisms in place to protect appropriately such information.

In addition to protections afforded by any applicable privileges, CBP's Directive also provides guidance on retention and sharing of information encountered during the course of a border search of an electronic device. A CBP officer may detain electronic devices, or copies of information contained therein, for a brief, reasonable period of time to perform a thorough border search. Officers may seize and retain an electronic device, or copies of information from the device, when based on a review of the electronic device encountered or on other facts and circumstances, they determine there is probable cause to believe that the device, or copy of the contents from the device, contains evidence of a violation of law that CBP is authorized to enforce or administer. Without probable cause to seize an electronic device or copy of information contained therein, CBP may retain only information relating to immigration, customs, and other enforcement matters if such retention is consistent with the applicable system of records notice.

If CBP retains information pursuant to the Directive, CBP may share the information with federal, state, local, and foreign law enforcement agencies to the extent consistent with applicable law and policy, including as permitted under the Privacy Act of 1974, where applicable. Consistent with 6 U.S.C. § 122(d)(2) and other applicable law and policy, CBP, will share any terrorism information encountered in the course of a border search with entities of the federal government responsible for analyzing terrorist threat information.

Question#:	11
Topic:	CBP Database
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: NBC7 of San Diego recently reported that there is a secret government database including the pictures and identifying information of 59 journalists, attorneys, and activists who have worked amongst or on behalf of migrants arriving at our southwest border. These 59 individuals appear to have been targeted for additional screenings, interrogations, visa revocations, travel suspensions, and other forms of punitive measures.

Is it true that there is a database CPB maintains along with other government agencies that collects the information of journalists, lawyers, and activists?

Response: CBP does not target journalists, lawyers, or activists for inspection based on their occupation or their reporting.

Question: If so, how does the CBP identify individuals who should be included in the database?

Response: CBP does not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting. CBP does not target, discriminate, or profile any individual solely for exercising his or her rights under the First Amendment. We are committed to the fair, impartial and respectful treatment of all travelers, and have memorialized our commitment to nondiscrimination in CBP policies. Consistent with the Privacy Act (5 U.S.C. § 552a(e)(7)), CBP does not maintain records that describe how a U.S. citizen or alien lawfully admitted for permanent residence exercises First Amendment rights, unless “expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.”

Question: What authority does the CPB have to collect information on journalists, lawyers, and activists?

Response: CBP does not target journalists, lawyers, or activists for inspection based solely on their occupation. CBP does not target, discriminate, or profile any individual solely for exercising First Amendment rights. We are committed to the fair, impartial and respectful treatment of all travelers, and have memorialized our commitment to nondiscrimination in CBP policies.

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CBP is tasked with protecting our Nation’s borders as well as enforcing numerous laws at our Nation’s ports of entry. All international travelers seeking to enter the United States, including all U.S. citizens, are subject to examination upon each arrival into this country. Occasionally, we may inconvenience law-abiding persons in our efforts to detect, deter, and mitigate threats to our homeland. We rely on the patience, cooperation, and understanding of travelers to ensure the effective protection of our borders.

Question#:	12
Topic:	Medical Checks Protocols
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: There have been several health-related incidents of individuals in CBP custody. These include the deaths of Felipe Gomez Alonzo and Jackelin Caal, as well as a 24-year-old woman's pregnancy that ended with a stillbirth in custody. Following the death of Jackelin Caal, the Associated Press reported that CBP implemented new protocols with respect to medical checks of migrants in its custody.

What concrete changes does this new policy put into place?

Response: Per CBP's interim Medical Directive signed on January 28, 2019, all juvenile and adult aliens in CBP custody along the southwest border receive a mandatory health interview during initial processing; juveniles also receive a mandatory health assessment. These medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State and Local credentialed healthcare providers.

Question: Have there been any issues with implementation of the new policy?

Response: There have not been any issues in the implementation of this policy.

Question#:	13
Topic:	Persecution in Mexico
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: In January, the Department of Homeland Security began sending certain migrants to Mexico to await the outcome of their asylum claims. Customs and Border Protection (CBP) guidance states that if an asylum seeker "affirmatively states that he or she has a fear of persecution or torture in Mexico," they will be referred to and interviewed by United States Citizenship and Immigration Services, rather than being sent back to Mexico.

Do CBP agents inform asylum seekers that they will not be sent to Mexico if they fear persecution or torture in Mexico?

Response: Every person placed into MPP is concurrently placed into Section 240 removal proceedings; thus, MPP is not specific to asylum seekers. Further, CBP does not know at the time of processing whether an alien will eventually seek relief in front of an immigration judge. CBP's role is to inspect and process all aliens arriving at ports of entry or apprehended between ports of entry and to refer any claims of fear to U.S. Citizenship and Immigration Services (USCIS) or to an immigration judge, where they may apply for asylum. CBP does not process or adjudicate applications for asylum. As such, CBP cannot determine whether or not an alien will be returned to Mexico after affirmatively stating that he or she has a fear of persecution or torture in Mexico until USCIS has completed their assessment.

With regards to being returned to Mexico, an alien who is potentially amenable to MPP must affirmatively state that he or she has a fear of persecution or torture in Mexico or a fear of return to Mexico, at any time during MPP processing. Individuals claiming a fear of Mexico are then referred to a USCIS asylum officer to assess whether it is more likely than not that the alien will face persecution on account of a protected ground, or torture, if returned to Mexico, consistent with 8 USC § 1101(a)(42). If USCIS assesses that an alien who affirmatively states a fear of return to Mexico is more likely than not to face persecution on account of a protected ground, or torture, in Mexico, the alien is not be processed for the MPP. Agents and officers retain all existing discretion to process (or re-process) the alien for any other available disposition, including expedited removal, INA section 240 removal proceedings, waivers, or parole.

Question: Is it possible that some asylum seekers do not affirmatively state their fear of persecution or torture in Mexico because they do not know that this is a factor under this new policy?

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Response: CBP cannot answer, as this is purely speculative.

Question#:	14
Topic:	Sexual Abuse
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: A recent New York Times report detailed the stories of women who had been sexually assaulted by CBP agents. The story followed the disclosure that the Office of Refugee Resettlement had received more than 4,500 complaints in four years about the sexual abuse of immigrant children.

What steps has CBP taken to prevent agents from abusing their position to take advantage of immigrant women and children?

Response: In October 2015, CBP implemented agency policy that set forth nationwide standards governing CBP's interaction with detained individuals. The policy continued CBP's commitment to the safety, security and care of those in our custody. The policy, *U.S. Customs and Border Protection (CBP) National Standards on Transport, Escort, Detention and Search (TEDS)*, incorporates best practices developed in the field, and reflects key legal and regulatory requirements. In addition to transport, escort, detention and search provisions, TEDS also includes requirements related to: sexual abuse and assault prevention and response; care of at-risk individuals in custody, and personal property.

CBP collects and reviews data on all allegations of sexual abuse and assault in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. DHS standards also require the preparation of an annual report to Congress outlining the agency's findings and corrective actions.

U.S. Customs and Border Protection takes all allegations of misconduct very seriously. All received allegations of mistreatment or abuse are initially reported to the Department of Homeland Security Office of the Inspector General pursuant to Management Directive 810.1. These allegations will either be investigated by the DHS Inspector General's Office or referred back to CBP for investigation by the Office of Professional Responsibility or delegated to the relevant component management for inquiry. If misconduct is substantiated, appropriate corrective action will be initiated. However, the Privacy Act generally precludes CBP from releasing information on disciplinary or other corrective actions taken against employees.

Finally, Prison Rape Elimination Act investigations are mandated to adhere to investigative protocols outlined in *Subpart B of the DHS Standards to Prevent, Detect and Respond to Sexual Abuse and Assault in Confinement Facilities*, codified at 6 C.F.R.

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Part 115, and the CBP Directive No. 2130-030, *Prevention, Detection and Response to Sexual Abuse and/or Assault in CBP Holding Facilities*. (Attached)

Question#:	15
Topic:	ROAM App
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: Last year, CBP announced that it would reduce personnel and port hours for some northern border points of entry in Minnesota. In Crane Lake, CBP's Reporting Offsite Arrival - Mobile (ROAM) app officially replaced a permanent agent at the port. I am concerned that the lack of reliable cell service in the area will impact CBP's ability to efficiently process Minnesotans checking back into the United States.

What is CBP doing to ensure that its ROAM app functions properly and without interruption along the northern border, including at Crane Lake?

Response: Since the launch of CBP Reporting Offsite Arrival-Mobile (ROAM), CBP has seen a 74 percent increase in the number of travelers reporting their entry where the CBP ROAM app is available. The CBP ROAM app has generated enormous time savings for travelers and CBP officers alike. However, due to the lack of existing wireless infrastructure in a few isolated areas on the northern border, we have implemented changes in access and delivery methods for the ROAM app in those locations.

Crane Lake, Minnesota is one of the communities on the northern border that has been negatively impacted by extremely limited broadband availability. In addition, cellular service is provided by only one major carrier (AT&T) which means that travelers to the area who utilize other carriers have little or no cellular service at all.

A three-part strategy has been implemented to mitigate these issues for the Crane Lake 2019 boating season:

Wi-Fi enabled tablets at partner locations have been replaced with cellular enabled tablets operating off of AT&T SIM cards. CBP is for satellite internet service at Crane Lake; and a portable climate-controlled shelter to house an AT&T enabled tablet for public access to ROAM. CBP is currently negotiating with the Minnesota Department of Natural Resources for permission to set and operate the shelter on their property.

The ROAM Project Team will be continually monitoring the Crane Lake usage metrics throughout the 2019 boating season to identify and address any issues that interfere with prompt and efficient access to this application.

Question#:	15
Topic:	ROAM App
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: Will you commit to having senior CBP officials meet with the Crane Lake community in response to the concerns that have been raised regarding the impact of these changes on the local economy?

Response: We would be pleased to meet with the Crane Lake community in response to the concerns that have been raised regarding the impact of these changes on the local economy.

Question#:	16
Topic:	Controlled Substances Act Narcotics
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Ben Sasse
Committee:	JUDICIARY (SENATE)

Question: (U) Please provide the exact amount of each type of narcotic scheduled under the Controlled Substances Act seized by CBP either at ports of entry or known to have entered through ports of entry annually from 2006 onward.

Response:

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

[The FOUO//LES response has been sent separately]

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

Question: (U) Please provide the exact amount of each type of narcotic scheduled under the Controlled Substances Act seized by CBP either at sites other than ports of entry or known to have not entered through ports of entry annually from 2006 onward.

Response:

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

[The FOUO//LES response has been sent separately]

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

Question: (U) Please provide your best estimate for the amount of each type of narcotic scheduled under the Controlled Substances Act believed to have entered through ports of entry annually from 2006 onward.

Response:

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

[The FOUO//LES response has been sent separately]

FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE

Question#:	16
Topic:	Controlled Substances Act Narcotics
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Ben Sasse
Committee:	JUDICIARY (SENATE)

Question: (U) Please provide your best estimate for the amount of each type of narcotic scheduled under the Controlled Substances Act believed to have entered through not ports of entry annually from 2006 onward.

Response:

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Question#:	17
Topic:	Illegals Present
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Ben Sasse
Committee:	JUDICIARY (SENATE)

Question: Please provide your best estimate of the number of persons that are currently illegally present within the United States that entered through ports of entry and overstayed valid visas, that entered through ports of entry and committed visa fraud, and that did not enter through ports of entry.

Response: Estimates for number of persons that are currently illegally present in the United States, primarily due to travelers that legitimately entered at ports of entry and then overstayed valid visas, or those who entered without inspection between ports of entry, have been compiled historically. The Office of Immigration Statistics within the Department of Homeland Security has reported on total suspected numbers of foreign nationals illegally in the U.S. by examining multiple sources, including crossing data from Customs and Border Protection and historical census data from the Census Bureau. These reports can be found at <https://www.dhs.gov/immigration-statistics/population-estimates/unauthorized-resident>, and the most recent report, released in December 2018, estimated that a total of 12.0 million illegal aliens were living in the United States as of January, 2015. Additionally, the Department of Homeland Security releases an annual report with detailed numbers on travelers expected to depart during a given fiscal year reporting period. These reports are based on Customs and Border Protection crossing data, and includes both visa overstayers, as well as individuals traveling under the visa waver program who did not leave the U.S. within the expected time-period. The report covering the 2018 fiscal year, can be found at https://www.dhs.gov/sites/default/files/publications/19_0417_fy18-entry-and-exit-overstay-report.pdf; it states that there were 54,706,966 in-scope nonimmigrants expected to depart the United States during FY 2018, and that of this number, 666,582 did not depart as expected, representing an overstay rate of 1.22 percent for that reporting period. This report was first released in 2015, and annual reports in the future plan to release statistics for these expected departures for time-periods longer than a single fiscal year.

Question#:	18
Topic:	Death Disclosure
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In December, after the Senate Judiciary Committee's Customs and Border Protection (CBP) oversight hearing on December 11, 2018, the Senate learned about the death of seven-year-old Jakelin Caal Maquin while in federal custody. In your testimony, you stated that you and Secretary Nielsen have "requested that the Homeland Security Advisory Council review best practices for the care of children and families, and make recommendations to better inform CBP policies and procedures in the future."

Why did CBP fail to disclose Jakelin's death during the oversight hearing on December 11, 2018?

Response: I first learned of the death on the morning of December 8, 2018. At the time of my Senate hearing, I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying Congressional Oversight Committees and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17, I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	19
Topic:	Changes Made
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Please describe any changes made to CBP's practices after Jakelin's death but before the death of eight-year-old Felipe Gomez Alonzo, which happened less than three weeks later?

Please identify all CBP policies that have changed since the death of Felipe Gomez Alonzo to improve the care of children in CBP's custody.

Response: In January, an Interim Medical Directive was issued to guide the deployment of enhanced medical efforts to mitigate the risk to and improve the care for individuals in CBP custody along our border as a result of these surges in children and families. This directive was developed in consultation with medical and pediatric experts. The Directive requires that all juvenile and adult aliens in CBP custody along the southwest border receive a mandatory health interview during initial processing, and that juveniles also receive a mandatory health assessment. These medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State and Local credentialed healthcare providers.

Since the directive was signed with the help of our interagency partners, including the US Coast Guard and the Public Health Service Commissioned Corps, certified medical practitioners, have screened over 12,000 juveniles and transported an average of 55 people to the hospital every day, ensuring essential medical care for thousands of migrants.

We are currently working to expand the enhanced medical efforts to all nine border patrol sectors and all ports of entry along the southern land border.

Question#:	20
Topic:	Regularly Separated
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: There have been numerous reports of children being separated from their parents at the border. As the U.S. District Court for the Southern District of California noted, "[r]ecently, the HHS Office of Inspector General ('OIG') . . . issued a report. . . [that] reveals the . . . Department of Homeland Security ('DHS') began separating migrant families as early as July 1, 2017, well before the zero tolerance policy was publicly announced in May of 2018, and that pursuant to the policy, potentially 'thousands' more families had been separated." *Ms. L v. U.S. Immigration and Customs Enforcement*, No. 18-00428, at 2 (S.D. Cal. Mar. 8, 2019). The HHS Inspector General's January 2019 report found that HHS received and released "thousands" of children separated from their families prior to the court order that required their identification.

Do you agree that for a period of time, children were regularly separated from their parents presenting themselves at the border?

Response: Following the issuance on April 11, 2017 of the Department of Justice memo entitled "Renewed Commitment to Criminal Immigration Enforcement," and prior to implementation of the Zero Tolerance Policy to on April 6, 2018, CBP conducted family separations in limited instances in the El Paso, TX and New Mexico Border Patrol Sectors. These separations came in response to an overwhelming influx of FMUA's though the first half of FY2017 and resulted in a significant decrease in illegal entry in those sectors.

However, it is also important to note that for at least the last three Presidential Administrations, the separations of an alien minor from an alien parent or legal guardian (or an alien claiming to be the minor's parent or legal guardian) have occurred in certain circumstances. Such circumstances include: when a custodial relationship cannot be determined, when a minor may be at risk with the parent or legal guardian, for urgent medical issues, or if the parent or legal guardian is transferred to criminal detention (as the result of a criminal charge or conviction). The criteria for separations are based on CBP's *National Standards on Transport, Escort, Detention and Search* issued in October 2015 and these standards have not changed.

Question#:	21
Topic:	Tracking for Reunification
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: How did CBP track these separations in a way that would facilitate reunification of these children with their parents?

Response: Under the existing system, when a separation occurs, the fact of that separation and the reasons for the separation are documented in the electronic system of record, for both the parent and the child.

In the preliminary injunction issued in the Ms. L vs ICE court case, the court ordered the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) to create a separate process that necessitated additional data sharing. DHS and HHS are abiding by this ruling.

Question: How many children separated from their parents at the border have been reunified with their parents?

How many children separated from their parents remain separated and in the custody of the federal government?

Response: DHS defers to HHS for this inquiry.

Question#:	22
Topic:	Average Wait Time
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: CBP is now utilizing "metering" practices at certain ports of entry that limit the number of asylum seekers allowed into the U.S. each day. During your testimony, you stated that there is a need to increase the number of immigration judges and lawyers in order to effectively evaluate asylum claims and help ensure individuals appear for court.

What is the current average wait time for asylum seekers at each port of entry along the Southern Broder?

Response: CBP does not specifically collect data on wait times for asylum seekers. In recent months, three or four of the southern POEs have experienced wait times, usually temporary in nature and lasting for a few days. The only ports at which visitors without documentation regularly experience wait times are El Paso and San Ysidro, our nation's busiest POE.

When port space is full, CBP is unable to facilitate the processing of another applicant. Since the number of individuals without appropriate travel documents who are seeking to apply for admission at ports of entry in the San Diego-Tijuana area currently exceeds CBP's capacity to safely and humanely process such individuals, individuals may be required to wait in Mexico until it is safe to enter the port of entry for processing.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of law trade, and processing of all travelers, including returning U.S. citizens. CBP must manage this limited space to best ensure 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 documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary for CBP to verify the identity and document the asylum claim of these individuals seeking to enter the United States without proper 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 found to be inadmissible. In some cases, the port of entry may reach a

Question#:	22
Topic:	Average Wait Time
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Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without documents 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 custody. CBP generally prioritizes the processing of Unaccompanied Alien Children (UAC) and families ahead of the processing of other cases in secondary inspection. 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 ports of entry in Mexico.

Each port of entry has a finite capacity in which to accomplish multiple missions: national security, counter-narcotics, facilitation of lawful trade, and processing of all travelers. We must manage this limited space to best ensure 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 as we strive to protect the homeland. Processing individuals without documentation is particularly resource intensive. It may take hours before the necessary sworn statements, consulate checks, and paperwork are complete. These checks are necessary to verify the identity and criminal history of these individuals seeking to enter the United States without proper documentation.

We must ensure that the port of entry has sufficient capacity to process all individuals and to temporarily hold those found to be inadmissible. The port of entry may reach a capacity where it is no longer safe to permit more individuals to enter. In such situations, individuals without documents may be required to wait in Mexico before entering the port of entry.

Question#:	23
Topic:	Additional Judges
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Has CBP worked with the Department of Justice to evaluate how many more immigration judges would be needed to effectively assess and process the current number of pending asylum claims?

Response: Yes, DHS is always committed to provide support and coordinate with partner agencies. However, DHS defers to the Department of Justice with respect to evaluating how many more immigration judges are needed to effectively assess and process the current number of pending asylum claims. However, in order to handle the increased caseload, Congress also needs to provide ICE with sufficient funding for the additional OPLA attorneys and support staff necessary to staff the proceedings.

Question#:	24
Topic:	Access to Legal Counsel
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: What steps has CBP taken to inform individuals presenting themselves at the border about access to legal counsel?

Response: Access to legal counsel during the CBP inspection process is not afforded to applicants for admission. However, upon completion of the inspection, CBP provides applicants for admission a list of local legal resources that are available to them for free or at a reduced rate.

Question#:	25
Topic:	MPP For Asylum Seekers
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: DHS implemented the Migration Protection Protocols (MPP) at the San Ysidro Port of Entry and is planning to expand it to other ports as well. DHS cites Section 235 of the Immigration and Nationality Act for its authority to implement MPP. However, the specific section cited, Section 235(b)(2)(c), does not apply to aliens who are subject to expedited removal, such as asylum seekers without valid entry documents. What gives DHS the authority to implement MPP for asylum seekers?

Response: Because the issue you raise is in active litigation, I am unable to comment further at this time, except to note that the 9th Circuit in fact addressed the issue in *Innovation Law Lab v. McAleenan*:

Does § 1225(b)(1) “apply” to everyone who is *eligible* for expedited removal, or only to those *actually processed* for expedited removal? The interpretive difficulty arises mainly because the inadmissibility grounds contained in subsections (b)(1) and (b)(2) overlap. A subset of applicants for admission —those inadmissible due to fraud or misrepresentation, § 1182(a)(6)(C), and those who do not possess a valid entry document, § 1182(a)(7) — may be placed in expedited removal. § 1225(b)(1)(A)(i). But as we read the statute, anyone who is “not clearly and beyond a doubt entitled to be admitted” can be processed under § 1225(b)(2)(A). Section 1225(b)(2)(A) is thus a “catchall” provision in the literal sense, and Congress’ creation of expedited removal did not impliedly preclude the use of § 1229a removal proceedings for those who could otherwise have been placed in the more streamlined expedited removal process. *See Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 522–24 (BIA 2011).

Because the eligibility criteria for subsections (b)(1) and (b)(2) overlap, we can tell which subsection “applies” to an applicant only by virtue of the processing decision made during the inspection process. Take first the procedures for designating an applicant for expedited removal. When the immigration officer “determines” that the applicant “is inadmissible” under § 1182(a)(6)(C) or (a)(7), he “shall order the alien removed from the United States without further hearing” unless the applicant requests asylum or expresses a fear of persecution, in which case the officer “shall refer the alien for an interview by an asylum officer under subparagraph (B).” 8 U.S.C. § 1225(b)(1)(A)(i)–(ii). In other words, the officer decides inadmissibility on the spot without sending the matter to an immigration

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judge. DHS's regulations further explain that a § 1225(b)(1) determination entails either the issuance of a Notice and Order of Expedited Removal or the referral of the applicant for a credible fear screening. 8 C.F.R. § 235.3(b)(2)(i), (4); *see also id.* § 208.30. And to "remove any doubt" on the issue, § 1225(b)(2)(B) clarifies that applicants processed in this manner are not entitled to a proceeding under § 1229a. *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 226 (2008).

In contrast, § 1225(b)(2) is triggered "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Following this determination, the officer will issue a Notice to Appear, which is the first step in a § 1229a proceeding. 8 C.F.R. § 235.6(a)(1)(i); *see also id.* § 208.2(b). A Notice to Appear can charge inadmissibility on *any* ground, including the two that render an individual eligible for expedited removal. 8 U.S.C. § 1229a(a)(2). The officer then sets a date for a hearing on the issue before an immigration judge. *See Pereira v. Sessions*, 138 S. Ct. 2105, 2111 (2018).

The plaintiffs were not processed under § 1225(b)(1). We are doubtful that subsection (b)(1) "applies" to them merely because subsection (b)(1) *could have been* applied. And we think that Congress' purpose was to make return to a contiguous territory available during the pendency of § 1229a removal proceedings, as opposed to being contingent on any particular inadmissibility ground. Indeed, Congress likely believed that the contiguous-territory provision would be altogether unnecessary if an applicant had already been processed for expedited removal. The plaintiffs are properly subject to the contiguous-territory provision because they were processed in accordance with § 1225(b)(2)(A).

Though the plaintiffs contend otherwise, our approach is consistent with the subsections' headings. Section 1225(b)(1) is titled "Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled," and § 1225(b)(2) is labeled "Inspection of other aliens." The plaintiffs interpret § 1225(b) to create two mutually exclusive *pre-inspection* categories of applicants for admission; as explained above, we read the statute to create two mutually exclusive *post-inspection* categories. In our view, those who are not processed for expedited

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removal under § 1225(b)(1) are the “other aliens” subject to the general rule of § 1225(b)(2).

Our interpretation is also consistent with *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the principal authority on which the plaintiffs rely. There, the Supreme Court explained that “applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Id.* at 837. As the Court noted, “Section 1225(b)(1) applies to aliens *initially determined* to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* (emphasis added). “Section 1225(b)(2) is broader,” since it “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* We think our interpretation more closely matches the Court’s understanding of the mechanics of § 1225(b), as it is attentive to the role of the immigration officer’s initial determination under § 1225(b)(1) and to § 1225(b)(2)’s function as a catchall.

For the foregoing reasons, we conclude that DHS is likely to prevail on its contention that § 1225(b)(1) “applies” only to applicants for admission who are processed under its provisions. Under that reading of the statute, § 1225(b)(1) does not apply to an applicant who is processed under § 1225(b)(2)(A), even if that individual is rendered inadmissible by § 1182(a)(6)(C) or (a)(7). As a result, applicants for admission who are placed in regular removal proceedings under § 1225(b)(2)(A) may be returned to the contiguous territory from which they arrived under § 1225(b)(2)(C).

Id. at 2-4.

Question: Since the implementation of the MPP, how many asylum seekers have been required to remain in Mexico while their asylum applications are processed?

Response: As of the date of the hearing, March 6, 2019, 207 aliens have been returned to Mexico to await their immigration proceedings.

Question: How many individuals subject to MPP have been able to access an attorney within the United States?

Response: CBP is not able to answer this question.

Question#:	25
Topic:	MPP For Asylum Seekers
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Committee:	JUDICIARY (SENATE)

Question: Does DHS afford U.S. lawyers access to clients in the MPP program?

Response: An alien in MPP, like other aliens in INA section 240 proceedings, has the right to seek representation for in their INA section 240 proceedings at no expense to the Government, pursuant to INA § 240(b)(4)(A). Aliens in MPP are provided with the Executive Office for Immigration Reviews' list of *pro bono* legal services providers in the area.

Question: Does a U.S. lawyer with an MPP client need any type of travel document to travel and meet with an MPP client in Mexico?

Response: The Government of Mexico determines the documentation requirements to enter Mexico.

Question#:	26
Topic:	Safety of Asylum Seekers
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: DHS claimed that the MPP will "reduce threats to life" and "provide a safer and more orderly process."

Last year, Tijuana experienced its deadliest year on record with over 2,500 killings. Given that the San Ysidro Port of Entry is immediately across the border from Tijuana, what measures has CBP taken to ensure the safety of asylum seekers who are forced to remain in Tijuana until their U.S. court date?

Has DHS received any assurances from Mexico about the safety of asylum seekers who are in Mexico because of the MPP?

Who provides housing, medical care, and other basic services to this vulnerable population of asylum seekers while they are forced to remain in Mexico?

Response: It is the Mexican federal, state and local governments' prerogative to decide how to best provide for these needs. The Government of Mexico (GOM) has noted publicly it will authorize the entrance of all of those individuals for humanitarian reasons, in compliance with its international obligations, while they await the adjudication of their asylum claims. Mexico will also offer jobs, healthcare and education according to its principles.

Given that GOM has acceded to both the 1951 *Convention relating to the Status of Refugees* and its 1967 *Protocol*, and ratified the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, it is bound by *non-refoulement* obligations, as reflected in Mexico's Law on Refugees, Complementary Protection, and Political Asylum and other migration laws.

Question#:	27
Topic:	Northern Triangle Assistance
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: In your testimony, you identified "high levels of insecurity, limited economic opportunity, and weak governance" in the Northern Triangle countries as being among the reasons for the influx of migrants from these countries. You also stated that a multipronged approach to the problem must include U.S. investment in the Northern Triangle countries. Have U.S. government officials in Northern Triangle countries provided specific recommendations regarding how the U.S. can better provide assistance to these countries to reduce factors that cause individuals to leave their home countries, and if so, what are they?

Response: DHS is working closely with the U.S. Department of State and other partner government agencies to assist and implement the U.S. Strategy for Central America and its three-tiered focus on promoting prosperity, enhancing security, and improving governance. More detailed information about the full scope of engagement is available at <https://www.state.gov/u-s-strategy-for-central-america/>.

Question#:	28
Topic:	Extra Screening
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: Several news articles have reported that immigration officials created a list of journalists and advocates who were reporting on or providing legal assistance to migrant caravans, and in some cases, listed individuals were subjected to extra screening at the border.

When did CBP begin creating and maintaining a list of journalists and advocates along the southern border?

Response: CBP does not target journalists or advocates for inspection based solely on their occupation or their reporting.

Question: What procedure was used to identify someone as an individual of interest?

Response: CBP does not target journalists or advocates for inspection based solely on their occupation or their reporting. Indeed, CBP does not target, discriminate, or profile any individual solely for exercising First Amendment rights. CBP is committed to the fair, impartial and respectful treatment of all travelers, and has memorialized its commitment to nondiscrimination in its policies. Consistent with the *Privacy Act* (5 U.S.C. § 552a(e)(7)), CBP does not maintain records that describe how a U.S. citizen or alien lawfully admitted for permanent residence exercises First Amendment rights, unless “expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.”

Question: Did CBP ever deny an individual on this list the ability to cross at legal ports of entry or ever subject him or her to extended detention and/or secondary screening based on the fact that the individual was on such a list?

Response: CBP does not target journalists or advocates for inspection based solely on their occupation or their reporting. CBP does not target, discriminate, or profile any individual solely for exercising First Amendment rights. CBP is committed to the fair, impartial and respectful treatment of all travelers, and has memorialized its commitment to nondiscrimination in its policies. Consistent with the *Privacy Act* (5 U.S.C. § 552a(e)(7)), CBP does not maintain records that describe how a U.S. citizen or alien lawfully admitted for permanent residence exercises his or her First Amendment rights, unless “expressly authorized by statute or by the individual about whom the record is

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maintained or unless pertinent to and within the scope of an authorized law enforcement activity.”

Question: Does CBP still identify and maintain this or any similar list of journalists or advocates?

Response: CBP does not target journalists or advocates for inspection based solely on their occupation or their reporting. CBP does not target, discriminate, or profile any individual solely for exercising First Amendment rights. CBP is committed to the fair, impartial and respectful treatment of all travelers, and has memorialized its commitment to nondiscrimination in its policies. Consistent with the *Privacy Act* (5 U.S.C. § 552a(e)(7)), CBP does not maintain records that describe how a U.S. citizen or alien lawfully admitted for permanent residence exercises his or her First Amendment rights, unless “expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.”

CBP is tasked with protecting our Nation’s borders as well as enforcing numerous laws at our Nation’s ports of entry. All international travelers seeking to enter the United States, including all U.S. citizens, are subject to examination upon each arrival into this country. Occasionally, we may inconvenience law-abiding persons in our efforts to detect, deter, and mitigate threats to our homeland. We rely on the patience, cooperation, and understanding of travelers to ensure the effective protection of our borders.

Question#:	29
Topic:	Pork Sandwiches
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Christopher Coons
Committee:	JUDICIARY (SENATE)

Question: According to CBP's National Standards on Transport, Escort, Detention, and Search, CBP officers and agents "should remain cognizant of a detainee's religious or other dietary restrictions." However, according to a recent report, a Muslim man was only given pork sandwiches for six days while he was in CBP's custody.

Has CBP initiated an investigation into this incident?

Response: The allegation described is currently being investigated by CBP Office of Professional Responsibility.

Question: What actions will you take to ensure that CBP respects the religious rights of individuals in its custody?

Response: CBP respects the religious rights of those in custody. Agents and officers are trained and instructed to carefully respect these rights in accordance with to CBP's TEDS policy.

Question#:	30
Topic:	Jakelin Death
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: I want to ask you about the death of 7-year-old Jakelin Caal. She died on December 8, 2018. You testified before this committee on December 11, 2018. At that time, you did not disclose her death to Congress.

When did you first learn of Jakelin's death?

Why did you decide not to disclose Jakelin's death to the Senate Judiciary Committee when you were before us last December?

Did anyone advise you whether to disclose Jakelin's death to the Senate Judiciary Committee? If so, please state who advised you on this decision and the content of their advice.

Response: I first learned of the death on the morning of December 8, 2018. I did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path. For these reasons, I made the decision not to speak publicly about this tragic event at the hearing before the Senate Judiciary Committee.

Over the years, in response to such tragic events, being mindful and respectful of the oversight role of Congress, CBP has endeavored to walk the fine line between appropriately notifying Congressional Oversight Committees and taking care to protect the privacy interests of the family as well as the integrity of the investigation. Following the tragic loss of Jakelin, it became clear that we had to do better.

On December 17, 2018 I signed a policy memorandum detailing the notification process for deaths occurring in CBP custody. We outlined this process in keeping with Federal law enforcement best practices. CBP believes this new policy meets both the spirit of and legal requirements of Congressional actions over the past few years. Should we identify additional best practice procedures, it is our intention to update further our own process accordingly.

Question#:	31
Topic:	Language Protocols
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: It has been reported that Jakelin's father's first language is Mayan Q'echi'. When CBP apprehends or processes someone, what are the protocols for ensuring language access for non-Spanish and non-English speakers? Were those protocols followed?

Response: In accordance with the 2016 CBP Language Access Plan, U.S. Border Patrol (USBP) has a protocol for law enforcement personnel when limited English proficient (LEP) individuals are encountered. In instances where in-house language capabilities are not sufficient, the use of contract telephonic interpretation services has been implemented.

In this case, an interpreter was not needed as the agents reported they were able to effectively communicate with the father in the Spanish language.

Question#:	32
Topic:	Training Resources
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Do you believe that Border Patrol officers would benefit from additional medical and trauma-sensitivity training? If so, what sort of training would you recommend they receive?

Response: Currently, approximately 1,300 USBP agents are trained as paramedics and Emergency Medical Technicians. CBP believes the agency has sufficient personnel with the expertise to treat medical conditions encountered in the border regions away from CBP facilities and to ensure migrants are able to reach CBP facilities where they have access to contract medical professionals with trauma-sensitive expertise. CBP's budget request for FY20 includes \$60M for additional medical support and \$12.2M for transportation support, which includes transport for medical care.

Question: What resources do you believe would be helpful in preventing deaths like Jakelin's in the future?

Response: A modern border wall system will significantly enhance efforts to maintain control of the border between the POEs. A wall system that integrates sensors, cameras, lighting, and access and patrol roads, has the support of USBP agents working our borders. Other key challenges that confronted agents when responding to the group Jakelin Caal traveled with was the size of the group (163 migrants) and the extremely remote location where they crossed, as the nearest CBP facility was over an hour away and CBP lacked the ability to transport the entire group at the same time. Additionally, the father claimed that the child was in good health as indicated on the Form I-779. In this case, a physical barrier on that part of the border, may have forced the migrant group to travel to a less remote POE to apply for asylum legally.

Many of the land POE inspection facilities along our border are not designed to meet the modern security and operational missions of CBP. We need additional funds to modernize our land POEs (especially in remote areas) to detain and care for the new demographics of mass family units crossing the border.

Additionally, transportation support funding, as requested in the FY 2020 Budget, would allow us to more efficiently transport migrants (especially ones who need emergency medical care) when they are detained in remote areas.

Finally, the most important change for which CBP continues to advocate is the tightening of our immigration laws to deter migrants from attempting to make the trip to the border.

Question#:	33
Topic:	Medical Changes
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Will you commit to releasing a public report of the investigations into the death of Jakelin Caal and Felipe Gomez Alonzo within 30 days of its completion?

Response: CBP cannot comment as the investigations into the deaths of the two juveniles are being conducted by the DHS Office of Inspector General (OIG).

Question: What changes have been made to the type of medical care available in CBP facilities after the deaths of Jakelin and Felipe?

Response: In January, CBP issued a Medical Directive to guide deployment of enhanced medical efforts to mitigate the risk to and improve the care for individuals in CBP custody along our border as a result of these surges in children and families. This directive was developed in consultation with medical and pediatric experts. The Directive requires that all juvenile and adult aliens in CBP custody along the southwest border receive a mandatory health interview during initial processing, and that juveniles also receive a mandatory health assessment. These medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State and Local credentialed healthcare providers.

Since the directive was signed, with the help of our interagency partners, including the US Coast Guard and the Public Health Service Commissioned Corps, certified medical practitioners, working alongside our personnel, have screened over 12,000 juveniles and transported an average of 55 people to the hospital every day, ensuring essential medical care for thousands of migrants over the past two months.

We are currently working to expand the enhanced medical efforts to all nine border patrol sectors and all ports of entry along the southern land border.

Question: Please name any groups/people who advised you regarding the medical care provided in your facilities after the deaths of Jakelin and Felipe.

Response: The DHS Chief Medical Officer, CBP Senior Medical Officer, CBP Office of Chief Counsel, and the Privacy/Diversity Office all were involved in advising on CBP's new medical directive.

Question#:	34
Topic:	Shackling Pregnant Women
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Roughly two weeks before our hearing, a 24-year old Honduran woman had a miscarriage while in immigration detention. She reportedly spent a total of four days in immigration detention - three in CBP custody and one in ICE custody. This tragedy has renewed my concern that CBP is unnecessarily detaining, shackling, and denying adequate medical care to pregnant women in immigration custody. Under CBP's National Standards on Transport, Escort, Detention and Search, CBP officers are not meant to shackle or restrain pregnant women, except under "exigent circumstances." Under these rules, any time a CBP officer restrains or shackles a pregnant women it must be "documented in the appropriate electronic system(s) of record, including the facts and the reasoning behind the decision."

Would you support legislation barring the shackling of pregnant women?

Response: CBP cannot support a categorical ban on restraining pregnant woman – this action is already exceedingly rare. There may be instances where CBP personnel encounter a migrant woman and are unable to tell if the woman is pregnant only through visual inspection or interview, if the woman chooses to hide her condition.

CBP complies with the agency's National Standards on Transportation, Escort, Detention, and Search (TEDS) policy, which provide standards for the treatment of pregnant women in custody. TEDS provides that, barring exigent circumstances, officers/agents must not use restraints on pregnant detainees or juveniles unless they have demonstrated or threatened violent behavior, have a history of criminal and/or violent activity, or an articulable likelihood of escape exists. Even in the extraordinary circumstance when restraints are deemed necessary, no detainee known to be pregnant will be restrained in a face-down position, on her back, or in a restraint belt that constricts the area of the pregnancy. All exceptions must be documented in the appropriate electronic system(s) of record, including the facts and the reasoning behind the decision.

Question: Please provide a list of every documented instance in the past two years of a CBP officer restraining or shackling a pregnant woman.

Response: CBP cannot provide this data as the agency does not have a mechanism in place for tracking this information.

Question: Pursuant to CBP policy, please include the facts and reasoning behind the decision to shackle or restrain the pregnant woman.

Question#:	34
Topic:	Shackling Pregnant Women
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Response: As mentioned above, CBP personnel may only shackle or restrain pregnant women if they have demonstrated or threatened violent behavior, have a history of criminal and/or violent activity, or an articulable likelihood of escape exists.

Question#:	35
Topic:	Trained Medical Staff
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: 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 of the nine facilities we visited 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 is currently working to expand contracts to add medically trained staff to all nine border patrol sectors and all ports of entry along the southern land border. To that end, CBP is looking to build on the successes achieved through the appropriations received in the FY19 President's Budget and FY19 emergency supplemental. In CBP's FY20 President's Budget submission, the agency is requesting an additional \$60M to expand contracted medical support in CBP facilities and \$12.2M for transportation support, which includes the ability to transfer migrants to health care facilities and to provide related medical watch for those migrants.

Question#:	36
Topic:	Pork Sandwiches
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Under CBP's National Standards on Transport, Escort, Detention and Search, "without compromising officer/agent safety, officers/agents should remain cognizant of an individual's religious beliefs while accomplishing an enforcement action in a dignified and respectful manner." I am troubled by news reports regarding Adnan Asif Parveen, a Muslim detainee, who spent six days in CBP detention in January 2019. During that time, he reports that the only thing he was offered to eat were pork sandwiches.

Are you aware of this incident?

Response: Yes.

Question: What steps have you taken to investigate this incident?

Please provide the results of your investigation. If your investigation has not concluded, please state when it will be completed.

Response: The allegation described is currently under investigation by the CBP's Office of Professional Responsibility.

Question#:	37
Topic:	Montana Incident
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: A video from May 2018 showed a Border Patrol agent detaining two United States citizens at a Montana gas station. In the video, a Border Patrol agent tells two women: "Ma'am, the reason I asked you for your ID is because I came in here and I saw that you guys are speaking Spanish, which is very unheard of up here." In total, these women were reportedly detained by Border Patrol officers for about 40 minutes. Former Deputy CBP Commissioner Ronald Vitiello testified before the House Homeland Security Committee about this incident soon after it occurred. He said that he would make sure that CBP did "fact finding" about this incident.

Has that investigation occurred? If so, please state the results of that investigation.

Response: The allegation described is currently being investigated by the CBP's Office of Professional Responsibility.

Question: We became aware of this incident because the women decided to record their interactions with the Border Patrol agent. Because of their decision, we are able to discuss the incident and demand accountability. Do you support the use of body cameras or other monitoring devices for Border Patrol agents?

Response: Yes. U.S. Customs and Border Protection (CBP) recently completed a field evaluation regarding Body Worn Cameras (BWCs). The evaluation found that body-worn camera technology is most effective and has the greatest chance of increasing transparency in CBP operations at known interdiction points (U.S. Border Patrol (USBP) immigration checkpoints and Office of Field Operations (OFO) ports of entry). Officers/agents in these operational environments encounter higher volumes of interaction with the public, and evaluation participants in these environments consistently reported the most positive effects.

The evaluation found that the cameras are not likely to increase transparency at unknown interdiction points (USBP line operations and Air and Marine Operations (AMO) operations). Due to the irregular migration patterns and dispersed operational environments encountered in USBP line operations (as well as AMO operations), many of the rapidly evolving encounters at unknown/indefinite interdiction points went uncaptured, and agents did not realize the same benefits as at known interdiction points.

CBP is currently researching emerging technology that could provide recording capabilities that are similar or superior to current technology at unknown interdiction

Question#:	37
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points, while potentially providing more objective and comprehensive views of an incident.

CBP is planning to conduct a targeted, multi-phase implementation of Incident Driven Video Recording Systems to USBP immigration checkpoints that are not already equipped with fixed cameras. A phased implementation provides the time needed to complete upgrades at more remote locations to ensure infrastructure is in place and footage transmission aligns with evaluation findings.

Question#:	38
Topic:	Water Cans
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: There are videos of multiple Customs and Border Protection personnel emptying water cans in the desert that might otherwise save the lives of migrant children. Some of these videos were reportedly taken after you took over the leadership of Customs and Border Protection.

Are you aware of these videos?

Have you disciplined or otherwise fired any Border Patrol officers for engaging in this behavior? If not, why not? If so, please explain what disciplinary actions were taken and when they were taken.

Response: I am aware of the videos and the investigative cases that were opened as a result. In January 2018, video file footage of two separate incidents depicted two unidentified Border Patrol Agents tampering with food and water caches left in the desert by NGOs. Beyond these two most recent incidents, there have been a small handful of similar cases dating back to fiscal year 2012, when video emerged of a female agent kicking water bottles and a male agent captured on video, pouring out water and talking to the camera.

The U.S. Border Patrol endeavors to preserve human life and prevent injury to migrants. USBP does not condone destruction or tampering of water bottles or food caches and agents are trained not to remove or destroy water or other items intentionally left in the desert for migrants.

In answer to your question regarding discipline, Border Patrol Agents have been disciplined for tampering with food and water caches. Disciplinary action was issued back in 2012 and again in 2018, in response to more recent incidents.

Question#:	39
Topic:	Family Separation
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: According to reports, at least 250 families have been separated at the border since the Ms. L court order went into effect. My understanding is that CBP's position is that it is undertaking these separations because the parents either pose a danger to the child or because the parent is fraudulently claiming to be the parent of the child.

Please state what memos, guidance, or documents you have provided to Border Patrol officers in the field to guide them in determining when to undertake a family separation.

Response: CBP's *National Standards on Transportation, Escort, Detention, and Search* policy states in part that "CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation." In accordance with these standards, family units may be separated in certain limited situations, such as situations in which the parent/legal guardian is subject to criminal prosecution, the parent or legal guardian poses a risk to the child's safety, or CBP cannot determine the familial relationship.

This list is not exhaustive and the operational decision to separate a family unit is made after taking the safety and wellbeing of the child or children into account.

Question: Have you provided any training to officers to guide them in determining when to undertake a family separation? If so, please state what training has been provided.

Response: As part of their basic training, CBP agents and officers are trained to abide by the above mentioned TEDS policy, which includes guidance on family separation.

Question: What process, if any, exists to allow parents to challenge a determination that they should be separated from their child?

Response: While in CBP custody, there is not a means for the parent to challenge the decision to separate a parent/legal guardian from a child.

Question: What systems are in place to keep track of parents and children who are separated in the event they can be reunified in the future?

Response: If CBP determines that a family unit must be separated, agents and officers will indicate that fact, as well as the reason for the separation, into the relevant electronic system of record. In other words, if a child who was originally encountered as part of a

Question#:	39
Topic:	Family Separation
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

family unit is separated, the fact of that separation and the reasons for the separation will be documented in the electronic system of record, for both the parent and the child. ICE and HHS has access to information entered into CBP's electronic systems of record.

Question#:	40
Topic:	DHS Watch List
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: According to recent news reports, the Department of Homeland Security built a watch list targeting journalists, lawyers, and activists working along the border or with immigrant populations. The Department of Homeland Security apparently compiled dossiers on these individuals. People on this list were apparently flagged for additional screening or law enforcement attention.

When did you first become aware of this program?

Response: There is no program in CBP as you have described. We do not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question: Were you involved in approving this program?

Response: There is no program. We do not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question: Who approved this program?

Response: There is no program. We do not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question: Please provide a complete list of all the meetings at which you were present where this program was discussed. Please include the names and titles of all other participants in these meetings.

Response: There is no program. CBP does not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question: Did you ever see the target list of journalists, lawyers, and activists? If so, for what purpose was it shown to you?

Response: CBP does not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question#:	40
Topic:	DHS Watch List
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Did you ever review a dossier compiled on one of the individuals on the target list? If so, please provide a detailed description of the type of information included in the dossiers.

Response: CBP does not target journalists, lawyers, or activists for inspection based solely on their occupation or their reporting.

Question#:	41
Topic:	April 2018 Memo
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: On April 23, 2018, you sent a memo - along with the Directors of USCIS and Immigration and Customs Enforcement to Secretary Nielsen - titled "Increasing Prosecutions of Immigration Violations." A redacted version of your memo, which has been made available via a Freedom of Information Act request, argues that the Department of Homeland Security could "permissibly direct the separation of parents or legal guardians and minors." In order to facilitate the separation of parents and children, the memo advocated for prosecuting "all amenable adults who cross our border . . . including those presenting with a family unit."

Will you release an unredacted version of this memo in its entirety? If not, why not?

When you wrote this memo, did you intend for our government to systematically separate parents from their children? If so, why did you think that was permissible? If not, what result were you intending when you wrote this memo?

Response: DHS does not share pre-decisional and deliberative material.

Question#:	42
Topic:	Presidential Proclamation
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Last year, President Trump issued a Presidential Proclamation barring certain individuals from receiving asylum. This policy could result in deporting asylum seekers back to their death.

Were you consulted about the Proclamation before President Trump issued it?

Response: As this matter is currently in litigation, CBP refers questions regarding the promulgation of this action to DOJ, which represents the United States in litigation. Also please keep in mind that pursuant to the withholding of removal statute (INA § 241(b)(3)) and the regulations issued pursuant to the legislation implementing the Refugee Convention and the Convention Against Torture, aliens will not be returned to countries where it is more likely than not that they would face persecution on account of race, religion, nationality, membership in a particular social group, or political opinion (with certain exceptions for criminal and terrorist aliens instituted by Congress) or torture.

Question: What counsel or advice did you give regarding this Proclamation to your colleagues or superiors?

Response: This question directly relates to litigation currently before the federal courts. Accordingly, CBP respectfully defers this question to DOJ.

Question: Did you write any memos regarding this Proclamation? If so, please list all of them by date and title. Please indicate if you would be willing to release unredacted versions of those memos.

Response: This question directly relates to litigation currently before the federal courts. Accordingly, CBP respectfully defers this question to DOJ.

Question#:	43
Topic:	White House Meeting
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: In the weeks before the election, President Trump decided to deploy active duty troops to the border - an unprecedented decision, as only National Guard personnel had previously supported immigration enforcement activities. There have been news reports about an unusual meeting at the White House in the lead up to that I would like to ask you about. It was reported that, at this meeting, civilians from the Immigration and Customs Enforcement union and the Border Patrol union pressured then White House Chief of Staff John Kelly into authorizing military troops at the border to use force that even the White House counsel believes is unconstitutional.

Were you present at this meeting?

If so, what constitutional concerns were expressed and how were they received?

If not, are you aware of any other White House meetings at which the Border Patrol union was present, but you or your staff were not?

Response: CBP has a long history of collaborating with the U.S. Department of Defense to combat significant increases in the flows of migrants and drugs dating back to the Reagan administration.

The Commissioner has not attended meetings at the WH where union officials were present.

Question#:	44
Topic:	Shelter Conditions
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Our immigration laws require that people fleeing for their lives who arrive at our ports of entry have a chance to present their asylum claims. Yet, Customs and Border Protection has now adopted a practice called "metering," which blocks asylum seekers from presenting their claims at ports of entry. Rather, Customs and Border Protection officers often rebuff asylum seekers and tell them to wait - sometimes for weeks or months. As thousands of migrants are waiting longer and longer at our ports of entry, reports indicate that shelter conditions are squalid.

Can you assure me that these shelters have running water and adequate medical care for asylum seekers?

Response: I cannot address the specific living conditions within shelters in Mexico.

Question#:	45
Topic:	Adequate Healthcare for Children
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: News reports indicate that migrants at the border are drawing up lists of asylum seekers to help US authorities process their asylum claims in an orderly and speedy fashion. Yet, these reports indicate that unaccompanied children are unable to get on this list. What is our government doing to ensure that these children have adequate healthcare while they wait for their asylum claims to be processed?

Response: For those individuals who are in shelters in Mexico, such shelters are not under the control of any U.S. government entity, and thus CBP cannot address the specific living conditions.

Individuals in CBP custody are treated in accordance with CBP's National Standards on Transport, Escort, Detention, and Search (TEDS) issued in October 2015 to collect and codify our commitment to the safety, security, and care of those in our custody. While individuals are in CBP custody, CBP officers and agents document the provision of food and water, holding room temperature, and other welfare checks at frequent intervals in our electronic systems of record to ensure that CBP adheres to this policy at an individual level. Pursuant to the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), UACs who are not able to withdraw their application for admission must be transferred to HHS ORR within 72 hours, absent exceptional circumstances. In practice, the ability to transfer detained individuals out of CBP custody is in direct relation to ICE and HHS resources and bed space capacity.

As of January 28, 2019, CBP began conducting health interviews for all aliens in CBP custody. Medical assessments will be conducted on every juvenile in custody under 18 years of age, and on all adult aliens in custody who answer positively to a "referral mandatory" question during the health interview. The medical assessments will normally be conducted by CBP contracted medical professionals, other federal, state, and local credentialed healthcare providers, or CBP Emergency Medical Services (EMS), during exigent circumstances.

We are currently working to expand the enhanced medical efforts to all nine border patrol sectors and all ports of entry along the southern land border.

If a CBP officer/agent suspects, or a detainee reports that a detainee may have a contagious disease, the detainee should be separated whenever operationally feasible. Officers/agents will not administer medical techniques, medications, or preparations

Question#:	45
Topic:	Adequate Healthcare for Children
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unless they are qualified emergency medical technicians or paramedics rendering care, or in the case of a life-threatening emergency. When necessary a detainee may be transferred, under the escort of at least one officer/agent, by emergency medical services for further medical treatment.

Question#:	46
Topic:	Mexico Payment
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: During the campaign, President Trump repeatedly said that Mexico would pay for the wall.

Do you have any plans to get Mexico to pay for the wall?

Will you share any and all plans to get Mexico to pay for the wall with the Senate Judiciary Committee?

Response: We are executing the border wall projects funded by the FY 2017, FY 2018 and FY2019 enacted appropriations.

Question#:	47
Topic:	QFR's
Hearing:	Oversight of Customs and Border Protection's Response to the Smuggling of Persons at the Southern Border
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: You last testified before the Senate Judiciary Committee on December 11, 2018. After that hearing, I submitted a series of questions for the record.

Why did you not respond to those questions for the record?

Response: There was a delay in the response to these Questions for the Record due to the extended government shutdown.