Question#:	1
Topic:	Secure the Border
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Based on conversations with your component heads, and the law enforcement professionals at DHS, is construction of a border wall system alone sufficient to provide operational control of our border?

Response: A physical wall is the "anchor" of a border wall system which, when completed, will provide the U.S. Border Patrol with an effective means of improving border security. The wall provides a physical obstruction to illicit cross border activity, but must be supplemented with the ability to detect, identify, and respond to bring that activity to a satisfactory law enforcement resolution.

While a wall and other physical barriers have the potential to further the U.S. Border Patrol's pursuit of operational control between the ports of entry, no one solution or capability fulfills every element of operational control. Operational control is the U.S. Border Patrol's ability to impede or deny illegal border crossings, maintain situational awareness, and apply the appropriate, time bound, law-enforcement response between the ports of entry. The appropriate deployment of resources that further the U.S. Border Patrol's capabilities in impedance and denial (wall and other tactical infrastructure); situational awareness (technology and intelligence); and law enforcement response (agents and resources that increase mobility) are essential.

In every location that a wall has been deployed, it has had a positive operational outcome that has enhanced our ability to achieve operational control of the border. A comprehensive approach to achieving operational control of the border will include a wall where it makes sense, and will rely on other methods, such as technology, where it does not.

Question: Do you agree that legal loopholes in current border enforcement authorities have weakened your agency's ability to effectively secure the border?

Response: Loopholes in the U.S. immigration system encourage illegal immigration and negatively impact the Department of Homeland Security's ability to enforce our immigration laws. Specifically, the Administration is seeking to:

- Amend the asylum and credible fear process to decrease fraud and strengthen sentencing guidelines for related convictions by elevating the threshold standard of proof in credible fear interviews, imposing and enforcing new penalties for

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filing baseless or fraudulent asylum applications, and ensuring the appropriate use of parole authority for aliens with credible fear or asylum claims.

- Amend the Trafficking Victims Protection Reauthorization Act (TVPRA) so that all Unaccompanied Alien Children (UAC) who are not victims of human trafficking or otherwise entitled to protections, regardless of country or origin, can be safely and promptly returned to their families in their country of origin or removed to safe third countries.

▪ Terminate the *Flores* Settlement Agreement (FSA) legislatively, which, in conjunction with court decisions enforcing and interpreting the FSA, causes undue operational burden.
▪ Amend the definition of "special immigrant juvenile" to require that the applicant meet the definition of a UAC, that the applicant is a victim of trafficking, and state that reunification with both parents is not viable due to abuse, neglect, or abandonment.
▪ Seek bilateral, Safe Third Country Agreements allowing an asylum seeker to be removed to a third country pursuant the Secretary of Homeland Security's determination.
▪ Discourage visa overstays by classifying such conduct as a criminal offense, bar visa overstays from future immigration benefits.

Question#:	2
Topic:	Changes to Existing Legal Authority
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Are changes needed to existing legal authorities to make it easier to apprehend, detain, and deport dangerous criminal aliens? Specifically, which authorities should Congress consider changing?

Response: DHS believes that certain legislative changes could help it to better protect public safety and enforce existing provisions of law designed to subject criminal aliens to removal from the United States. Courts have ruled that many of the Immigration and Nationality Act's (INA) criminal removal grounds must be analyzed under the so-called "categorical approach," which requires a criminal statute to be written in a very specific way before it can actually be used to subject an alien to removal. In essence, the elements of the criminal statute must correspond directly to—or be narrower than—a generic federal definition of a crime.

While intended to simplify the analysis and to ensure consistency, the categorical approach has evolved in U.S. Supreme Court jurisprudence such that many state and local convictions that once subjected aliens to removal no longer do. *See Mathis v. United States*, 136 S. Ct. 2243 (2016) (Iowa burglary statute did not satisfy generic definition of burglary); *Descamps v. United States*, 133 S. Ct. 2276 (2013) (same; California burglary). Rather than ensuring consistency, recent Supreme Court precedent has led to anomalous, unpredictable results and undermined DHS's removal efforts and national uniformity in the application of immigration laws. *See, e.g., Harbin v. Sessions*, 860 F. 3d 58 (2d Cir. 2017) (holding that New York controlled substance law was not written in a way that allowed it to be used as the basis for establishing that a convicted alien was removable under the INA for drug trafficking); *see also Conejo-Bravo v. Sessions*, 875 F.3d 890, 893 (9th Cir. 2017) ("Almost every Term, the Supreme Court issues a 'new' decision with slightly different language that forces federal judges, litigants, lawyers and probation officers to hit the reset button once again in determining whether a crime is a [crime involving moral turpitude (CIMT)]. So we analyze this question fully aware that the current *Choose Your Own Adventure* approach to CIMTs and crimes of violence can lead to unpredictable results. *See, e.g.,* Edward Packard, *The Forbidden Castle* (1982) (promising 27 possible resolutions to one quest and a world where 'you'll find what isn't what it is').") (citation omitted).

In order to resolve this issue and renew the relevance of the various INA criminal immigration grounds, the INA could be amended to ameliorate the impact of the Supreme

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Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Court's decision in *Mathis* in the immigration context by permitting the government to rely on any facts contained in a record of conviction in order to establish removability for various criminal grounds of removal. For instance, an alien with a state controlled substance trafficking conviction could be removed if the government can look to all relevant facts to see whether the controlled substance at issue is, in fact, a federally controlled substance, rather than focusing on the vagaries of how state legislators elected to structure their state criminal laws.

Two other legislative reform areas that could aid DHS in fulfilling its public safety mission would include expanding the classes of criminal aliens subject to removal and shoring up DHS's immigration detention authority over dangerous aliens. First, there are various criminal convictions that are not captured fully by the current criminal removal grounds, including driving under the influence and convictions related to gang membership and aiding or assisting a criminal gang, among others. The INA could be amended to add removal grounds to cover these criminal acts and more, and to add removal grounds for criminal gang membership or association. Second, while aliens subject to various criminal removal grounds are currently subject to mandatory detention under INA § 236(c), not all aliens who are removable for dangerous or violent offenses are subject to INA § 236(c). For instance, aliens deportable for having been convicted of a crime of domestic violence are not subject to mandatory detention. Congress could expand the scope of aliens subject to INA § 236(c), which would allow DHS to ensure that criminal aliens are detained and removed.

Finally, some state legislatures have adopted generous statutes that attempt to alter the immigration consequences of aliens' past criminal convictions. Various state courts have also generously granted aliens post-conviction relief or modified their sentences *nunc pro tunc* in order for the aliens to avoid the immigration consequences of their convictions. For instance, years after an alien was sentenced to prison and served his or her sentence, a court may go back and retroactively reduce that completed sentence (such as from 365 days to 364 days) solely to prevent the alien from being removed. The INA's definition of "conviction" could be amended to clarify that a conviction remains for immigration purposes.

Question: Would a *Zadvydas* fix, permitting DHS to detain aliens beyond expiration of the removal period, even if their removal is not expected in the "reasonably foreseeable" future, be useful?

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Response: In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that section 241(a)(6) of the Immigration and Nationality Act (INA) does not authorize detention of an alien with a final order of removal beyond the period of time when removal is significantly likely to occur in the reasonably foreseeable future. Essentially, *Zadvydas* reflects the rule that the Department of Homeland Security (DHS) may presumptively hold a final order alien in custody for 180 days from the date the removal period begins under INA § 241(a)(1)(B). But, after that, if the alien alleges that his or her removal is not significantly likely in the reasonably foreseeable future, continued detention is generally authorized only when the government presents evidence that removal is significantly likely in the reasonably foreseeable future. This analysis does not take into account danger to the community or flight risk. Each year, DHS must release thousands of criminal aliens who have been ordered removed but who cannot be removed (generally, because their country of nationality won't take them back or they have received relief pursuant to the Convention Against Torture).

The Court in *Zadvydas* avoided the question of whether indefinite detention would be constitutional, but noted that if it were to find clear congressional intent to grant DHS the power to indefinitely detain aliens ordered removed, the Court would then be required to give such legislation effect to the extent consistent with the Constitution. *See* 533 U.S. at 696. The Court found that INA § 241(a)(6) was ambiguous and did not necessarily suggest unlimited discretion to prolong detention when removal does not appear practicable. Given that ambiguity and the Court's view that "[a] statute permitting indefinite detention would raise a serious constitutional problem," 533 U.S. at 690, the Court applied the canon of constitutional avoidance in construing INA § 241(a)(6). The Court subsequently applied these same principles in construing INA § 241(a)(6) with respect to applicants for admission. *See Clark v. Martinez*, 543 U.S. 371 (2005).

In general, the Department would be amenable to legislative changes that, to the extent permitted by the Constitution, address *Zadvydas* and enhance its ability to detain aliens beyond the expiration of the removal period.

Question: With respect to unaccompanied alien children (UAC) crossing the border, does DHS have adequate authority to provide for their voluntary return, safe repatriation, and reunification with family members in their home countries?

Response: DHS believes that it currently lacks sufficient authority to provide for the voluntary return, safe repatriation, and family reunification abroad of UACs, given limitations imposed by section 235(a) of the William Wilberforce Trafficking Victims

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Protection Reauthorization Act of 2008 (codified in principle part at 8 U.S.C. § 1232). In order for DHS to have sufficient authority, the Act could be amended to provide that all UACs who meet the criteria in 8 U.S.C. § 1232(a)(2)(A)(i-iii), regardless of country of origin, can be safely and promptly removed.

Question: Would it be helpful to be able to bar aliens from all immigration benefits, (except asylum, withholding of removal, or CAT) if they reenter or attempt to reenter after departing the United States on a final order of removal or while a final order was outstanding?

Response: Removal proceedings are divided into two phases. In the first phase, immigration judges must analyze whether the alien is subject to removal from the United States. In the second phase, aliens who are subject to removal may apply for any form of relief or protection from removal for which they are eligible. Generally speaking, removal proceedings take longer to resolve where applications for relief are prepared and fully litigated. Should Congress deem it to be appropriate, barring certain aliens from eligibility for relief other than asylum withholding of removal or CAT, would reduce the length of their removal proceedings, conserving immigration court docket time and ICE detention resources.

Question: Would a new ground of inadmissibility and removal for an alien who has committed, ordered, incited, assisted, or otherwise participated in the persecution of others provide useful removal authority?

Response: There is no specific ground of inadmissibility or removability for those who committed, ordered, incited, assisted, or otherwise participated in the persecution of others. Similarly, there is no specific ground of inadmissibility or removability for those who committed, ordered, incited, assisted, or otherwise participated in war crimes and there is no ground of inadmissibility or removability for those who committed, ordered, incited, assisted, or otherwise participated in crimes against humanity. As a result, if an investigation reveals that an alien in the United States has engaged in the persecution of others, war crimes, or crimes against humanity, he or she is not inadmissible/removable unless one of the existing grounds of inadmissibility/removability is present.

Question: What authorities do you lack that would assist with the deterrence of transnational organized crime? For example, should the Secretary of Homeland Security be authorized to designate groups as criminal gangs? What about bars to admissibility for aliens who have participated in gang violence and gun crimes?

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Response: There are several areas of authority that could be expanded to bolster the Department's ability to deter transnational organized crime in the context of the apprehension, detention, and removal of dangerous criminal aliens who are members, co-conspirators, or participate in the illicit activities of transnational criminal organizations (TCOs).

First, as indicated, the Secretary of Homeland Security explicitly could be authorized to designate particular TCOs as a "criminal gang." Aliens who are members of such designated groups or who participate in their criminal activities could be deemed removable if the Immigration and Nationality Act's (INA) grounds of removability were modified to include such membership or participation.

Second, the INA could be amended to provide that aliens who commit firearms-related offenses are inadmissible to the United States. Currently, a firearms conviction will render an admitted alien removable, under INA § 237(a)(2)(C), but no parallel ground of inadmissibility exists.

Third, comprehensive changes and penalty enhancements to 8 U.S.C. § 1324 would provide needed authorities to deter transitional organized crime and to address human smugglers who assist aliens to enter the United States illegally. Section § 1324 should be reformed to facilitate more effective prosecution of alien smugglers who assist solely outside the U.S. and to enhance criminal penalties to better address both human smuggling and additional crimes that occur during the smuggling.

Question#:	3
Topic:	Amnesty Impact
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If Congress provides amnesty for potentially millions of individuals without changes to existing legal authorities, what impact will that have on your agency's ability to secure the border?

Response: DHS anticipates minimal impact on border security if Congress enacts a change to Deferred Action for Childhood Arrivals (DACA) with subsequent legal status, because these people already reside within the interior of the country. However, if an extended enactment timeline is set, DHS could see a rise in unaccompanied children and family units trying to enter the United States before a change occurs in an effort to be included. Further, enactment of DACA or other immigration-related legislation must be coupled with changes to close legal loopholes and provide necessary investment in infrastructure, technology, and personnel to strengthen our ability to secure the border and enforce our immigration laws.

Question#:	4
Topic:	E-Verify
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Do you support the implementation of mandatory, nationwide E-verify?

Response: DHS supports legislation that requires all employers to use E-Verify. Expanding the use of E-Verify to all U.S. employers is necessary to ensure employers hire and maintain a legal workforce.

Question: If Congress is unable to implement mandatory nationwide e-verify, at a minimum, would you support the permanent authorization of the voluntary pilot program?

Response: DHS supports the permanent authorization of the E-Verify Program but reiterates that all employers should also be required to use E-Verify. While permanent authorization would eliminate the uncertainties and disruptions of service that come with the reauthorization process, a robust and mandatory use of E-Verify by employers is necessary to ensure employers hire and maintain a legal workforce.

Question: If Congress permanently authorizes the voluntary program, but doesn't make it mandatory, what incentives should we offer to small businesses to participate in the program?

Response: DHS supports the permanent authorization of the E-Verify Program but reiterates that the mandatory use of E-Verify by all employers is necessary to ensure employers hire and maintain a legal workforce.

It is important to note that E-Verify is employer friendly. It offers employers a tool to quickly, easily, and accurately confirm the eligibility of their employees to work in the United States. E-Verify confirms employment authorization by comparing the employee's Form I-9 information with data from the Department of Homeland Security (DHS), the Social Security Administration (SSA), the U.S. Department of State, and certain state Department of Motor Vehicle divisions. Employers can access E-Verify anytime, anywhere with no special software required. The E-Verify web interface is user friendly and offers various navigational tools and tutorials. E-Verify is also quick—current statistics show that 98.82 percent of E-Verify cases are confirmed as work authorized either instantly or within 24 hours.

Recommendations to incentivize greater small business participation include:

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Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
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- Allowing employers to use E-Verify for job applicants. Currently, employers are only permitted by law to use E-Verify as soon as a job offer has been made and accepted. Allowing employers to use E-Verify for job applicants could eliminate the cost that might be incurred by small employers in hiring and training new employees who may later be identified by E-Verify as being not authorized to work.

- Eliminating the paper Form I-9 for employers who use E-Verify. Currently, employers are permitted to use E-Verify only after completing the Form I-9 process. Allowing employers to bypass the I-9 process if they use E-Verify could help small employers eliminate the administrative costs currently associated with completing the two-step process (I-9 and E-Verify) for each new hire.

- Piloting programs to improve access to E-Verify. Piloting different technologies to improve access to E-Verify, especially for sectors where the hiring occurs in rural or remote areas, could help incentivize small businesses to use E-Verify by addressing any potential technological barriers to access that they might be facing.

Question: Independent of what Congress may do, what steps will your Department take to make the E-Verify program more user friendly and to encourage more businesses to participate?

Response: USCIS's ongoing effort to modernize E-Verify focuses on creating a user friendly system and increasing participation by strengthening the underlying system architecture, improving reliability and resiliency of our systems, and delivering verification services with the highest degree of speed and accuracy possible, while reducing any unnecessary employer and/or employee burden.

Specific recent initiatives include the following:

- Modernized the enrollment processes to be faster and more intuitive.

- Modernized the Status Verification System (SVS), the system used to resolve E-Verify cases that are not automatically found work authorized.

- Migrated the Verification Information System (VIS)—the system that supports E-Verify—to the Amazon Web Services (AWS) cloud to improve upon the scalability of the system.

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- Launching a new and improved E-Verify process in late spring 2018 with the goal of reducing the number of screens an employer needs to click through, adding helper text and graphics in key areas, and reducing "Tentative Non-confirmation" (TNC) responses by automatically resolving data mismatches in USCIS data systems that previously required manual source comparisons.

- Launching a new marketing and public outreach campaign focused on increasing E-Verify enrollment and promoting consistent and proper use of E-Verify and Form I-9. A new E-Verify.gov website will also be launched in the spring of 2018.

- Exploring changes to employment eligibility verification requirements. USCIS, in consultation with U.S. Immigration and Customs Enforcement, is developing an E-Verify redesign effort that would allow employees to create an electronic account to manage their own employment verification and possibly return a verification response to additional enrolled employers. The project intends to evaluate and potentially eliminate the need for work authorized employees to go through the E-Verify process multiple times with different employers, reducing the burden on both employers and employees.

- Establishing a connection with the National Law Enforcement Telecommunications System (NLETS) for driver's licenses and state identification verification.

Question#:	5
Topic:	DHS IT
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What do you need to improve DHS IT systems? What authorities do you need, and how can funding be better managed?

Response: The FY 2018 enacted budget provided funding for the technical refresh and modernization of OneNet. The OneNet network represents the Department's full-scale move toward a DHS-consolidated information technology infrastructure, supporting the cross-organizational missions of protecting the homeland, deterring crime, detecting and countering threats, responding to natural disasters, and myriad other responsibilities. This network implements the DHS CIO's vision of "One Infrastructure," by unifying disparate Component information technology networks, platforms, and services into a set of enterprise-wide IT services and serves as a controlled gateway for Department-level authentication and an authorized data exchange with other federal agency networks.

Question: How do you plan to integrate DHS's IT infrastructure and how can we ensure that all of the DHS components can share information in an efficient and effective manner, contrary to the findings of dozens of OIG reports addressing such systems over the past several years?

Response: OCIO is making progress on several fronts. As described in the official response to the DHS IT Duplication Act of 2015, the DHS OCIO engages in targeted segment architecture reviews, in which systems performing like functions are evaluated for duplication, capability gaps, and alignment to common targets. As part of the segment architecture process, lines of communication between systems are identified and, where needed, recommendations are made to improve information flows.

Additionally, the Enterprise Data Management Office has been sponsoring standardization of data governance activities across all components through collaboration of efforts such as, communities of practice, regarding issues with immigration data. In addition, tools and training are provided so that as information exchanges are built, systems can use common tables and reference data sets to allow effective communication.

The National Information Exchange Model (NIEM) is a federal-wide initiative that is currently sponsored by DHS OCIO. Just as with data standards, NIEM provides a common approach across communities of practice to package information being sent between systems. The model allows for certain information about data being sent to be standardized and easily consumed.

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The DHS OCIO has also established an annual infrastructure survey (commonly called the IT Infrastructure Winter Study). In its third year now, the study identifies the oldest components of hardware and software on the network and across all major systems. The results are used to prioritize funding for upgrades so that the average age of the DHS infrastructure is reduced. This has direct impacts on the ability for systems to communicate using the latest standards.

DHS OCIO is actively pursuing a new cloud-based architecture. As we design for this future infrastructure model, research is underway on ways to reduce cross-network latency and eliminate the need to cross accreditation boundaries that require extra time and resources to inspect information packets in transit. The target state should allow for very rapid communication on high speed connections to be available across cloud-hosted systems.

These are a few of the ongoing efforts in which DHS OCIO is engaged to improve the efficiency and effectiveness of our cross-system communications.

Question: Specifically, do you have any plans to replace the "TECS" system? If so, please explain to us how you would replace it.

Response: Both CBP and ICE have deployed TECS Modernization (TECS Mod) systems to the field within the past year. CBP TECS Mod achieved an Acquisition Decision Event 3 (ADE-3) in August 2017 after being found operationally effective and suitable by the Operational Test Agent. CBP is planning to achieve Full Operational Capability by March 2018, at which time the TECS Mod system will fully meet the user’s needs.

The ICE TECS Mod system plans to achieve ADE-3 by March 2018. They are currently finalizing the operational test and evaluation of the Full Operational Capability configuration and will report back to USM by March 2018. An Initial Operational Capability is deployed to the field and being used.

The CBP and ICE systems interface with each other.

Question#:	6
Topic:	Access to Classified Information
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: DHS's OIG recently found that "ICE Enforcement and Removal Operations (ERO) faces challenges in implementing the Known or Suspected Terrorist Encounter Protocol (KSTEP) screening process, which is used to identify aliens who may be known or suspected terrorists." Specifically, the inspector general found that ICE agents often lacked access to classified information systems that facilitate information sharing and dissemination of important derogatory information about potential terrorists. I understand that providing access to classified information systems raises serious attendant security concerns. Do you have a plan to make classified information more widely available within ERO?

Response: In light of Department of Homeland Security Office of the Inspector General (OIG) findings, ICE will conduct an assessment to identify the needed resources to implement infrastructure improvements and fund additional ERO field offices to ensure classified information is more widely available. Subject to available resources, ICE plans to add national security positions, including Senior Deportation Officers, in the field offices to facilitate screening and intelligence collection and produce bulletins as a way to share across other ICE offices.

ICE ERO is working with ICE Homeland Security Investigations (HSI) Office of Intelligence, ICE Management and Administration, and others to facilitate the deployment of classified systems and networks that operate at the Top Secret/Sensitive Compartmented Information level and that are easily accessible to authorized ERO personnel at the field office level.

Question#:	7
Topic:	TPS Recipients
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Please provide the exact number, or estimates if necessary, of the number of TPS recipients, by country of origin, who were unlawfully present at the time of their country's TPS designation.

If you don't have exact numbers, can you provide your best estimate, in percentages, of the total number of TPS recipients who were unlawfully present at the time of their countries designation?

Response: The status of TPS recipients at the time of their application is reported and summarized in columns B through E of the attached spreadsheet. Note that the status reported in the table is provided by the applicant on the Form I-821. The applicant's entry on the Form I-821 may not be accurate or left blank and this information may be reflected in USCIS electronic systems. However, officers review documentary evidence submitted with a TPS application along with information in other systems which would include evidence regarding the applicant's physical presence in the United States and any immigration status the individual has in the United States. However, immigration status, or lack of status, does not impact eligibility for TPS. *See* INA § 244(a)(5).

In addition, the reported status is at the time of their most recent application--not the status at the time of the recipient's country designation. Even those reporting that they were nonimmigrants at the time of their application may have overstayed the terms of their visa by the time of application. Over 90 percent reported that their status was unknown. We can't definitively state that all of these persons approved for TPS were unlawfully present, although we assume that a majority of them likely were given their lack of response on their application.

This report represents counts of approved TPS broken down by current class and country of citizenship as of 12/31/2017.

TPS Data Calendar Year 2017 - Current Class by Country of Citizenship

					Country of Citizenship													
Type of Admissions	**Major Class Category**	**Class Sub Category**	**Current Class**	**Current Class Description**	**El Salvador**	**Guinea**	**Haiti**	**Honduras**	**Liberia**	**Nepal**	**Nicaragua**	**Sierra Leone**	**Somalia**	**South Sudan**	**Sudan**	**Syria**	**Yemen**	**Total**
Immigrant Admissions					**98**	**-**	**257**	**45**	**1**	**2**	**1**	**-**	**2**	**-**	**-**	**1**	**-**	**407**
			A12	LPR - CHILD OF ALIEN CLASS P11/P16	1		3	1	1									6
			IMM	LPR - IMMIGRANT	97		253	44		2	1		2			1		400
			LPR	LPR - LEGAL PERMANENT RESIDENT			1											1
Nonimmigrant Admissions					**594**	**42**	**1,200**	**633**	**133**	**3,575**	**247**	**78**	**5**	**23**	**188**	**1,564**	**225**	**8,507**
	Temporary workers and their families				**129**	**4**	**135**	**73**	**-**	**1,045**	**9**	**7**	**-**	**2**	**26**	**318**	**9**	**1,757**
		Temporary workers and trainees			**122**	**4**	**129**	**72**	**-**	**1,035**	**9**	**7**	**-**	**2**	**24**	**306**	**7**	**1,717**
		Temporary workers and trainees	CW1	NIV - TEMP NO MARIANA ISLANDS TRANSITIONAL WORKERS	1					16								17
		Temporary workers and trainees	CW2	NIV - TEMP NO MARIANA ISLANDS TRANSITIONAL WORKERS						9								9
		Temporary workers and trainees	H1A	NIV - REGISTERED NURSE/SPOUSE/CHILDREN												1		1
		Temporary workers and trainees	H1B	NIV - TEM WORKER W/SPECIALTY OCCUPATION	13	-	24	9	-	683	1	-	-	1	17	195	2	945
		Temporary workers and trainees	H2A	NIV - TEMP AGRICULTURAL WORKER	11	-	12	2	-	3	-	1	-	-	-	1	-	30
		Temporary workers and trainees	H2B	NIV - TEMP NON-AGRICULTURAL WORKER	78	-	54	47	-	12	5	-	-	-	-	-	-	196
		Temporary workers and trainees	H3	NIV - Trainee	1									1			2	4
		Temporary workers and trainees	H4	NIV - SPS OR CH OF H1, H2, H3 OR H2R	9		4	7		300		2			3	95	3	423
		Temporary workers and trainees	O1	NIV - PRINCIPAL	2					1					1	1		5
		Temporary workers and trainees	O3	NIV - SPOUSE OR CHILD OF O1 OR O2			1								2			3
		Temporary workers and trainees	P1	NIV - ATHLETE OR ENTERTAINER	1			1							1			3
		Temporary workers and trainees	P2	NIV - EXCHANGE ARTIST/ENTERTAINER			1			1								2
		Temporary workers and trainees	P3	NIV - UNIQUE ARTIST/ENTERTAINER	-	3	7	1	-	1	-	2	-	-	-	2	-	16
		Temporary workers and trainees	Q1	NIV - CULTURAL EXCHANGE PROGRAM	2	1												3
		Temporary workers and trainees	R1	NIV - ALIENS IN RELIGIOUS OCCUPATION	1		16	1		5	1	1				3		28
		Temporary workers and trainees	R2	NIV - SPOUSE OR CHILD OF R1			9	3		4	2	1				7		26
		Temporary workers and trainees	TN2	NIV - NAFTA Professional, family	1			1										2
		Temporary workers and trainees	TD	NIV - DEPENDENT SPOUSE OR CHILD OF TN	2		1									1		4
		Representatives of Foreign Information Media	I	NIV - Information Media	1			1										2
		Intracompany transferees			**4**	**-**	**4**	**-**	**-**	**10**	**-**	**-**	**-**	**-**	**2**	**9**	**2**	**31**
		Intracompany transferees	L1	NIV - INTRA-COMP TRANSFEREE TO CONT EMPL	3	-	1	-	-	6	-	-	-	-	1	2	1	14
		Intracompany transferees	L2	NIV - SPS OR CH OF L1 ALIEN	1		3			4					1	7	1	17
		Treaty traders and investors			**3**	**-**	**2**	**1**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**3**	**-**	**9**
		Treaty traders and investors	E1	NIV - TREATY TRADER, SPS AND CH	2		2	1										5
		Treaty traders and investors	E2	NIV - TREATY INVESTOR, SPS AND C	1											3		4
	Students and Exchange visitors				**21**	**7**	**182**	**49**	**20**	**2,274**	**9**	**18**	**2**	**8**	**59**	**280**	**109**	**3,038**
		Students and their dependents	F1	NIV - STUDENT	15	7	170	45	20	1,801	7	15	2	8	51	234	82	2,457
		Students and their dependents	F2	NIV - SPS OR CH OF STUDENT	5		10	3		471	1	3			7	41	20	561
		Students and their dependents	M1	NIV - STUDENT PURSUING COURSE OF STUDY	1		2	1		2	1				1	5	7	20
	Exchange visitors				**5**	**-**	**26**	**7**	**5**	**61**	**5**	**4**	**-**	**1**	**14**	**176**	**47**	**351**
		Exchange visitors	J1	NIV - EXCHANGE VISITOR	5	-	24	6	1	31	5	1	-	-	10	136	27	246
		Exchange visitors	J2	NIV - SPS OR CH OF J1 ALIEN			2	1	4	30		3		1	4	40	20	105
	Diplomats and other representatives				**20**	**7**	**8**	**10**	**7**	**30**	**1**	**1**	**1**	**7**	**20**	**2**	**21**	**135**
		Diplomats and other representatives	A1	NIV - AMBASS, MINISTER, DIPLOMAT	10	1	2	3		2				3	4			25
		Diplomats and other representatives	A2	NIV - OTHER FOR GOVT OFFICIALS	8	4	2	1	5	10		1	1	1	13		5	51
		Diplomats and other representatives	A3	NIV - A1-A2 ATTEN, SERV, EMPLY	2			4		1					2	1	2	12
		Diplomats and other representatives	G1	NIV - PRIN RES REP FOR MEM GOVT		1	3	2		7				3	1		8	25
		Diplomats and other representatives	G2	NIV - OTHER REP OF FOR MEM GOVT		1											5	6
		Diplomats and other representatives	G4	NIV - INTL ORG OFFICER OR EMPLOY			1		1	6						1	1	10
		Diplomats and other representatives	G5	NIV - G1, G2, G3 & G4 ATTEN, SER					1	4	1							6
	Temporary visitors for pleasure				**309**	**18**	**650**	**383**	**78**	**131**	**170**	**40**	**2**	**4**	**44**	**703**	**32**	**2,564**
		Temporary visitors for pleasure	B2	NIV - VISITOR FOR PLEASURE	268	18	629	367	72	125	167	38	2	4	44	692	31	2,457
		Temporary visitors for pleasure	GT	NIV - VISITOR WITHOUT VISA 15 DA				1										1
		Temporary visitors for pleasure	WT	VISITOR WITHOUT VISA 90 DA	41		21	15	6	6	3	2				11	1	106
	Temporary visitors for business				**37**	**6**	**93**	**56**	**12**	**18**	**45**	**4**	**-**	**1**	**23**	**61**	**6**	**362**
		Temporary visitors for business	B1	NIV - VISITOR FOR BUSINESS	31	6	87	54	9	16	43	4		1	23	58	6	338
		Temporary visitors for business	GB	NIV - VISITOR WITHOUT VISA 15 DA						2								2
		Temporary visitors for business	WB	VISITOR WITHOUT VISA 90 DA	6		6	2	3		2					3		22
	Others				**73**	**-**	**106**	**55**	**11**	**16**	**8**	**4**	**-**	**-**	**2**	**24**	**1**	**300**
		Transit aliens			**8**	**-**	**9**	**18**	**-**	**6**	**5**	**1**	**-**	**-**	**-**	**1**	**-**	**48**
		Transit aliens	C4	NIV - TRANSIT WITHOUT A VISA	3		1				1					1		6
		Transit aliens	TWO	NIV - TRANSIT WITHOUT A VISA	2			1				1						4
		Transit aliens	C1	NIV - ALIEN IN TRANSIT	3		8	17		6	4							38
		Alien Fiancé(e)s of U.S. citizens and children			**-**	**-**	**17**	**1**	**5**	**1**	**-**	**2**	**-**	**-**	**1**	**19**	**-**	**46**
		Alien Fiancé(e)s of U.S. citizens and children	K1	NIV - FIANCE-FIANCEE OF A USC TO			12		4	1		1			1	15		34
		Alien Fiancé(e)s of U.S. citizens and children	K2	NIV - CH OF ALIEN ENTERING AS K1			5	1	1			1				4		12
		Legal Immigration Family Equity (LIFE) Act			**15**	**-**	**44**	**3**	**1**	**-**	**-**	**-**	**-**	**-**	**1**	**2**	**1**	**67**
		Legal Immigration Family Equity (LIFE) Act	K3	NIV - SPOU/USCITZN LIVING ABROAD DEC2000	11		19	2										32
		Legal Immigration Family Equity (LIFE) Act	K4	NIV - CHILD/USCITZN LIVING ABROADDEC2000	1		10										1	12
		Legal Immigration Family Equity (LIFE) Act	V1	NIV - SPOU/LPR 3Y+ WAIT IMM VIS LIFE2000	3		4	1	1									9
		Legal Immigration Family Equity (LIFE) Act	V2	NIV - CHILD/LPR 3Y+ WAIT IMM VISLIFE2000			9									2		11
		Legal Immigration Family Equity (LIFE) Act	V3	NIV - DEPENDANTS OF V1 OR V2			2								1			3
		Victim of human trafficking and their dependents			**30**	**-**	**15**	**6**	**2**	**2**	**3**	**1**	**-**	**-**	**-**	**-**	**-**	**59**
		Victim of human trafficking and their dependents	T1	NIV - VICTIM OF SEVERE FORM OF TRAFKING	6		6		2			1						15
		Victim of human trafficking and their dependents	T2	NIV - SPOUSE OF T1			1											1
		Victim of human trafficking and their dependents	T3	NIV - CHILD OF T1			1	1										2
		Victim of human trafficking and their dependents	T4	NIV - Victims of a severe form of trafficking and spouses, children, parents, and siblings			1				1							2
		Victim of human trafficking and their dependents	T5	NIV - Victims of a severe form of trafficking and spouses, children, parents, and siblings				1										1
		Victim of human trafficking and their dependents	T6	NIV - Adult or minor child of a derivative bene of the T1	2													2
		Victim of criminal activity and their dependents	U1	NIV - VICTIM OF CRIMINAL ACTIVITY	16		2	3		1	2							24
		Victim of criminal activity and their dependents	U2	NIV - SPOUSE OF U1	1		4			1								6
		Victim of criminal activity and their dependents	U3	NIV - CHILD OF U1	1													1
		Victim of criminal activity and their dependents	U4	NIV - PARENT OF U1	4			1										5
		Other/Unknown			**19**	**-**	**21**	**26**	**3**	**7**	**-**	**-**	**-**	**-**	**-**	**2**	**-**	**78**
		Other	B1A	NIV - PERSONAL/DOMESTIC SERVANT OF NIV EMPLOYEE												1		1
		Other	B1B	NIV - PERSONAL/DOMESTIC SERVANT OF USC						1								1
		Other	D1	NIV - 29 DAYS OR LESS ON VES OR	2		2	1										5
		Other	DX	NIV - CREW ARR'G/DETAINED ONBOARD SHIP				1										1
		Other	N1	NIV - NATO ADMISSION	17		18	21	2	6								64
		Other	N4	NIV - NATO ADMISSION					1							1		2
		Other	Q3	NIV - DEPENDENTS OF IRISH PPCT PROGRAM			1											1
		Other	TB	NIV - SPOUSE OR CHILD OF CAN. FR				3										3

Other, unknown, or not elsewhere classified					**262,074**	**977**	**57,163**	**85,327**	**2,244**	**11,230**	**5,055**	**1,194**	**496**	**54**	**862**	**5,449**	**1,032**	**433,157**
	Other, unknown, or not elsewhere classified	**Not elsewhere classifed**			**15,317**	**66**	**3,174**	**8,171**	**34**	**1,418**	**499**	**52**	**49**	**1**	**29**	**512**	**92**	**29,414**
		Not elsewhere classified	ASD	ASYLUM STATUS DENIED	4	1	64			2		1	2		2	9		85
		Not elsewhere classified	RE5	HAITIAN WITH REFUG. STATUS IN U.S.			803											803
		Not elsewhere classified	REF	REFUGEE				1			1							2
		Not elsewhere classified	DA	ADVANCE PAROLE-DISTRICT AUTHORIZED	949		25	89		14	6				1	3	1	1,088
		Not elsewhere classified	AS	ASYLEE APPROVED WITH WORK AUTH	110	28	218	24	17	1,109	5	19	20		15	448	87	2,100
		Not elsewhere classified	ASY	ASYLEE APPROVED WITH WORK AUTH	67			1					4					72
		Not elsewhere classified	DE	DEFERRED INSPECTION	5		5	1										11
		Not elsewhere classified	EWI	ENTRY WITHOUT INSPECTION	9,372	37	1,518	6,180	14	286	304	32	17		6	42	4	17,812
		Not elsewhere classified	FUG	FAMILY UNITY/GRANT EXT VOL DEPART	2													2
		Not elsewhere classified	DT	PAROLEE (DISTRICT/POE AUTHORIZED)	1					1	1					3		6
		Not elsewhere classified	CH	PAROLEE(HUMANITARIAN-HDQTRS AUTH)	9		158	6	1	2	1		1	1	1	3		183
		Not elsewhere classified	CP	PAROLEE(PUBLIC INTEREST-HDQTRS)	1		5	2		1			1					10
		Not elsewhere classified	OP	PAROLEE-OVERSEAS OR SUBOFFICE AUTH			7	3										10
		Not elsewhere classified	RE	REFUGEE	29		233	21	2	1	4					1		291
		Not elsewhere classified	S1	TEMP SAW 3 YRS PRIOR MAY 1, 1986	6		12	3								1		22
		Not elsewhere classified	PI	TRUST TERR. EAD COA	1													1
		Not elsewhere classified	ST	STOWAWAY	3		14	10		2	1							30
		Not elsewhere classified	TPS	Temporary Protected Status	4,261			1,259			154		3		4			5,681
		Not elsewhere classified	WD	WITHDRAWAL	1			1										2
		Not elsewhere classified	WI	WITHOUT INSPECTION	496		112	570			22		1			2		1,203
		Unknown			**246,757**	**911**	**53,989**	**77,156**	**2,210**	**9,812**	**4,556**	**1,142**	**447**	**53**	**833**	**4,937**	**940**	**403,743**
		Unknown	*(blank)*	UNKNOWN, NONE, OR NOT REPORTED	31,080	3	76	12,995		3	1,205	1	114		229	5		45,711
		Unknown	1BS	UNKNOWN, NONE, OR NOT REPORTED			1									1		2
		Unknown	ACC	UNKNOWN, NONE, OR NOT REPORTED	11			5										16
		Unknown	ALI	UNKNOWN, NONE, OR NOT REPORTED	1													1
		Unknown	CAN	UNKNOWN, NONE, OR NOT REPORTED	1			1										2
		Unknown	EAO	UNKNOWN, NONE, OR NOT REPORTED	35		1	21			1							58
		Unknown	EB1	UNKNOWN, NONE, OR NOT REPORTED						1								1
		Unknown	EB2	UNKNOWN, NONE, OR NOT REPORTED	1					1								2
		Unknown	EME	UNKNOWN, NONE, OR NOT REPORTED	4													4
		Unknown	EMP	UNKNOWN, NONE, OR NOT REPORTED	2			2										4
		Unknown	ENT	UNKNOWN, NONE, OR NOT REPORTED	447			91			10							548
		Unknown	HAI	UNKNOWN, NONE, OR NOT REPORTED				4										4
		Unknown	IN	UNKNOWN, NONE, OR NOT REPORTED			2	3										5
		Unknown	NAF	UNKNOWN, NONE, OR NOT REPORTED				1										1
		Unknown	PAR	UNKNOWN, NONE, OR NOT REPORTED	419	11	1,142	178	4	52	4	5	2		4	110	10	1,941
		Unknown	STO	UNKNOWN, NONE, OR NOT REPORTED	1													1
		Unknown	TEM	UNKNOWN, NONE, OR NOT REPORTED				2										2
		Unknown	UN	UNKNOWN, NONE, OR NOT REPORTED	201,168	896	52,426	60,473	2,204	9,753	3,064	1,135	307	53	543	4,780	930	337,732
		Unknown	UNK	UNKNOWN, NONE, OR NOT REPORTED	83			5										88
		Unknown	UU	UNKNOWN, NONE, OR NOT REPORTED	13,451		318	3,365	1		271	1	22		56	2		17,487
		Unknown	VIC	UNKNOWN, NONE, OR NOT REPORTED	1													1
		Unknown	X	UNKNOWN, NONE, OR NOT REPORTED	20	1	23	7	1	2			2		1	39		96
		Unknown	WIT	UNKNOWN, NONE, OR NOT REPORTED	32			3			1							36
Total					**262,766**	**1,019**	**58,620**	**86,005**	**2,378**	**14,807**	**5,303**	**1,272**	**503**	**77**	**1,050**	**7,014**	**1,257**	**442,071**

Please Note:

1) The report reflects the most up-to-date data available at the time the report is generated.

2) Duplicates were removed based on receipt number, A-Number, SSN, and Name-DOB combination.

3) Country is based on Country of Citizenship as of application.

4) An individual is counted only when the last request was approved; if it was denied, the individual is removed and not counted.

5) Guinea, Liberia, and Sierra Leone were removed from TPS designated country list in May 2017, and have a different validity period.

Database Queried: January 9, 2018

Report Created: February 27, 2018

System: C3 Consolidated, ELIS via SASPME

Office of Performance and Quality (OPQ), Performance Analysis and External Reporting (PAER) BW

Parameters

Form(s): I-821

Time Frame: Through Dec 31, 2017

Question#:	8
Topic:	Sanctuary State Impact
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What type of impact will "sanctuary state" policies have on the ability of DHS to apprehend and remove dangerous criminal aliens?

Response: U.S. Immigration and Customs Enforcement (ICE) believes sanctuary policies impede its ability to apprehend and remove potentially dangerous criminal aliens, and effective cooperation between ICE and state and local jurisdictions is necessary to ensure public safety and the rule of law. When jurisdictions fail to cooperate with ICE, this creates safety risks for both the public and ICE officers, increases the need for at-large arrests and ICE presence in communities, results in preventable crimes, and creates a "pull factor" for additional illegal immigration.

Question: What message do sanctuary state/sanctuary city policies send to criminal aliens and those who wish to immigrate illegally to our country?

Response: U.S. Immigration and Customs Enforcement (ICE) believes that failure to enforce the rule of law sends the wrong message to those who would seek to enter the country illegally, including criminals, and creates a "pull factor" for additional illegal immigration. Sanctuary policies impede the ability of ICE to apprehend and remove potentially dangerous criminal aliens, and effective cooperation between ICE and state and local jurisdictions is necessary to ensure public safety and the rule of law.

Question#:	9
Topic:	Asylum Backlog
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How does your Department plan to address the asylum backlog and continue to mitigate fraud risks?

Response: USCIS has taken a number of steps to reduce the asylum backlog and continue to mitigate fraud risks:

<u>Increased Staffing</u>. In FY 2017, USCIS trained and began deploying Refugee Officers to perform credible fear screenings and affirmative asylum adjudications. Approximately 100 members of the Refugee Affairs Division staff are presently detailed to the Asylum Division to assist in processing. After more than doubling the number of adjudicating asylum officers between FY 2012 and FY 2017, USCIS continues to hire, onboard and train new asylum officer staff in FY 2018. In addition, USCIS is analyzing and exploring acquiring additional space for asylum adjudications after opening 3 new sub-offices since FY 2014.

<u>Revised Scheduling Approach</u>. On January 29, 2018, USCIS returned to scheduling asylum interviews for recent applications ahead of older filings, in an attempt to stem the growth of the agency's asylum backlog. This priority approach, first established by the asylum reforms of 1995 and used for 20 years until 2014, seeks to deter those who might try to use the existing backlog as a means to obtain employment authorization. Returning to a "last in, first out" interview schedule will allow USCIS to identify frivolous, fraudulent or otherwise non-meritorious asylum claims earlier and place those individuals into removal proceedings.

<u>Centralized Vetting Center</u>. USCIS Asylum is establishing a vetting center in Atlanta to centralize vetting of cases similar to the model implemented in other parts of the agency.

<u>Increased FDNS Presence</u>. USCIS FDNS personnel embedded in the Asylum Division has also doubled between 2016 and 2018, with additional staffing enhancements approved to support the Atlanta centralized vetting center. Asylum FDNS personnel work directly with Asylum adjudicators and serve as liaisons with local law enforcement, the intelligence community, and U.S. Immigration and Customs Enforcement (ICE) to identify and combat asylum fraud. In March 2017, USCIS approved staffing enhancements to establish a new Credible Fear (CF) FDNS program that will implement additional anti-fraud measures within the CF program. In addition, in May 2017, one Asylum FDNS Immigration Officer was assigned to each of the eight ICE Documents

Question#:	9
Topic:	Asylum Backlog
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

and Benefits Fraud Task Forces (DBFTF) to inform investigations for asylum fraud and guide field agents with specialized knowledge.

Implementing GAO Recommendations. USCIS Asylum continues to implement the recommendations from the Government Accountability Office (GAO) in GAO-16-50, "Asylum: Additional Actions Needed to Assess and Address Fraud Risks," December 2, 2015.

Question: What legal reforms are needed to reduce the backlog and root out fraud and abuse in the asylum system?

Response: Legislative changes outlined by the White House in their immigration principles and priorities are needed to assist in reducing the backlog and rooting out non-meritorious asylum claims. Reforms should include statutory amendments which:

- Require that asylum claims filed by UAC's and placed into removal proceedings be handled solely by immigration judges, like all other asylum claims made during removal proceedings;
- Bar an alien who has filed a frivolous, baseless, or fraudulent asylum application from seeking any immigration benefit;
- Expand the ability to return asylum seekers to safe third countries;
- Prevent aliens who have been granted asylum from obtaining lawful permanent resident status if they are convicted of an aggravated felony;
- Require review of the asylee status of an alien who returns to his or her home country absent a material change in circumstances or country conditions;
- Further bar terrorist aliens from entry and receiving any immigration benefits, including asylum;
- Ensure gang members, associates, and those participating in gang-related activities are barred from receiving asylum;
- Restore USCIS' authority to terminate asylum status for cases in the Ninth Circuit;
- Increase statute of limitations for asylum fraud by amending the statute to include asylum-related cases under the 10-year limitations of 18 U.S.C. §§ 1541-1544, with the start date commencing on the date the fraud is discovered, not committed; and
- Strengthen sentencing guidelines pertaining to asylum fraud.

Question#:	10
Topic:	Diversity Visa
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Due to the DV lottery's vulnerability to fraud and abuse, and its documented use by terrorists, do you think the diversity visa lottery program should be eliminated?

Response: We support the Administration's position on the Diversity Visa lottery.

Question: Do you think this visa program has an increased potential for use by terrorists and criminals to enter the country and receive status?

Response: We support the Administration's position on the Diversity Visa lottery.

Question#:	11
Topic:	Flores Agreement
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: As part of the Flores settlement, the government agreed to release minors quickly to adult relatives or licensed childcare programs, or to place them in the "least restrictive" setting.

In your opinion, is the Flores agreement a productive way for the government to handle UACs? Why or why not?

Response: Currently, in accordance with the *Flores* Settlement Agreement (FSA) and as required under the *Trafficking Victims Protection Reauthorization Act* (TVPRA), the Department of Health and Human Services has the responsibility to ensure that unaccompanied alien children (UAC) are placed in the least restrictive setting that is in the best interest of the child, subject to considerations such as danger to self, danger to others/the community, and risk of flight. In recent years, there has been a notable increase in the arrival of UAC, as well as family units, across the southern border, some of whom exploit such protective measures in an attempt to remain in the United States. The Department of Homeland Security (DHS) notes that the FSA has resulted in continuous and protracted litigation relating to the custody of all minors, including both UAC and accompanied minors. Therefore, the Department would greatly benefit from legislation to clarify custodial issues pertaining to UAC and minors that fall within DHS's custodial authority (i.e., clarifying the corresponding provisions of the TVPRA that supersede the FSA).

Question#:	12
Topic:	H-1B Regulations
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The public comment period for proposed H-1B regulations closed on April 11, 2017, but no new regulations have been published. When can we expect to see progress on these proposed regulations?

Response: The public comment period for proposed regulations that closed on April 11, 2017, was for the EB-5 regulation. As reflected in the most recent Fall 2017 Unified Agenda and Regulatory Plan, DHS is committed to moving forward on regulatory initiatives for the H-1B program.

Question: What other H-1B improvements will you focus on over the next two years?

Response: USCIS is considering the following H-1B improvements:

- DHS is proposing to establish an electronic registration program for petitions subject to numerical limitations for the H-1B nonimmigrant classification. This action is being considered because the demand for H-1B specialty occupation workers by U.S. companies has often exceeded the numerical limitation. This rule is intended to allow USCIS to more efficiently manage the intake and lottery process for these H-1B petitions.

- DHS will propose to revise the definition of specialty occupation to increase focus on obtaining the best and the brightest foreign nationals via the H-1B program, and revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages. In addition, DHS will propose additional requirements designed to ensure employers pay appropriate wages to H-1B visa holders.

Question: Please describe to us your plans to improve oversight and fraud detection in a manner that will address, realistically, the potential for abuse among the approximately one million H-1B visa holders.

Response: USCIS continues to explore options to protect the economic interests of U.S. workers and prevent fraud and abuse within the immigration system. USCIS is currently exploring its authority under the INA to debar entities that have engaged in immigration fraud and thus prevent them from filing certain petitions. USCIS is also working with the U.S. Department of Labor (DOL) to improve the sharing of information uncovered

Question#:	12
Topic:	H-1B Regulations
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

during a USCIS site visit so that the information may be reviewed and considered by DOL under INA 212(n).

Protecting American workers by combating fraud in our employment-based immigration programs is a priority for USCIS. USCIS employs the Administrative Site Visit and Verification Program (ASVVP) to validate H-1B compliance and to detect and deter fraud and abuse. ASVVP involves post-adjudication site inspections on randomly selected H-1B petitions.

In June 2017, USCIS deployed a new Targeted Site Visit and Verification Program (TSVVP) focused on petitions filed by companies that are H-1B dependent, place their workers at offsite locations, or submit business information that USCIS cannot validate through commercially available data.

Furthermore, USCIS established an email inbox, ReportH1BAbuse@uscis.dhs.gov, to allow anyone who suspects they or others may be the victim of H-1B fraud or abuse to submit tips, alleged violations, and relevant information about potential H-1B fraud or abuse to USCIS.

Question: What resources or legal authorities do you need to engage in truly successful H-1B oversight?

Response: To improve the agency’s ability to provide successful H-1B oversight, USCIS could benefit from additional statutory authority to provide information to the DOL and be considered an aggrieved party or credible source under additional circumstances than presently allowed by statute. Further, USCIS could benefit from additional authority to bar or otherwise sanction petitioners who have been found to commit fraud.

Question#:	13
Topic:	H-2B Petitions Approved
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Preface: On May 5, 2017, the President signed the FY 2017 Omnibus, which contained a provision (section 543 of division F) permitting the Secretary of Homeland Security, under certain circumstances and after consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers, notwithstanding the otherwise established statutory numerical limitation.

On July 19, 2017, Secretaries Kelly and Acosta announced that 15,000 additional petitions would be accepted, and required each employer who requested extra H-2B workers to file an attestation affirming, under penalty of perjury, that “they were likely to suffer irreparable harm, that is, permanent and severe financial loss” if the employer could not hire additional H-2B workers. They also required employers to retain-but not to submit-documentary evidence of the harm they would suffer.

How many total H-2B petitions were approved under this 2017 cap exception? And how many distinct employers had petitions approved under this provision?

Response: USCIS approved a total of 735 petitions filed by 656 distinct employers and 12,294 beneficiaries under the supplemental cap.

Question: What is DHS doing to confirm that the attestations employers filed to obtain extra H-2B workers in 2017 are accurate? Is DHS performing any post-hoc review of the documentation that it required employers to keep-even if only spot-checking? If so, please describe review procedures and standards.

Response: The employer’s attestation serves as prima facie initial evidence to USCIS that the petitioner’s business is likely to suffer irreparable harm, and therefore, USCIS is not currently conducting a wholesale “spot-check” of all attestations submitted under the FY 2017 supplemental cap. As you suggest in your inquiry, however, the employer must have evidence supporting the attestation on hand and ready to present to DHS or DOL at any time starting with the date of filing until three years from the date the temporary labor certification is approved. To promote transparency, a list of the approved petitioners has also been published on the USCIS.gov website.

Note that DHS has delegated enforcement authority in the H-2B program to DOL Wage and Hour Division. Although USCIS may deny, revoke, or issue a request for evidence based on derogatory information from an audit or investigation, the DOL Wage and Hour Division is charged with enforcing the attestations.

Question#:	13
Topic:	H-2B Petitions Approved
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If DHS is verifying these employers' sworn attestations, what have been the results? Are there any cases where employers could not show that they would have suffered irreparable harm without the additional H-2Bs?

Response: When adjudicating petitions under the FY 2017 supplemental cap, USCIS considered each petition on a case-by-case basis, and where warranted, questioned the attestation by issuing a request for evidence that the petitioner would have suffered irreparable harm without the requested H-2B workers. USCIS is aware of at least one instance of a denial on this basis. As noted above, although USCIS may conduct a post adjudicative investigation or audit, DOL is charged with enforcement in the H-2B program. USCIS respectfully defers to DOL regarding the results of any post adjudicative review.

Question: Please explain how DHS and DOL arrived at the determination that "the needs of American businesses cannot be satisfied in fiscal year 2017 with United States workers who are willing, qualified, and able to perform temporary nonagricultural labor" such that an additional 15,000 low skilled foreign workers were necessary?

Response: As directed by Congress in section 543 of the Consolidated Appropriations Act, 2017, Public Law 115–31 (FY 2017 Omnibus), the Secretary of Homeland Security's determination to increase the numerical limitation was based on consultations with the Secretary of Labor and the conclusion that some businesses faced closing their doors in the absence of a cap increase. Specifically, the Secretary of Homeland Security deemed it appropriate to take immediate action to avoid irreparable harm to businesses; such harm would in turn result in wage and job losses by their U.S. workers, and other adverse downstream economic effects.

The Secretary of Homeland Security deemed a numerical increase of up to 15,000 sufficient to meet at least the same amount of need as the H-2B program met in FY 2016. Section 543 of the FY 2017 Omnibus set as the maximum limit for any increase in the H–2B numerical limitation for FY 2017, the highest number of H–2B returning workers who were exempt from the cap in previous years. Consistent with the statute's reference to H–2B returning workers, in determining the appropriate number by which to increase the H–2B numerical limitation, the Secretary focused on the number of visas allocated to returning workers in years in which Congress enacted ''returning worker'' exemptions from the H–2B numerical limitation. During each of the years the returning worker provision was in force, U.S. employers' standard business needs for H–2B workers exceeded the normal 66,000 cap.

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Most recently, in FY 2016, 18,090 returning workers were approved for H–2B petitions, despite Congress having reauthorized the returning worker program with more than three-quarters of the fiscal year remaining. Of those 18,090 workers approved as beneficiaries on a petition, 13,382 were admitted into the United States or otherwise acquired H–2B status. While section 543 did not limit the issuance of additional H–2B visas to returning workers, the Secretary, in consideration of the statute's reference to returning workers, determined that it would be appropriate to use these recent figures as a basis for the maximum numerical limitation under section 543.

Question#:	14
Topic:	UAC and MS-13
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What is DHS doing to break the links between Unaccompanied Alien Children and MS-13 (or other gangs), particularly in areas like Brentwood, NY, where the influx of UACs has corresponded to a surge in gang activity?

Response: In July 2017, U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) National Gang Unit formed a Department of Homeland Security (DHS) MS-13 Working/Targeting Group (DHS MS-13 Group) with U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS). The mission of the DHS MS-13 Group is to eliminate redundancies and intelligence gaps, enhance collaboration, ensure that all components' equities are maximized, and provide visibility to the Department's enforcement components. Additionally, the Bureau of Prisons has dedicated critical intelligence resources to the DHS MS-13 Group. Through a "Unity of Effort," DHS will be able to more effectively combat MS-13's global criminal enterprise by proactively preventing violent crime. For example, the DHS MS-13 Group identifies and reviews applications submitted to USCIS by suspected and/or known MS-13 members, including unaccompanied alien children (UAC). If these applications contain false statements, material misrepresentations, or omissions regarding the applicant's gang involvement, then the DHS MS-13 Group will task it to HSI field offices for action.

In particular, ICE HSI New York continues to aggressively investigate, monitor, and eradicate MS-13 gang activity in Long Island, New York. ICE HSI New York has assigned the Transnational Organized Crime Strike Force (TOCSF) to Assistant Special Agent in Charge Long Island to disrupt and dismantle transnational criminal organizations, such as MS-13, under Operation Matador. The TOCSF is comprised of Special Agents, officers, intelligence analysts, and personnel from the U.S. Department of Homeland Security, to include ICE HSI, ICE Enforcement and Removal Operations (ERO), and ICE Office of the Principal Legal Advisor (OPLA); CBP; USCIS; and other federal, state, and local agencies. The TOCSF is working with OPLA to address the issues involved with UACs who are revealed to be gang members and/or their affiliates.

In support of the TOCSF, intelligence personnel use all tools and data available to identify transnational criminal networks and illicit actors and gang members operating within the United States and abroad. Analysts, working from these network relationships, build target packages enabling Special Agents to predicate criminal investigations.

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Topic:	UAC and MS-13
Hearing:	Oversight of the United States Department of Homeland Security
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By addressing the MS-13 threat globally, adopting a DHS enterprise enforcement strategy, attacking MS-13's financial networks, and strengthening our law enforcement partnerships, the Department's continued and unwavering efforts to degrade, disrupt, and dismantle MS-13 will serve as a strong deterrent to those that would seek to join its ranks, including UACs. Although the capability to query foreign juvenile criminal and gang records presents a challenge, the Department remains steadfast in its resolve to ensure that UACs do not replenish MS-13's ranks.

Question#:	15
Topic:	Gang Members Encountered
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Does CBP maintain statistics regarding how many gang members it encounters?

Response: USBP does maintain statistics regarding gang members it encounters, but for apprehensions only. OFO does not maintain such statistics.

Question: If so, how many gang members did CBP encounter in the last fiscal year for which statistics are available?

Response: Nationwide USBP encountered 536 gang members during Fiscal Year 2017.

Question: Of those encounters, how many resulted in a) denial of entry or b) some other form of enforcement action?

Response: Of those encountered, all 536 were USBP apprehensions resulting in enforcement action.

Question#:	16
Topic:	INA Provisions
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The INA does not contain a provision specifically barring gang members. What legal authorities do you rely on to deny entry to gang members? What grounds of removal can ICE rely upon to deport known gang members? Would it be helpful if you could designate criminal groups as gangs?

Response: All aliens bear the burden to demonstrate their admissibility. Individuals who arrive at a port of entry are not simply denied entry. Instead they are provided opportunities to apply for admission afforded to them under the law. However, in the experience of DHS, individuals who are members of criminal organizations such as gangs are often found inadmissible under one or more of the following sections of the Immigration and Nationality Act (INA):

- 212(a)(6)(A) aliens present without admission or parole:
- 212(a)(7)(A)(i)(I) as an Immigrant without an Immigrant Visa;
- 212(a)(2)(A)(i)(I) as being convicted of, or who admits having committed, or admits committing the essential elements of acts constituting a Crime Involving Moral Turpitude (CIMT);
- 212(a)(2)(A)(i)(II) as being convicted of, or who admits having committed, or admits committing the essential elements of acts constituting an offense involving controlled substances;
- 212(a)(2)(c) any alien who the consular officer or the Attorney General knows or has reason to believe is or has been an illicit trafficker in any controlled substance.

Gang membership, in and of itself, is not currently grounds for inadmissibility or removal pursuant to the INA. Department of Homeland Security (DHS) officers must rely on other factors and sections of the INA to prevent the admission of alien gang members at ports of entry into the United States or remove of alien gang members from the United States. Absent another violation of the INA, the alien’s membership in a gang or Transnational Crime Organization (TCO) is not directly relevant to the alien’s admissibility or removability.

U.S. Immigration and Customs Enforcement (ICE) supports any legislation that makes membership in criminal gangs or TCOs express grounds for inadmissibility and removal.

Question#:	17
Topic:	Refugees
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Preface: In Report No. GAO-17-706, the Government Accountability Office recently reviewed the U.S. Refugee Admissions Program, and raised concerns regarding USCIS's security vetting, noting that adjudicators needed more training, particularly for national security cases, and that regular quality assurance assessment are needed.

What steps has USCIS taken to improve training for refugee adjudication officers?

Response: All adjudicating officers within the Refugee, Asylum, and International Operations Directorate (RAIO) must successfully complete the RAIO Combined Training Program (RAIO CTP). The RAIO CTP is a rigorous course that covers legal topics, interviewing techniques, decision making, analytical skills, legal writing, research, and procedural issues. Course materials and content are developed and continually updated by RAIO subject matter experts and are reviewed by numerous other subject matter experts, including other RAIO staff, national security experts, the USCIS Office of the Chief Counsel, law professors, and practitioners working with refugees and asylum seekers. In addition, individuals with extensive experience in education have been closely involved in the design, development, and delivery of the course.

The first component, Distance Training, includes approximately 80 hours of remote learning. During that time, students participate from their home offices for 5 days per week, 7 hours per day, exclusive of breaks, and are required to read all of the training materials, take comprehension quizzes, participate in webinars, and complete exercises and assignments. Students then attend the second component of the training, a residential, face-to-face training, at the Federal Law Enforcement Training Center in Glynco, Georgia. The face-to-face component comprises approximately 91 hours of classroom instruction, during 13 days of training, averaging 7 hours of actual class time each day (plus breaks).

Most of the instructors at RAIO CTP are attorneys from USCIS and are subject matter experts in the topics they teach. Almost all have had extensive experience conducting training. In addition, several non-government subject matter experts in the field of immigration, asylum, and refugee law serve as instructors and guest speakers. Instructors use a variety of teaching methods and techniques including lecture, discussion, problem-solving, group work, practical exercises, and individual activities. Throughout the course, students are encouraged to actively participate in class and are required to read training materials, case law, and relevant memoranda and policy guidance. Students must pass two exams in order to complete the course.

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USCIS continually improves the RAIO CTP by updating course materials and class presentations to reflect the current state of law and policy. In addition, USCIS has added more learning activities, for example, a new mock interview, to give officers additional opportunities to apply essential on-the-job skills like probing an applicant's credibility. We have also developed new examination questions to more effectively assess whether officers have acquired the requisite knowledge and skills to effectively perform their duties as adjudicators.

The Middle East RAIO Processing (MERP) training was developed by USCIS as a one-week course to prepare adjudicators to work on the Iraqi, Syrian and Iranian refugee and asylum caseloads. The MERP training provides a baseline in general country conditions, including history and current events. Sessions then delve into adjudicative issues such as national security concerns, persecutor bar, and admissibility for these caseloads. Additionally, RAIO policy experts cover topics such as terrorist groups operating in the Middle East regions, Iraqi and Syrian military, Iraqi and Syrian Ba'ath party, Iraqi Intelligence and Security, Government of Syria, post-2003 Iraqi Military issues, applying the persecutor bar and Terrorist-Related Inadmissibility Grounds (TRIG), and using adjudicative aids. The MERP briefing also covers additional topics such as LGBTI cases, credibility, security vetting updates, country-specific identity document trainings, and Syrian enhanced review.

There are also briefings from non-USCIS presenters, to include secure briefings hosted by the Federal Bureau of Investigation and Defense Intelligence Agency, as well as a presentation by the Human Rights Violators and War Crimes Unit from U.S. Immigration and Customs Enforcement. Adjudicating officers are required to take MERP before their first refugee processing circuit ride in which they will interview Middle East cases or before working on the Middle East caseload at headquarters. MERP participants include officers from RAIO Asylum and International Operations Divisions, Office of the Chief Counsel, Fraud Detection and National Security Directorate (FDNS), Field Operations Directorate's District offices, and Canadian refugee offices. No officer may adjudicate Iraqi or Syrian refugee cases without having attended MERP in its entirety.

Question: Specifically, what steps has USCIS taken to improve national security training?

Response: RAIO Officers who adjudicate refugee claims receive extensive training in national security, fraud detection and prevention, and Terrorism-Related Inadmissibility Grounds (TRIG) in the RAIO CTP and MERP courses.

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The RAIO TRIG Program Branch, in close coordination with the Field Operations Directorate, developed a comprehensive TRIG training course for adjudicators of all experience levels. It provides practical guidance to prepare adjudicators to recognize and address the terrorism-related inadmissibility grounds in adjudications. TRIG training has been provided to adjudicators in all adjudicating Directorates. The adjudicator-centric method of delivery provides both technical and practical guidance including methods for file review, documentation, and interview techniques for cases with national security concerns.

For MERP, the RAIO Fraud Detection and National Security Branch (RAIO FDNS) consulted closely with subject matter experts and received division-specific guidance from the Asylum and Refugee Affairs Divisions to ensure the most current techniques and procedures for identifying and handling potential national security concerns are provided. Redacted refugee case examples that tested recognition and resolution of common national security indicators were incorporated into the training to improve adjudicator retention and application of key national security concepts.

RAIO FDNS redesigned and expanded the Enhanced FDNS Review presentation to highlight the most current policies and procedures of the Asylum and Refugee Affairs Divisions, enabling adjudicators to more easily assist in cross-divisional details as needed. This adjudication-centric training was expanded to include practical guidance to better prepare adjudicators to work with classified information and social media vetting results to identify and resolve potential national security and public safety concerns. This training added training samples of products and results that are generated by FDNS as part of the Enhanced FDNS Review, which enhanced the adjudicator’s ability to quickly identify key results from the enhanced vetting and accurately interpret and incorporate those results into their interviews and adjudicative decisions.

For RAIO CTP, RAIO FDNS has incorporated redacted case examples of national security concerns which are used throughout the program’s national security session to help students identify national security indicators, clearly explain the different steps in the Controlled Application Review and Resolution Program process, and illustrate how background checks, classified information, and additional FDNS vetting can assist the adjudicator with identifying and resolving national security concerns.

Question: Will USCIS be expanding the pilot program it developed, and deemed successful, that included sending officers with national security expertise overseas to support interviewing officers in some locations?

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Response: RAD initiated a pilot program to "forward deploy" FDNS officers during FY 2016. Throughout FY 2017, specially-trained FDNS officers continued to forward-deploy on select refugee processing circuit rides to advise and assist in identifying and processing potential fraud, national security, and public safety concerns. The program was formalized and employed in select circuit rides in FY 2018 Quarter 1 and is being employed during select Quarter 2 circuit rides as well.

The GAO closed the recommendation as implemented in January 2018.

Question: What steps has USCIS taken to implement consistent and regular assessments of refugee adjudications?

Response: RAIO recognizes the value of conducting regular quality assessments of refugee adjudications. The RAIO Quality Assurance Review Handbook requires annual review of at least one major form type for each division. RAD has conducted quality assurance assessments of refugee application adjudications on an annual basis from FY 2009 – FY 2015. A quality assurance assessment was not conducted in FY 2016 to allow time for implementation of recommendations from the FY 2015 USCIS quality assurance assessment. A quality assurance assessment of Form I-590, Registration for Classification as a Refugee occurred in Quarter 4 of FY 2017. The next quality assurance assessment is currently scheduled for Quarter 3 of FY 2018.

Question: What improvements in refugee processing, or national security-if any-have you seen since the announcement of Executive Order 13815, which restarted refugee processing? How badly has the court's injunction, which halted implementation of the Executive Order two months after it was started, impacted national security?

Response: Executive Order 13815, Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities, was issued at the conclusion of the 120-day review of the United States Refugee Admissions Program (USRAP) directed pursuant to section 6(a) of Executive Order 13780, Protecting the Nation from Foreign Terrorist Entry into the United States. Executive Order 13815 allowed for the general resumption of refugee processing. A number of additional procedures to enhance the USRAP application and adjudication processes were instituted when processing resumed. The RAIO Refugee Affairs Division (RAD) conducted an "In-Service Training" for RAD and International Operations officers who adjudicate Form I-590 (Registration for Classification as a Refugee) refugee cases on the new procedures and revised guidelines.

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The new procedures and revised guidelines covered in this required training included topics such as Fraud Detection and National Security Forward Deployment, credibility, and grounds of inadmissibility.

Pursuant to Executive Order 13815, DHS, the Department of State, and law enforcement and intelligence community partners conducted a 90-day review that included an in-depth threat assessment of nationals of 11 high-risk countries country from the intelligence community.

On January 29, 2018, as a result of the review, Secretary Nielsen directed USCIS to implement certain security and procedural enhancements to more effectively prevent fraud and identify potential national security risks within the USRAP. Additional screening and vetting protocols for nationals of 11 high-risk countries are in the implementation process.

Question#:	18
Topic:	Overstays
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What is the status of the biometric entry/exit system that DHS has committed to completing?

Response: CBP is working towards full implementation of biometric exit in the air environment within the next 4 years, to account for over 97 percent of departing commercial air travelers from the United States. To accomplish this goal, stakeholder partnership is critical. Airports, airlines, and CBP must jointly create a process that meets airlines' business needs, the biometric exit mandate while addressing national security. Partnership will be critical to achieve affordability and ensure that biometric exit does not have a detrimental economic impact on the air travel industry. The alternative is a government only solution that will be layered upon existing travel processes, which will undoubtedly have an impact to the air travel industry.

CBP has deployed biometric exit demonstrations to eight airports across the nation; partnered with two airlines to integrate biometrics with the airline boarding process and one cruise line for biometric disembarkation; launched a pilot with TSA at a security checkpoint; enabled mobile devices to collect biometrics; and solidified plans to deploy in the land border pedestrian environment. We are continuing to move out aggressively on our public-private partnerships with airlines and airports to increase our biometric capability for FY 2018 and FY 2019.

CBP is accelerating the deployment of a biometric exit system by building upon existing operational platforms and using proven biometric technologies. CBP will have the back-end infrastructure and services in place to support stakeholder implementation and integration of front-end biometric cameras at all air and sea ports of entry by the second quarter of FY 2018, enabling a seamless boarding process. Currently, CBP is working to fully scale out air biometric exit and will work with stakeholders to obtain commitment to deploy biometric exit technology.

CBP is leveraging advances in technology from the biometric exit solution to transform the entry process by using facial photographs to identify travelers. This new innovative approach identifies travelers by shifting the key to unlocking a traveler's record from biographic identifiers to biometric ones – primarily a traveler's face – to realize facilitative benefits, while still leveraging the law enforcement benefit of fingerprints without collecting new information. CBP uses facial biometrics to match the traveler to their advanced passenger information. This process decreases our dependency on less reliable paper travel documents, such as passports and visas. CBP is piloting this concept

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at three airports and proving that using facial biometrics does facilitate frictionless traveler movement by reducing inspection time while creating a more seamless travel and improved customer experience for the public.

Question: At a prior hearing, a DHS official described several "demonstrations" of this facial recognition-based system, to occur at airports around the country in the summer of 2017. Were such demonstrations held and if so, were they successful?

Response: CBP deployed demonstrations of a facial-recognition based system in the summer of 2017 to eight international airports including the following: Hartsfield-Jackson Atlanta International Airport, Washington Dulles International Airport, Houston George Bush Intercontinental Airport, Chicago O'Hare International Airport, Las Vegas McCarran International Airport, Houston William P. Hobby Airport, John F. Kennedy International Airport, and Miami International Airport. These deployments are managed by CBP and are demonstrating to airline and airport partners how biometrics can be easily integrated into the current boarding processes; provide real-time, facial recognition matching capabilities; and record outbound departures. They will also show the partners the potential of air transformation efforts – both to their own internal processes and in partnership with the government.

To date, CBP has processed over 219,000 passengers with a match rate consistently above 97 percent. CBP continues to record biometric exit records for a limited number of daily international flights in all of these international airports, with more to come in 2018 – a first in border security and a first step to improving the integrity of the immigration system.

In addition to the CBP deployments, CBP has already launched airline specific partnerships with JetBlue at Boston, Delta at JFK and Atlanta, and British Airways at Los Angeles World Airports where they have integrated biometric verification into the boarding process

Question: How do you plan to track overstays that arrive at a land border?

Response: At the northern land border, CBP exchanges entry data with Canada, so that an entry into one country is considered an exit from the other. This provides CBP with a cost effective way to record departures without imposition on the traveler, or having to build new systems and infrastructure. Currently, the exchange is limited to non-U.S. and non-Canadian citizens. CBP is also progressing work with Mexico to capture crossings into their country with RFID (Radio Frequency Identification) document readers and is

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deploying new pedestrian exit pilot measures at multiple land border POEs to assist with capturing land exit information. Current operational capabilities in place utilize Department of State Visa Applications abroad to further identify subjects who have left the country and CBP will adjust overstay status on subjects who subsequently reenter the country. In December 2017, CBP began recording the final departures, both biographically and with fingerprint biometrics, of Third Country Nationals (TCNs) when departing at the land borders. The recording of TCN departures is limited to when CBP Officers are working outbound pulse and surge enforcement operations and encounter TCNs. As of January 2018, CBP Officers at four land border ports were recording TCN departures during outbound pulse and surge operations. CBP is currently working to rollout the technical capability land border wide for CBP Officers to record TCN departures during outbound pulse and surge operations. All of these combined efforts contribute to capabilities to better track overstays that arrive at the land border and through more advancements in these combined efforts will close the remaining information gaps associated with land exit.

Question#:	19
Topic:	Students and Exchange Visitors
Hearing:	Oversight of the United States Department of Homeland Security
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The 2016 overstay report indicates that just shy of 80,000 students and exchange visitors overstayed in 2016, for an overstay rate of 5.48 percent-which is much higher than the general traveler population. Does DHS perform any special education or outreach for schools, to make sure students are aware of the serious implications of overstaying their legal immigration status?

Response: In Fiscal Year (FY) 2016, there were over 1.2 million active F, M, and J nonimmigrant records in the Student and Exchange Visitor Information System (SEVIS) and the U.S. Department of State issued a total of 894,028 F, M, and J visas. According to the FY 2016 Overstay Report, the Department of Homeland Security (DHS) calculated a total of 1,457,556 students and exchange visitors who were expected to change status or depart the United States (2.81 percent in-country overstay rate). (The total overstay rate, for both Suspected In-Country and Out-of-Country Overstays, for students and exchange visitors in FY 2016 is 5.48 percent). The preliminary numbers for FY 2017 show a slight downward trend from these numbers.

It is important to note, however, that the overstay rate is probably lower than the number in the report. SEVIS was built using a forms-based system and is being updated to make it easier to ensure all records associated with one person are bundled together. This can cause issues when comparing a person's status between various DHS systems. For example, the date a student is supposed to depart is based on the end of their academic program. However, if the student's academic program end date is extended, he or she could be erroneously counted as an overstay if the original record is used or not properly updated to reflect that change. This is one of the main reasons why the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Student and Exchange Visitor Program (SEVP) is modernizing SEVIS to switch to a person-centric system that will avoid potential discrepancies in tracking students.

DHS engages in a number of different outreach initiatives to ensure that students understand the serious implications of overstaying their legal nonimmigrant status. DHS sponsors the Study in the States website (studyinthestates.dhs.gov), which provides information to schools and students on the full lifecycle of a nonimmigrant student in the United States, including visa requirements and the requirement to leave at the conclusion of their studies. DHS launched the Study in the States website in 2011 to enhance national security and improve stakeholder understanding of the regulations governing nonimmigrant students studying in the United States. Study in the States clearly explains the student visa process, enhances coordination among government agencies, and keeps

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international students and the U.S. academic community better informed about pertinent rules and regulations.

ICE regularly visits academic institutions which are certified by SEVP to enroll foreign nonimmigrant students. The SEVP Field Representative Unit (FRU), through its 60 federal employee field representatives located throughout the United States, serves as the direct day-to-day liaison between SEVP and SEVP-certified schools by meeting with the schools' Principal Designated School Officials and Designated School Officials to address their questions or concerns. The field representatives serve as a key resource for schools in the SEVP certification and recertification processes by helping educate school officials on rules, regulations, and federal laws governing nonimmigrant students studying in the United States.

Additionally, Project Campus Sentinel (PCS) is an outreach initiative focused on building mutual partnerships between local ICE HSI Special Agents and SEVP-certified institutions by collaboratively preventing the criminal exploitation of SEVP and campus radicalization through direct and open communication. This exchange enhances HSI's ability to detect and proactively combat student visa exploitations, address inherent national security vulnerabilities, and identify additional information from the school's foreign student population and school officials.