

<b>Question#:</b>	1
<b>Topic:</b>	Border Wall
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** In December 2018 and March 2019, I asked then-Commissioner Kevin McAleenan for a copy of Customs and Border Protection's (CBP) plan for the President's miles of border barriers, which he identified as 1,100 miles, and a list of landowners of the underlying land identified as not under federal government control. My office has been informed that the DHS Office of Legislative Affairs has not authorized release of a copy of the plan to me, even though Commissioner McAleenan agreed at the March 6, 2019 hearing to provide a copy to the Senate Judiciary Committee to make sure I had a copy.

Please provide a copy of the plan then-Commissioner McAleenan referenced at the December 12, 2018 and March 6, 2019 hearings for the 1,100 miles of the President's border wall.

**Response:** Infrastructure in the form of barriers and supporting roads has been used by U.S. Border Patrol for nearly 30 years. While these barriers and supporting roads have evolved in form, they have consistently functioned as the most effective way to accomplish needed impedance and denial. The operational impact of these barriers is profound, with the most significant examples of their successes occurring in San Diego, California; Tucson and Yuma, Arizona, as well as El Paso, Texas. Field Commanders continue to advocate for a border wall and the enduring capability it creates to impede and/or deny attempted illegal entries, while allowing additional time to effect a law enforcement resolution.

In 2017, CBP developed a decision support tool to prioritize the locations identified by field commanders as necessary to construct a border barrier. The decision support tool combines both qualitative and quantitative data to prioritize the locations that would benefit from impedance and denial techniques such as a wall. The methodology and results of applying the decision support tool were provided as part of CBP's Border Security Improvement Plan (BSIP) to Congressional Appropriators in January 2018 and was provided to Judiciary Committee staff on June 28, 2019.

**Question:** Please provide a list of landowners who have been identified so far in the 316 miles of land that then-Commissioner McAleenan stated at the March 6, 2019 hearing are part of CBP's 700 priority miles but are not currently owned by the federal government.

**Response:** Until such time as CBP has been funded to complete detailed project formulation to determine the exact alignment of border wall segments, we cannot

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accurately determine exactly which parcels of land will be required to construct a border barrier and the associated total impacted landowners.

<b>Question#:</b>	2
<b>Topic:</b>	Deter Migration
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** NBC news recently reported that government emails revealed that the Department of Homeland Security (DHS) did not keep track of the thousands of families it had separated. That indicates that the government had no intention of reuniting these families. It has taken nearly a year to reunite about 2,800 children with their parents under court order, and there are potentially thousands more separated children they still need to identify. Despite all of this, the President has recently stated that ending the family separation policy was "a disaster" that resulted in more families coming into the country.

In your view, do you believe policies, like the family separation policy, that are intended to deter migration by punishing immigrants for entering this country, are effective?

If so, please explain how these policies address the humanitarian concerns at the border.

**Response:** I agree with the administration's decision to end this policy as applied to adults in family units to afford Congress the time to act on legislation to end the current crisis on the border.

<b>Question#:</b>	3
<b>Topic:</b>	Reunifications
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Please explain what steps you taken to ensure that the children and parents who were previously separated by DHS but have not yet been reunited are identified and reunited as quickly as possible.

**Response:** Nearly all parents initially identified as *Ms. L* class members who elected reunification, have been reunified. The Department of Homeland Security and the Department of Health and Human Services have coordinated their data collection efforts both for the purpose of reporting to the *Ms. L* Court and to reunify all those eligible for reunification.

Please note that the Court in *Ms. L* has defined the class to exclude those with a criminal history, communicable diseases, or those considered dangerous or unfit to be reunified with his or her child(ren). Those separated parents that are excluded from the class are tracked as they move through their removal proceedings and are given the opportunity for reunification with their child at the time of removal to their country of origin if appropriate. In cases involving separation at the border due to medical issues, assuming no other factors are involved that would require continued separation, reunification occurs once the parent is medically cleared.

<b>Question#:</b>	4
<b>Topic:</b>	Root Causes of Migration
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** On March 30, 2019, the U.S. State Department, at the direction of the President, cut off \$450 million of foreign aid to Honduras, El Salvador, and Guatemala intended to help mitigate the root causes of migration to our country. Foreign policy experts have criticized this decision as effectively "shooting yourself in the foot." These countries have struggled for years with violence, poverty and insecurity, and are grappling with a drought. At the hearing, I asked you if you agreed with Acting Homeland Security Secretary McAleenan's previous statement that it is "absolutely essential" to address root causes of migration in Northern Triangle countries. Many of the witnesses at the hearing agreed.

Do you believe that the May 1, 2019 White House supplemental request for funding accurately reflects DHS's views regarding the importance of addressing the root causes of migration?

**Response:** The supplemental request is focused on the humanitarian crisis at our southwest border, aiming to provide adequate resources to deal with the surge of migrants illegally crossing our border, being apprehended and processed by CBP, detained by U.S. Immigration and Customs Enforcement (ICE), and in the case of unaccompanied alien children, referred to the U.S. Department of Health and Human Services (HHS). The current system was developed to handle primarily adult males, not the overwhelming numbers of family units and unaccompanied alien children CBP is currently encountering. The May 1, 2019 supplemental request focuses on this critical and immediate need.

**Question:** What steps have your offices taken to address the root causes of migration in Northern Triangle countries?

**Response:** DHS, in coordination with the U.S. Department of State, U.S. Agency for International Development (USAID), U.S. Department of Commerce, U.S. Department of Agriculture, among others, is engaging with the Northern Triangle governments to enhance security and promote prosperity in the region in order to improve conditions for local citizenry. These efforts are in support of the U.S. Strategy for Central America. CBP efforts include providing training and mentoring to the Northern Triangle governments in order to professionalize national police, customs, and border police forces; providing input on enhanced border infrastructure; and promoting engagement, information sharing, and coordination between border and national police counterparts across each country's shared borders. CBP efforts to promote prosperity include engagement on enhancing customs processing and infrastructure in order to make the

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process more predictable, efficient, and transparent. Underlying customs reforms are expected to result in increased revenue collection, which will assist the Northern Triangle governments in mitigating corruption and make the region more attractive to investment and trade. More investment and trade in the region will support job creation, which further bolsters security and lessens emigration trends. Additionally, CBP shares apprehension point-of-origin data with USAID, in order to facilitate their targeting of development initiatives. As part of a broader regional approach, the Overseas Private Investment Corporation has announced support for projects that will mobilize more than \$80 million that will expand access to capital for micro, small, and medium enterprises (MSMEs), particularly those owned by women, in southern Mexico. This effort will incentivize the creation of positions that will likely be filled by southern Mexicans as well as Northern Triangle nationals

<b>Question#:</b>	5
<b>Topic:</b>	Separation Determination
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** On February 20, 2019, the government reported in *Ms. L v. U.S. Immigration and Customs Enforcement* that 249 children were separated from their parents between June 28, 2018 and February 5, 2019 - after Judge Sabraw ordered an end to family separations with rare exceptions. The government stated that 225 of those 249 cases were separations based on a parent's alleged "criminality, prosecution, gang affiliation, or other law enforcement purpose."

On May 2, 2019, USA Today reported that there 389 children who have been separated from their parents between June 28, 2018 and April 2019, and one-fifth of these newly separated children are younger than 5 years old. This indicates a 56-percent increase in the number of family separations since February 2019. The article identifies one father who had his 2-year-old daughter taken from him for nearly a month despite having a birth certificate with both their names and no prior criminal record.

Who, specifically, in CBP is making these determinations of whether a parent should be separated from her or his child after they cross the border into the United States?

**Response:** All instances where family separation is contemplated are reviewed based on the individualized elements of each case. All separation decisions are made in accordance with the standards of the *Ms. L. v. ICE* preliminary injunction. In instances where OFO determines that a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE/Enforcement Removal Operations (ERO) local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). For U.S. Border Patrol (USBP), the Chief Patrol Agent in each sector determines which USBP management official will make the final decision that separation is warranted and this responsibility cannot be delegated below the Watch Commander position.

<b>Question#:</b>	6
<b>Topic:</b>	Training
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What training, if any, has DHS provided to these CBP officers on how to determine whether separation is appropriate?

**Response:** The Border Patrol Academy and Field Operations Academy do not specifically provide training on separating families. However, CBP recognizes the importance of thoroughly training our frontline Officers and Agents. Customs and Border Protection Officers (CBPOs) and Border Patrol Agents (BPAs) receive training on the proper processing, treatment, and referral of aliens. This training begins with CBP Field Operations Academy and Border Patrol Academy, and is reinforced through Post Academy training and the periodic issuance of memoranda and policy reminders/musters. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and *Flores* Settlement Agreement (FSA) provide guidelines regarding the care and treatment of juveniles during CBP processing.

**Question:** If training is provided:

How many CBP officers have been trained been trained so far?

**Response:** No Officer or Agents have been trained at the Academy on family separations.

**Question:** When was this training created?

**Response:** CBP does not offer training specifically on family separations. The *Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA) and *Flores* Settlement Agreement (FSA) training was created in fiscal year 2010 and implemented in fiscal year 2011.

**Question:** In what format (e.g., in person, on-line, etc.) is this training provided?

**Response:** CBP does not offer training specifically on family separations. The *Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA) and *Flores* Settlement Agreement (FSA) training is conducted as in-person training.

**Question:** What child welfare experts or pediatric medical specialists were consulted to develop this training? In what ways were their recommendations incorporated into the training?



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**Response:** While the Border Patrol Academy and Field Operations Academy do not specifically provide training on separating families, they teach the appropriate application of laws, regulations, policy, and directives.

**Question:** Has DHS provided training to every CBP officer on how to determine the "best interests of a child"?

**Response:** All persons who complete CBP Officer Basic Training receive instruction reflecting the *Flores* Settlement Agreement. At the Border Patrol Academy, students complete the DHS PALMS course dealing with the processing and handling of juveniles via the *Flores* Settlement Agreement.

The *Flores* Settlement Agreement requires that detained minors be placed in the least restrictive setting appropriate to the minors' age and special needs if the setting is consistent with its interest to protect the minors' well-being and that of others. The *Flores* Settlement Agreement further requires that DHS ensure the safety and well-being of minors in its custody.

**Question:** Has DHS provided training to every CBP officer on what types of criminal history would justify separating a child from her or his parent under child welfare principles?

**Response:** CBP does not offer training specifically on family separations.

In instances where a separation is contemplated due to criminal history, the Office of Chief Counsel is generally brought into to provide guidance on whether the criminal history of the parent/legal guardian would warrant a separation.

**Question:** Has DHS provided training to every CBP officer on how to document the reasons for separation?

**Response:** In May 2018, CBP Headquarters issued guidance to the field, which outlined the procedures necessary to document a separation within the electronic system of record.

<b>Question#:</b>	7
<b>Topic:</b>	Guidelines
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What guidelines or internal policy memoranda currently exist for CBP officials regarding how to determine whether a child and parent should be separated? Please provide a copy of these documents.

**Response:** When CBP encounters a family unit (consisting of either one or two parents/legal guardians), CBP will not separate the child from either parent/legal guardian unless the specific criteria provided in the Preliminary Injunction in *Ms. L v. ICE* are met. Clarifying guidance was sent to the field on or about June 27, 2018 from then Commissioner McAleenan that provided guidance and clarification on when a parent and a legal guardian can be separated in compliance with the court order. With the appropriate approvals, officers and agents may separate a parent from his/her child where the parent/legal guardian is being referred for prosecution, the parent/legal guardian presents a danger to the child, the parent/legal guardian has a criminal history, the parent/legal guardian has a communicable disease, or CBP cannot establish that the familial relationship is *bona fide*. Additionally, CBP will not separate both parents in two-parent families when only one of the parents meet the criteria to require separation from the child.

<b>Question#:</b>	8
<b>Topic:</b>	Identify
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Please identify the specific details of the "criminality" that has been used as a basis for separating families.

**Response:** There is no all-inclusive list of charges and convictions used to establish that a family unit adult has a criminal history that merits family separation. Each circumstance has to be evaluated based on its own merits with the information available at the time in question. All instances where a separation of a parent and his or her child(ren) is contemplated are reviewed on the individualized elements of each case. In all instances, the guidance provided in the *Ms. L. v. ICE* preliminary injunction are consulted and a second level supervisor, at minimum, reviews the information. Furthermore, any questions regarding the legality of a separation are referred to the Office of Chief Counsel for review and input before the decision to separate a family unit is made.

To ascertain whether an alien has a criminal history in the United States, CBP conducts a biographic search of the National Crime Information Center (NCIC) Interstate Identification Index (III) through the TECS system. Additionally, CBP conducts a biometric search of the FBI Integrated Automated Fingerprint Identification System (IAFIS).

**Question:** Please identify the specific details of how CBP has determined a parent's "gang affiliation" that has been used as a basis for separating families.

**Response:** Regarding whether an alien has a "gang affiliation," CBP observes the individual and if any potential gang identifiers are observed, the individual is questioned for potential gang affiliation. CBP also uses criminal history data gathered from NCIC/III and IAFIS and other database checks, based on information entered by both U.S. and foreign law enforcement agencies to identify gang affiliation.

<b>Question#:</b>	9
<b>Topic:</b>	Oversight or Accountability
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What oversight or accountability is there to ensure that a CBP officer's assessment of the need to separate a parent from her or his child is valid?

**Response:** All instances where family separation is contemplated are reviewed on the individualized elements of each case, and in accordance with the requirements of the *Ms. L. v. ICE* preliminary injunction. In instances where OFO determines that a separation is warranted, a CBP OFO senior manager (GS-14 or above) must be notified, approve the separation, and contact the ICE ERO local juvenile coordinator. Approval and notification cannot be delegated below an OFO senior manager (GS-14). For USBP, the Chief Patrol Agent in each sector determines which USBP management official will make the final decision to separate a family and this responsibility cannot be delegated below the Watch Commander position.

**Question:** What avenues do parents have to immediately challenge invalid separations?

**Response:** While in CBP custody, there is no means for the parent/legal guardian or the child to challenge the separation. If there is not an immediate safety or security of the child concern (e.g., parent/guardian is likely to abuse the child), the parent/legal guardian generally will be informed of the reasons for the separation and can address any concerns at the time of separation. CBP will not provide reasons to the adult if doing so would create a risk to the child's safety or would not otherwise be in the child's best interests. ICE ERO, in conjunction with HHS Office of Refugee Resettlement (ORR), make the final determination to reunify or maintain separation.

<b>Question#:</b>	10
<b>Topic:</b>	Documentation
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The government reported in *Ms. L v. U.S. Immigration and Customs Enforcement* that it has a process for tracking family separations that has been adopted since June 26, 2018.

What details about reasons for separation does the Department of Health and Human Services (HHS) receive at the time a child is transferred to its custody by DHS? Are these details sufficient to distinguish one case from another, or are the details limited to general categories such as "criminal history"? If it is the latter, please provide a list of the categories.

**Response:** CBP abides by the relevant portions of the April 13, 2018 Memorandum of Agreement (MOA) between DHS and HHS titled “*Consultation and Information Sharing in Accompanied Alien Children Matters*”. In addition, CBP advises HHS that a separation has occurred and provides the parent’s name, date of birth, Alien Registration number, the location where the parent was initially transferred, and general information about the reason for separation. CBP does not share with HHS/ORR or contracted shelter facilities law enforcement information since HHS/ORR is not a law enforcement entity.

**Question:** When a CBP officer separates a child from her or his parent, what documentary evidence or reporting is the officer required to submit to justify the separation?

**Response:** At ports of entry, when the decision has been made to separate an adult parent or legal guardian from his or her child, CBP policy dictates that a port manager at the GS-14 level or above approve the separation. The decision to separate a family cannot be delegated below the GS-14 level and the following also applies:

- The CBP OFO Manager who approved the family separation notifies the ICE ERO Juvenile Coordinator; the notification cannot be delegated to a lower level manager.
- Form I-213 (Record of Deportable/Inadmissible Alien) must be annotated with the reasons for the family separation.
- Upon determination that a child is a UAC and does not meet the criteria to voluntarily withdraw their application for admission (e.g., if from a contiguous country, able to make an independent decision, not a victim of a severe form of trafficking, and no fear of return), a referral for placement is made by notification to both the ICE ERO Field Office Juvenile Coordinator and to ORR.

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Similarly, US Border Patrol policy dictates that the authority to separate resides with the sector Chief Patrol Agent and cannot be delegated below the Watch Commander position. The decision to separate a family unit is made after all facts and evidence have been reviewed. If the on duty Watch Commander or other management official determines a separation is necessary, the justification is annotated within the electronic system of record indicating the child(ren) is now unaccompanied and in need of placement. Documents justifying the underlying reasons are placed in the alien's A-file.

**Question:** Does DHS promptly and routinely provide information supporting the reasons for separation to:

The attorney for the parent, if and when one files a notice of representation?

The attorney for the child, if and when one files a notice of representation?

The independent child advocate, if one is appointed by HHS?

**Response:** The questions posed involve issues that are currently being litigated in the case of *Ms. L. v. ICE*. As a result, a response to these questions is not possible at this time. DHS will continue to comply with related court orders and file updates with the court as required, all of which are publicly accessible.

<b>Question#:</b>	11
<b>Topic:</b>	Separating
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** In the February 20, 2019 report that the government filed in *Ms. L v. U.S. Immigration and Customs Enforcement*, the government stated:  
 "some of these 245 cases [of new family separations] reflect a situation in which CBP separated a child from an accompanying adult because, based on the information available to CBP at the time of apprehension, and in light of the short period of time in which CBP must make a processing determination, CBP did not have information to indicate that the adult was the parent or legal guardian of the child. However, since the time of apprehension, Defendants have developed additional information that shows that the child was, in fact, separated from his or her parent or legal guardian."

For the separations referenced in the government's statement above, how much time did CBP wait before separating the child from her or his parent?

**Response:** In an effort to move children and families to an appropriate facility CBP's *Transportation, Escort, Detention, and Search* (TEDS) policy (in compliance with *Flores*) requires that CBP process UAC and families quickly. *Flores* places strict restrictions on the amount of time that a UAC can be in CBP custody, including a separated child who is then considered a UAC. Therefore, CBP officers and agents are not allowed much time to make decisions and do their best under the *Flores* time restrictions to make informed decisions based on the evidence and other criteria before them at the time. During initial intake, CBP supervisors and managers contemplate and finalize processing dispositions, custody determinations, and/or criminal charges. It is also during this time that CBP management will determine, using all available evidence, if a family separation is justified based on the *Ms. L. v. ICE* preliminary injunction. Since CBP operates short-term detention facilities, as described in the Trade Facilitation and Trade Enforcement Act and prioritizes processing for unaccompanied alien children and family units, the processing determinations are generally made quickly in order to expedite the transfer of custody to the appropriate agency (ICE, HHS).

**Question:** What information or type of evidence does CBP require a parent to provide to avoid being separated from her or his child?

**Response:** CBP prioritizes the safety and wellbeing of aliens in our custody, particularly minors. Agents will review all available evidence that is presented in order to verify whether a parental or legal guardianship relationship exists. Available evidence includes but is not limited to birth certificates, government issued documents, agent observation, and interviewing techniques.

<b>Question#:</b>	11
<b>Topic:</b>	Separating
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

Parents/legal guardians are present during the inspection process and CBP maintains parents/legal guardians with their children as long as operationally feasible during processing, the last element being a possible separation. CBP considers all available evidence related to the inspection before any decision is made to separate.



<b>Question#:</b>	12
<b>Topic:</b>	New Cases
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** How many of the 245 new cases of family separation involved a child accompanied by a family member who was not the parent or legal guardian?

**Response:** Separating a child from a family member other than the child’s parent or legal guardian would not be considered a family separation as defined in law. Such a child is considered an unaccompanied alien child (UAC) under the *Homeland Security Act*. Therefore, the number in response to this inquiry is zero since such situations are not considered family separations.

The *Homeland Security Act* defines an unaccompanied alien child (UAC) as a child who-

- (A) has no lawful immigration status in the United States;
- (B) has not attained 18 years of age; and
- (C) with respect to whom—
  - (i) there is no parent or legal guardian in the United States; or
  - (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Accordingly, a child entering the United States accompanied by a family member other than the child’s parent or legal guardian is considered a UAC. Any minor who has been determined to be a UAC must be transferred to the custody of the HHS as required by the TVPRA of 2008. Therefore, the number in response to this inquiry is zero since these situations are not considered family separations.

**Question:** For the cases where a child was accompanied by a family member who was not the parent or legal guardian, how many of those children were later reunited with the family member?

**Response:** As stated above, separation a child from a family member other than the child’s parent or legal guardian is not considered a family separation as defined by law. Thus, while DHS tracks instances of family separation, it does not track the information requested.

<b>Question#:</b>	13
<b>Topic:</b>	Transfers to ICE
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The Department of Homeland Security's Office of Inspector General found in its September 2018 report that some family separations could have been avoided where parents were quickly prosecuted and released back into CBP custody while their children were still in CBP facilities. But instead of returning the parents to CBP facilities and reuniting them with their children, CBP officials transferred them directly to ICE. The OIG report explained, that "[a]ccording to a senior official who was involved with this decision, CBP made this change in order to avoid doing the additional paperwork required to readmit the adults."

Were you involved in making this decision? Were you aware of this decision at the time it was made?

**Response:** I cannot speak to who may have made any such statement to the Office of Inspector General nor am I aware of what that person was referring to specifically. Of course, immigration decisions should not be made purely to avoid paperwork, particularly where children are involved. CBP operates in a complex environment where there are many operational realities that evolve rapidly in the field. Field leadership often has to make a number of decisions related to transport timing, detention decisions and referrals for prosecution. These are complex decisions in light of circumstances that may be quickly changing. Operational decisions are often different across different areas of responsibility. There are hundreds of ports and border patrol stations each with their own unique environment that is considered by field leadership as they address these questions.

**Question:** What steps have you taken to prevent such a situation in the future?

**Response:** In accordance with the *Trafficking Victims Protection Reauthorization Act of 2008*, CBP transfers all unaccompanied alien children who are not eligible to voluntarily return to HHS. CBP continues to abide by Executive Order 13841, dated June 20, 2018, as well as the *Ms. L. v. ICE* preliminary injunction. Accordingly, parents or legal guardians in family units who are referred for prosecution and return to CBP custody prior to the transfer of custody of the minor to HHS will be reunited. The separation, and if appropriate, reunification of separated family units are documented in the electronic system of record.

<b>Question#:</b>	14
<b>Topic:</b>	Binary Choice I
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The Trump administration is reportedly considering a new version of its family separation policy that they are calling a "binary choice" program. Under this program, parents are given the "binary choice" of having their children detained with them indefinitely or being separated from their children.

Please identify the names and offices of anyone within DHS who has researched, discussed or considered the possibility of a "binary choice" program or policy.

What steps, if any, have been taken to prepare for or implement such a "binary choice" program or policy?

**Response:** DHS does not comment on or release internal, deliberative, and pre-decisional information.

<b>Question#:</b>	15
<b>Topic:</b>	Trauma
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What steps has CBP taken to help children who were separated from their parents deal with the trauma and harm of that separation?

**Response:** The CBP *Interim Enhanced Medical Efforts Directive* is an important first step in the development and incorporation of new medical practices both at and between the ports of entry. The Interim Directive outlines CBP's immediate response to the challenge of providing care to unprecedented numbers of unaccompanied alien children and family units along the Southwest Border. As CBP moves forward with a longer-term version of the directive, we look forward to gathering information on medical best practices in trauma and emergency situations from a variety of experts, including those familiar with the specific issues associated with children. Minors transferred to the custody of ORR or to ICE as part of family units have access to medical and mental health in their facilities following CBP short-term holding facilities. DHS defers to HHS/ORR for information regarding access to medical and mental health in those facilities.

**Question:** Will you commit to not reinstating a family separation policy?

**Response:** I agree with the Administration's decision to maintain family unity and allow Congress the time to pass legislation to solve the crisis on our Southern Border.

<b>Question#:</b>	16
<b>Topic:</b>	Humanitarian Relief
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** For Fiscal Year 2019, CBP was appropriated an additional \$415 million for humanitarian relief, specifically for medical care, transportation, food and clothing, and other humanitarian needs along the southwestern border.

Please provide details on CBP's plans to spend these funds on medical care, food, and clothing.

**Response:** Of the \$415 million, \$128 million was allocated to provide medical care to the detainee population in CBP custody. CBP is prioritizing the phased expansion of its contracted medical services to address the medical needs of vulnerable populations while they are in our care and custody. The contracted medical staff has a wealth of experience in family practice medicine and is qualified in identifying acute illnesses and urgent care needs in the wide ranging age demographic that are apprehended. Since CBP only has individuals in custody for a short period of time, the providers are focused on identifying and addressing acute illnesses and immediate urgent needs for all individuals in custody.

The balance was allocated by CBP for soft-sided facilities and the new Centralized Processing Center.

**Question:** How much of these funds will be allocated to provide specialized pediatric medical care?

**Response:** The funds are being allocated to continue staffing CBP's highest priority locations first, which are facilities with the highest number of unaccompanied alien children and family unit aliens in custody. Many of the contracted medical staff have a wealth of experience in family practice medicine, and are qualified in identifying acute illnesses and urgent care needs in the wide-ranging age demographic that are apprehended.

<b>Question#:</b>	17
<b>Topic:</b>	Metering I
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** In its September 2018 report, the Department of Homeland Security's Office of Inspector General discussed the link between CBP's process of "metering," where CBP agents limit the number of asylum seekers who can cross the U.S. border at ports of entry per day, and increases in people trying to cross the border between ports of entry where they were subjected to the zero tolerance and family separation policy. This process has left many migrants waiting in Mexico, including unaccompanied migrant children, who are particularly vulnerable to significant risks for trafficking, exploitation, and harm.

Does CBP track the number of asylum seekers who are not admitted each day, how long they have been waiting, and their demographics information? If so, please provide that information to the Senate Judiciary Committee.

**Response:** CBP does not have a system of records which tracks the number of individuals who are waiting in Mexico to enter a port of entry, and although informal information may be provided by Mexico, CBP could not provide, for instance, how long they have been waiting or their demographic information.

**Question:** What steps has CBP taken to ensure the safety of asylum seekers while they are waiting at the border in Mexico?

**Response:** Mexico, as a separate sovereign nation, is responsible for aliens who are in Mexican territory.

**Question:** What guidance is given to CBP officials at ports of entry regarding metering?

**Response:** Directors of Field Operations (DFO) have been instructed that they may meter the flow of travelers at the land border to account for the port's processing capacity. While DFOs may not create a separate line for only asylum seekers, a DFO may create lines based on legitimate operational need, such as for those with appropriate travel documents and those without.

Port officials should inform travelers that the port is currently at capacity, and CBP will allow them to enter the port once there is sufficient space. Officers are prohibited from discouraging travelers from: (1) waiting to be processed, (2) claiming fear of return to Mexico or any other country, or (3) from seeking any other protections. Once a traveler is in the United States, he or she must be fully processed.

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<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Do CBP agents account for certain humanitarian needs, such as health conditions, pregnancies, or small children, among asylum seekers, when requiring them to wait outside at ports of entry?

**Response:** CBP attempts to accommodate all travelers and ensure their comfort when at a port of entry. When officers and agents encounter a traveler with a special need, they will work to accommodate that need as the individual waits to be processed.

Following are some of the guidelines for CBP holding facilities, applicable once an individual enters into CBP custody:

- Separation of UACs and minors from unrelated adults
- Performing welfare checks consistent with current policy (every 15 minutes)
- Providing meal services while in CBP custody
- Juveniles are to be detained in the “least restrictive” setting
- Ensuring the custodial location where minors are detained are within an acceptable temperature range (66 to 80 degrees Fahrenheit)
- Maintaining the custodial location in a safe and sanitary condition
- Providing contact with family members encountered with the minor

<b>Question#:</b>	18
<b>Topic:</b>	UAC Guidance
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** There have been reports of the difficulties unaccompanied migrant children are facing in seeking asylum through legal ports of entry, specifically at San Ysidro port of entry. Unaccompanied children are unable to even access the CBP "metering" system by adding their names to the list of those waiting to seek entry into the United States. This forces vulnerable children to remain at grave risk of harm and exploitation. In December 2018, robbers in Mexico brutally killed two unaccompanied Honduran teenagers-one of whom had been waiting two and a half weeks in Mexico to cross the border into the United States.

Are you aware of the challenges unaccompanied children are facing in seeking asylum at ports of entry? What steps is CBP taking to address this?

**Response:** Yes, CBP is aware of the dangers that all migrants, particularly children, face along the journey from their home country to the southern border of the United States. DHS and CBP have repeatedly informed Congress of the kidnappings, sexual and physical assaults, extortion and other dangers faced by migrants traveling through Mexico.

Unfortunately, CBP cannot dictate to Mexican authorities the means and manner in which migrants, even children, must be treated when in Mexico.

CBP has worked closely with the Government of Mexico and our Central American partners to address the challenges of migration in the region. CBP very much appreciates the efforts of the Government of Mexico to address this challenging situation in accordance with the highest principles of protection of human rights and respect for migrants, while upholding the integrity of the border and Mexican immigration law.

**Question:** What guidance is given to CBP officials at ports of entry regarding unaccompanied children seeking refuge the United States?

**Response:** CBP officers are trained and continually reminded on the treatment of UAC who arrive in the United States.

- An alien child with no legal immigration status traveling with a non-custodial adult relative - grandparent, aunt, uncle, or adult sibling – will be processed as a UAC.
- Per the CBP *Transportation, Escort, Detention, and Search* (TEDS) policy (implemented in 2015), CBP maintains family unity to the greatest extent



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<b>Committee:</b>	JUDICIARY (SENATE)

operationally feasible, absent a legal requirement or an articulable safety or security concern.

- Congress provided the responsibility for long-term custody and reunification with family members for a UAC to HHS in the *Homeland Security Act*.
- The *Flores* Settlement Agreement (FSA), as interpreted by the courts, provide guidelines regarding the care and treatment of all juveniles during CBP processing.
- CBP has responsibility for short-term care and custody of UAC. Some of the stipulations in the FSA include:
  - Separation of minors and minors from unrelated adults
  - Providing meal services while in CBP custody
  - Juveniles are to be detained in the “least restrictive” setting
  - Ensuring the custodial location where minors are detained are within an acceptable temperature range
  - Maintaining the custodial location in a safe and sanitary condition
  - Providing contact with family members encountered with the minor

<b>Question#:</b>	19
<b>Topic:</b>	Sexual Abuse Allegations
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Rep. Ted Deutch released documents from the Department of Health and Human Services (HHS) that showed that its Office of Refugee Resettlement received more than 4,500 complaints of sexual abuse against unaccompanied minors from October 2014 to July 2018. During that time, the Department of Justice received 1,303 complaints. These complaints included 178 allegations of sexual abuse by adult staff. The New York Times also reported on the problem of sexual abuse at the border, including at least five women who were sexually assaulted by on-duty Border Patrol agents and Customs officers. At the March 6, 2019 hearing, I asked then-Commissioner McAleenan provide a copy of the CBP policy that he discussed with Senator Harris that makes it mandatory for CBP employees to report any suspicions they have of sexual abuse by their colleagues.

Please provide a copy of this policy.

**Response:** CBP has a zero tolerance policy prohibiting all forms of sexual abuse and assaults of individuals in CBP custody, including during apprehensions, in holding facilities, during transport, and processing. CBP is committed to protecting the safety of individuals in CBP custody, and it is CBP policy to provide effective safeguards against sexual abuse and assault for individuals in CBP custody. CBP complies with its *National Standards on Transport, Escort, Detention and Search* (TEDS) policy outlining detention requirements for subjects in CBP facilities. Additionally, CBP complies with the DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (codified at 6 C.F.R. Part 115). Please see attached.

**Question:** Please provide a copy of the results of the investigations into the aforementioned five cases of sexual assault by CBP staff that then-Commissioner McAleenan discussed at the March 6, 2019 hearing.

**Response:** The five cases of sexual assault referenced by then-Commissioner McAleenan involved two separate incidents. On March 12, 2014, a Honduran female, along with her 14 year-old daughter encountered U.S. Border Patrol near Abram, TX, reporting they, and a third missing 14-year-old female, had been kidnapped and assaulted by an unknown Border Patrol Agent (BPA). Upon further investigation, federal and local law enforcement agencies identified a BPA as the suspect and subsequently gained entry into the Agent's private residence. Upon entry, investigators discovered the Agent dead from a self-inflicted gunshot wound and found the third missing female victim alive within the residence. Hospital reports later confirmed the minor victim who was found in the Agent's residence had been sexually assaulted. The facts of this case were not presented

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to the U.S. Attorney's Office (USAO) due to the BPA's death. An investigation was completed by the DHS Office of Inspector General.

In July 2016, two Guatemalan sisters alleged a Border Patrol agent assaulted them during processing at the Presidio Border Patrol station in Presidio, Texas. CBP's administrative investigation into this matter is ongoing and a final agency action is pending a full report.

**Question:** Please provide the total number of allegations of sexual abuse perpetrated against migrants in CBP custody in the past five years, as well as the ages of the victims.

**Response:** The total number of allegations of sexual abuse perpetrated against migrants in CBP custody in the past five years is 136. The range in age of the victims is eight (8) to 69 years old and six of the cases where the victim's age is unknown.

**Question:** What is the CBP protocol for investigating sexual abuse allegations? Please provide a copy of any written guidance on this matter.

**Response:** The *Prison Rape Elimination Act* (PREA), 34 U.S.C. § 30301 (formerly 42 U.S.C. § 15601, September 4, 2003), is a federal statute that specifically addresses sexual abuse/assault of individuals in detention. The DHS regulation titled, *Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*, Title 6 CFR Part 115 (DHS Standards) (March 7, 2014) establish the PREA standards for CBP holding facilities, including standards for the investigation of sexual abuse allegations that an individual in a CBP holding facility was sexually abused.

Effective March 11, 2015, CBP implemented the [\*Policy on Zero Tolerance of Sexual Abuse and Assault \(CBP ZTP\)\*](#) to enforce PREA and the DHS Standards within CBP. CBP ZTP notifies all CBP employees of their duties and responsibilities and describes the process for the prevention, response and investigation of sexual abuse/assault of individuals held in CBP custody. CBP's Office of Professional Responsibility (OPR) will conduct investigations into all allegations of sexual abuse/assault, consistent with the standards established by PREA.

<b>Question#:</b>	20
<b>Topic:</b>	Pediatric Medical Screenings
<b>Hearing:</b>	At the Breaking Point: The Humanitarian and Security Crisis at our Southern Border
<b>Primary:</b>	The Honorable Mazie K. Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** After two children died in CBP custody in December 2018, CBP announced that it would conduct medical assessments on all children in its custody. But the American Academy of Pediatrics (AAP) has pointed out that these additional medical checks may be inadequate without the expertise of pediatric specialists who can identify the more subtle signs of medical distress that children may exhibit. The American Academy of Pediatrics has access to 67,000 pediatric medical experts, and has reportedly offered CBP the use of AAP's expertise to train CBP personnel, review CBP facilities, and make recommendations.

Please describe in detail the medical screenings that CBP currently provides to children and explain how they are different from the medical screenings CBP had conducted on children prior to these two deaths.

**Response:** CBP agents and officers have always and continue to assess persons in custody for urgent or emergent illness or injury and to facilitate referral to the local health system as appropriate.

Over the past year, as resources have become available, and consistent with the CBP Interim Enhanced Medical Efforts Directive, CBP has been significantly expanding and enhancing medical support capabilities along the SWB.

There are now over 220 medical personnel at priority CBP locations along the SWB, as determined by operational analysis of volume, demographics, and access to medical care.

These medical teams are made up of medical providers and medical support personnel licensed and credentialed to provide care for juveniles. These teams are able to provide onsite 24/7 medical support for juveniles in custody including: initial health intake interviews ('screenings'), detailed medical assessments, onsite medical treatment, referral to local health system, follow-up care, medical monitoring, public health/infectious disease response, and discharge medical interviews ('screening'). The initial health intake interviews ('screenings') consist of direct questions and observations regarding potential illness, injury, infectious disease, pregnancy, and medication requirements. Juveniles with medical issues identified during the initial health intake interview receive more detailed medical assessments, treatment, or referral as appropriate.

CBP has also worked with the medical contract provider to hire Pediatric Advisors to provide professional medical advice, consultation, and oversight of care for juveniles in custody.

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CBP is committed to the care and wellbeing of all persons in our custody and take particular care for vulnerable populations such as children.

**Question:** What percentage of these new medical screenings of children are conducted by pediatric medical experts, such as pediatricians or pediatric nurses?

**Response:** See above response.

In locations without contracted medical personnel, Agents continue to use established screening forms to identify medical needs among those in custody.

**Question:** What training, if any, are provided to CBP staff, to help them identify common signs and symptoms of medical distress specifically in children?

**Response:** All CBP officers and agents receive basic medical training as part of their initial training before entering service. This training, in accordance with the American Red Cross' Community First Aid and Safety training for agents and the American Safety and Health Institute standards for OFO officers, includes basic first aid and safety for adults and children.

Additionally, CBP has a number of officers and agents both at and between the ports of entry who are trained as Emergency Medical Technicians. These employees are able to conduct a patient assessment and recommend transfer to a higher level of care at any point when a person is in CBP custody.

Finally, no CBP personnel need have medical training to request additional care for any person. CBP policy states that if there is any question regarding the medical condition of anyone in CBP custody that the person is referred to a medical professional for treatment. The referral to a medical professional is recorded in the agency's processing system.