Question#:	9
Topic:	DACA status
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you said that it was “unacceptable” for the gang member charged with murdering four people in North Carolina to be granted DACA status. According to officials who briefed committee staff, one adjudicator in the Background Check Unit (BCU) made the error in not reporting the case to headquarters for review and instead granted the benefit despite the derogatory information on file. Why was no employee of the BCU fired or disciplined for the failure to flag Rangel-Hernandez, the known gang member and DACA recipient who allegedly murdered four people while receiving the benefit? What class of benefits is that adjudicator working now?

Response: USCIS determined this error was a performance issue and has addressed it through training, increased supervisory oversight and reassignment of duties. The adjudicator is no longer involved in DACA resolutions, criminality reviews, NTA work, training junior officers or quality review work.

Question#:	10
Topic:	DACA recipients
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You spoke at the hearing of the steps USCIS has taken to scrub the list of DACA recipients to weed out any criminal gang members.

What, if any, mechanism does your agency have in place to learn about or receive notification of a DACA recipient's post-DACA criminal convictions in order to immediately terminate that person's DACA status?

Response: Whenever any relevant derogatory information is brought to the attention of the U.S. Citizenship and Immigration Services (USCIS) from law enforcement agencies (U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or other federal, state or local law enforcement authorities) or if such information is otherwise discovered, USCIS will review the newly discovered derogatory information and make a determination on a case by case basis as to how to exercise prosecutorial discretion as it relates to the DACA recipient. Additionally, USCIS performs background and security checks on each DACA requestor during the initial and renewal request processes. As DHS partners develop vetting capacity, including in the area of recurrent vetting, DHS will continue to work with them to leverage those capabilities. Appropriate action to terminate DACA may be taken based on any relevant derogatory information provided by CBP, ICE, or other federal, state or local law enforcement authorities or if such information is otherwise discovered.

Question: Does your agency run any sort of database or fingerprint check on a DACA recipient, other than when it's being renewed, in order to check for criminal activity? Please explain.

Response: USCIS performs background and security checks on each DACA requestor during the initial and renewal request processes. Individuals are vetted upon their initial application and re-vetted when they requested to renew their deferred action after two years or when USCIS received potentially relevant derogatory information from law enforcement partners on a specific DACA recipient prior to his or her renewal request. ICE also continues to apprise USCIS of ongoing criminal investigations of individuals with pending requests for deferred action.

On October 11, 2015, USCIS developed a time sensitive electronic system generated notice (SGN) reporting process. The SGN reporting process provides real time criminal history wrap back information, resulting in a "recurrent vetting" of all DACA requestors.

Question#:	11
Topic:	DACA interviews
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Please clarify for the record whether USCIS requires an interview of every DACA applicant who has a criminal record. If USCIS does not require an interview for such DACA applicants, why not?

Response: If USCIS can determine whether or not a requestor meets the DACA guidelines and warrants a favorable exercise of prosecutorial discretion based on the documentation submitted, and background and security checks, an interview is not necessary. Some DACA requestors are scheduled to appear at their local USCIS office for an interview. The cases that are referred to the field offices for interview depend on the presence of derogatory information that cannot be resolved without an interview, including some issues of criminality, national security, public safety or fraud. Some examples of cases that may require an interview include those requestors where offenses were committed as a juvenile and the records were sealed, those requestors with unresolved gang affiliations or associations, or those whose identity cannot be firmly established solely through documentary evidence. Requestors are given the opportunity to overcome the derogatory information at the interview through their testimony or submission of additional documentation.

Question#:	12
Topic:	DACA rules
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Under the DACA rules, an alien who has been convicted of a felony, a significant misdemeanor, three or more other misdemeanors, or who "poses a threat to national security or public safety" is ineligible for DACA. I am afraid, though, that the DACA rules still leave open the possibility that serious criminals could get protection from deportation under DACA. Please provide a simple yes or no answer to the following:

Can you commit to me that no one convicted of any gang-related crime has or will ever be knowingly approved for DACA benefits?

Response: USCIS is unable to provide a yes/no response as USCIS considers the totality of the circumstances when determining whether a DACA requestor poses a threat to national security or public safety. All past criminal activity and/or affiliations are evaluated in order to make a final determination. USCIS and DACA guidelines were established in order to preclude the granting of deferred action under the DACA process for individuals who pose a threat to national security or public safety, including those who are known or suspected gang members.

USCIS is taking the following proactive steps and measures to ensure background check results are properly considered in the adjudication of DACA requests:

- USCIS has provided refresher training in the following areas:
  - All Immigration Service Officers (ISOs) who adjudicate DACA requests received refresher training in interpreting and applying TECS records.
  - Officers received DACA refresher training regarding the handling of public safety and criminality concerns, including but not limited to gang membership, significant misdemeanors, and three or more misdemeanor criminal offenses.
  - Additional refresher training was given to all officers who handle DACA requests on proper protocol and elevation of cases requiring USCIS HQSCOPS's review and concurrence prior to a final decision.
  - BCU Officers received refresher training in reviewing, applying and resolving TECS hits. USCIS will ensure that the BCU Officer who processes the resolution memo of the TECS hit obtains concurrence from a subject matter expert or supervisor prior to adjudicating a DACA request

Question#:	12
Topic:	DACA rules
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

involving specified public safety or criminality issues such as criminal history or gang membership.

- The refresher training was provided by USCIS Headquarters personnel who are subject matter experts in TECS and the DACA adjudication process. This training was mandatory for all ISOs who adjudicate DACA requests, all ISOs who process resolutions related to TECS hits, and all supervisors and managers who oversee these processes. All listed training was provided between March 30 and April 10, 2015.

Question: Can you commit to me that no registered sex offender or person convicted of any sort of sexual crime has or will ever be knowingly approved for DACA benefits?

Response: See previous response.

Question: Can you commit to me that no one convicted of assault has or will ever be knowingly approved for DACA benefits?

Response: See previous response.

Question#:	13
Topic:	Advance parole
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Is the Department considering changing the criteria that are considered in applications for advance parole or otherwise considering expanding the availability of advance parole to DACA recipients or any other class of alien eligible to receive advance parole?

Response: No, USCIS is not currently considering any changes to the criteria for DACA recipients who are seeking advance parole.

Question#:	14
Topic:	Parole program for Syrians
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Has DHS at any time considered, or is it currently considering, a parole program for Syrians with approved immigrant petitions similar to the Haitian Family Reunification Parole Program?

Response: At the request of more than 70 members of Congress in 2013, USCIS considered whether to establish a parole program for Syrians in Syria but decided against establishing such a program at that time.

Question#:	15
Topic:	Contacted families
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Prior to the hearing, have you or anyone else in the administration personally contacted the Steinle, Oliver, McCann, Ronnebeck, or Wilkerson families? If so, when?

Response: Officials from the U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) San Francisco Field Office contacted a member of the Steinle family during the week of July 6, 2015. ICE Director Sarah Saldaña personally contacted Mr. Brad Steinle on July 20, 2015.

Officials from the ERO Chicago Field Office contacted a member of the McCann family in September 2011 and April 2012.

Question#:	24
Topic:	Record of Deportable/Inadmissible Alien
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: If an illegal alien applying for deferred action under the Deferred Action for Childhood Arrivals (DACA) program has been identified on an ICE Form I-213, "Record of Deportable/Inadmissible Alien" as having a possible gang affiliation based on that alien's statements or tattoos, will USCIS deny the DACA application?

Response: USCIS considers the totality of the circumstances when determining whether a DACA requestor poses a threat to national security or public safety. All past criminal activity and/or affiliations are evaluated in order to make a final determination. All DACA requests are queried against law-enforcement databases to determine if a requestor has a known or suspected gang affiliation. These cases are fully vetted by trained USCIS officers. If necessary, the vetting process will include an in-person interview. If, after the vetting process is complete, a requestor is still considered a known or suspected gang member, the request for DACA will be denied on the grounds that the requestor is a threat to public safety and therefore does not warrant favorable discretion. However, if an officer believes, based on the totality of the circumstances present, that a request should be approved as a matter of discretion, such a request requires review and approval at the USCIS Headquarters level.

Question#:	25
Topic:	Central American Minors Refugee/Parole Program
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: To date, how many applications have you received for the Central American Minors Refugee/Parole Program?

Response: Applications for the Central American Minors (CAM) Refugee/Parole Program are initially filed with the Department of State. The Department of State reports that as of September 21, 2015, it has accepted CAM Affidavits of Relationship for 4,000 cases and 4,403 individuals.

Question: How many individuals have been granted refugee status pursuant to the program? For each individual granted refugee status pursuant to the program, please describe the precise reasons for granting refugee status, including identifying the protected ground upon which the individual claimed to be persecuted, the definition of the "particular social group" for each application granted on account of that protected ground.

Response: In July 2015 the U.S. Department of Homeland Security completed its first round of interviews in Central America and 11 cases, which comprise 16 individuals, have been conditionally approved for refugee status under the CAM program. Applicants conditionally approved as refugees were found to meet the definition of refugee at section 101 (a)(42) of the Immigration and Nationality Act (INA), are not inadmissible, and are not firmly resettled. Applicants must clear all required security checks prior to final approval. The USCIS Refugee Affairs Division does not systematically track which protected ground is the basis of the refugee claim. However, in this instance, given the small number of cases, USCIS can report that all these cases were approved because the applicants suffered or feared persecution on account of membership in a particular social group (PSG).

In assessing whether an applicant is a member of a PSG, USCIS adjudicators first examine whether the applicant and certain other members of his or her society share a common immutable trait, one that is either unchangeable or so fundamental to their identity or conscience that they should not be required to change it. Adjudicators then resolve whether that trait is socially distinct by assessing whether the society in question meaningfully distinguishes individuals who possess it from those who do not. The adjudicator then determines whether the group of people has discrete boundaries and is defined with sufficient particularity to ascertain with certainty who is in the group and who is not. If all these requirements are met, the adjudicator will generally conclude that

Question#:	25
Topic:	Central American Minors Refugee/Parole Program
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

the applicant is a member of a PSG. The adjudicator is guided by precedent decisions recognizing particular social groups that share characteristics with the groups recognized in these cases.

See, e.g., *Ornelas-Chavez v. Gonzalez*, 458 F.3d 1052 (9th Cir. 2006) (restating the well-settled principle that "persecution may be inflicted … by persons the government is unable or unwilling to control"); *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 950 (4th Cir. 2015) (examining family as a particular social group and concluding that applicant's relationship to her son is why she, and not another person, was threatened with death if she did not allow him to join Mara 18); *Cordova v. Holder*, 759 F.3d 332, 339 (4th Cir. 2014) (finding nexus to particular social group established where applicant was targeted on account of his kinship ties to his cousin and uncle); *Ming Li Hui v. Holder*, 769 F.3d 984 (8th Cir. 2014) (acknowledging "Chinese daughters [who are] viewed as property by virtue of their position within a domestic relationship" as a particular social group but denying asylum on other grounds); *Matter of A-R-C-G-*, 26 I&N Dec. 388, 390 (BIA 2014) (finding that status within a domestic relationship which the applicant is unable to leave may define a particular social group);

Establishing membership in a particular social group is not, however, the end of the adjudicator's inquiry. The adjudicator must also determine whether the applicant has met all the other requirements of refugee law, including showing that he was or has a well-founded fear of being be targeted on account of that membership in the group, that the harm involved is serious enough to be persecution, and that the state is unable and unwilling to protect from that harm.

Question: How many individuals have been granted parole pursuant to the program? For each individual granted parole, please explain precisely why parole was granted, and the precise reason under section 212(d)(5)(A) of the INA for which the alien was granted parole.

Response: As of August 7, 2015, 74 cases which comprise 74 individuals have been conditionally approved for parole under the CAM program.

Section 212(d)(5)(A) of the INA authorizes the Secretary of Homeland Security to "in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States …." The CAM program was established as part of an integrated and comprehensive approach to address

Question#:	25
Topic:	Central American Minors Refugee/Parole Program
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

the underlying economic and security challenges facing Central American countries and the increase in unlawful migration of unaccompanied minors across the U.S. border.

Last year, the U.S. experienced an unprecedented increase in the migration of unaccompanied children from El Salvador, Guatemala and Honduras using criminal networks, as outlined in the February 2015 GAO report.[5] In response, DHS and the Department of State have adopted a multi-faceted strategy to deter large numbers of children from using criminal cartels and smugglers to take the dangerous journey to the United States and to avoid the humanitarian challenges of any large scale irregular migration, particularly of families and unaccompanied children. The CAM program is one facet of that strategy, and the consideration of these policy goals as part of a case-by-case determination whether to exercise the parole authority as a matter of discretion is fully consistent with section 212(d)(5)(A).

To date, parole has been considered on a case-by-case basis for children who qualified for access to the CAM program (i.e., those with a parent lawfully present in the United States and whose claimed genetic, step, or legally adopted relationship had been confirmed by DHS) but who did not establish eligibility for refugee status. Parole generally has been conditionally approved in cases in which the USCIS officer has determined that such children demonstrated a well-founded fear of harm (usually from gang-related or other violence) and no serious adverse factors were present warranting a negative exercise of discretion. As of August 7, 2015, 74 cases which comprise 74 individuals have been conditionally approved for parole under the CAM program.

Prior to final parole approval, applicants must clear all required security checks, pay for a medical exam, and pay for travel to United States on an International Organization for Migration (IOM) arranged flight.

[5] Available at http://www.gao.gov/assets/670/668749.pdf.

Question#:	26
Topic:	Visa Waiver Program
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many immigrant and nonimmigrant visa applications were received, in total, in FY2014, including under the Visa Waiver Program?

Response: The Visa Waiver Program (VWP) allows travelers to apply for admission to the U.S. at a U.S. port of entry as a nonimmigrant visitor without first obtaining a nonimmigrant visa, provided they are otherwise eligible for admission. The Electronic System for Travel Authorization (ESTA) was created in 2008 to require intending VWP travelers to ask for and receive authorization to travel prior to boarding a conveyance destined to the United States. The ESTA applications are not visa applications.

In Fiscal Year (FY) 2014, CBP received 13,392,062 requests for travel authorizations.

Question: How many of the aforementioned applications were denied pursuant to section 212(a)(4) of the Immigration and Nationality Act?

Response: CBP does not have specific numbers related to public charge-based denials of VWP travel authorization. CBP did deny over 50,000 applications for travel authorization in FY 2014.

Question#:	27
Topic:	means-tested benefit
Hearing:	Oversight of the Administration's Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: How many aliens in the United States are currently receiving some form of means-tested benefit? Of that number, please specify how many are currently receiving such benefits for themselves, and how many are currently receiving such benefits for members of their household, including for dependent children.

Response: The Department of Homeland Security (DHS) does not have jurisdiction over means-tested benefits.

Question: How many foreign-born persons in the United States are currently receiving some form of means-tested benefit?

Response: DHS does not have jurisdiction over means-tested benefits.