

<b>Question#:</b>	1
<b>Topic:</b>	Age Verification
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Please provide additional information about the process used to verify the age of unaccompanied individuals who cross the border without a parent or legal guardian and without lawful immigration status. Customs Border Patrol agents are the first to interact with these children, and have 72 hours to transfer-which is facilitated by agents from the ICE's Enforcement and Removal Office (ERO)-them to Health and Human Services Office of Refugee Resettlement.

What is the process for determining the age of individuals who cross the border?

**Response:** As part of established processing guidelines, the U.S. Border Patrol (USBP) conducts a thorough interview of each individual that has been apprehended. Included in this interview is biographical data (i.e., name, date of birth, place of birth) to help determine the processing disposition of the alien. In the absence of verifiable identification documents or credible source information (e.g., criminal history via fingerprint identification), USBP relies on the biographical information provided by the alien.

**Question:** How are documents used in the process appropriately verified?

**Response:** In cases where an alien's identification documents are suspected to be fraudulent and/or called into question, USBP employs the assistance of foreign and domestic stakeholders (foreign consulates, etc.) to assist in the identification of the alien.

**Question:** Do CBP, ERO, and HHS independently take steps to verify the age of the individual, or does CBP's initial observation of the individual's age control the decision to transfer them as a UAC?

**Response:** Unless verifiable proof exists that the alien is 18 years of age or older, any claim or belief that the alien is a juvenile will be processed as such and in accordance with the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), while in USBP custody.

In cases where the subject's age is in question, the TVPRA requires age-determination procedures that include reviewing multiple forms of evidence, evaluating the totality of all available information. Acceptable pieces of documentation for age determination include official government-issued documents such as birth certificates. If a document's authenticity is in question, or the alien does not possess documentation, U.S. Immigration

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and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) will verify the validity of the alien's claim by contacting government officials of the alien's home country and reviewing other objective documentation (e.g., baptismal certificates, school records, medical records) that indicate the alien's date of birth. ICE ERO also uses the statements of the individual and statements of parents or guardians if accessible and available. As a last resort, medical examinations such as a bone density test or a dental exam can be performed on the individual. The reviewing official takes into account all these pieces of evidence and considers the totality of circumstances.

**Question:** What happens if it's later determined that the individual is 18 years old or older?

**Response:** As per the TVPRA, the Secretary of Health and Human Services (HHS) is responsible for the long-term detention of UACs. If, while still in USBP custody, a UAC is determined to be over 18 years of age, the alien will be reprocessed accordingly.

<b>Question#:</b>	2
<b>Topic:</b>	Monitoring Unaccompanied Children
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** In response to a request by three committee Chairmen (Judiciary, Finance, Homeland Security & Government Affairs), GAO released a report on February 17, 2016 on HHS's management of its program for unaccompanied children after the 2014 surge to determine HHS's ability to care for the children and screen sponsors. GAO reported that ICE did not believe they were responsible for tracking minors or monitoring them after release. ICE claimed that it does not have a responsibility over any minor until the child receives an Order of Removal. This means UACs are allowed to enter into the United States and disappear, often with no oversight from ICE or any other federal agency.

Do you continue to maintain that you don't monitor or have jurisdiction over unaccompanied children until they obtain a finalized Order of Removal?

Who should be monitoring these children up to the finalization of their immigration hearing?

**Response:** In accordance with the Trafficking Victims Protection Reauthorization Act (TVPRA), the long-term care and custody of unaccompanied alien children (UAC) is the responsibility of the Department of Health and Human Services (HHS). Once U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations has transferred a UAC to HHS, ICE monitors the status of the case as it moves through the immigration court process, and ICE Field Office Juvenile Coordinators are available to assist the UAC with questions regarding case status and other concerns. After an immigration judge has issued a final order of removal, ICE seeks the alien's removal from the United States.

<b>Question#:</b>	3
<b>Topic:</b>	Admissibility Challenge
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** CBP personnel are the first to encounter UACs and are responsible for determining admissibility. If admissible, they are given a Notice to Appear in immigration court, and are allowed to remain in the United States while their application for legal status is pending with USCIS. However, most unaccompanied minors do not show up for scheduled hearings. According to a 2017 Congressional Research Service (CRS) report, between 2012 and 2016, 89 percent of UACs who were given Notices to Appear did not show up to the hearing.

Does ERO have the authority to challenge CBP's admissibility findings if they determine a UAC presents a danger to national security, are a risk to public safety, or are affiliated with members of criminal organizations?

What special efforts, if any, are taken to apprehend minors if they are known MS-13 gang members or affiliated with any other criminal organization?

**Response:** In most cases, when U.S. Customs and Border Protection (CBP) encounters unaccompanied alien children (UAC), CBP issues a Notice to Appear (NTA) that includes the relevant charge(s) of inadmissibility.<sup>1</sup> This serves to place the UAC in removal proceedings. CBP must also transfer the unaccompanied alien child to the Department of Health and Human Services' Office of Refugee Resettlement (HHS/ORR) within 72 hours after determining the child is unaccompanied. Minors who were previously encountered by CBP upon entry and released from HHS/ORR custody may be apprehended by U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in the interior if they meet enforcement priorities and certain criteria. ICE seeks to apprehend minors who are affiliated with criminal organizations that pose a threat to public safety, among numerous other enforcement efforts. Depending on the specific circumstances of the case, ICE may issue an NTA or add charges as appropriate.

In addition to its daily enforcement actions, ICE ERO conducts Operation Border Guardian (OBG) on a national level. OBG takes a comprehensive approach to the identification, location, arrest, and removal of all removable aliens who entered the United States as children who have since reached the age of 18 ("aged-out"), as well as

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<sup>1</sup> The exception applies to UAC from contiguous countries. If they do not express a fear of return to their country, *i.e.*, Mexico or Canada, and they are not trafficking victims, they may withdraw their admission without being placed in removal proceedings as long as they meet certain criteria, *e.g.*, the ability to make an independent decision to withdraw their admission.

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16- or 17-year-old UAC who have criminal convictions, criminal histories, or are suspected gang members or affiliates.

In the event ICE personnel encounter an alien affiliated with a street gang, officers must record the appropriate information on the Record of Deportable/Inadmissible Alien (Form I-213) and photograph any tattoos. When operationally safe, photos will be taken in residences where gang tags and/or paraphernalia are prevalent, to include a photo of the front of the house for future officer safety concerns.

<b>Question#:</b>	4
<b>Topic:</b>	Missed Court Hearing
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What actions are taken to identify and apprehend unaccompanied minors who fail to attend scheduled hearings in immigration court?

**Response:** U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) prioritizes the arrests of all aliens who have been issued a final order of removal or granted voluntary departure and have failed to depart the United States, including those individuals who entered the United States as unaccompanied children. ICE ERO's National Fugitive Operations Program prioritizes its resources on enforcing removal orders against aliens who pose a threat to public safety or national security, including aliens who entered the United States as unaccompanied children. ICE ERO relies upon a variety of law enforcement sources and methods to identify and locate individuals who are subject to in absentia removal orders.

<b>Question#:</b>	5
<b>Topic:</b>	UAC's in ORR Custody
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** U.S. Border Patrol held a Honduran UAC for 2 ½ years because of his self-acknowledged gang history. Before coming to the United States, the UAC admitted to selling drugs and witnessing several murders as a member of MS-13. Despite these confessions, a federal judge recently ruled that CBP's decision to hold him, without a hearing, in a Virginia juvenile detention center violated his due process rights, and ordered ORR to release the teen. According to the Washington Post, "the decision could lead to the release of dozens, perhaps hundreds, of long-detained unaccompanied minors."

What steps are taken to process and transfer unaccompanied minors who have known criminal histories, including individuals who are known gang members or affiliates?

**Response:** The apprehending U.S. Department of Homeland Security (DHS) enforcement agency determines whether the alien is an unaccompanied alien child (UAC). If a minor is determined to be a UAC, the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) must be notified within 48 hours of encounter. The UAC must be transferred into ORR custody within 72 hours after this notification. The apprehending agency provides ORR with any relevant information that may inform ORR's custody determination, including any criminal or gang information.

U.S. Customs and Border Protection (CBP) does not have the authority or resources to hold UACs for extended periods of time. Once processing is complete, all UACs are transferred to ORR or repatriated to their country of citizenship. Transportation from CBP facilities to ORR shelters is a shared responsibility between CBP and U.S. Immigration and Customs Enforcement.

During case processing, if a UAC has a criminal or juvenile delinquency record or is coming from a state or local jail, the apprehending agency will record relevant information on the Form I-213, Record of Deportable/Inadmissible Alien. This information may include crimes committed, sentences served, use of weapons, or suspected gang affiliation (including gang-related tattoos). The Form I-213 then becomes part of the official record file. Upon request for placement, the apprehending agency provides ORR with any information regarding behavioral problems, suspected gang affiliation, criminal history, or disciplinary action that may affect ORR's placement decision. While the apprehending agency may recommend a particular type of placement (secure, non-secure, etc.), ORR alone has the authority to make that designation. Should

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ORR place a UAC in a secure juvenile detention facility, the Trafficking Victims Protection Reauthorization Act requires that placement be reviewed by ORR every 30 days for possible re-designation.

**Question:** How many UACs are currently in ORR custody because of their criminal history or gang affiliation? How long have they been in custody?

**Response:** DHS defers to HHS.



<b>Question#:</b>	6
<b>Topic:</b>	MS-13 Members Arrested I
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** How many known MS-13 gang members have been arrested under the Trump administration?

**Response:** U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) has conducted 1,975 arrests of known or suspected gang members since January 20, 2017, of which 314 are known or suspected members of MS-13.<sup>2</sup>

For the period January 20, 2017 through July 25, 2017, ICE Homeland Security Investigations (ICE HSI) has made 2,665 criminal arrests and 577 administrative arrests – totaling 3,242 arrests – of known or suspected gang members. Of the 3,242 ICE HSI gang arrests, 371 total arrests were of known or suspected MS-13 members (235 criminal arrests and 136 administrative arrests).

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<sup>2</sup> ERO figures on gang membership are based on manual officer entry within ICE's system of record, and are subject to change as ICE becomes aware of additional information. Data is current as of June 28, 2017.

<b>Question#:</b>	7
<b>Topic:</b>	Returning UAC's
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** ERO coordinates closely with DHS components and its partners working both domestically and internationally to return UACs who are ordered removed from the United States to their countries of origin.

What challenges does ERO experience in returning UACs to their home countries, particularly MS-13 gang members?

**Response:** One challenge for U.S. Immigration and Customs Enforcement (ICE) is that the Government of Honduras does not authorize mixed populations of adults and juveniles on ICE chartered flights. As a result, ICE must either schedule dedicated charter flights with small numbers of family units or unaccompanied alien children, or remove these individuals via commercial flights. Both of these impact ICE's budget.

The Governments of Mexico, El Salvador, and Guatemala, on the other hand, authorize ICE to remove family units and unaccompanied alien children who are over the age of 14, but with certain restrictions, on mixed population chartered flights.

<b>Question#:</b>	8
<b>Topic:</b>	Targeting Gang Members
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** ICE recently conducted enforcement actions "Project New Dawn" and "Operation Matador" to identify, arrest, and prosecute gang members and associates involved in transnational criminal activity in the DC metro area, Texas, California, New Jersey, and the New York Metro area. To date, the two ICE actions have netted close to 1,400 arrests of gang members. Over 20 are unaccompanied minors. In Washington, D.C. HSI administratively arrested 10 members of MS-13, and criminally arrested one member of MS-13 in Falls Church, Virginia.

What happens when gang members are arrested who are in the country illegally?

**Response:** Alien gang members arrested by U.S. Immigration and Customs Enforcement (ICE) while conducting immigration enforcement operations are generally placed into removal proceedings. ICE will make an initial determination about whether to maintain custody of the alien as a public safety threat. However, the alien can seek a redetermination before an immigration judge unless subject to mandatory detention. Those aliens subject to mandatory detention will be detained in ICE custody until the resolution of their case before an immigration judge and/or the Board of Immigration Appeals. However, adverse case precedent issued by certain U.S. Courts of Appeals limits ICE's ability to maintain custody of aliens subject to mandatory detention in certain jurisdictions. *E.g., Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), *cert. granted, Jennings v. Rodriguez*, 136 S. Ct. 2489 (mem.) (2016); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016). Once the alien is subject to an executable final order of removal, ICE will take steps to effectuate the alien's removal from the United States.

When ICE Homeland Security Investigations (HSI) encounters a wanted alien gang member during a criminal enforcement operation or as a target of an ICE HSI criminal investigation, ICE HSI will arrest the alien gang member and book them into the corresponding correctional facility. Simultaneously, ICE HSI will file a detainer with the facility to ensure that removal proceedings (if legally applicable) for the alien gang member are initiated once there has been a disposition in the criminal matter.

However, in accordance with the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), if a gang member is determined to be an unaccompanied alien child (UAC), ICE is required to transfer the juvenile to the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR). A custody determination is then made by ORR

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<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Has the rescission of the Obama prioritization scheme made it any easier for ICE to target gang members?

**Response:** ICE has always prioritized the targeting of alien gang members for administrative arrest, criminal investigation, and removal from the United States. However, while gang members were a priority under the previous administration, the rescission of the Obama Administration era priorities allows ICE to target a broader population of aliens, including those without known criminal convictions and those who entered the United States before January 1, 2014.

**Question:** Are there any statutory improvements Congress can make to help ICE target gang members and prevent them from receiving benefits?

**Response:** ICE will work with DHS and other departments and agencies to identify potential statutory changes in this area.

<b>Question#:</b>	9
<b>Topic:</b>	National Gang Unit
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The National Gang Unit is part of ICE's mission to fight transnational criminal gangs that represent a significant threat to public safety in American communities. This unit is also responsible for deterring and disrupting gang operations by tracing and seizing cash, weapons, and other assets derived from illicit activities. According to ICE's written testimony, ICE has 87 domestic and international gang investigations targeting MS-13 members and networks throughout the United States. From FY 2016 to FY 2017, ICE HSI made 602 criminal arrests of MS-13 gang leaders, members and associates that resulted in 153 convictions. ICE HSI also made 170 administrative arrests of MS-13 members.

How many MS-13 gang members have been arrested since 2015 who are also UACs?

How does the National Gang Unit track arrests of MS-13 gang members?

Does the National Gang Unit collect data on how the more than 10,000 gang members in our country entered and were recruited as UACs? Please share that data with the Committee.

**Response:** At this time, U.S. Immigration and Customs Enforcement (ICE) cannot determine the manner of entry, including those who entered as unaccompanied alien children (UAC), for the 602 arrested MS-13 members due to data limitation issues. The National Gang Unit (NGU) does not regularly track the manner of entry of gang members because domestic ICE Homeland Security Investigations (HSI) offices encounter MS-13 members during the investigative phase and after the MS-13 members have already entered the United States. ICE HSI is now beginning to manually track UAC encountered during criminal investigations.

NGU tracks both criminal and administrative arrests of MS-13 gang members through ICE HSI's Investigative Case Management System.

<b>Question#:</b>	10
<b>Topic:</b>	Tracking MS-13 Movements
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Recently, ICE notified the Committee that it has multiple ongoing criminal investigations into the violent transnational criminal gang, MS-13, for violations of various federal statutes related to the Racketeer Influenced and Corrupt Organizations Act (RICO).

Between FY 2005 and FY 2016, ICE made 7,051 MS-13 gang arrests-2,888 of those arrests were administrative, and 4,163 were criminal arrests. Most of these individuals entered the U.S. illegally, and have entered illegally more than once. Gangs often use smuggling routes from Central and South America to move people and drugs into the U.S.

Has HSI found evidence of MS-13 gang members smuggling UACs into the United States?

What role does HSI play in tracking MS-13 movement outside of the United States before it gets to our border?

Does HSI submit records for watch listing known and suspected gang members it encounters to prevent them from entering the country through legal means?

**Response:** U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) has not found any evidence to date of MS-13 gang members smuggling unaccompanied alien children into the United States.

The ICE HSI National Gang Unit (NGU) and International Operations have an aggressive strategy to confront MS-13 at its command and control base in El Salvador. Through the NGU and Operation Citadel, ICE HSI Special Agents and Department of Homeland Security personnel work with prosecutors and law enforcement personnel in Central America to help expand their investigative capacities in order to address MS-13's ever-evolving global criminal enterprise. Specifically, ICE HSI Special Agents work with host country law enforcement personnel to identify, infiltrate, exploit, and disrupt MS-13's financial networks in El Salvador, essentially mirroring ICE HSI's domestic strategy targeting MS-13. ICE HSI is working with Honduras to implement a similar strategy within their country.

In addition, ICE HSI also maintains Transnational Criminal Investigative Units (TCIU) in El Salvador, Honduras, and Guatemala. The purpose of these specially trained and fully

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vetted TCIUs is to enhance cooperation between ICE HSI and partner nations in order to identify, disrupt, and dismantle criminal enterprises that threaten regional stability and pose a significant threat to the public and national security of the partner nation and the United States.

ICE personnel create lookout or watchlisting-like records for subject of ICE HSI investigations, including gang members. These are made available to Department of State, U.S. Citizenship and Immigration Services, and the U.S. Customs and Border Protection to ensure information is known prior to issuance of a visa or other immigration benefits, or before the person is admitted to the United States.

<b>Question#:</b>	11
<b>Topic:</b>	Identify Smugglers
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** At the hearing, you mentioned that it's common for unaccompanied minors to arrive at the border in groups—often including a mix of young children and at least one teenager. Most often the parents of these children have paid smugglers to escort them to the border.

What efforts are being made to identify smugglers in the countries of origin and facilitating individuals in the United States who receive payments, both from the child's family and HHS, for sponsoring the child?

**Response:** The Administration has been closely monitoring current migration trends and coordinating a whole-of-government approach to ensure an effective response to changes in migration flows, as well as attempts by smugglers and illegal immigrants to exploit our Nation's immigration system.

On June 12, 2017, U.S. Immigration and Customs Enforcement (ICE) established an UAC initiative to target individuals engaged in smuggling UAC and facilitators of the smuggling venture, which places the safety of UAC at risk. ICE has developed information identifying the sponsors of UAC to determine if their activity reaches criminal thresholds for federal prosecution. These sponsors are contacted and interviewed in an effort to improve information about the smuggling networks. Information obtained from these interviews is used to gain a comprehensive understanding of networks utilized to move UAC across the borders of the United States. This overall analysis of the networks ideally includes information about those involved in the facilitation of smuggling, who and how payments are made and received, and routes of travel used by smugglers. This process of identification, interviews, and information development is a constant cycle—with information provided to enforcement personnel on a regular basis.



<b>Question#:</b>	12
<b>Topic:</b>	Records on Known Gang Members
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Last month, documents provided by a whistleblower revealed that in 2014, at least 16 known MS-13 gang members who illegally crossed the border as unaccompanied minors were allowed to remain in the United States and were shipped throughout the country under the Obama Administration.

On June 16, the Washington Post reported that the Office of Refugee Resettlement (ORR) knowingly released unaccompanied minors with gang affiliations into American communities. ORR's information about unaccompanied minors is primarily provided by your agency.

Taken together, the whistleblower revelations and comments by ORR indicate that Customs and Border Protection does in fact keep records on the gang affiliation of unaccompanied minors.

What records does Customs and Border Protection keep on known gang members who are caught illegally crossing the border? Please also describe the methodology used to capture this data.

If Customs and Border Protection is able to obtain this information for unaccompanied minors, why is the same information not being obtained and tracked for all aliens who cross the border illegally?

**Response:** Pursuant to standard operating procedures and guidelines, USBP documents an alien's claimed, verified, or suspected gang affiliation within USBP's e3 electronic system of record. In addition, whenever a gang member is apprehended, a Significant Incident Report (SIR) is generated to further document the encounter and final disposition.

The Assaults and Use of Force Reporting System (AUFERS) does not possess a field for gang affiliation; therefore, USBP is unable to account for assaults on agents by gang members. The e3 system, which supplies some information to the AUFERS does account for gang affiliation; however, that information isn't transferable to AUFERS, and is often unreliable as often times gang affiliation is not known until a record check is completed, which is well after processing.

**Question:** If known gang-affiliation is obtained for all aliens who cross the border illegally, to what extent is Customs and Border Protection sharing this information with the Department of Justice, Immigration and Customs Enforcement, and foreign partners?

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**Response:** If an alien is identified as being a member of a gang or being affiliated with a gang, the information is recorded in the USBP e3 electronic system of record. This information is conveyed to HHS/ORR and ICE/ Field Office Juvenile Coordinator electronically when a placement request is generated. In addition, an alien's suspected or verified gang affiliation is relayed to law enforcement partners when operationally necessary.

**Question:** To what extent, do HHS/ORR honor CBP's requests to place confirmed or suspected gang affiliates in secure placement?

**Response:** CBP defers to HHS/ORR to explain this extended process outside of DHS involvement.

<b>Question#:</b>	13
<b>Topic:</b>	Assaults on CBP Officers I
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Charles E. Grassley
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** It has been reported that gang members crossing the borders pose a greater threat to Border Patrol agents than Mexican cartels. Border Patrol Agent Hector Garza has said, "These gang members are highly volatile and unpredictable. They are much more likely to attack us with no concern for the consequences."

What steps are Customs and Border Protection taking to increase officer safety and decrease the threat of assault or serious injury from criminal gang members and violent unauthorized immigrants?

**Response:** CBP law enforcement officers receive initial training to protect themselves and the public at the CBP basic law enforcement academies. Afterwards, they receive training on a quarterly basis at their assigned field locations. Additionally, they receive officer safety briefings at daily musters and other guidance on an as needed basis.

The CBP Law Enforcement Safety and Compliance Directorate (LESC) has trained and deployed 4,043 firearms and less lethal force instructors as of July 26, 2017. These instructors, posted at field locations across the country, deliver firearms and defensive tactics training to CBP law enforcement on a quarterly basis. In support of this training, the LESC deployed 27 virtual use of force simulators. These simulators facilitate the delivery of scenario-based training, based on recent real-world events, and focus on dealing with potentially assaultive or violent threats in accordance with constitutional law.

**Question:** Is Customs and Border Protection coordinating with the Department of Justice to insure that every assault against an officer is prosecuted to the fullest extent possible under existing federal law?

**Response:** Yes. CBP has a memorandum of understanding in-place with the Federal Bureau of Investigation (FBI) (dated 4/11/16) in which the FBI will conduct investigations into Assaults on Federal Officer involving CBP employees. The agreement details the initial notification to the FBI, the required information sharing between agencies, and the delineation of investigative activities for which each respective agency will be responsible. The MOU also requires both agencies cooperate and take such action necessary to ensure a coordinated and complete federal effort at every level. Should the FBI decline to investigate an assault on a CBP employee, CBP Office of Professional Responsibility will vigorously pursue the investigation and present the case for prosecutorial consideration to the US Department of Justice.

<b>Question#:</b>	1
<b>Topic:</b>	Separating Children
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well Its Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Dianne Feinstein
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** I have expressed deep concerns over comments made by Secretary of Homeland Security John Kelly about a proposal to separate children from their parents when they are apprehended at the U.S.-Mexico border. Secretary Kelly has since retreated from those comments, but I remain concerned about children's welfare.

Are you committed to ensuring family unity for children who arrive at our southwest border with their parents?

**Response:** The U.S. Border Patrol (USBP) processes all juveniles in accordance with applicable law, regulation, court orders, and policy. Processing guidelines are derived from the *Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA); *Flores v. Reno* Stipulated Settlement Agreement; Department of Homeland Security Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Holding Facilities (DHS Prison Rape Elimination Act standards); CBP National Standards on Transport, Escort, Detention and Search; and the USBP Hold Rooms and Short Term Custody Policy.

**Question:** What are the circumstances under which Customs and Border Protection agents would separate children from their family members?

**Response:** Under CBP policy, we will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation. When it is necessary to separate juveniles from the parent(s) and/or legal guardian(s), officers/agents must follow their operational office's policies and procedures and appropriate legal requirements. In circumstances where family units must be separated due to different immigration dispositions, such separation must be documented in the appropriate electronic system(s) of record. Separation of a juvenile from a parent or legal guardian while in USBP custody may occur for several reasons, including security concerns; medical concerns; operational infeasibility; different immigration dispositions for members of a family unit; or when the family relationship is in question.

<b>Question#:</b>	14
<b>Topic:</b>	MS-13 Members Released
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** During your testimony, I asked you to investigate whether the current presidential administration has released any known MS-13 members, like the previous administration.

Have ICE or other federal law enforcement agencies released any known MS-13 members under the current presidential administration?

If so, what specific changes in the system need to occur to prevent this?

**Response:** MS-13 gang members are a threat to public safety, and U.S. Immigration and Customs Enforcement (ICE) aims to detain and remove such individuals from the United States so they do not have an opportunity to commit crimes in our communities.

A review of available data on MS-13 reveals that gang members who were in ICE custody since the beginning of this administration were released for at least one of the following reasons: an immigration judge ordered release by setting bond or granting relief, the alien made a probative claim to U.S. citizenship, travel documents were not issued by the country of citizenship for the alien, medical conditions warranted the alien's release from ICE detention, and/or a warning of failure of a nearby dam spillway that led to an expedited evacuation of an ICE processing facility. ICE continues to work with the Department of State and negotiate with our foreign partners to ensure they fulfill their obligations to issue travel documents that would allow the repatriation of their citizens.

ICE does not track other federal law enforcement agencies' arrest statistics, nor does it statistically track the releases made by the Judicial Branch during criminal proceedings. ICE is not aware of any MS-13 gang member criminally arrested by ICE who was subsequently released by ICE.

Currently, gang membership is not a removable offense within the Immigration and Nationality Act (INA), as it only plays a discretionary factor in whether an immigration judge will allow a gang member to be released on bond.

<b>Question#:</b>	15
<b>Topic:</b>	Sanctuary Cities
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** How significant of an impediment are sanctuary cities to federal efforts combatting MS-13?

Please provide a comprehensive list of sanctuary cities that have released known MS-13 members.

What specific cities refuse to allow your officers to interview known members of MS-13?

What specific cities don't give you full cooperation in interviewing known members of MS-13?

**Response:** The President's January 25, 2017 Executive Order, entitled *Enhancing Public Safety in the Interior of the United States*, in particular stresses that effectively dealing with transnational criminal organizations, such as gangs like Mara Salvatrucha or "MS-13," is a priority.

One of the biggest impediments hindering the efforts of U.S. Immigration and Customs Enforcement (ICE) in removing these dangerous criminals from our communities is the lack of cooperation from certain jurisdictions. Some state and local jurisdictions neither honor ICE detainers nor provide ICE access to their jail population for purposes of conducting interviews. ICE often requires interviews to determine alienage, gang affiliation, and removability. Because ICE often determines gang affiliation through interviews, ICE cannot speculate about the number of times it was denied access to an alien in the custody of state or local authorities who may have had such an affiliation.

However, please see below for a list of ICE Enforcement and Removal Operations (ERO) declined detainers where an alien is listed as a known or suspected gang member within ICE's system of record.

<b>Question#:</b>	15
<b>Topic:</b>	Sanctuary Cities
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**ERO Detainers for Suspected Gang Members Declined by Non-Compliant Jurisdictions, 10/01/2016 - 06/19/2017<sup>3,4</sup>**

State	County	Declined Detainers		
		"MS-13"	Other Gang	Total
ARIZONA	MARICOPA	0	1	1
CALIFORNIA	ALAMEDA	0	2	2
	CONTRA COSTA	0	9	9
	FRESNO	0	3	3
	IMPERIAL	0	1	1
	KINGS	0	1	1
	LOS ANGELES	0	16	16
	MENDOCINO	0	2	2
	MERCED	0	1	1
	ORANGE	0	12	12
	PLACER	0	1	1
	SACRAMENTO	0	3	3
	SAN BENITO	0	1	1
	SAN BERNARDINO	0	1	1
	SAN FRANCISCO	1	6	7
	SAN JOAQUIN	0	2	2
	SAN MATEO	0	3	3
SANTA CLARA	0	22	22	
TULARE	0	2	2	
ILLINOIS	COOK	0	3	3
LOUISIANA	ORLEANS PARISH	0	2	2
MARYLAND	BALTIMORE CITY	1	0	1

<sup>3</sup> ERO figures on gang membership are based on manual officer entry within ICE's system of record, and are subject to change as ICE becomes aware of additional information. Data on declined detainers is current as of June 19, 2017.

<sup>4</sup> This data is based upon an automated query and may not take into account potential administrative errors; the jurisdiction's actual level of cooperation and support; situations in which ICE may not be aware that the jurisdiction has released an individual who is subject to a detainer or request for notification; and cases where the jurisdiction provided notification to ICE in advance of release but ICE may not have been able to arrange a custody transfer prior to an alien's release.

<b>Question#:</b>	15
<b>Topic:</b>	Sanctuary Cities
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

	MONTGOMERY	5	1	<b>6</b>
	PRINCE GEORGE'S	4	2	<b>6</b>
MINNESOTA	HENNEPIN	0	1	<b>1</b>
NEW JERSEY	MIDDLESEX	0	1	<b>1</b>
	UNION	0	1	<b>1</b>
NEW MEXICO	BERNALILLO	0	2	<b>2</b>
NEW YORK	NEW YORK CITY	1	3	<b>4</b>
OREGON	JEFFERSON	0	1	<b>1</b>
	WASHINGTON	0	1	<b>1</b>
RHODE ISLAND	PROVIDENCE	0	1	<b>1</b>
TEXAS	TRAVIS	0	11	<b>11</b>
WASHINGTON	CLARK	2	0	<b>2</b>
	KING	1	4	<b>5</b>
	SKAGIT	0	1	<b>1</b>
	SNOHOMISH	0	3	<b>3</b>
<b>TOTAL</b>		<b>15</b>	<b>127</b>	<b>142</b>



<b>Question#:</b>	16
<b>Topic:</b>	MS-13 Members Arrested II
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Since 2008, what percentage and number of MS-13 gang members arrested by federal law enforcement have been illegal aliens?

Over that same period, what percentage and number of those arrestees have been deported before but returned illegally?

Over that same period, what percentage and number of those arrestees entered as unaccompanied children?

**Response:** U.S. Immigration and Customs Enforcement (ICE) is not in a position to report the number of MS-13 gang members arrested by all federal law enforcement agencies who were illegal aliens. However, ICE can report that since Fiscal Year 2007 (through June 11, 2017), ICE has administratively arrested 2,487 known or suspected MS-13 members and associates who were either illegal aliens or otherwise violated their legal immigration status. Within this number, ICE does not track the number who had been previously deported or who entered as unaccompanied children.

<b>Question#:</b>	17
<b>Topic:</b>	MS-13 in Texas
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What specifically is the federal government doing to combat MS-13 in Texas?

Have federal agencies been working with the Texas Department of Public Safety effectively on this issue? If so, how?

What specific programs, if any, have been the most beneficial in Texas?

**Response:** U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) maintains several active investigations into the organized criminal activity of area MS-13 cliques and/or members. Under the Organized Crime Drug Enforcement Task Force, led by the Department of Justice, task forces focus on the drug distribution activities of identified MS-13 cliques. Through the course of each of these on-going, long-term investigations, ICE HSI seeks criminal prosecution, whether it is state or federal, to serve as a deterrent effect to committing crime in Texas and throughout the U.S. ICE HSI also utilizes Specialized Urban Response Gang Efforts to target and saturate gang infested areas with a large number of law enforcement resources in an effort to combat gang crime and enhance the quality of life of afflicted neighborhoods.

Through its partnership at the Texas Anti-Gang Center (TAG Center), ICE HSI regularly coordinates investigative activities with the Texas Department of Public Safety (DPS) - Criminal Investigations Division to counter the violent, organized acts of identified transnational criminal organizations. Recently, ICE HSI participated in Texas DPS-led Operation North Star, a multi-agency effort to combat violent crime in Texas. The mission of the TAG Center is to further the ability of law enforcement agencies to identify, deter, disrupt, and dismantle criminal organizations operating in or affecting Texas by providing a common physical environment equipped with the most advanced technology to assist law enforcement in combatting this shared threat. Through its partnership at the TAG Center, ICE HSI serves as a force-multiplier in the coordination of resources to focus on criminal investigations into MS-13 and other significant transnational gangs. While MS-13 represents a significant threat, ICE HSI and its TAG Center partners are conducting criminal investigations into other identified transnational criminal gangs that have proven to be as violent in Texas and beyond.

The ICE HSI Operation Community Shield Task Force (OCSTF) has been very beneficial in combatting gangs in Texas. OCSTF works with federal, state, and local law

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<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

enforcement partners to combat, disrupt, and dismantle MS-13 cliques and its members committing criminal acts in Texas. Through recruitment of confidential informants, tactical and operational intelligence sharing, and investigative collaboration, ICE HSI maintains and fosters partnerships with our law enforcement partners and the intelligence community to attack all transnational criminal gang activity to include MS-13 members operating in the region.

Pursuant to Operation Community Shield, ICE HSI Special Agents have made significant efforts in maintaining liaison with federal, state, and local law enforcement partners to identify street/prison gang members and/or associates; conducted periodic gang suppression operations involving warrant round-ups and gang member/associate identification; attended monthly intelligence meetings with the U.S. Border Patrol, Del Rio Sector; continued efforts to recruit sources of information, interview cooperating defendants, and utilize other investigative means to gather actionable intelligence and/or enhance case development; and participate in annual ICE HSI Gang Surge operations initiated by the National Gang Unit.

<b>Question#:</b>	18
<b>Topic:</b>	Porous Border
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** How does a porous United States-Mexico border benefit MS-13?

**Response:** Transnational criminal organizations such as MS-13 could exploit a porous border, allowing gang leadership to infiltrate and exploit communities across the United States. A porous border would also make more challenging law enforcement efforts to disrupt and dismantle MS-13; as fast as these gang members are removed from the United States, a porous border would allow gang leadership to replenish their membership and perpetuate their violence in our communities.

<b>Question#:</b>	19
<b>Topic:</b>	Assaults on CBP Officers II
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ted Cruz
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Have any CBP agents been assaulted by MS-13 members? If so, have any of those MS-13 members been prosecuted for the assault?

**Response:** The Assaults and Use of Force Reporting System (AUFERS) does not possess a field for gang affiliation; therefore, USBP is unable to account for assaults on agents by gang members. The e3 system, which supplies some information to the AUFERS does account for gang affiliation; however, that information isn't transferable to AUFERS, and is often unreliable as often times gang affiliation is not known until a record check is completed, which is well after processing.

<b>Question#:</b>	20
<b>Topic:</b>	Data Sharing
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ben Sasse
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** In combating criminal activity in general and human trafficking in particular, data sharing between law enforcement organizations can be crucial for investigating and disrupting the activity in question. From my discussions with law enforcement and academic experts in Nebraska and around the country, it's my understanding that disrupting human trafficking can require unusually sophisticated and sustained analysis, which in turn requires having as much relevant data as possible to analyze. As such, the need for effective cooperation among law enforcement agencies is particularly pressing. In Nebraska, I'm seeing a really strong urge from a number of agencies at all levels of government to engage on this problem, and a number of outstanding leaders in the state are working to facilitate the sort of inter-agency cooperation we need for these efforts to succeed.

Can you each speak to your agencies efforts to cooperate with other agencies at the federal, state, and local level to cooperate on the problem of human trafficking, especially when it comes to data sharing?

**Response:** U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) collaborates with numerous law enforcement agencies and non-governmental organizations to investigate human trafficking and other criminal activity, protect victims, prosecute offenders, and prevent trafficking. ICE is a partner and member of 91 human-trafficking task forces throughout the United States. In addition, ICE human-trafficking groups host local law enforcement officers as detailees so that officers can collaborate and work full-time with ICE HSI Special Agents on trafficking investigations. ICE also participates in the Anti-Trafficking Coordination Teams (ACTeams), a joint collaboration between the Department of Justice, Department of Homeland Security, and Department of Labor. The ACTeams are composed of agents and prosecutors from multiple federal agencies and are designed to promote coordination and streamline federal criminal investigations and prosecutions of human trafficking offenses.

These collaborative efforts give ICE and the other agencies an opportunity for data sharing and improved access to relevant information. These partnerships facilitate better operational coordination, de-confliction, and enhanced analysis of human trafficking trends and indicators.

Currently, there is no single agency that gathers and stores all data on human trafficking. Instead, data is collected by law enforcement, service providers, and other entities,

<b>Question#:</b>	20
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<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ben Sasse
<b>Committee:</b>	JUDICIARY (SENATE)

relevant to the collector's needs. Of this information, only a subset is actually recognized as pertaining to human trafficking, documented in databases, and validated. Due to the sensitivity of the human trafficking data, an even smaller subset is shareable.

Recognizing these issues, ICE is a core member of the Human Smuggling and Trafficking Center, an interagency body that seeks to integrate and expand the amount of quality human trafficking data to inform the U.S. Government's counter-trafficking efforts.

<b>Question#:</b>	21
<b>Topic:</b>	Terminated Deferred Action
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ben Sasse
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** I understand that since 2012, DHS has terminated deferred action for approximately 1,500 recipients due to criminality or gang affiliation concerns.

What happens next and how does DHS ensure that those individuals do not easily reenter the country?

**Response:** Individuals whose deferred action is terminated due to criminality or gang affiliation will be placed into removal proceedings or have their prior removal proceedings re-opened before an immigration judge. If the immigration judge orders removal, the individual will be removed to his or her country of citizenship.

To ensure an individual with criminal history or gang affiliations does not reenter the country, an alert notification is created in U.S. Department of Homeland Security (DHS) databases to denote the individual's removal status and associated criminal and gang activity. These notifications will be used to deny entry to these individuals if they are applying for admission at a port of entry (land borders, airports, seaports, etc.). If encountered by law enforcement while attempting to enter the United States without inspection or after they have unlawfully entered the United States, these notifications will alert the encountering law enforcement officials to their unlawful presence, and advise the officials to contact and alert DHS.

U.S. Immigration and Customs Enforcement (ICE) personnel create watchlisting-like records for subjects of ICE investigations, including gang members, which are then circulated as a "lookout." These are made available to the Department of State, U.S. Citizenship and Immigration Services, and the U.S. Customs and Border Protection to ensure that pertinent information is known prior to issuance of a visa, or other immigration benefits, or before the person is admitted to the United States.



<b>Question#:</b>	22
<b>Topic:</b>	Identify Members of MS-13
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ben Sasse
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What steps are your border patrol agents instructed take to identify members of MS-13 or other gangs?

**Response:** During processing, Border Patrol agents conduct thorough interviews of illegal aliens and routinely identify gang members through tattoo identification, previous criminal history, self-admission, and known associates.

**Question:** Upon identification, what steps are your agents instructed to take-either with adults or with minors who might be eligible for UAC placement?

**Response:** Adult illegal aliens that have been identified as gang members are processed as per standard operating procedure. This includes conducting records checks for criminal history through various databases. Once gang affiliation has been confirmed, it is annotated in the I-213, Record of Deportable/Inadmissible Alien.

If a UAC is identified as being a member of a gang or being affiliated with a gang, the information is recorded in the USBP e3 electronic system of record. In addition, the information is conveyed to HHS/ORR and ICE/FOJC electronically when a placement request is generated. Secure placement will be requested for any UAC who has a known gang affiliation.

**Question:** What level of certainty do you have that this protocol is both effective and faithfully executed?

**Response:** The decision on placement of a UAC is made by HHS/ORR based on the information provided by USBP in the placement request.

<b>Question#:</b>	23
<b>Topic:</b>	Identify Human Trafficking Victims
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Ben Sasse
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** What protocols are in place to identify victims of human trafficking at the southern border?

**Response:** If a person is identified as a potential victim of human trafficking, they are separated from others encountered and the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) is notified. ICE HSI evaluates the situation, and where appropriate, initiates an investigation.

**Question:** When a minor is identified as the victim-or a likely victim-of human trafficking, what actions are your agents directed to take to ensure his or her safety?

**Response:** U.S. Customs and Border Protection (CBP) processes all unaccompanied alien children (UAC) in accordance with applicable law, regulation, court orders, and policy. Processing guidelines are derived from the Trafficking Victims Protection Reauthorization Act of 2008; Flores v. Reno Stipulated Settlement Agreement; Department of Homeland Security (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in holding Facilities (DHS Prison Rape Elimination Act Standards); CBP Transport, Escort, Detention and Search National Standards; and the United States Border Patrol (USBP) Hold Rooms and Short Term Custody Policy. As part of this, CBP and ICE make arrangements to transfer any UAC to Health and Human Services, the agency which provides social services (if required). In addition, if a Border Patrol agent identifies that a UAC is a potential victim of human trafficking, USBP immediately separates the UAC and notifies ICE HSI.

**Question:** What efforts are border patrol agents directed to take with regard to the child's suspected trafficker?

**Response:** If a Border Patrol Agent suspects that any member of the group in which the UAC was traveling is involved or complicit in the trafficking act, they will detain all individuals separately for further processing and interview by ICE/HSI.

<b>Question#:</b>	24
<b>Topic:</b>	Federal Detainers
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Jeff Flake
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** As a border state, Arizona shoulders more than its fair share of problems stemming from federal immigration laws. As you know, local officers arrest individuals who sometime are determined to be in the country illegally. This information is relayed to ICE, which can then request local officials hold the individual for up to 48 hours so they can be transferred into federal custody. There has been quite a controversy around this detainer issue. Some third party groups oppose this and are threatening lawsuits. Meanwhile, local communities are keeping pressure on Sheriffs and law enforcement to uphold detainer requests to keep these criminals off the streets.

Mr. Albence, what are you hearing from local law enforcement officials around the country with respect to the detainer issue?

Mr. Albence, local law enforcement has a job to do, and that is to keep communities safe, but they are between a rock and a hard place. I have introduced legislation that would indemnify locals when complying with valid detainers, but there is also a question of adequate probable cause to continue to hold these individuals. What recommendations can you offer to local law enforcement? Are you willing to work with us to find a viable solution?

**Response:** The vast majority of local law enforcement agencies want to work with U.S. Immigration and Customs Enforcement (ICE) to ensure criminal aliens are not released into their communities to re-offend. These law enforcement agencies share our important public safety mission, but some are prohibited from cooperating with ICE due to local ordinances or orders from city councils, county commissioners, state legislatures, or mayors.

ICE's new consolidated detainer, Form I-247A, requires the detainer be supported by probable cause, which is enumerated on the form presented to the local law enforcement agency and ultimately served upon the alien. Additionally, all ICE detainers must now be accompanied by either a Form I-200 (Warrant for Arrest of Alien) or Form I-205 (Warrant of Removal/Deportation). ICE believes these changes to the detainer form and the process for presenting a detainer to local law enforcement will address many of the stated objections to the use of detainers. ICE is willing to work with Congress on addressing this important public safety issue.

<b>Question#:</b>	25
<b>Topic:</b>	Combatting MS-13
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Jeff Flake
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** Current estimates place over 10,000 MS-13 members here in the United States. As we have discussed here today, their tactics are extremely violent and according to the FBI's 2015 National Gang Report, their numbers are not decreasing.

What strategies are you employing that you believe have the most promise at combatting MS-13 criminal activity?

**Response:** The following are strategies U.S. Immigration and Customs Enforcement (ICE) has employed and continues to employ to combat MS-13:

1. ICE and our U.S. Department of Homeland Security law enforcement partners have adopted a Departmental enterprise-wide approach to attacking MS-13's global criminal enterprise. This will eliminate intelligence gaps and enhance the Department's visibility and adaptability to address the threats posed by MS-13.
2. ICE has leveraged its civil immigration authorities (Title 8, United States Code) to immediately disrupt MS-13 and enhance public safety. No other federal agency has comparable authority and expertise to rapidly identify, investigate, and remove MS-13 members from the community.
3. ICE confronts MS-13 simultaneously in multiple theaters of operation. By conducting investigations and enforcement operations targeting MS-13 domestically and internationally, ICE and its foreign law enforcement partners are able to disrupt MS-13 criminal activities at their source.
4. ICE Homeland Security Investigations (HSI) is attacking MS-13's financial network. A cornerstone of ICE HSI's MS-13 strategy is to disrupt the flow of illicit proceeds used to maintain and expand their global criminal enterprise. ICE HSI uses its expertise in financial investigations and capitalizes on the strong partnership with the financial industry cultivated through its Cornerstone Outreach Initiative.
5. ICE has assigned Enforcement and Removal Operations (ERO) personnel to INTERPOL to utilize assets of law enforcement agencies worldwide to assist in battling gang-related activity and crimes such as illicit drug production, drug trafficking, weapons smuggling, human trafficking, money laundering, identity theft, and fraud. Because MS-13 has no jurisdictional boundaries and has spread worldwide, such international efforts are integral to mission success.

<b>Question#:</b>	25
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6. ICE has developed the Security Alliance for Fugitive Enforcement program for international information sharing directly with the country of El Salvador, including information regarding MS-13 activity.
7. ICE ERO manages the Criminal History Information Sharing Program. This is an essential program in the fight against gang activity in the United States through the sharing of criminal history information with foreign governments.
8. As referenced above, ICE ERO uses its civil immigration enforcement authorities to target MS-13 gang members and prioritizes such cases for removal from the United States. Additionally, ICE ERO participates in a variety of federal, state, and local gang task forces to share intelligence and coordinate operations against gang members.

**Question:** What resources do you need, but do not presently have that would make your efforts more successful?

**Response:** In response to the recent Executive Orders, ICE HSI has increased its personnel assigned to conduct gang investigations by at least 25 percent. Additionally, the President's January 25, 2017 Executive Order entitled, *Enhancing Public Safety in the Interior of the United States*, calls for an increase of 10,000 ICE officers and agents. ICE anticipates assigning additional resources requested in the President's 2018 Budget to gang investigations and related enforcement efforts, to include expanding participation in federal, state, and local gang task forces.

<b>Question#:</b>	26
<b>Topic:</b>	Local Law Enforcement Efforts
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Jeff Flake
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** A huge concern I hear from local law enforcement is the ability to continue a trusted partnership with federal agencies, especially in areas such as the threat of MS-13, as they share your goal for community safety.

Chief Provost, can you describe your efforts to work with local branches of law enforcement and sheriffs to share intelligence and resources?

**Response:** The U.S. Border Patrol continuously coordinates and exchanges information with state, local, Federal, and tribal partners across the Southwest and Northern Borders through entities such as the DHS Joint Task Forces, regional DHS Fusion Centers, and High Intensity Drug Trafficking Area (HIDTA) Task Forces.

Some USBP Sectors have formed Gang Intelligence Units (GIUs) that participate in local and regional gang task force units, such as the Homeland Security Investigation (HSI) and Federal Bureau of Investigation (FBI) Violent Gang Task Forces, which target local, national, and international gang activities including those of MS-13 and 18<sup>th</sup> Street members. The sector GIUs are subject matter experts in gang culture, codes, activities, identification and hierarchy. These agents also conduct gang awareness training for Border Patrol agents as well as local, state, and Federal partners.

The coordination that USBP has undertaken to combat the threat of MS-13 is also on the international level as the Government of El Salvador's Policía Nacional Civil (PNC) deployed two intelligence analysts to the Rio Grande Valley Sector to facilitate the sharing of information concerning MS-13 and 18<sup>th</sup> Street gang migration. To date, these analysts have been essential in identifying MS-13 gang members in U.S. custody that had not been identified through normal vetting process. This information is being shared with Immigration and Customs Enforcement's (ICE) Enforcement Removal Operations (ERO) as well as U.S. law enforcement partners based in El Salvador to further the information sharing process.

**Question:** How can we improve upon these efforts?

**Response:** USBP will continue to develop and expand upon existing cooperation agreements/relationships with local, state, federal and international partners. Best practices, such as the partnership in in the Rio Grande Valley Sector with the government of El Salvador, will continue to be identified and processes will be established so that those best practices can then be incorporated at a national level.

<b>Question#:</b>	27
<b>Topic:</b>	MS-13 UAC's
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** During a May 25, 2017 hearing before the Senate Appropriations Homeland Security Subcommittee, Sec. Kelly said that he was not aware of the nexus between UACs and MS-13. Two weeks later at a June 7 hearing before the House Homeland Security Committee, Sec. Kelly said that "so many of the MS-13 members are in fact unaccompanied minors that came up here particularly in the big explosion, the big movement in 2014."

There is general agreement that many UACs fled to the U.S. to avoid gang violence. Experts agree that the number of UACs being recruited by MS-13 is low and that it is unlikely that El Salvador-based MS-13 is sending members who are minors across the border. Does HIS have figures showing the number of UACs who are MS-13 members? Where is Sec. Kelly getting his information?

**Response:** At this time, the U.S. Immigration and Customs Enforcement (ICE) cannot determine whether arrested MS-13 members may be unaccompanied alien children (UAC) due to data limitation issues. The National Gang Unit does not regularly track the manner of entry of gang members because domestic ICE Homeland Security Investigations (HSI) offices encounter MS-13 members during the investigative phase and after the MS-13 members have already entered the United States. However, ICE HSI is now beginning to manually track MS-13 members that entered the United States as UACs when encountered in investigations.

<b>Question#:</b>	28
<b>Topic:</b>	Border Wall
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The Trump Administration is proposing to build a wall along the southern border. The wall is estimated to cost over \$20 billion and take over 3 years to construct. The FBI contends that a more secure border will not alter MS-13 activity because there is no correlation between MS-13's presence and the strength of border control.

Would a border wall along the southern border stem the violence perpetrated by MS-13?

**Response:** The Department of Homeland Security (DHS) believes further securing our border will impact the medium- and long-term health of MS-13 and the level of violence it perpetrates. As many current MS-13 gang members are illegal border entrants, DHS believes increasing border security will discourage the arrival of both current gang members and potential recruits.

**Question:** There is no conclusive evidence that border security has a significant impact on the presence or "rise" of MS-13 in the United States. What role does border security play in the presence of MS-13 in the United States?

**Response:** A secure border is a cornerstone of DHS efforts to prevent criminal and terrorist actors from entering the country, and was a founding concept behind the creation of the Department in the wake of the 9/11 attacks. DHS strongly believes effective border security and interior immigration enforcement are both necessary in order to effectively disrupt and dismantle violent criminal organizations such as MS-13.

In fact, MS-13 regularly exploits vulnerabilities along the border, which is demonstrated by U.S. Border Patrol arrests of active MS-13 members attempting to illegally enter the country on a near-daily basis. In a few instances, unaccompanied alien child gang members have sought to exploit U.S. immigration laws and policies to enter the United States illegally. While DHS is working with law enforcement partners to apprehend and remove gang members, a secure border is necessary to prevent those who have been previously removed from illegally re-entering the United States.



<b>Question#:</b>	29
<b>Topic:</b>	Turning Away Asylum Seekers
<b>Hearing:</b>	The MS-13 Problem: Investigating Gang Membership as Well It's Nexus to Illegal Immigration and Assessing the Federal Efforts to End the Threat
<b>Primary:</b>	The Honorable Mazie Hirono
<b>Committee:</b>	JUDICIARY (SENATE)

**Question:** The nonpartisan international human rights organization, Human Rights First, recently reported that CBP agents have been unlawfully turning away asylum seekers at the Mexican border, citing the Administration's executive order on border security from earlier this year as a justification for doing so.

Are you aware of these reports or of instances where CBP agents have wrongfully turned away asylum seekers at the Mexican border?

**Response:** In unusual circumstances, where the number of individuals at a particular port of entry is more than the facility can safely accommodate, CBP has limited the number of people permitted to enter at one time. This process was designed to ensure the safety of officers and those being processed. Some individuals have been required to wait or return at a later time, but at no time has CBP wrongfully denied an asylum seeker at the border.

Additionally there have been instances where asylum seekers have been re-routed to a new pedestrian facility for processing, due to major construction.

**Question:** What is CBP doing, if anything, to investigate whether these reports are accurate and remedy these cases if they are?

**Response:** It is CBP's policy to treat all individuals in a professional manner and with dignity and respect, consistent with applicable U.S. laws. CBP takes allegations of employee misconduct very seriously and has long instituted policies pertaining to abuses of authority. Complaints are recorded, investigated, and appropriate action is taken against CBP employees who are found to have violated policy.

**Question:** As of early May, Human Rights First documented 125 individuals and families seeking asylum who were turned away at entry points in Texas, Arizona and California from November to April. Do you think that denying access to the asylum process at official ports of entry will increase the amount of attempts to illegally cross the border?

**Response:** The men and women of CBP work tirelessly, compassionately, and with pride and professionalism to respond to the humanitarian crisis of individuals seeking protection. Their dedication and innovation had led the whole of government response to the surge. CBP is tasked with protecting our Nation's borders as well as enforcing

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numerous laws at and between our Nation's ports of entry on behalf of a variety of other government agencies, including state and local law enforcement. CBP carries out its mission of border security while adhering to U.S. international obligations for protection of vulnerable and persecuted persons. The Department of Homeland Security's operational components also work together to ensure the asylum process is not abused.

It is CBP's policy to treat all individuals in a professional manner and with dignity and respect, consistent with applicable U.S. laws.

The laws of the United States allow people to seek asylum on the grounds that they are being persecuted because of their race, religion, nationality, membership in a particular social group, or political opinion. CBP policies and procedures are based on these laws and are designed to protect vulnerable and persecuted persons. To underscore the importance of its asylum responsibilities, the Agency reissued guidance on this topic to all officers and agents in 2014 and again in May 2017.

**Question:** And if so, does CBP have the resources to mitigate this?

**Response:** Because the vast majority of activity at the POEs is required by statute and not discretionary activity that could be scaled back or stopped, CBP has ensured there is sufficient funding to maintain services at the POEs.

CBP's Office of Field Operations (OFO) has been managing and maximizing personnel resources in a constrained fiscal environment by leveraging technology, initiatives/programs, temporary personnel relocations, and Intelligence Driven Special Operations. For instance, under Operation Overflow, OFO has been temporarily assigning CBP Officers (CBPOs) to the San Diego and the Tucson Field Offices to make up for the personnel shortfalls and to meet the need created by infrastructure upgrades.

Through a series of Executive Orders (EOs), the President has taken steps to enhance border security, promote public safety and minimize the threat of terrorist attacks by foreign nationals. The FY 2018 Budget proposes significant investments to support all of those goals while implementing the EOs.

In January, the President signed the Executive Order entitled Border Security and Immigration Enforcement Improvements (EO 13767). In this executive order, the President directs the Secretary of Homeland Security to, among other things, plan, design, and construct a physical wall along the southern border and, through the Commissioner of U.S. Customs and Border Protection, take all appropriate action to hire

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5,000 additional Border Patrol agents, and all appropriate action to ensure that such agents enter on duty and are assigned to duty stations as soon as is practicable. Included in the President's Fiscal Year 2018 budget request is a total of \$2.6 billion in enhancements in high-priority border security technology, tactical infrastructure, assets, and equipment, including \$1.6 billion for a border wall system and support infrastructure and personnel; \$975 million for border security technology, assets, and equipment. Additionally, the budget provides \$100 million to hire 500 additional Border Patrol Agents (BPA), the initial hiring surge for the 5,000 additional agents required by this EO.

The budget also includes \$55 million to help CBP implement initiatives directed by EO 13780, Protecting the Nation from Foreign Terrorist Entry into the United States, specifically to improve intelligence and targeting capabilities related to the screening and vetting of immigration populations and international travelers, in accordance with Section 5 of the EO. These resources will also support the efforts related to EO 13767.