

Question#:	1
Topic:	San Ysidro Port of Entry Findings
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On November 25, 2018, Border Patrol agents used tear gas on a group of migrants approaching the border fence near the San Ysidro Port of Entry in California. This group, which included women and young children, had been protesting poor shelter conditions and reported five to eight week-long waits for processing of asylum claims at the port before the attempted crossing. CBP's use of tear gas has garnered considerable criticism. Human rights groups and legal experts have condemned its use, arguing that it violated international human rights agreements.

In a statement to the media on November 26, 2018, you defended the use of tear gas in this incident as being in accordance with CBP training and policy. On November 27, 2018, San Diego Sector Border Patrol Chief Agent Rodney Scott stated to the media that he had asked the CBP Office of Professional Responsibility to investigate the circumstances surrounding agents' use of tear gas. On December 11, 2018, you told this Committee that this CBP investigation was termed a use of force incident review and that CBP has a process of publishing findings of such reviews, including tactics, training, procedures identified for improvement. You committed to providing this Committee with the findings.

Please provide this Committee with the findings of CBP's use of force review for the use of tear gas on November 25, 2018 at the San Ysidro Port of Entry.

Response: On December 12, 2018, the San Diego Local Use of Force Review Board (LUFRRB) convened and the facts of case were presented to the board members. At the conclusion of the presentation, the board members unanimously determined that the deployment of tear gas on November 25, 2018 was in compliance with CBP's Use of Force Policy. Furthermore, no misconduct was identified when multiple Border Patrol agents and one CBP Officer attempted to prevent a group of Central Americans from illegally entering the United States near the San Ysidro Port of Entry.

On March 20, 2019, CBP OPR was informed that a DHS Office of Inspector General (OIG) audit team conducting an independent review uncovered information that a long-range audio device had been utilized during the November 25, 2018, incident in a manner (or mode) which the DHS OIG regarded as a use of force. On April 10, 2019, CBP OPR received notice that the DHS OIG had opened an investigation into the use of the device. The OIG investigation remains on-going.

Question#:	2
Topic:	Tear Gas Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Does CBP train its officers to survey scenarios to confirm that no vulnerable individuals - including children, the elderly, and disabled individuals - are present prior to using tear gas to disperse crowds?

Response: CBP has a robust less-lethal training curriculum that specifically trains Authorized Officers/Agents to tactically analyze situations to properly identify, prioritize, and address the various threats (or the lack of a threat) of a given encounter. As part of this “Threat Assessment” training, certain groups of individuals have been identified as presenting unique factors that require special consideration: e.g. – small children, women known or suspected to be pregnant, the elderly, persons with known or obvious physical or mental limitations, special needs individuals, etc. The consideration our officers and agents must show these groups, because of the unique factors they present, is not limited to any specific less-lethal device, operational tactic, or defensive technique. Careful consideration, accurate assessment, and proper response are critical elements of *every* encounter, and stressed throughout CBP’s use of force training curriculums.

The CBP Use of Force Policy, Guidelines and Procedures Handbook provides guidance on the use of chemical munitions (“tear gas”) with respect to subjects who are small children. Specifically:

“Authorized Officers/Agents should not use a LLSI-CM and should consider other force options with respect to subjects who are: small children; elderly; pregnant; near known flammable materials (when using a pyrotechnic device); or operating conveyances” (CBP Use of Force Policy, Guidelines and Procedures Handbook, Chapter 4.C.7.c)

As part of the 120-hour CBP Less-Lethal Instructor Training Program, instructor candidates participate in several hours of “Scenario Based Training”, which provides realistic operational situations to apply the principles and decision-making strategies presented during the course, and demonstrate their proficiency with various less-lethal devices, munitions, and/or techniques. One of the scenarios includes deployment of chemical munitions (e.g. tear gas) to familiarize the students with target assessment, analyzing effects of environmental factors (e.g. wind intensity and determining wind direction), identifying multiple available routes of egress for affected individuals, decontamination procedures, and reporting/documentation.

Question#:	3
Topic:	Body-worn Camera Pilot Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: During your testimony on December 11, 2018, you acknowledged that body-worn cameras were not used by agents who were involved in using tear gas at the San Ysidro Port of Entry on November 25, 2018. You noted, however, that CBP was the first federal agency to pilot body-worn cameras and that it is expanding its operational deployment of body-worn cameras. This initiative is informed by a 2015 CBP body-worn camera feasibility study, which found that CBP could benefit from the use of body-worn cameras. You committed to providing this Committee with a written update on CBP's progress in implementing the body-worn camera pilot.

Please provide this Committee with a written update on CBP's progress in implementing its body-worn camera pilot.

Response: As directed by Congress, CBP conducted an evaluation (from May 1 - November 1, 2018) to determine the effectiveness of Incident-Driven Video Recording Systems (IDVRS) at addressing CBP's capability gaps associated with documenting incidents. CBP selected evaluation locations that represent a wide range of CBP's operational environments while also providing an opportunity to record high volumes of public interactions. The evaluation will provide insight regarding the effectiveness of IDVRS in terms of transparency, safety, camera use and reliability, evidence-gathering, IT infrastructure requirements, and personnel requirements.

Next Steps:

Complete and present LESC's findings, to be shared with Congress, from the collection, compilation, and analysis of field evaluation and comparative data on current CBP camera systems, to include a Final Report and Rough Order of Magnitude (ROM) Cost Estimate to inform CBP's implementation decision and strategy for an Incident Driven Video Recording System.

Question: Please include details on the number of body-worn cameras that CBP is using in its daily operations, broken down by field office and/or port of entry.

Response: During the evaluation period, CBP issued IDVRS to 138 officers/agents in 10 locations across each of CBP's operational components - Air and Marine Operations (AMO), Office of Field Operations (OFO) and U.S. Border Patrol (USBP).

IDVRS Pilot locations (from May 1 - November 1, 2018):

Question#:	3
Topic:	Body-worn Camera Pilot Program
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

AMO:

Tucson, AZ Air Branch (6)

West Palm Beach, FL Marine Unit (5)

OFO:

Long Beach, CA Seaport (7)

Eagle Pass, TX Land Port of Entry (9)

Atlanta, GA International Airport (12)

Detroit, MI Land Port of Entry (13)

USBP:

Campo, CA Station (26)

Las Cruces, NM Station (7)

Laredo, TX North Station (29)

Kingsville, TX Station (24)

Question#:	4
Topic:	CBP's Analysis
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On November 25, 2018, CBP closed the San Ysidro Port of Entry - our nation's busiest port - for approximately five hours midday during the post-Black Friday travel and shopping weekend. This unexpected closure left thousands of pedestrians stranded, disrupted transit systems, and created an 8-mile freeway backup. The San Ysidro Chamber of Commerce estimated over \$5 million lost from 650 San Ysidro businesses alone. On November 26, 2018, nonetheless, the President threatened to "close the border permanently."

The San Ysidro port sees 73 million border crossings yearly and cross-border traffic and trade is at the heart of the over \$250 billion annual gross regional product of San Diego and Imperial Counties and neighboring Baja California. Paola Avila, a vice president at the San Diego Chamber of Commerce declared after the closure that, "The uncertainty of border closures occurring at any time is a substantial economic threat for our region."

During your testimony on December 11, 2018, you admitted that the port closure had resulted in a loss of over \$5 million to San Ysidro businesses alone. I asked you to provide this Committee with complete documentation of CBP's analysis underlying the decision to close the San Ysidro Port of Entry on November 25, 2018, including the reasons for the closure initially, why it lasted five-hours, and how CBP weighed harmful effects on commerce. I also asked for your recommendation for what improvements can be made to protocols, policy, and training relating to port closures going forward. You also committed to meet with San Diego area elected officials and Chamber of Commerce leaders to discuss impacts of port closures.

Please provide this Committee with complete documentation of CBP's analysis underlying the decision to close the San Ysidro Port of Entry on November 25, 2018, including the reasons for the closure initially, why the closure lasted five-hours, and how CBP weighed harmful effects on legitimate travel and commerce.

Response: On November 25, 2018, CBP encountered a dynamic and challenging situation at and around the San Ysidro Port of Entry. Over 1,000 migrants marched toward the Mexican side of the port of entry--El Chaparral--and pushed through the Mexican Federal Police lines in an attempt to enter the United States through the port of entry, as well as over and under the fence line around the port of entry. Large groups attempted to enter the United States without authorization at multiple points over the course of approximately four to five hours.

Question#:	4
Topic:	CBP's Analysis
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Around the port of entry some of the migrants threw rocks at Border Patrol Agents. Border Patrol Agents and CBP Officers faced a difficult situation in the border zone between the primary and secondary fences and at the Tijuana River channel along the border, where photographs and video footage show over 500 migrants attempting to enter the United States en masse. The Border Patrol Agents and CBP Officers had to act quickly to protect themselves and each other while maintaining the integrity of the international border. The Port of Entry was closed for several hours to maintain control of the border, until the attempts to enter unlawfully the United States subsided.

Border Patrol Agents and CBP Officers were able to resolve the situation professionally and honorably, without any migrant sustaining a serious injury and without a serious breach of the U.S. international border.

After the closure of the San Ysidro port of entry, CBP's Office of Trade conducted a review of traffic and trade volumes at the land ports of entry at San Ysidro, Otay Mesa, and Calexico, California, to support CBP's efforts along the Southern Border. This review utilized FY 2018 data to provide total values of imports and exports for major commodity types and the major importers who bring in those commodities, as well as crossing statistics for pedestrians and passenger vehicles. CBP does not have access to local economic data; however, CBP has worked with the San Diego and San Ysidro Chambers of Commerce to review their data. Those Chambers were highly supportive in providing insight into the impact port closures have on the local economy, and the chambers were able to provide an estimate on the amount of lost revenue associated to retail sales. On November 19, 2018, when the port of San Ysidro was also temporarily closed, the chambers estimated that the loss of revenue to up to 650 local retailers was \$5.3 million.

Question#:	5
Topic:	Recommendations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with your recommendations for improvements to protocols, policy, and training relating to port of entry closures.

Response: We are still reviewing the events at this time and will apply them in the future to our protocols, policies, and training regarding closing ports of entry.

Question#:	6
Topic:	Follow-up Meeting
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide details about which San Diego area elected officials and Chamber of Commerce leaders you have met with to follow up on CBP's closure of the San Ysidro Port of Entry on November 25, 2018.

Response: CBP maintains close working relationships with state and local leaders at both the headquarters and field levels. Surrounding the events and operations at the San Ysidro POE in late November, CBP's headquarters-based Intergovernmental Public Liaison (IPL) office proactively reached out to San Diego Mayor Faulconer's office and the San Diego Chamber of Commerce on November 19, 2018, to share a CBP statement providing information and updates regarding operations and security at the ports. The IPL office maintained communications with the Mayor's office and Chamber leading up to November 25, 2018 and after the events of that day. Additionally, on December 3, 2018, CBP IPL worked with the Mayor's office to coordinate a call between the Mayor and agency leadership. Separately, on December 6, 2018, CBP IPL worked with the San Ysidro Chamber of Commerce to deliver a letter from the Chamber to CBP agency leadership regarding CBP operations and activities in the region.

Question#:	7
Topic:	Closures Since October 2018
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete documentation of CBP's analysis underlying its decision to close the San Ysidro Port of Entry during the early morning of November 19, 2018, and any other California port of entry closures since October 2018.

Response: CBP is reviewing the events with support of our National Office of Professional Responsibility and our Law Enforcement Compliance Division. CBP will be transparent about the finding of this situation.

Question#:	8
Topic:	Trafficking Referrals
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Administration officials have repeatedly stressed concerns about children being trafficked at our border by adults falsely claiming to be their parents. On November 27, 2018, the President declared that, "you have a lot of people that grab children" at the Southwest border to falsely pose as an asylum-seeking family to enter this country. Secretary Nielsen also told Congress in April-before the zero tolerance policy was revealed-that DHS was separating families to protect children from trafficking.

Multiple times, starting this past spring, I have asked DHS officials for information on referrals for criminal prosecution for trafficking in cases of children separated from adults at the border who said they were their parent or guardian. In November 2018, my office received a written response from DHS that DHS "does not maintain data" on such criminal referrals since January 2017. This is inconsistent with Secretary Nielsen's repeated declaration that it is DHS policy to criminally prosecute lawbreakers.

On December 11, 2018, you contradicted DHS' assertion, saying that DHS does track criminal referrals carefully and cross-designate with individuals who were part of a fraudulent family unit. You committed to provide this information to the Judiciary Committee.

Please explain why DHS informed my office that it "does not maintain data" on referrals for criminal prosecution for trafficking in cases of children separated from adults at the border who said they were their parent or guardian.

Response: Criminal prosecution is a multi-agency process. CBP tracks individuals it has referred for criminal prosecution. CBP does not investigate human trafficking, and so does not refer cases of suspected human trafficking for prosecution, but it can refer suspected human trafficking activity for further investigation by an investigative law enforcement agency, such as Immigration and Customs Enforcement Homeland Security Investigations.

Question: Please provide this Committee with information on all cases, since January 2017, of adults falsely claiming to be parents or guardians of children at the Southwest border who were then referred for criminal prosecution for trafficking.

Response: Beginning April 19, 2018, the USBP system of record was updated to track the separation of family units and groups purporting to be family units. Therefore, official statistics of groups separated based on concerns about fraudulent claims to family unity are not available prior to that date. For the time period of 4/19/18 through

Question#:	8
Topic:	Trafficking Referrals
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

01/31/19, nearly 2,000 individuals undergoing processing as family units have been separated due to fraud (a lack of familial relationship or because the alleged child was 18 or older).

Question#:	9
Topic:	OPR Report
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: The CBP Office of Professional Responsibility and the DHS Office of Inspector General have launched investigations into the tragic death of 7-year old Jakelin Amei Rosmery Caal Maquin in CBP custody on December 8, 2018. CBP is also reviewing its policies for notifications of deaths in custody to the public and Congress.

Please provide this Committee with a complete copy of the CBP Office of Professional Responsibility report and all other CBP internal reports pertaining to the treatment of Jakelin Amei Rosmery Caal Maquin while she was in CBP custody.

Response: The DHS Office of Inspector General has taken over the investigation into this case. CBP defers to DHS OIG with respect to the release of investigative information. In the aftermath of Jakelin's death, CBP has implemented a new interim medical directive as well as new policy on notifications of death. While CBP awaits the results of their investigation, CBP will continue to take additional steps ensure transparency and accountability as we move forward.

Question#:	10
Topic:	Medical Evaluation Training and Protocols
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete information about CBP protocols and training for Border Patrol agents for medical evaluation in initial encounters and processing of individuals into custody.

Please include specific information on protocols and training relating to: identification and treatment of dehydration, requirements for direct medical evaluation of a child traveling with a parent or guardian, Form I-779 language access requirements, and circumstances when emergency medical responders outside CBP must be called to address a medical condition of an individual in custody.

Response: The USBP has EMT and Paramedic certified Agents in its workforce. These Agents can conduct a patient assessment and recommend transfer to a higher level of care at any point during detainment or custody of a person. In addition, any Agent, regardless of medical background, can request emergency services if they are unsure if a person needs a higher level of care.

EMT and Paramedic certified Agents follow either local protocols, or the DHS EMS Protocols, all of which are in accordance with national standards and models for EMS programs. These protocols address the standard treatments within the agent's scope of practice. Each Agent is certified under the National Registry of Emergency Medical Technicians (NREMT) after completing an accredited EMT or Paramedic course and complies with recertification training requirements.

The USBP is currently reviewing its guidance for direct medical evaluation of a child traveling with a parent or guardian along the southwest border.

The Form I-779 is available in English and can be translated by Agents or through language services for those detainees that speak another language.

There is no set list of exhaustive criteria that can adequately direct an Agent to bring in local EMS services to assess a person in custody. However, if detainees request to be taken to a hospital, Agents do so and document this in the alien's record.

Question: Please outline which medical experts, including pediatric medical experts that CBP officials consulted with in developing these protocols and training.

Question#:	10
Topic:	Medical Evaluation Training and Protocols
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Response: The DHS Office of Health Affairs (OHA, now CWMD) medical doctors with a range of specialties helped create the protocols. The EMT basic and Paramedic courses are accredited as are any refresher hours in accordance with national EMT standards.

Question#:	11
Topic:	Antelope Wells Port of Entry Inspections
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with complete information on all inspections of the Antelope Wells Port of Entry since January 2017, including details on staffing, the availability of food, water, personal hygiene supplies, and restrooms for individuals in custody, and the number and availability of transportation vehicles at the facility.

Response: CBP does not, as a matter of security, provide staffing information or enforcement data at the port of entry level. CBP assesses threats through a risk-based strategy and multilayered security approach, and aligns resources (human, technological, and humanitarian supplies) to meet its mission and ensure that threats are mitigated at the ports of entry (POE).

The Port of Antelope Wells averages less than 30 vehicles per day and detains approximately one inadmissible alien per month. When an inadmissible alien is encountered by OFO, they are transported by OFO to the Area Port of Columbus for processing and temporary hold. All individuals have access to food, water, hygiene supplies, and restrooms.

Question#:	12
Topic:	Death Reporting Requirements
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please explain CBP's delay in reporting Jakelin Amei Rosmery Caal Maquin's death to members of Congress, including Democratic Appropriations Committee members given the FY2018 Omnibus reporting requirement for deaths in custody.

Response: CBP was in the process of solidifying a privacy waiver; DHS did not have confirmation that the mother had been notified in Guatemala, and, most importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

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

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

House Report 115-239, accompanying the FY18 DHS Appropriation, as well as House Report 114-668, accompanying the FY17 DHS Appropriation, and House Report 114-215, accompanying FY16 DHS Appropriation, directed CBP to report, within 24 hours, the relevant circumstances regarding a death of any individual in CBP custody or a death caused by the use of force of a CBP employee. Although the language in a committee report is not considered binding in the same manner as language in the statute, CBP understands that a committee's ability to conduct oversight is paramount and is pleased to have implemented a policy memorandum related to Congressional notification.

Question: Please explain why you believe that mentioning Jakelin Amei Rosmery Caal Maquin's death during your Senate Judiciary Committee testimony on December 11, 2018 – when you were asked about the adequacy of CBP facilities for care of children – would have meant, “politicizing the death of a child.”

Response: As mentioned above, CBP was in the process of solidifying a privacy waiver; I did not have confirmation that the mother had been notified in Guatemala, and, most

Question#:	12
Topic:	Death Reporting Requirements
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

importantly, I did not want to risk politicizing the death of a child while I was imploring Senators to fix the laws that are inviting families to take this dangerous path.

Bringing up the death of a minor in a public discussion about the adequacy of CBP facilities for care of children did not seem appropriate.

Question#:	13
Topic:	Improve Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: It is well documented that conditions and training at CBP facilities are not informed by child welfare best practices. Legal complaints filed on behalf of immigrant children have highlighted poor CBP facility conditions, including limited access to food and water, spoiled food, freezing temperatures, and verbal and physical assault. Media reporting has shown children crammed with adults in large detention "cages" with concrete floors and only mylar blankets and no soft bedding for multi-day stays. Additionally, a June 2014 U.N. High Commissioner for Refugees report and a July 2015 GAO report found CBP facilities deficient for children, with inconsistent child screening processes and insufficient training regarding children.

In your testimony on December 11, 2018, you admitted that CBP facilities are "incompatible" for children.

Given your admission that CBP facilities are "incompatible" for children, please detail the specific actions that you and other CBP officials are undertaking to improve conditions and training for intake, custody, and care of children at CBP facilities.

Response: CBP is committed to the care and wellbeing of all persons in our custody and takes particular care for vulnerable populations such as children. CBP ensures that its facilities meet the standards laid out in CBP's *National Standards on Transport, Escort, Detention and Search (TEDS)* policy. CBP is currently deploying medically-trained law enforcement personnel to both remote and high traffic locations. At four locations in the El Paso, Laredo, Rio Grande Valley and Yuma Sectors, CBP has a medical contract specifically for the evaluation and care of children in our custody. In all cases, immediate attention and care is provided as soon as possible.

Question: Please detail which child-welfare and pediatric medical experts you are consulting with to guide such improvements.

Response: CBP requested and received medical field support from the U.S. Coast Guard and the U.S. Public Health Service Commissioned Corps. Teams were deployed to the Yuma, Tucson, and El Paso Sectors to increase capacity to perform pediatric medical checks. We have subsequently expanded the use of contracted medical personnel to perform medical screening in areas of the southwest border where we are experiencing the highest volume of UAC and family unit apprehensions.

We are also coordinating with the Centers for Disease Control and Prevention to gather data on infectious diseases among migrants in custody, and develop recommendations for

Question#:	13
Topic:	Improve Conditions
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

further CBP action. Additionally, we have sought advice from external medical experts, including the American Pediatric Association and others.

Question#:	14
Topic:	Transgender Care
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On December 5, 2018, I joined with Senators Udall and Heinrich to send you and the ICE Acting Director a letter requesting documentation relating to the May 2018 death in ICE custody of Roxsana (Jeffrey) Hernandez, a 33-year old transgender asylum seeker from Honduras. Ms. Hernandez was reportedly denied adequate medical care, food, and water, and faced freezing temperatures while she was held in a CBP custody for 5 days at the San Ysidro Port of Entry. I have not yet received a response.

In response to my December 5, 2018 letter, please provide complete accounting and documentation of CBP's specific training for processing, medical evaluation and care, and safety of transgender individuals in your custody.

Response: CBP considers individuals who have self-identified as transgender to be “At-risk detainees” and processes them in accordance with the policies identified in the *National Standards on Transport, Escort, Detention and Search* and the DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (codified at 6 C.F.R. Part 115). Generally, CBP considers a traveler’s gender to be the gender shown on person’s travel documents; however, for processing purposes or searches, whenever operationally feasible, officers/agents take into account an individual’s gender, gender identity, or declared gender. CBP treats at-risk populations with dignity, respect and special concern for their particular vulnerability.

When processing transgender, intersex or gender non-conforming individuals, CBP agents and officers are directed to take additional steps to ensure processing is done in a safe, respectful and professional manner. These steps include:

Searches

- **Gender of Searching Officer:** Whenever operationally feasible, CBP officers conducting a search or that are present at a medical examination must be of the same gender, gender identity, or declared gender as the detainee being searched.
- **Officers/Agents** may not search or physically examine a detainee for the sole purpose of determining the detainee’s gender-related characteristics. If the detainee’s gender is unknown, officers/agents will ask the detainee their gender or gender identity.

Question#:	14
Topic:	Transgender Care
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

- Cross-gender searches or cross-gender visual body cavity searches must not be conducted except in exigent circumstances, including consideration of officer safety.
- Prior to commencing any search or pat-down, the primary searching CBP officer will communicate with the individual to identify any concerns.
- If an individual states that they identify with a gender that is different from what is listed on the travel document, the supervisor will be notified. CBP officers of the same gender declared by the individual will become the primary searching and witnessing officers.

Hold Rooms

- Officers/Agents will physically check hold rooms on a regular and frequent manner, according to each operational office's priorities and procedures
- Before placing any detainees together in a hold room or holding facility, CBP officers shall assess information [to determine] if the detainee may be considered an at-risk detainee, including whether the detainee... has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.

Showers

- Whenever showers are provided, transgender and intersex detainees will be given the opportunity to shower separately from other detainees.

When considering medical care, at-risk detainees are treated consistent with regular detainees. For all detainees, any physical or mental injury or illness observed by or reported to an officer/agent is reported to a supervisor and appropriate medical care is provided or sought. In the event of a medical emergency, CBP notifies emergency services immediately.

Question#:	15
Topic:	Family Separation Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: According a December 6, 2018 New York Times article and other reporting, the administration has continued to separate children from their families in "certain cases" since the President's June 20, 2018 Executive Order relating to family separations. These cases include when there are serious criminal charges against a parent, when there are concerns about the health and welfare of a child, or when there are medical concerns. Since the President's June 20 Executive order, the administration has reportedly separated 81 children from their parents at the Southwest border.

What specific procedures and training do CBP employees use and receive to carry out family separations?

Response: At the CBP Field Operations Academy, basic trainees complete the following classes:

- Human Trafficking Awareness (C102) - 1 Hour Block, 7/18/18 update
- Cultural Diversity And Law Enforcement (C280c) - 2 Hour Block 8/31/18 update
- Personal Search Policy And Procedures (S340c) - 4 Hour Block, 10/05/18 update
- Arrest And Detention (S360c) - 2 Hours Block, 9/4/18 update

At the Border Patrol Academy students complete:

- DHS PALMS course dealing with the processing and handling of juveniles via the Reno vs. Flores court case/William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA).

All CBP law enforcement officers complete the following via online delivery:

- Human Trafficking Awareness Training and Unaccompanied Alien Children: Flores v. Reno/TVPRA (Course Provider: Office of Field Operations)
- Unaccompanied Alien Children: Best Practices. – created 2015

Border Patrol agents receive a variety of training on the policies and procedures concerning individuals in CBP custody. In addition to the training listed, all agents abide by the National Standards on Transport, Escort, Detention, and Search (TEDS) policy.

Specifically for family separations, CBP provides guidance to all employees to ensure compliance with court orders. CBP does not provide specific training to all CBP employees on family separations. However, processing unaccompanied alien children

Question#:	15
Topic:	Family Separation Training
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

and children with families is touched on in the below segments for all those who come in contact with children.

Question: What child welfare training does CBP currently provide for its officers and agents?

CBP Officer Basic Training:

- Human Trafficking Awareness (C102) - 1 Hour Block, 7/18/18 update
- Cultural Diversity And Law Enforcement (C280c) - 2 Hour Block 8/31/18 update
- Personal Search Policy And Procedures (S340c) - 4 Hour Block, 10/05/18 update
- Arrest And Detention (S360c) - 2 Hours Block, 9/4/18 update

Distance Learning (online courses):

- Human Trafficking Awareness Training and Unaccompanied Alien Children: Flores v. Reno/TVPRA

Reno/TVPRA (Course Provider: Office of Field Operations)

- Unaccompanied Alien Children: Best Practices. – created 2015

The Border Patrol Academy ensures the trainees take the DHS PALMS course dealing with the processing and handling of juveniles via the Reno vs. Flores court case/William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA).

Question: Is this training trauma-informed?

Response: No.

Question: Has CBP consulted with child welfare experts in developing this training?

Response: No, OTD develops training based on DHS and CBP policy.

Question#:	16
Topic:	Official's Fitness
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: In the DHS Office of Inspector General's September 27, 2018 report on family separations under the zero tolerance policy, the IG reported that an unidentified senior CBP official at the McAllen Processing Center in Texas admitted that CBP kept families separated when it may have been possible to reunite them, simply "to avoid doing additional paperwork."

Have you followed up directly with the senior CBP official who made this statement to the DHS IG to assess whether they are a fit individual to be responsible for management of family separations?

If not, will you commit to assess the fitness of this senior official?

Response: CBP does not keep families separated for the avoidance of paperwork. It is easier to keep families together and maintain unity from a law enforcement perspective.

CBP takes allegations of employee misconduct seriously and refers incidents for investigation to OIG when sufficient information is available. However, the individual cited in the OIG report was not named and as such CBP is not aware of his or her identity and is unable to confirm if he or she engaged in such conduct.

Question#:	17
Topic:	Abuse Allegations
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: A complaint legal advocates filed with the DHS Office of Inspector General and DHS Office of Civil Rights and Civil Liberties on August 23, 2018 alleges that CBP employees subjected parents to duress during the family separation process under the zero tolerance policy-including physical and verbal abuse, withholding feminine hygiene products, providing spoiled food, and falsely telling them that their children would be permanently taken from them.

After a Homeland Security and Government Affairs Committee hearing on September 18, 2018, I submitted written questions to CBP's Acting Deputy Commissioner Robert Perez about what CBP has done in response to these allegations. I have not yet heard back.

When did you become aware of these allegations and what did action did you take in response?

Has CBP conducted an investigation into these allegations?

If so, when will the inquiry be completed and will you publish it?

If not, will you commit to commence an inquiry immediately?

Response: The complaint of duress and abuse parents were allegedly subjected to by CBP employees during the family separation process was filed directly with the DHS Office of Inspector General (OIG) and the DHS Officer for Civil Rights and Civil Liberties (CRCL). Congress enacted the Inspector General Act of 1978 to ensure integrity and efficiency in government. The DHS OIG was established by Congress in 2002 to provide independent oversight and promote excellence, integrity, and accountability within DHS. While organizationally a Component of DHS, the OIG operates independent of the DHS and all offices within it. The DHS OIG has primary jurisdiction for investigating all allegations of misconduct on the part of DHS employees. In this case, the DHS OIG declined to investigate the complaint and the matter is currently under investigation by CRCL. CRCL is responsible for investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities. CRCL recently assured CBP's Office of Professional Responsibility (OPR) that if the CRCL investigation uncovers any information or evidence that could be indicative or reflective of CBP employee misconduct, OPR will be notified immediately.

Question#:	18
Topic:	Operation Streamline
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: On December 18, 2018, the Associated Press reported challenges for the implementation of Operation Streamline and the "zero tolerance policy" in San Diego, California fueling prolonged detentions of individuals charged with misdemeanor illegal entry by the U.S. Marshals Service.

Please provide this Committee with complete policy and guidance documents on CBP's implementation of Operation Streamline and the "zero tolerance policy" in California.

Response: Operation Streamline was never implemented in the Southern District of California. Following the Attorney General's "Zero Tolerance" Directive in 2018, CBP began working closely with the U.S. Attorney's Office in the Southern District of California on identifying cases for criminal prosecution, both misdemeanor and felony. In compliance with the Attorney General's Zero Tolerance Directive, criminal immigration violations are prosecuted in the Southern District of California with the assistance of CBP and in compliance with due process, equal protection, and all local district court orders.

Question#:	19
Topic:	Criminal Prosecution Data
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

Question: Please provide this Committee with monthly data on the number of individuals CBP has referred for criminal prosecution for illegal entry and illegal re-entry in California, broken down by Border Patrol Sector, since January 2017.

Response:

Charge Code	FY	Month	SBO		
			ELC	SDC	
8 USC 1325	FY2017	Jan	24	52	
		Feb	13	30	
		Mar	32	49	
		Apr	30	32	
		May	30	52	
		Jun	30	47	
		Jul	33	57	
		Aug	21	112	
		Sep	29	88	
	FY2017 Total			242	519
	FY2018	Oct	28	105	
		Nov	37	84	
		Dec	75	88	
		Jan	106	123	
		Feb	79	98	
		Mar	41	128	
		Apr	20	124	
		May	183	536	
		Jun	557	578	
		Jul	558	691	
		Aug	490	788	
		Sep	397	602	
	FY2018 Total			2,571	3,945
	FY2019TD	Oct	308	760	
		Nov	192	409	
		Dec	83	162	
	FY2019TD Total			583	1,331
	8 USC 1325 Total			3,396	5,795
	8 USC	FY2017	Jan	43	73

Question#:	19
Topic:	Criminal Prosecution Data
Hearing:	Oversight of U.S. Customs and Border Protection
Primary:	The Honorable Kamala D. Harris
Committee:	JUDICIARY (SENATE)

1326		Feb	30	51	
		Mar	49	76	
		Apr	42	50	
		May	52	77	
		Jun	43	90	
		Jul	42	146	
		Aug	20	163	
		Sep	26	122	
		FY2017 Total	347	848	
		FY2018	Oct	42	151
			Nov	57	129
			Dec	95	136
			Jan	122	174
			Feb	92	161
			Mar	53	187
			Apr	33	171
			May	50	90
			Jun	76	63
			Jul	36	81
			Aug	43	75
			Sep	36	75
		FY2018 Total	735	1,493	
		FY2019TD	Oct	53	79
			Nov	45	76
			Dec	14	22
		FY2019TD Total	112	177	
	8 USC 1326 Total		1,194	2,518	