

LUNCH WITH CHAIRMAN KEVIN YODER (R-KS)
June 19, 2018

Objective:

- This lunch is a follow-on from your May 25, 2018 call with Chairman Yoder.
- Communicate FY 2019 Budget priorities before the HAC-HS mark-up.
- Address concerns regarding the Department's immigration enforcement and detention.
- Continue to build working relationship with Chairman Yoder.

Key Messages

The FY 2019 DHS Budget reflects the Administration's priorities and invests in securing our physical and maritime borders, enforcing our immigration laws, and advancing cyber and aviation security.

DHS will enforce the immigration laws as set forth by Congress. No classes or categories of aliens are exempt from enforcement.

Our message is clear: if you try to illegally enter our country, you have broken the law and you will be detained and referred for prosecution in accordance with existing law.

Key Issues:DHS Priorities for Meeting

- Express gratitude for the Subcommittee's support of the Department.
- Acknowledge the House Appropriations Subcommittee's plan to markup the DHS bill this month.
 - DHS staff stands ready to provide technical assistance to committee staff.
- Ask for HAC support in securing FY 2019 funding for DHS priorities.
 - *Staff recommendation:*
 - Advocate for funding the FY 2019 request for border wall system and technology.
 - Stress need to fund Border Patrol priorities as communicated in the Border Security Improvement Plan.
 - Emphasize the need for additional BPA and ERO personnel. Recognize that, while DHS had challenges here, the Department has turned the corner and is in a good position to hire additional personnel. (For the first time in 6 years we expect to hire more agents that we lost this FY)
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- Discuss border security and immigration enforcement issues that HAC-HS staff have indicated the Chairman wants to address.
 - Border apprehensions and trends that would cause increase in detention requirements
 - Zero Tolerance and trends regarding prosecution

- Policy on ICE detention of those prosecuted for illegal entry, but claiming asylum
- Policies regarding the separation of adults and children
- Interior enforcement trends and impact on detention bed requirements
- Actions ICE is taking with interior enforcement to manage detention bed requirements

Issues Likely to be Raised

- You may be asked to respond to recent media coverage about the separation of parents and children.
 - *Staff recommendation:*
 - Anyone crossing illegally between the ports of entry can be prosecuted for illegal entry or illegal reentry.
 - DHS must protect the well-being of minors – occasionally this results in separating children from an adult they are traveling with if DHS cannot ascertain the parental relationship, when DHS determines that a child may be at risk with the presumed parent or legal guardian, or when the parent or legal guardian is transferred to a criminal detention setting due to criminal charges.
 - When CBP refers a case against a parent or legal guardian for criminal prosecution, the parent or legal guardian will be placed in the custody of the U.S. Marshals Service for pre-trial detention pursuant to an order by a federal judge and the child will be transferred to the care of the Department of Health and Human Services (HHS) as an unaccompanied alien child, in accordance with the Trafficking Victims Protection Reauthorization Act of 2008.

History:

- You spoke with new subcommittee Chairman Yoder on May 25, 2018. This lunch has been scheduled as a follow-on discussion.
- You appeared before the HAC-HS on Wednesday, April 11, 2018, to testify on the FY 2019 President's Budget for DHS.

Logistics:

- Lunch will take place at the Nebraska Avenue Complex MVR.

Attachments:

- A. Talking Points
- B. FY 2019 President's Budget: Summary by Component

Staff Responsible for Briefing Memo: (b)(6) Budget Director, (b)(6)

Reviewed and approved by: Stacy Marcott, Acting Chief Financial Officer, (b)(6)

LUNCH WITH CHAIRMAN KEVIN YODER (R-KS)
Talking Points

- Thank you for joining me today. I look forward to continuing our discussion about the Department's FY 2019 budget request as well as answer any questions you may have on our efforts to secure the borders and enforce our immigration laws.
- The FY 2019 President's Budget requests \$47.5 billion in net discretionary funding and an additional \$6.7 billion for the Disaster Relief Fund (DRF) for response and recovery to major disasters.
 - The funding table below displays the Department's funding levels from FY 2017 through FY 2019.

\$ in Billions	FY 2017 Enacted	FY 2018 Enacted	FY 2019 President's Budget
Disaster Relief Fund, Major Disasters	\$6.7	\$7.4	\$6.7
Appropriated Funding	\$42.4	\$47.7	\$47.5
Fees	\$20.4	\$19.2	\$20.2
Total	\$69.5	\$74.3	\$74.4

- The FY 2019 Budget reflects the Administration's priorities, including ensuring the safety and security of the American people.
 - The Budget invests in securing our physical and maritime borders, enforcing our immigration laws, and advancing cybersecurity and aviation security.
- The Budget funds the right mix of people, technology, and infrastructure for border security in order to reduce the flow of illegal immigrants and illicit contraband while facilitating legal trade and travel.
 - The FY 2019 Budget includes \$1.6 billion to support the construction of 65 miles of new border wall system, and \$164 million to support efforts to hire 750 new Border Patrol Agents and 153 support personnel.
 - The FY 2018 Omnibus did not fund approximately 27 miles of Border Wall that were included in the FY 2018 President's Budget (\$641 million). These miles are a high priority to the men and women on the front lines and should be funded in FY 2019.
 - For the miles funded in FY 2018 Omnibus, there was a misalignment of funds. We have briefed your staff and are working with them to provide the most up-to-date cost estimates. Currently, we estimate an additional \$345 million is needed to fund approximately 11 miles of Levee Wall construction in the Rio Grande Valley (RGV) Sector, but we are hopeful this can be significantly offset by savings in other wall segments.

- To protect public safety and national security, the Budget prioritizes the detention and removal of priority aliens from the United States.
 - The Budget provides \$5.1 billion for enforcement and removal operations and \$571 million for an additional 2,000 ICE law enforcement officers and 1,312 support personnel.
- The Budget requests \$1.9 billion for the recapitalization of USCG assets.
 - This funding provides for a new Offshore Patrol Cutter, four Fast Response Cutters, and the Nation's first new heavy Polar Icebreaker in more than 40 years as well as necessary sensor and service-life extensions to aircraft and improvements to shore infrastructure.
- The President's Budget includes an additional \$82 million for the U.S. Secret Service to keep pace with growing mission requirements and achieve the staffing target of 7,600 positions by the end of FY 2019, constituting the largest workforce in USSS history.
 - The USSS is on target to beat their hiring goal of 7,150 in FY 2018 and have made many improvements to their hiring process.
- The Budget adds 687 TSA screeners and 145 additional computed tomography systems which will allow us to better detect concealed explosives, threat devices, and suspicious passengers.
- I am asking for your support in ensuring the Department is resourced effectively to carry out our mission.
- I understand that there are a number of immigration-related issues that you would like to discuss today and I welcome that conversation.

Border apprehensions and trends that would cause increase in detention requirements

- CBP's total southwest border apprehension and inadmissible numbers so far this fiscal year are nearly 187,000.
- This figure is an upward trend from those record lows in the 2nd quarter of FY 2017.
- Apprehension numbers are over 50,000 for the second month in a row.
- As you prepare to markup the FY 2019 appropriations bill, I'm asking for your support of the President's request for \$1.6 billion for 65 miles of border wall system, the wall that wasn't funded in FY 2018 (\$641M), and \$220 million for technology. CBP also needs \$164 million to hire an additional 750 Border Patrol Agents.

Zero Tolerance and trends regarding prosecution

- The Department is moving towards 100% prosecution for illegal entrants.
- DHS has seen significant increases in illegal entry attempts over the past 12 months, including significant increases in the number of family units and unaccompanied alien children.
- In April, CBP encountered more than 50,000 immigrants seeking to illegally enter the United States. From April 2017 to April 2018, DHS saw a tripling in apprehensions and inadmissible aliens. This is a massive and unacceptable uptick.
- We must maintain operational control of our Southern Border.

Policy on Detention of those prosecuted for illegal entry, but claiming asylum

- Anyone crossing illegally between the ports of entry can be prosecuted for illegal entry or illegal reentry.
- If a CBP officer or agent encounters a U.S.-bound migrant at or between ports of entry, without legal documentation, and the person expresses fear of being returned to his/her home country, CBP officers process them for an interview with an asylum officer with U.S. Citizenship and Immigration Services.
- CBP officers do not determine or evaluate the validity of the fear expressed.
- DHS and the DOJ have deployed resources to the border and are prepared to detain and prosecute as appropriate.

Policies regarding the separation of adults and children

- Family separation may occur when we are unable to determine the familial relationship, when we determine that a child may be at risk with the presumed parent or legal guardian, or when the custodian is transferred to a criminal detention setting due to criminal charges.
- When CBP refers a case against a parent or legal guardian for criminal prosecution, the parent or legal guardian will be placed in the custody of the U.S. Marshals Service for pre-trial detention pursuant to an order by a federal judge and the child will be transferred to the care of the Department of Health and Human Services (HHS) as an unaccompanied alien child, in accordance with the Trafficking Victims Protection Reauthorization Act of 2008.
- However, DHS must protect the well-being of minors – occasionally this results in separating children from an adult they are traveling with if DHS cannot ascertain the parental relationship or if DHS thinks the child is otherwise in danger.
- DHS takes seriously its responsibility to protect alien children from human smuggling, trafficking, and other criminal actions, while ensuring that our immigration laws are enforced.
- While the previous administration did little to screen those seeking to sponsor unaccompanied alien children, DHS and HHS are in the process of implementing a new agreement on information sharing so that such potential sponsors and adult household members are thoroughly and systematically screened for the protection of the children.

Interior Enforcement, trends, and impact on detention requirements

- DHS/ICE prioritizes identifying and removing public safety and national security threats through targeted operations based on intelligence-driven leads.
- However, DHS has made clear no classes or categories of potentially removable aliens are exempt from enforcement.
- ICE is currently detaining a total of approximately 44,000 adult and family unit aliens, which is nearing the existing available capacity.
- The new 100% prosecution policy will likely require an additional 5,000 adult detention beds, excluding 1,000 adult beds needed immediately.
- However, ICE cannot provide an exact capacity need because the count of availability fluctuates daily due to factors such as capacity at local jails and prosecution rates, i.e. if they drop to say, 75 percent.
- ICE is funded in FY 2018 for 40,520 detention beds – including 2,500 family beds and 38,020 adult beds.

- While we continue to look for cost saving measures, we will continue our current interior enforcement operations and zero tolerance policy on the border.
- Additional funding is required this year to cover costs associated with increased detention space, as well as increased ICE transportation costs associated with more aliens requiring additional air and ground movements.
- The FY 2019 President’s Budget requests funding to support 52,000 detention beds (49,500 adult and 2,500 family). If pressed, we believe a good compromise position would be 47,000 beds (44,500 adult and 2,500 family) based on current ICE modeling and discussion with ICE.

Actions ICE is taking with Interior Enforcement to manage detention bed requirements

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- To supplement these options, on May 31, ICE reached out to the National Sheriff’s Association in the hopes of identifying Sheriffs who have existing USMS agreements with a minimum of 65 available beds for ICE use. As of June 4, ICE identified another 400 to 800 beds at local jails and this number is likely to increase in the coming days. ICE is in the process of validating and/or establishing the agreements at these locations.
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Closing Remarks

- I look forward to working with you to ensure that the Department is resourced to effectively and efficiently execute our mission for the remainder of this fiscal year, in FY 2019 and beyond.
- My understanding is the Appropriations Committee plans to markup the DHS bill later this month. I am encouraged to see the appropriations process moving forward and my staff stands ready to provide any technical assistance the subcommittee may need.

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Zero Tolerance and Trends Regarding Prosecution

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Policy on Detention of Those Prosecuted for Illegal Entry, but Claiming Asylum

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- CBP officers do not determine or evaluate the validity of the fear expressed.
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Policies Regarding the Separation of Adults and Children

- Family separation may occur when we are unable to determine the familial relationship, when we determine that a child may be at risk with the presumed parent or legal guardian, or when the custodian is transferred to a criminal detention setting due to criminal charges.
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Actions ICE is Taking with Interior Enforcement to Manage Detention Bed Requirements

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Closing Remarks

- I look forward to working with you to ensure that the Department is resourced to effectively and efficiently execute our mission for the remainder of this fiscal year, in FY 2019 and beyond.
- My understanding is the Appropriations Committee plans to markup the DHS bill later this month. I am encouraged to see the appropriations process moving forward, and my staff stands ready to provide any technical assistance the subcommittee may need.

CALL WITH RANKING MEMBER CLAIRE MCCASKILL (D-MO)
June 25, 2018

Objective:

- You requested a call with Ranking Member McCaskill. This call seeks to clarify issues surrounding the separation of families at the border.

Key Messages

On June 20, 2018, President Trump signed an Executive Order that directs the Administration to continue to protect the border with our zero-tolerance policy, while also avoiding the separation of illegal alien families, to the extent we can legally do so.

The Department of Justice (DOJ) has filed a motion on June 21, 2018 to modify the *Flores* settlement agreement, which, as interpreted by court decisions, results in ICE rarely holding family units for longer than 20 days.

However, no one knows how the courts may rule, and only Congress can provide lasting border security, avoid the separation of families, and close dangerous immigration loopholes.

History:

- On June 7, 2018, Senator Dianne Feinstein (D-CA) introduced her “Keep Families Together Act” (S. 3036), which would specifically outline the limited circumstances in which USBP agents could separate a child from his or her parent or legal guardian. Every Senate Democrat joined as a cosponsor, with Senator McCaskill joining on June 18, 2018.
- During the Homeland Security and Governmental Affairs Committee (HSGAC) hearing on May 15, 2018, Ranking Member McCaskill agreed that “There is no question, you have to separate children from families when there has been a violation.” However, she further stated that “the fact that there is no joint concept of operations, and we are upping the number of children we are taking from families is outrageous.”
 - The Ranking Member requested a copy of the unaccompanied alien children (UAC) joint concept of operations (JCO). OLA provided an interim briefing to the Senator’s staff on the JCO on June 5, 2018.
 - The JCO is actively being reviewed and edited. DHS and HHS continue to work collaboratively on the JCO and look forward to sharing it with Congress as soon as possible.

Key Issues:

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Family Separation

- ***June 20th EO: Affording Congress an Opportunity to Address Family Separation***
 - Under U.S. law, the only legal way for an alien to enter the country is at a designated port of entry (POE) at an appropriate time.
 - When an alien enters the country between POEs, that alien has committed at least the crime of improper entry and is subject to a fine or imprisonment under section 1325(a) of title 8, United States Code.
 - This Administration will initiate criminal proceedings to enforce this and other criminal provisions of the INA until and unless Congress directs otherwise.
 - It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.
 - DOJ has filed a motion to modify provisions of the *Flores* settlement agreement, which, as interpreted by court decisions, limits Immigration and Customs Enforcement (ICE)'s ability to detain families together for more than 20 days.
 - Pursuant to court decisions interpreting the settlement agreement, the government generally does not hold illegal alien families together past 20 days, meaning a child must be separated from his or her parent if the parent remains in custody.
 - The EO also orders the prioritization of immigration cases involving families and ordering government departments and agencies to expand family detention capacity.
 - The President has taken action to address the immediate issue by detaining families together for as long as he can legally do so under *Flores*, and now expects Congress to work quickly to address permanently the crisis at our border.
- ***Zero Tolerance Initiative Remains in Effect***
 - DOJ has implemented a zero tolerance prosecution initiative to ensure prosecution for violations of criminal law prohibiting illegal entry into the United States.

- The goal of this initiative is to prosecute violations of law, not to separate families.
 - The initiative directs referral for criminal prosecution of all amenable individuals to the extent practicable who illegally enter the United States in violation of 8 U.S.C. § 1325(a), including adults who are part of a family unit.
 - Adults prosecuted under the initiative are taken into the custody of the U.S. Marshals Service for the duration of their criminal proceedings.
 - The Marshals Service does not provide care for the children of people they take into custody.
 - Upon completion of the criminal proceedings, adults are placed with ICE/ERO for their immigration proceedings.
 - Children of such adults are classified as UACs and are placed with HHS, as required by the Homeland Security Act of 2002 and the TVPRA.
 - At the conclusion of all criminal and immigration proceedings, DHS strives to reunite family units for repatriation to their respective home countries.
- ***If the adult is found to have a credible fear and issued a Notice to Appear for removal proceedings before an Immigration Judge for full consideration of the alien's application for asylum, DHS faces limitations that make it extremely difficult to detain a family unit together for the duration of these proceedings.***
 - If an adult in the family unit is found to have a credible fear and files an asylum application, that process will take longer than 20 days. The individual may be detained for longer than 20 days, but the children of the family unit may not be detained for longer than 20 days.
 - DHS must comply with limitations imposed by the 1997 *Flores* Settlement Agreement and court orders interpreting the Settlement Agreement.
 - The U.S. Court of Appeals for the Ninth Circuit determined that the *Flores* Settlement Agreement applies to all minors—both unaccompanied and those who come as part of family units.
 - The *Flores* Settlement Agreement provides that minors not released from custody must be transferred to a licensed facility within 3 or 5 days or as expeditiously as possible in the event of an emergency or influx.
 - The U.S. District Court for the Central District of California determined that family residential centers are not licensed and that holding family units for 20 days while conducting credible or reasonable fear screening may fall within the parameters of “as expeditiously as possible.”
 - ***Due to these decisions, as well as outdated law, DHS routinely finds aliens are coming as family units with the expectation that they will be released because they arrive as family units.***
 - This is a deliberate strategy, often arranged by transnational criminal organizations, to exploit the U.S. immigration system.

Attachments:

- A. Talking Points
- B. Media Pull

Staff Responsible for Briefing Memo: (b)(6) Senior Legislative Advisor, OLA, (b)(6)
(b)(6) OLA, (b)(6)

Reviewed and approved by: David Wonnemberg, Acting A/S, OLA, (b)(6)

OGC Reviewer: (b)(6) Deputy Chief of Staff, (b)(6)

CBP CALL WITH U.S. CONFERENCE OF CATHOLIC BISHOPS
June 22, 2018

Objective:

- You will be participating in a conference call between CBP Commissioner Kevin McAleenan and leadership from the U.S. Conference of Catholic Bishops (USCCB), including:
 - Archbishop Jose H. Gomez of Los Angeles, California;
 - Archbishop John Wester of Santa Fe, New Mexico;
 - Bishop Oscar Cantú of Las Cruces, New Mexico; and
 - Potentially several other bishops from the USCCB.
- This is an opportunity to explain DHS and CBP's complex and difficult mission and discuss how DHS is implementing the Administration's immigration enforcement policies and immigration law.
- The bishops will discuss USCCB's statement against the Administration's "Zero Tolerance" policy, express concern about the asylum process, and highlight specific situations and challenges with immigration policy in their dioceses.
- You can ask USCCB leadership for their recommendations on how to further safeguard the health, safety, and dignity of those in DHS's care within the context of current immigration laws.

Agenda:

- CBP Commissioner McAleenan will introduce you to the USCCB leaders on the call and will be offering CBP's perspective on operations and the environment along the border.

Key Messages

The Administration is committed to enforcing the Nation's immigration laws, working with Congress to develop a permanent solution to the current immigration crisis, and doing so humanely and to the highest standards.

It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.

Key Issues:DHS Priorities for Meeting

- ***May Southwest Border Migration numbers show that for the third month in a row more than 50,000 individuals were apprehended after illegally entering the United States.***
 - The number of apprehended illegal border crossers increased slightly from the previous month, and climbed by 160 percent in May 2018 in comparison to May 2017.
 - The number of unaccompanied alien children (UAC) arriving at the ports of entry or entering between the ports of entry at the Southwest Border quadrupled in May compared to a year ago at the same time, and the number of aliens traveling as families is up six-fold.

- ***Decades of weak border policies have created tremendous pull factors for illegal immigration; it will take years to correct.***
 - Loopholes in our immigration system allows for smugglers and human traffickers to lead potential migrants to believe that if they reach our borders they will be released into our country.
 - Absent exceptional circumstances, DHS is required to transfer UACs to the Department of Health and Human Services, within 72 hours of determining the minor is an unaccompanied alien that is a child, provided the UAC is not eligible to withdraw his or her application for admission.
 - Pursuant to the *Flores* Settlement Agreement and court decisions interpreting it, minors detained as part of a family unit are rarely held for longer than 20 days. This incentivizes people to present as a family even if they are not.
 - Due to these legal loopholes, we are once again facing the problem of “catch and release” which continues to create a “pull factor” for illegal immigration.
 - These loopholes have also incentivized smugglers to place children into the hands of adult strangers so they can pose as families and be released from immigration custody after crossing the border, creating another safety issue for these children.

- ***DHS has taken numerous steps within executive power, but now Congress needs to act.***
 - Only Congress can legislate the permanent solutions we need to put the American people first and end catch-and-release. Correcting these loopholes will allow DHS to:
 - Further eliminate fraud in our asylum system and ensure that those who have a valid claim of asylum have their cases heard in timely manner.
 - Ensure that parents and their children can be detained together for the duration of their immigration proceedings.
 - Apprehend and keep criminal aliens off the streets once and for all.

- ***100 Percent Prosecution/Family Separation***
 - DHS takes seriously its responsibility to protect children from human smuggling, trafficking, and other criminal actions, while ensuring that our immigration laws are enforced.
 - DHS or CBP may separate an alien minor from an accompanying parent or legal guardian in certain circumstances, including for the child’s safety, in cases in which the parent or legal guardian is referred for criminal prosecution, or where the familial relationship cannot be established.
 - On Wednesday, June 20th, the President signed an Executive Order regarding the separation of families, stating:
 - “It is the policy of this Administration to rigorously enforce our immigration laws. Under our laws, the only legal way for an alien to enter this country is at a designated port of entry at an appropriate time. . . It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.”

Issues Likely to be Raised

- ***Separation of families:*** Following its June General Assembly meeting, USCCB President Cardinal Daniel DiNardo issued a statement “condemning the continued use of family

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separation at the U.S./Mexico border as an implementation of the Administration's zero tolerance policy.”

- As outlined in President Trump’s June 20th Executive Order, it is the policy of this Administration to rigorously enforce our immigration laws.
 - DHS is not referring for prosecution for illegal entry families or individuals arriving at ports of entry or attempting to enter the country through legal means. These families and individuals have not broken the law and will be processed accordingly.
 - It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources
 - The Executive Order directs that the DHS Secretary “shall, to the extent permitted by law and subject to the availability of appropriations, maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members.”
- ***Asylum standards:*** In response to DOJ’s announcement on asylum standards, USCCB President, Cardinal Daniel DiNardo issued a statement on 6/13/18 calling on “courts and policy makers to respect and enhance, not erode, the potential of our asylum system to preserve and protect the right to life.” Archbishop Wester and Bishop Cantú, both scheduled to participate in this call, issued a subsequent statement on 6/15/18 in support of Cardinal DiNardo’s views on asylum.
 - As Attorney General Sessions has said, our nation’s immigration laws provide for asylum to be granted to individuals who have been persecuted, or who have a well-founded fear of persecution, on account of their membership in a ‘particular social group.’
 - But most victims of personal crimes do not fit this definition—no matter how vile and reprehensible the crime perpetrated against them.
 - Our ports of entry are balancing an array of critical mission priorities, including national security, counter-narcotics, facilitation of lawful trade and travel, and processing individuals arriving at the ports of entry.
 - Our ability to carry out these missions is seriously challenged by the time and resources needed to process people arriving without documents,
 - From time to time, we have to manage the volume based on our port capacity.
 - We are not denying people approaching the U.S. port of entry without documents. We are advising them to wait in Mexico to enter the port of entry until we have the resources to process them.
 - U.S. policy is to support Central American security and prosperity. We need to invest in their governance efforts and their economic development and in their security against gangs, smugglers, drug cartels to help prevent the push factors existing in those countries.

History:

- CBP is unaware of any prior Secretary-level engagements with the USCCB.

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Logistics:

- This will be a conference call with leaders and members of the United States Conference of Catholic Bishops.
 - The USCCB is an assembly of the hierarchy of the United States and the U.S. Virgin Islands. There are 446 active and retired Catholic bishops in the U.S., 6 of whom are Cardinals leading U.S. Archdioceses as Cardinal Archbishops
- The current Vice President is Los Angeles archbishop, Archbishop Jose Gomez, who will be on this call.
- Archbishop Gomez will be joined by at least two other USCCB members, and up to 3-5 additional Bishops from the Conference.
- **Call is closed press.**

Attachments:

- A. Talking Points
- B. Participant List
- C. Biographies
- D. USCCB President (b)(6) Statement on Asylum Seekers and Family Separation

Staff Responsible for Briefing Memo: CBP Intergovernmental Public Liaison, (b)(6)

OGC Reviewer: (b)(6) Attorney, (b)(6)

CALL WITH RANKING MEMBER CLAIRE MCCASKILL (D-MO)
June 26, 2018

Objective:

- At your request, this call seeks to clarify issues surrounding the separation of families at the border.

Key Messages

On June 20, 2018, President Trump signed an Executive Order that directs the Administration to continue to protect the border with our zero-tolerance policy, while also avoiding the separation of illegal alien families, to the extent we can legally do so.

DOJ has filed a motion on June 21, 2018 to modify the *Flores* settlement agreement, which, as interpreted by court decisions, results in ICE rarely holding family units for longer than 20 days.

However, no one knows how the courts may rule, and only Congress can provide lasting border security, avoid the separation of families, and close dangerous immigration loopholes.

History:

- On June 7, 2018, Senator Dianne Feinstein (D-CA) introduced her “Keep Families Together Act” (S. 3036), which would specifically outline the limited circumstances in which USBP agents could separate a child from his or her parent or legal guardian.
 - Every Senate Democrat joined as a cosponsor, with Senator McCaskill joining on June 18, 2018.
- On June 22, 2018, Ranking Member McCaskill wrote to you regarding the zero-tolerance initiative and family separation and requested detailed responses to a number of questions. She also requested a briefing for staff no later than this Thursday, June 28 and access to “DHS detention facilities holding detained families” by July 13.
 - Please see **Attachment C** for the letter.
 - OLA is working with White House Legislative Affairs and interagency partners at DOJ and HHS to collaborate on a plan of action for responding to the large number of Congressional briefing and information requests on these issues.
- During the Homeland Security and Governmental Affairs Committee (HSGAC) hearing on May 15, 2018, Ranking Member McCaskill agreed that “There is no question, you have to separate children from families when there has been a violation.”
- However, she further stated that “the fact that there is no joint concept of operations and we are upping the number of children we are taking from families is outrageous.”
 - The Ranking Member requested a copy of the unaccompanied alien children (UAC) joint concept of operations (JCO). OLA provided an interim briefing to the Senator’s staff on the JCO on June 5, 2018.

(b)(5)

Key Issues:

(b)(5)

Family Separation*June 20th EO: Affording Congress an Opportunity to Address Family Separation*

- Under U.S. law, the only legal way for an alien to enter the country is at a designated port of entry (POE) at an appropriate time.
 - When an alien enters the country between POEs, that alien has committed at least the crime of improper entry and is subject to a fine or imprisonment under section 1325(a) of title 8, United States Code.
 - This Administration will initiate criminal proceedings to enforce this and other criminal provisions of the INA until and unless Congress directs otherwise.

- It is also the policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.

- DOJ has filed a motion to modify provisions of the *Flores* settlement agreement, which, as interpreted by court decisions, limits ICE's ability to detain families together for more than 20 days.
 - Pursuant to court decisions interpreting the settlement agreement, the government generally does not hold illegal alien families together past 20 days, meaning a child must be separated from his or her parent if the parent remains in custody.
- The EO also orders the prioritization of immigration cases involving families and ordering government departments and agencies to expand family detention capacity.
- The President has taken action to address the immediate issue by detaining families together for as long as he can legally do so under *Flores*, and now expects Congress to work quickly to address permanently the crisis at our border.

Zero Tolerance Initiative Remains in Effect

- DOJ has implemented a zero tolerance prosecution initiative to ensure prosecution for violations of criminal law prohibiting illegal entry into the United States.
 - The goal of this initiative is to prosecute violations of law, not to separate families.
 - The initiative directs referral for criminal prosecution of all amenable individuals to the extent practicable who illegally enter the United States in violation of 8 U.S.C. § 1325(a), including adults who are part of a family unit.
- Adults prosecuted under the initiative are taken into the custody of the U.S. Marshals Service (USMS) for the duration of their criminal proceedings.
 - USMS does not provide care for the children of people they take into custody.
 - Upon completion of the criminal proceedings, adults are placed with ICE/ERO for their immigration proceedings.
 - Children of such adults are classified as UACs and are placed with HHS, as required by the Homeland Security Act of 2002 and the TVPRA.
- At the conclusion of all criminal and immigration proceedings, DHS strives to reunite family units for repatriation to their respective home countries.

Flores Agreement

- If the adult is found to have a credible fear and issued a Notice to Appear for removal proceedings before an Immigration Judge for full consideration of the alien's application for asylum, DHS faces limitations that make it extremely difficult to detain a family unit together for the duration of these proceedings.
- If an adult in the family unit is found to have a credible fear and files an asylum application, that process will take longer than 20 days. The individual may be detained for longer than 20 days, but the children of the family unit may not be detained for longer than 20 days.
- DHS must comply with limitations imposed by the 1997 *Flores* Settlement Agreement and court orders interpreting the Settlement Agreement.

- The U.S. Court of Appeals for the Ninth Circuit determined that the *Flores* Settlement Agreement applies to all minors—both unaccompanied and those who come as part of family units.
 - The *Flores* Settlement Agreement provides that minors not released from custody must be transferred to a licensed facility within 3 to 5 days or as expeditiously as possible in the event of an emergency or influx.
 - The U.S. District Court for the Central District of California determined that family residential centers are not licensed and that holding family units for 20 days while conducting credible or reasonable fear screening may fall within the parameters of “as expeditiously as possible.”
- Due to these decisions, as well as outdated law, DHS routinely finds aliens are coming as family units with the expectation that they will be released because they arrive as family units.
 - This is a deliberate strategy, often arranged by transnational criminal organizations, to exploit the U.S. immigration system.

Attachments:

- A. Talking Points
- B. Media Pull
- C. June 22, 2018 Letter from Ranking Member McCaskill regarding family separation
(*status: with CBP to draft response*)

Staff Responsible for Briefing Memo: (b)(6) Senior Legislative Advisor, OLA, (b)(6)
(b)(6) OLA, (b)(6)

Reviewed and approved by: David Wonnemberg, Acting A/S, OLA, (b)(6)

OGC Reviewer: (b)(6) Deputy Chief of Staff, OGC, (b)(6)

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CALL WITH RANKING MEMBER CLAIRE MCCASKILL (D-MO)
Talking Points

Topline:

- The President took action last week to address the immediate issue by detaining families together for as long as he can legally do so under *Flores*, but now Congress must work quickly to address permanently the crisis at our border.
- I appreciate the letter you sent to me last week. I am committed to getting you and your colleagues all of the information that you need on these issues. DHS is happy to provide a briefing, and we will work with your staff regarding their request to visit our facilities.

UAC Joint Concept of Operations (JCO):

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Family Separation:

- I am interested in what you are hearing regarding immigration legislation in the Senate. I understand that Senator Feinstein, Senator Cruz, and Senator Cornyn are all working on separate proposals regarding family separation.
- I am watching the results of the House votes closely, as well as discussions in the Senate. Only Congress can pass legislation to secure our border, fix family separation issues stemming from the *Flores* settlement agreement and court decisions interpreting it, and close dangerous immigration loopholes.
- I understand your concerns related to the separation of families, and I am pleased that President Trump took action last week by signing an Executive Order (EO) that both protects our Nation's borders during a historic influx of illegal alien families and unaccompanied alien children, while also working under current legal constraints to prevent the separation of illegal alien families.
- The EO directs the Administration to continue to protect the border with our zero-tolerance policy, while also avoiding the separation of illegal alien families, to the extent we can legally do so.
- The Department of Justice filed a motion to modify provisions of the *Flores* settlement agreement, which, as interpreted by court decisions, results in release of children within a family unit within 20 days.

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- However, there is no assurance that the federal courts will modify the settlement agreement, or the courts could change (reduce or increase) the maximum time the government may detain children. As DHS begins to work with our various Components on how to execute the EO, this has a significant impact on how we approach both new family detention cases and those individuals who were already separated.
- Pursuant to the *Flores* Settlement Agreement and court decisions interpreting the Agreement, the government rarely holds illegal alien families together past 20 days, meaning a child must be separated from his or her parent if the parent remains in custody.
- Current loopholes in federal law prevent detention and removal as a family unit throughout immigration proceedings—leading to separations and mass catch-and-release.
- The President is also ordering the prioritization of immigration cases involving families and ordering his Administration to expand our family detention capacity.
- I am committed to working with you and your colleagues to find a permanent solution to these issues, and my team at DHS stands ready to assist.

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TESTIMONY OF

Carla L. Provost
Acting Chief
U.S. Border Patrol
U.S. Customs and Border Protection

BEFORE

U.S. Senate
Committee on the Judiciary

ON

“Oversight of the Administration’s Family Reunification Efforts”

July 31, 2018
Washington, DC

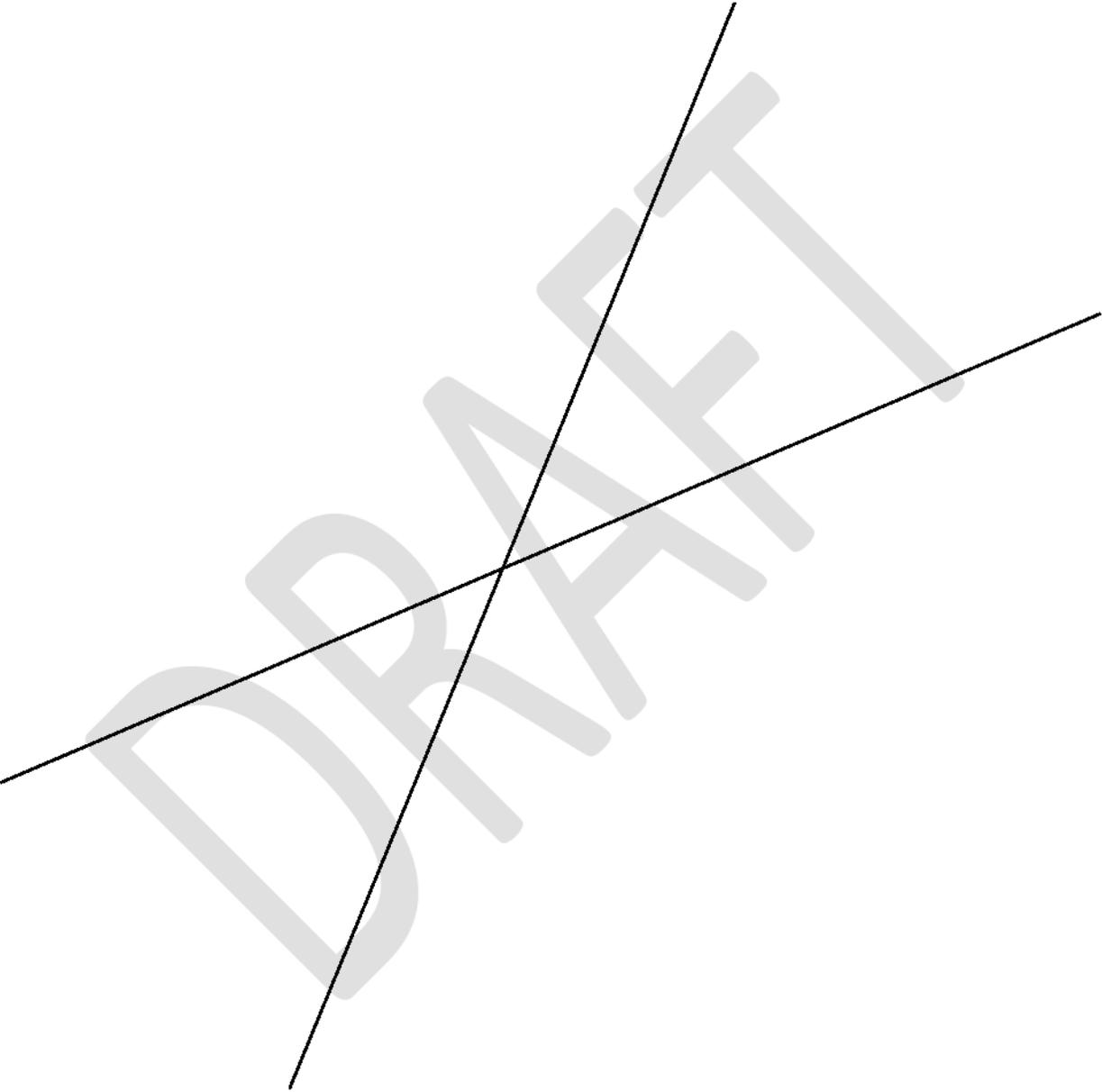
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Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

August 27, 2018

The Honorable Jay Inslee
Governor
State of Washington
P.O. Box 40002
Olympia, Washington 98504

Dear Governor Inslee:

Thank you for your July 6, 2018 letter.

I have reviewed your concerns about the Administration's zero-tolerance efforts and cases of family separation that have resulted from the prosecution of illegal border crossers. The purpose of zero-tolerance is to refer for prosecution all amenable adults who illegally enter the United States in violation of 8 U.S.C. § 1325(a) and to ensure no class is exempt from the law. Our policy has been to enforce this law prohibiting illegal entry by prosecuting those who violate the law, *not* by deliberately separating families. I want to reiterate that the Department of Homeland Security (DHS) has never had a blanket policy of separating families at the border.

On June 20, 2018, President Trump issued Executive Order No. 13841, *Affording Congress and Opportunity to Address Family Separation*, which directs the Executive Branch to continue to protect the border and to prosecute illegal crossers, while simultaneously avoiding the separation of families to the extent consistent with law. As expressed in the Executive Order, it is the policy of this Administration to maintain family unity by detaining alien families together when appropriate and consistent with the law and available resources. Individual adults or legitimate families applying for admission at a port of entry generally have not violated U.S. law prohibiting illegal entry and will not face prosecution on that basis.

In support of this, DHS, the Department of Health and Human Services (HHS), and the Department of Justice established a coordinated reunification process to ensure that eligible parents are reunited with their children in a safe and efficient manner. The Tri-Department Plan for Stage II of Family Reunification is available at www.hhs.gov/sites/default/files/UAC-Tri-Department-Process.pdf. In the interest of transparency, we have resources dedicated to ensuring accurate public awareness, to include a frequently asked questions webpage (www.dhs.gov/news/2018/06/15/frequently-asked-questions-zero-tolerance-immigration-prosecutions) and periodic reunification progress updates, available at www.dhs.gov/news/2018/07/12/trump-administration-completes-reunification-eligible-children-under-age-5. DHS and HHS have also complied with multiple requests from Members of Congress and state and local officials for tours of detention facilities and to witness reunification efforts firsthand.

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The Honorable Jay Inslee
Page 2

Moving forward, I reiterate my plea to Congress to close the legal loopholes that incentivize criminals, smugglers, and other nefarious actors from exploiting our immigration system to enter the United States illegally.

The Department is continuing to examine a variety of issues in light of ongoing litigation and recent court decisions. Thank you again for your letter and your interest in this important issue. The co-signers of your letter will receive separate, identical responses.

Best Regards,

A handwritten signature in black ink, appearing to read "Kirstjen Nielsen", written in a cursive style.

Kirstjen M. Nielsen
Secretary

Secretary

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security**

August 27, 2018

The Honorable Joe Straus
Speaker
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

Dear Mr. Straus:

Thank you for your June 19, 2018 letter to President Trump. The White House asked that I respond on his behalf.

I have reviewed your concerns about the Administration's zero-tolerance efforts and cases of family separation that have resulted from the prosecution of illegal border crossers. The purpose of zero-tolerance is to refer for prosecution all amenable adults who illegally enter the United States in violation of 8 U.S.C. § 1325(a) and to ensure no class is exempt from the law. Our policy has been to enforce this law prohibiting illegal entry by prosecuting those who violate the law, *not* by deliberately separating families. I want to reiterate that the Department of Homeland Security (DHS) has never had a blanket policy of separating families at the border.

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The Honorable Joe Straus
Page 2

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The Department is continuing to examine a variety of issues in light of ongoing litigation and recent court decisions. Thank you again for your letter and your interest in this important issue.

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Kirstjen M. Nielsen
Secretary



TESTIMONY OF

Carla L. Provost
Acting Chief
U.S. Border Patrol
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BEFORE

U.S. Senate
Committee on the Judiciary

ON

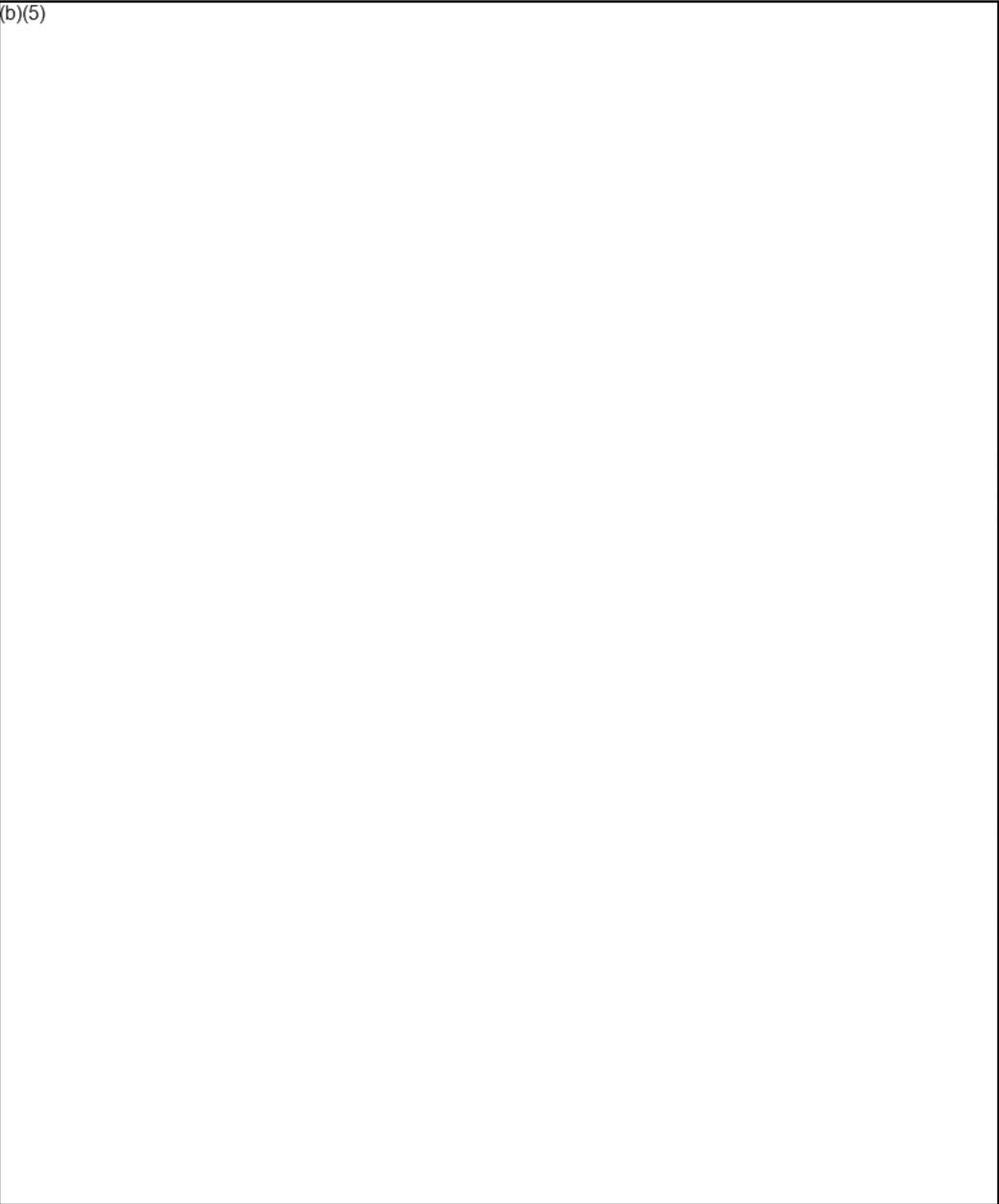
“Oversight of the Administration’s Family Reunification Efforts”

July 31, 2018
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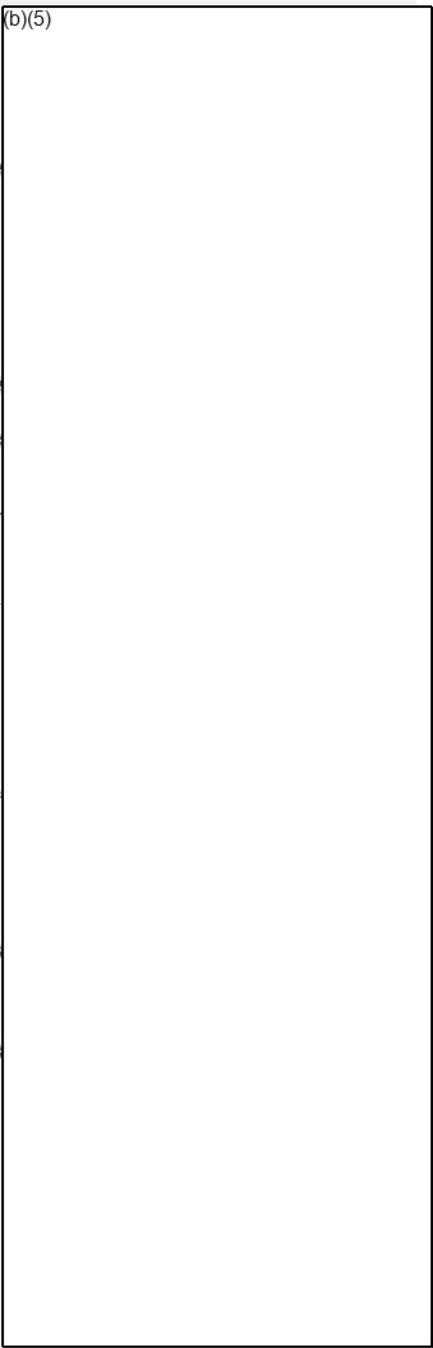
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Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

August 27, 2018

The Honorable Phil Murphy
Governor
State of New Jersey
P.O. Box 001
Trenton, New Jersey 08625

Dear Governor Murphy:

Thank you for your July 6, 2018 letter.

I have reviewed your concerns about the Administration's zero-tolerance efforts and cases of family separation that have resulted from the prosecution of illegal border crossers. The purpose of zero-tolerance is to refer for prosecution all amenable adults who illegally enter the United States in violation of 8 U.S.C. § 1325(a) and to ensure no class is exempt from the law. Our policy has been to enforce this law prohibiting illegal entry by prosecuting those who violate the law, *not* by deliberately separating families. I want to reiterate that the Department of Homeland Security (DHS) has never had a blanket policy of separating families at the border.

On June 20, 2018, President Trump issued Executive Order No. 13841, *Affording Congress and Opportunity to Address Family Separation*, which directs the Executive Branch to continue to protect the border and to prosecute illegal crossers, while simultaneously avoiding the separation of families to the extent consistent with law. As expressed in the Executive Order, it is the policy of this Administration to maintain family unity by detaining alien families together when appropriate and consistent with the law and available resources. Individual adults or legitimate families applying for admission at a port of entry generally have not violated U.S. law prohibiting illegal entry and will not face prosecution on that basis.

In support of this, DHS, the Department of Health and Human Services (HHS), and the Department of Justice established a coordinated reunification process to ensure that eligible parents are reunited with their children in a safe and efficient manner. The Tri-Department Plan for Stage II of Family Reunification is available at www.hhs.gov/sites/default/files/UAC-Tri-Department-Process.pdf. In the interest of transparency, we have resources dedicated to ensuring accurate public awareness, to include a frequently asked questions webpage (www.dhs.gov/news/2018/06/15/frequently-asked-questions-zero-tolerance-immigration-prosecutions) and periodic reunification progress updates, available at www.dhs.gov/news/2018/07/12/trump-administration-completes-reunification-eligible-children-under-age-5. DHS and HHS have also complied with multiple requests from Members of Congress and state and local officials for tours of detention facilities and to witness reunification efforts firsthand.

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The Honorable Phil Murphy
Page 2

Moving forward, I reiterate my plea to Congress to close the legal loopholes that incentivize criminals, smugglers, and other nefarious actors from exploiting our immigration system to enter the United States illegally.

The Department is continuing to examine a variety of issues in light of ongoing litigation and recent court decisions. Thank you again for your letter and your interest in this important issue. The co-signers of your letter will receive separate, identical responses.

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Kirstjen M. Nielsen
Secretary

Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

August 27, 2018

The Honorable Tom Wolf
Governor
Commonwealth of Pennsylvania
508 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Wolf:

Thank you for your July 6, 2018 letter.

I have reviewed your concerns about the Administration's zero-tolerance efforts and cases of family separation that have resulted from the prosecution of illegal border crossers. The purpose of zero-tolerance is to refer for prosecution all amenable adults who illegally enter the United States in violation of 8 U.S.C. § 1325(a) and to ensure no class is exempt from the law. Our policy has been to enforce this law prohibiting illegal entry by prosecuting those who violate the law, *not* by deliberately separating families. I want to reiterate that the Department of Homeland Security (DHS) has never had a blanket policy of separating families at the border.

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The Honorable Tom Wolf
Page 2

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Kirstjen M. Nielsen
Secretary

Secretary

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security**

August 27, 2018

The Honorable Andrew Cuomo
Governor
State of New York
NYS State Capitol Building
Albany, New York 12224

Dear Governor Cuomo:

Thank you for your July 6, 2018 letter.

I have reviewed your concerns about the Administration's zero-tolerance efforts and cases of family separation that have resulted from the prosecution of illegal border crossers. The purpose of zero-tolerance is to refer for prosecution all amenable adults who illegally enter the United States in violation of 8 U.S.C. § 1325(a) and to ensure no class is exempt from the law. Our policy has been to enforce this law prohibiting illegal entry by prosecuting those who violate the law, *not* by deliberately separating families. I want to reiterate that the Department of Homeland Security (DHS) has never had a blanket policy of separating families at the border.

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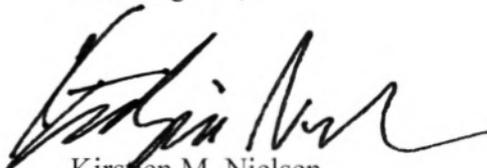
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The Honorable Andrew Cuomo
Page 2

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Kirstjen M. Nielsen
Secretary

Page 043

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of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Page 048

Withheld pursuant to exemption

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of the Freedom of Information and Privacy Act

Question#:	1
Topic:	TVPRA Compliance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: We've heard much talk about children exploiting "loopholes" to enter and remain in the U.S. These so-called "loopholes" are actually the law of the land. The Trafficking Victims Protection Reauthorization Act of 2008 - which passed the Senate by unanimous consent - established procedures for vulnerable unaccompanied children arriving at our border. Far from exploiting these so-called "loopholes," unaccompanied children have instead been routinely denied the protections established pursuant to the TVPRA. A 2015 GAO study concluded that CBP agents failed to consistently screen unaccompanied children for trafficking indicators and fear of return, and neglected to document the rationales for decisions to repatriate children - all in contravention of the TVPRA.

Three years after this GAO study issued recommendations to improve compliance with the TVPRA, the CBP has still not implemented them. Why?

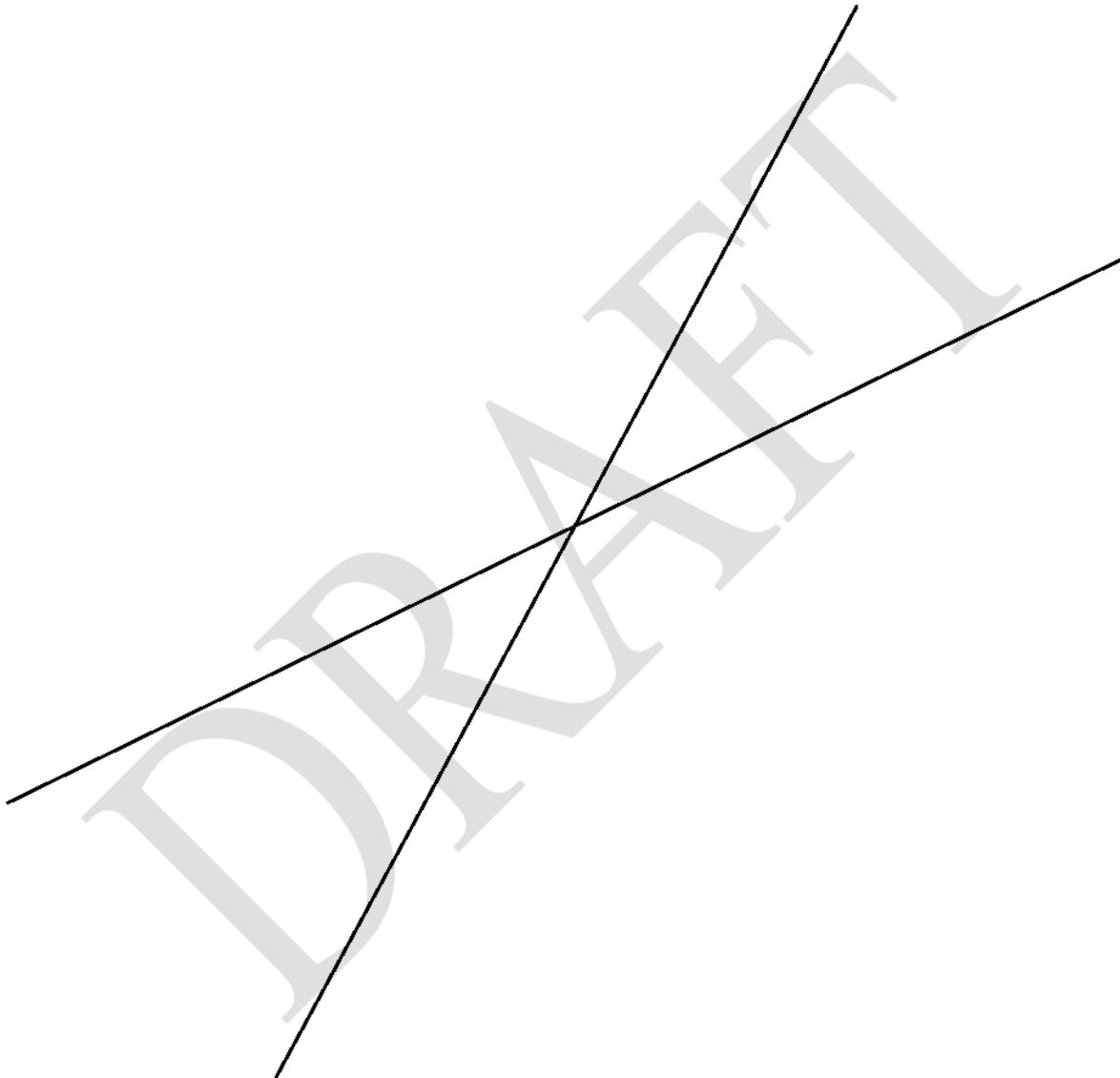
Response: (b)(5)

(b)(5)

Question: Given the White House's intense interest in these so-called "loopholes," have you received any instructions from DHS leadership to postpone or in any way delay the implementation of these measures to improve your agency's compliance with the law?

Question#:	1
Topic:	TVPRA Compliance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Response:	(b)(5)
	(b)(5)



Question#:	2
Topic:	Family Separation
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: DHS recently announced that it will implement a "zero tolerance" policy and refer 100 percent of adults illegally crossing the border for criminal prosecution - even if they arrive with children. This will establish a de facto family separation policy, forcibly breaking up families and sending children into the custody of the Department of Health and Human Services. DHS has thus far refused to make public its memo outlining this new "zero tolerance" policy.

Please provide any documents within your agency's possession memorializing the new "zero tolerance" policy to this Committee.

Please provide this Committee with any projections by your agency about the number of children expected to be separated from their families as a result of this new "zero tolerance" policy during the remainder of this fiscal year.

Response: (b)(5)

(b)(5)

Question#:	3
Topic:	Separated Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: At Wednesday's hearing, you said that between May 6 and May 19 of this year, 658 children were referred for prosecution after the Administration implemented a new policy to refer all those who cross the border illegally to the Justice Department for prosecution. You also said that you did not have statistics on how many children had been separated from their parents this fiscal year at that time.

How many immigrant children have been separated from their parents this fiscal year, and what is the average age of those children?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	4
Topic:	Screening for Trafficking I
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: In the past few years, we have heard troubling reports about minors from other countries seeking to come to the United States who have fallen victim to human trafficking, and a 2015 Government Accountability Office (GAO) report noted inconsistencies in the screening of unaccompanied alien children by U.S. Customs and Border Protection (CBP) for indicators of human trafficking.

What has CBP done to improve its response in this area, so that officers can respond appropriately in cases involving potential trafficking victims?

Response: (b)(5)

(b)(5)

Question#:	6
Topic:	Least Restrictive Setting
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Due to prolonged stays in Office of Refugee Resettlement (ORR) custody, many children now turn 18 while waiting to be reunified with a family member or a sponsor. The Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA) states that, when unaccompanied immigrant children in ORR custody turn 18, ICE "shall consider placement in the least restrictive setting available after taking into account the individual's danger to self, danger to the community, and risk of flight." Instead of automatically placing teenagers in adult detention facilities, Congress mandated that ORR and ICE consider alternatives, such as placement with sponsors or supervised group homes. Media reports and court documents indicate that the Administration is not complying with the TVPRA's "least restrictive setting" requirement.

How many teenagers are currently held in adult detention facilities?

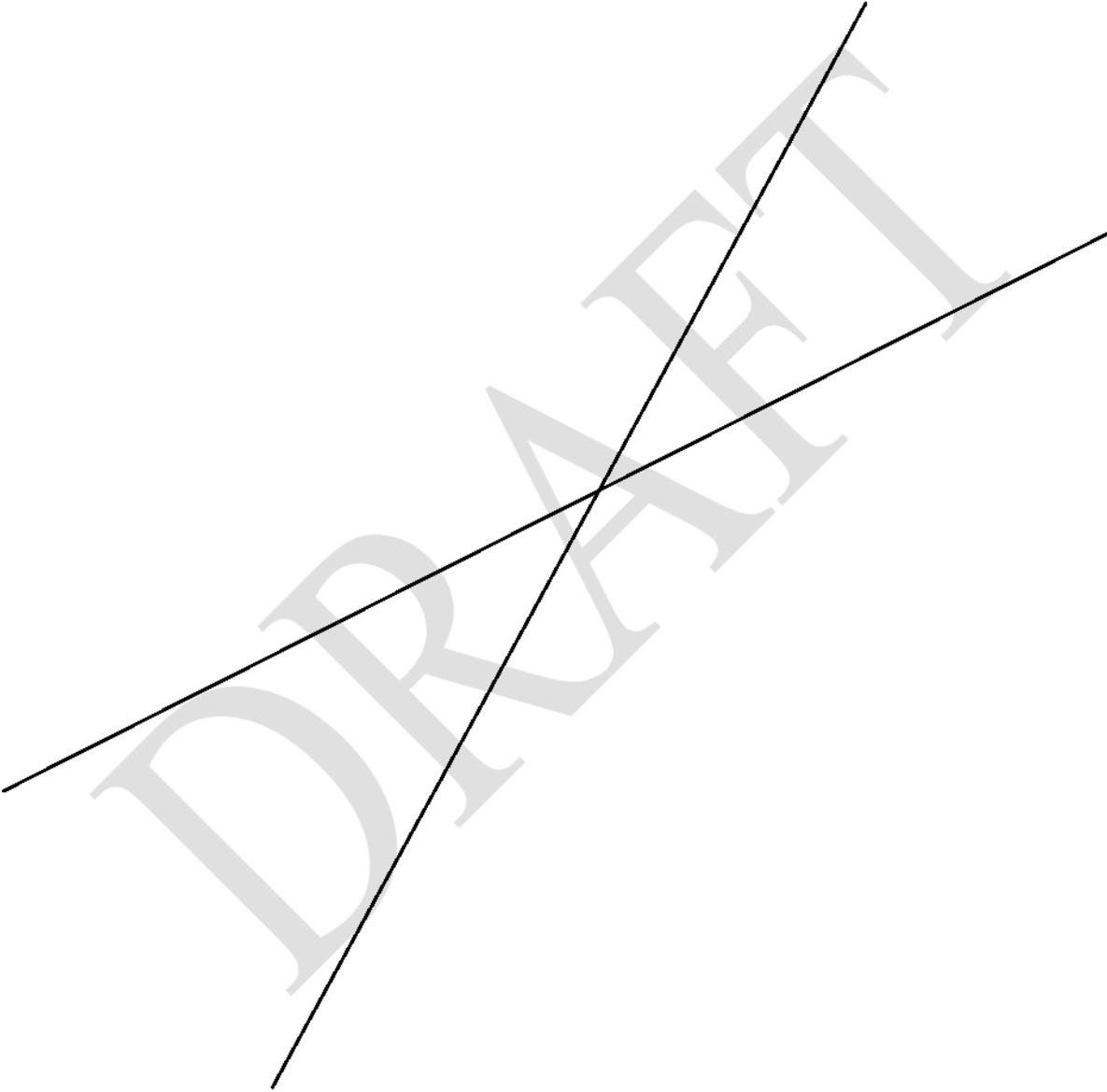
What steps are DHS and HHS taking to comply with the TVPRA and place minors who have turned 18 in the "least restrictive setting available?"

Response: (b)(5)

(b)(5)

Question#:	6
Topic:	Least Restrictive Setting
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

(b)(5)



Question#:	7
Topic:	Family Reunification I
Hearing:	TVPPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Appropriators have already expressed concern over family separation at the border and the procedures in place to reunite separated family members. Despite this, we continue to hear reports and stories in which separated family members are unable to locate one another, contact one another, or reunite with one another. There are even many cases in which very young children are unable to be reunified with their parents for removal. This is of particular concern given that the vast majority of individuals in immigration detention are unrepresented by legal counsel.

What policies and procedures are in place to ensure that U.S. Marshals and DHS coordinate with ORR and cooperate to locate separated family members, facilitate communication between them, and reunite them whether in the US or at the time of removal?

Response: (b)(5)

(b)(5)

Question: Furthermore, what policies and procedures are in place to document instances in which families are separated in CBP custody and the reason for the separation? Is this information always included in processing forms/uploaded to internal databases and is it always passed on to ICE and ORR?

Question#:	7
Topic:	Family Reunification I
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Response: (b)(5)

(b)(5)

Question: How does the government ensure communication between family members to ensure documents and other evidence needed for their legal case is available?

Response: (b)(5)

(b)(5)

Question#:	8
Topic:	Form 93 Update
Hearing:	TVPRRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Appearing before the HSGAC Permanent Subcommittee on Investigations on April 26, DHS Acting Under Secretary for Office of Strategy, Policy, and Plans James McCament testified that:

CBP uses Form 93, a trafficking screening form for UACs, to screen children apprehended with their parents for trafficking concerns; and

CBP's timeframe for making determinations on whether to separate children from parents is 72 hours, in accordance with the TVPRRA. However, in 2015 the GAO found that CBP failed to adequately and effectively screen unaccompanied children for trafficking indicators, fear of return, and ability to make independent decisions. Moreover, CBP failed to adequately track whether agents were completing the existing training on the screening and processing of UACs. The GAO recommended that CBP revise its training materials and Form 93 screening guidance to ensure the adequate screening of UACs for trafficking, capacity, and asylum concerns. Nearly three years later, CBP has still not updated these materials, much less implemented them, with the current projected finalization being the end of June 2018.

Given its failed track record on screening and processing children, how can we expect CBP rely on Form 93 to effectively screen children who came with their parents or other family members for trafficking concerns?

Response: (b)(5)

(b)(5)

Response: (b)(5)

(b)(5)

Question#:	8
Topic:	Form 93 Update
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: How has training of agents and officers been modified to improve screening?

Response: (b)(5)

(b)(5)

Question#:	9
Topic:	Unaccompanied Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Deputy Under Secretary McCament appears to have referred to TVPRA Sec. 235(b)(3), which requires DHS to transfer custody of an unaccompanied child to ORR within 72 hours after the child is determined to be unaccompanied.

At what point does DHS consider that a child they separate from her parent becomes unaccompanied?

Response: (b)(5)

(b)(5)

Question: Does DHS consider the child to be unaccompanied as soon as an agency official identifies any questions as to the family relationship or trafficking indicia?

Response: (b)(5)

(b)(5)

Question: Does DHS consider the child to be unaccompanied until such questions are resolved?

Response: (b)(5)

(b)(5)

Question: When does the 72-hour statutory period begin running?

Response: (b)(5)

(b)(5)

Question#:	10
Topic:	Screening for Trafficking II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In 2015 the GAO found that CBP failed to adequately and effectively screen unaccompanied children for trafficking indicators, fear of return, and ability to make independent decisions. Moreover, CBP failed to adequately track whether agents were completing the existing training on the screening and processing of UACs. The GAO recommended that CBP revise its training materials and Form 93 screening guidance to ensure the adequate screening of UACs for trafficking, capacity, and asylum concerns. Nearly three years later, CBP has still not updated these materials, much less implemented them, with the current projected finalization being the end of June 2018.

How does DHS account for this failure to fulfill the most basic requirements of the anti-trafficking and child protection mechanisms in our law?

Response: (b)(5)

(b)(5)

Question: How does the Department expect it could adequately perform such minimal screenings for all children when it can't fulfill these minimal protections for children from contiguous countries?

Response: (b)(5)

(b)(5)

Question#:	11
Topic:	Appearing for Court
Hearing:	TVPPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In recent months DHS has proffered wildly variable statistics on unaccompanied children who do not appear in immigration court. On January 16, Secretary Nielsen claimed that 90% of unaccompanied children do not show up for court. Only a month later on February 15, DHS claimed in a press release that 66% of unaccompanied children fail to appear for court. In either case, it appears that DHS isolates a subset of the overall data--those cases that resulted in a removal order--a misleading characterization, given the reality that with significant court backlogs many unaccompanied children's cases remain pending.

Moreover, this mischaracterization elides the critical importance of legal counsel for children, as data shows that more 95% of unaccompanied children with legal representation show up for court and, more importantly, that children are five times more likely to gain protection when they're represented. This is evidence recognized by the GAO, which recently acknowledged in a Senate hearing that studies show representation helps immigrants move through the process more efficiently. The GAO's acknowledgement is just the latest in a long line of government studies and analyses confirming the critical efficiencies that access to legal counsel and information provides.

Please describe your methodology for arriving at the 90% figure. How do you account for the vast statistical disparity between the Secretary's testimony and your agency's press release?

Response: (b)(5)

(b)(5)

Question#:	12
Topic:	Family Reunification II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: There is a Catch-22 element to the "zero tolerance" policy. The Administration intends to prosecute people for "illegal entry", which is often the way refugees present themselves when seeking asylum. Many cannot make it to a Port of Entry and have to cross the border at the nearest point in order to surrender to the Border Patrol. If they are then charged with a crime, it makes it impossible for them to get asylum and they are separated from their families. Parents seeking asylum do not set out on a dangerous journey of hundreds of miles with their children with no certainty of refuge if there is not a serious threat at home. I find this policy inhumane, and I'd like to know more about the specifics of what has been going on even without its having taken effect for long.

How many families since Apr. 11, 2017, when the AG announced his recommitment to border prosecutions, have been separated due to the mother, father, or other family member being prosecuted?

Response: (b)(5)

(b)(5)

Question: How many have since been reunited?

Response: (b)(5)

(b)(5)

Question: How are the agencies working together to ensure separated family members maintain communication, especially to ensure separated children have the information and documents they need to prove their claim for immigration relief?

Question#:	12
Topic:	Family Reunification II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Response: (b)(5)

(b)(5)

Question#:	13
Topic:	Parental Relationship
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: DHS officials have asserted that these families have been separated to protect the interests of minor children because CBP is unable to ascertain the parental relationship or otherwise believe that the child is in imminent danger.

Please describe how DHS investigates the veracity of a parent-child relationship.

Response: (b)(5)

(b)(5)

Question: What time benchmarks or other accountability measures do you use to make sure that children do not languish in ORR custody while DHS fails to take steps to confirm the parent-child relationship, as happened in the case of the Congolese mother and her 7-year-old daughter for months?

Response: (b)(5)

Question#:	14
Topic:	Change of Interpretation
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Is the Administration considering taking steps to allow the interpretation of "unaccompanied alien child" as defined by the Homeland Security Act of 2002?

Wouldn't a change undermine Congress' intent as expressed in the TVPRA and the Homeland Security Act?

Response:	(b)(5)
	(b)(5)

Question#:	15
Topic:	Zero Tolerance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Trump Administration has been very aggressive in using the separation of families as a scare tactic, designed to deter immigration from Central America, where children are being targeted by gangs and sex traffickers. With the new "zero tolerance" policy, this can only get worse. Already this fiscal year, according to the New York Times, more than 700 children have been separated from their parents, including more than 100 under the age of four.

If parents in the families that are separated at the border are criminally prosecuted and convicted, won't the children be held in ORR custody indefinitely?

Response: (b)(5)

(b)(5)

Question#:	15
Topic:	Zero Tolerance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

the government to reunify all parents separated from their children at the border within 30 days. DHS and HHS successfully reunified all eligible parents and their children aged four and under in accordance with this court decision. Other reunifications are in progress.

Question: What instruction has been given to the CBP and ICE agents and officers on how to process families apprehended and/or separated at the border?

Response: (b)(5)

(b)(5)

Question: What sort of training is provided to agents and officers on how to conduct separations?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Interview Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: CBP has acknowledged that one main indicator CBP uses when deciding to separate a family is based on interviews with children.

Is a child welfare professional present when the CBP officer is conducting such questioning?

Response: (b)(5)

(b)(5)

Question: Is there a training guide or protocol that CBP officers use to interview children coming across the border to determine whether the parent/child relationship is bona-fide?

Response: (b)(5)

(b)(5)

Question: Are children of all ages questioned about family ties to the individual they enter the US with?

Response: (b)(5)

(b)(5)

Question#:	17
Topic:	Child Trafficking Victims
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: CBP has been criticized by the United Nations High Commission on Refugees and the GAO over its inability to identify child trafficking victims. Has the agency revamped its screening tools or trainings to improve detection?

Response:

(b)(5)

(b)(5)

Question#:	18
Topic:	Databases Used
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Against what databases or sources of data do you pull intelligence to determine who amongst the UAC population have criminal charges or are gang-affiliated?

Response: (b)(5)

(b)(5)

Question: How do you determine affiliation? What sources of information do you pull from?

Response: (b)(5)

(b)(5)

Question#:	19
Topic:	Immigration System
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Is it fair to assume that smugglers and traffickers know how our system work? By that I mean, is it common knowledge to them that if they bring minors to our border, that Border Patrol will apprehend them, ICE will transport them and turn them over to HHS, and then HHS will reunify them with parents who are here illegally or with sponsors who have not been properly vetted?

Response: (b)(5)

(b)(5)

Question#:	20
Topic:	UAC Parents
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: If a parent, who is here in the US illegally, pays smugglers or traffickers, to bring their kids to the US to join them, is that child considered “unaccompanied”? What happens to the parents?

Response:

(b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What are your agency's biggest operational challenges when trying to prevent human trafficking across our borders?

Response: (b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: How can Congress help?

Response: (b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question#:	22
Topic:	Workload Increase
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: What more can you tell us about your respective increases in workload?

Response: (b)(5)

(b)(5)

Question: How can Congress help?

Response: (b)(5)

(b)(5)

Question#:	22
Topic:	Workload Increase
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question#:	23
Topic:	Criminal Influence
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: In 2015, the Senate Homeland Security & Governmental Affairs Committee found that 40 percent of unaccompanied minors failed to show for immigration hearings over an 18-month period. I am concerned about what happens in the time between when they are released and the day of their hearing, for which many seem not to show up. My concern is during that window, they are typically in communities already populated with MS-13 or other gangs such as the 18th Street Gang.

Is it fair to say that improving follow-up procedures are not enough when more needs to be done in the individual communities to prevent a gang-stronghold?

What should we be doing to limit the influence criminals have in these communities?

(b)(5)

(b)(5)

Question#:	1
Topic:	TVPRA Compliance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: We've heard much talk about children exploiting "loopholes" to enter and remain in the U.S. These so-called "loopholes" are actually the law of the land. The Trafficking Victims Protection Reauthorization Act of 2008 - which passed the Senate by unanimous consent - established procedures for vulnerable unaccompanied children arriving at our border. Far from exploiting these so-called "loopholes," unaccompanied children have instead been routinely denied the protections established pursuant to the TVPRA. A 2015 GAO study concluded that CBP agents failed to consistently screen unaccompanied children for trafficking indicators and fear of return, and neglected to document the rationales for decisions to repatriate children - all in contravention of the TVPRA.

Three years after this GAO study issued recommendations to improve compliance with the TVPRA, the CBP has still not implemented them. Why?

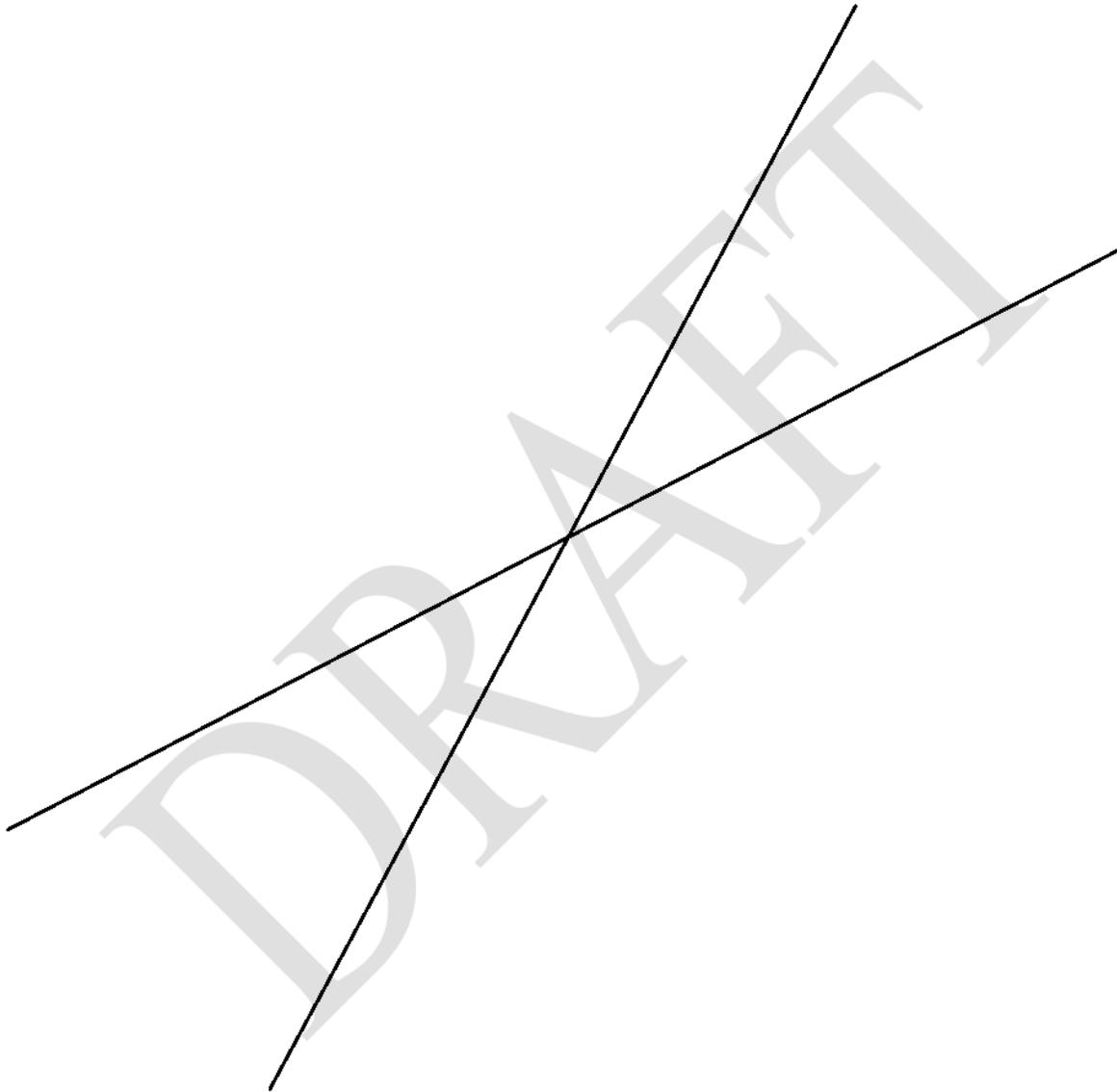
Response: (b)(5)

(b)(5)

Question: Given the White House's intense interest in these so-called "loopholes," have you received any instructions from DHS leadership to postpone or in any way delay the implementation of these measures to improve your agency's compliance with the law?

Question#:	1
Topic:	TVPRA Compliance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Response:	(b)(5)
	(b)(5)



Question#:	2
Topic:	Family Separation
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Patrick J. Leahy
Committee:	JUDICIARY (SENATE)

Question: DHS recently announced that it will implement a "zero tolerance" policy and refer 100 percent of adults illegally crossing the border for criminal prosecution - even if they arrive with children. This will establish a de facto family separation policy, forcibly breaking up families and sending children into the custody of the Department of Health and Human Services. DHS has thus far refused to make public its memo outlining this new "zero tolerance" policy.

Please provide any documents within your agency's possession memorializing the new "zero tolerance" policy to this Committee.

Please provide this Committee with any projections by your agency about the number of children expected to be separated from their families as a result of this new "zero tolerance" policy during the remainder of this fiscal year.

Response (b)(5)

(b)(5)

(b)(5)

Question#:	3
Topic:	Separated Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: At Wednesday's hearing, you said that between May 6 and May 19 of this year, 658 children were referred for prosecution after the Administration implemented a new policy to refer all those who cross the border illegally to the Justice Department for prosecution. You also said that you did not have statistics on how many children had been separated from their parents this fiscal year at that time.

How many immigrant children have been separated from their parents this fiscal year, and what is the average age of those children?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	6
Topic:	Least Restrictive Setting
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Due to prolonged stays in Office of Refugee Resettlement (ORR) custody, many children now turn 18 while waiting to be reunified with a family member or a sponsor. The Trafficking Victims Protection Reauthorization Act of 2013 (TVPR) states that, when unaccompanied immigrant children in ORR custody turn 18, ICE "shall consider placement in the least restrictive setting available after taking into account the individual's danger to self, danger to the community, and risk of flight." Instead of automatically placing teenagers in adult detention facilities, Congress mandated that ORR and ICE consider alternatives, such as placement with sponsors or supervised group homes. Media reports and court documents indicate that the Administration is not complying with the TVPR's "least restrictive setting" requirement.

How many teenagers are currently held in adult detention facilities?

[What steps are DHS and HHS taking to comply with the TVPR and place minors who have turned 18 in the "least restrictive setting available?"]

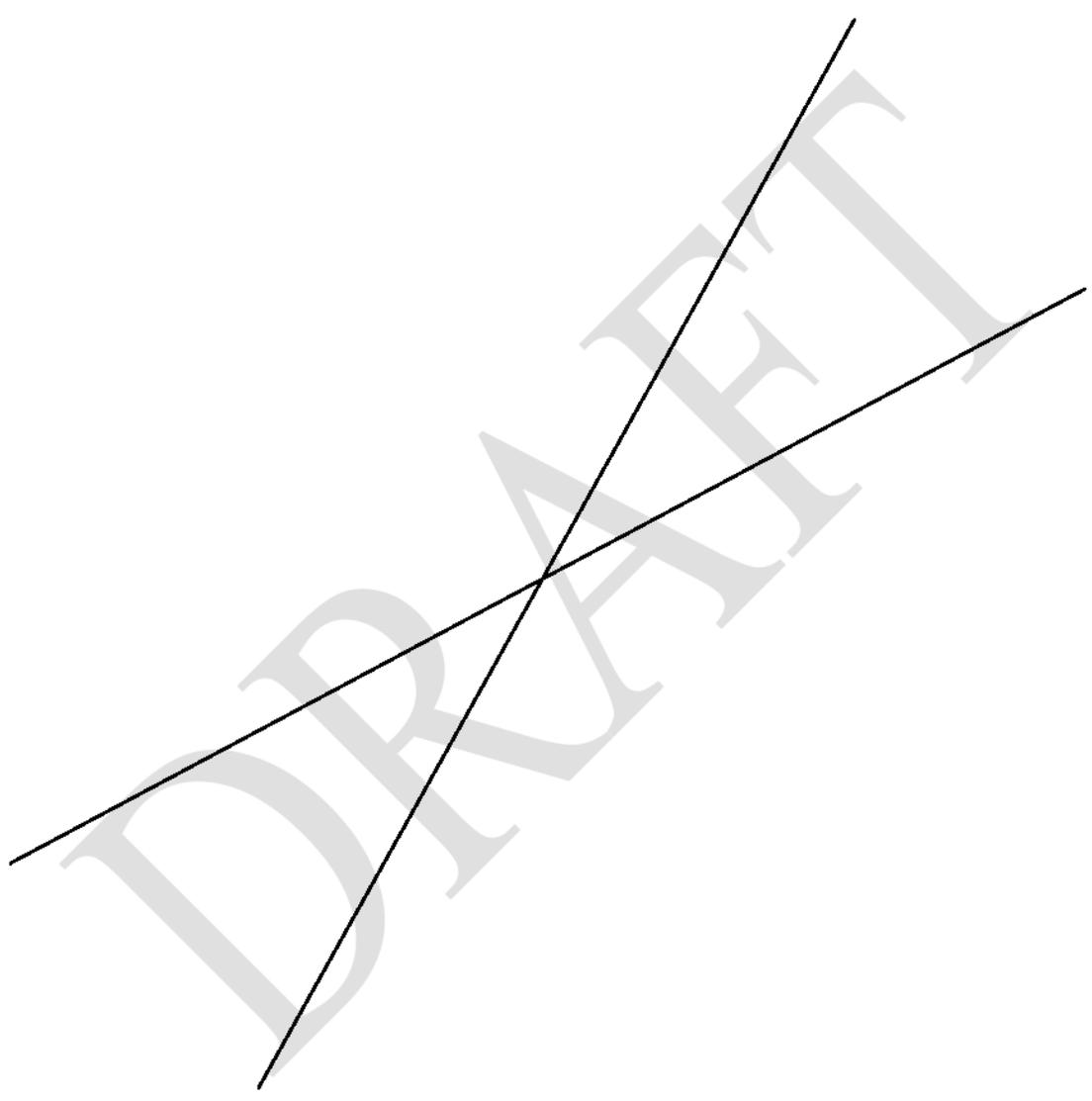
(b)(5)

Response (b)(5)

(b)(5)

Question#:	6
Topic:	Least Restrictive Setting
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

(b)(5)



Question#:	7
Topic:	Family Reunification I
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Appropriators have already expressed concern over family separation at the border and the procedures in place to reunite separated family members. Despite this, we continue to hear reports and stories in which separated family members are unable to locate one another, contact one another, or reunite with one another. There are even many cases in which very young children are unable to be reunified with their parents for removal. This is of particular concern given that the vast majority of individuals in immigration detention are unrepresented by legal counsel.

What policies and procedures are in place to ensure that U.S. Marshals and DHS coordinate with ORR and cooperate to locate separated family members, facilitate communication between them, and reunite them whether in the US or at the time of removal?

Response

(b)(5)

(b)(5)

(b)(5)

Question#:	7
Topic:	Family Reunification I
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

(b)(5)

Question: Furthermore, what policies and procedures are in place to document instances in which families are separated in CBP custody and the reason for the separation? Is this information always included in processing forms/uploaded to internal databases and is it always passed on to ICE and ORR?

Response: (b)(5)

(b)(5)

Question#:	7
Topic:	Family Reunification I
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: How does the government ensure communication between family members to ensure documents and other evidence needed for their legal case is available?

Response: (b)(5)

(b)(5)

(b)(5)

DRAFT

Question#:	8
Topic:	Form 93 Update
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Appearing before the HSGAC Permanent Subcommittee on Investigations on April 26, DHS Acting Under Secretary for Office of Strategy, Policy, and Plans James McCament testified that:

CBP uses Form 93, a trafficking screening form for UACs, to screen children apprehended with their parents for trafficking concerns; and

CBP's timeframe for making determinations on whether to separate children from parents is 72 hours, in accordance with the TVPRA. However, in 2015 the GAO found that CBP failed to adequately and effectively screen unaccompanied children for trafficking indicators, fear of return, and ability to make independent decisions. Moreover, CBP failed to adequately track whether agents were completing the existing training on the screening and processing of UACs. The GAO recommended that CBP revise its training materials and Form 93 screening guidance to ensure the adequate screening of UACs for trafficking, capacity, and asylum concerns. Nearly three years later, CBP has still not updated these materials, much less implemented them, with the current projected finalization being the end of June 2018.

Given its failed track record on screening and processing children, how can we expect CBP rely on Form 93 to effectively screen children who came with their parents or other family members for trafficking concerns?

Response: (b)(5)

(b)(5)

Question: Does CBP track the use of Form 93 in every case of family separation? (In other words, if CBP claims it is separating families to combat trafficking or smuggling, it's not clear that its existing policies and procedures--and failure to follow them-- are the answer.)

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	8
Topic:	Form 93 Update
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: How has training of agents and officers been modified to improve screening?

Response: (b)(5)

(b)(5)

(b)(5)

DRAFT

Question#:	9
Topic:	Unaccompanied Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Deputy Under Secretary McCament appears to have referred to TVPRA Sec. 235(b)(3), which requires DHS to transfer custody of an unaccompanied child to ORR within 72 hours after the child is determined to be unaccompanied.

At what point does DHS consider that a child they separate from her parent becomes unaccompanied?

Response: (b)(5)

(b)(5)

Question: Does DHS consider the child to be unaccompanied as soon as an agency official identifies any questions as to the family relationship or trafficking indicia?

Response: (b)(5)

(b)(5)

Question: Does DHS consider the child to be unaccompanied until such questions are resolved?

Response: (b)(5)

(b)(5)

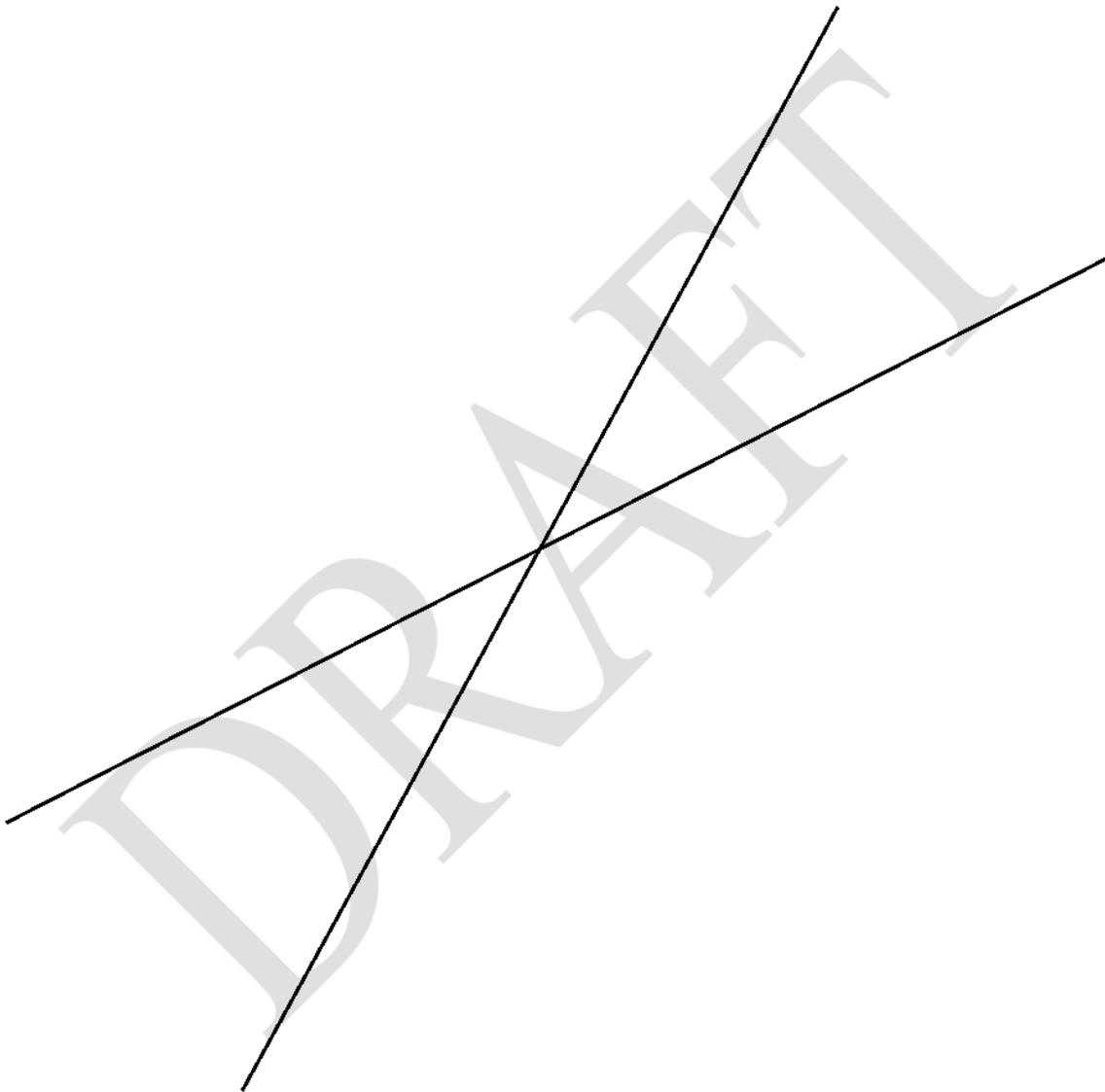
Question: When does the 72-hour statutory period begin running?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	9
Topic:	Unaccompanied Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)



Question#:	10
Topic:	Screening for Trafficking II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: In 2015 the GAO found that CBP failed to adequately and effectively screen unaccompanied children for trafficking indicators, fear of return, and ability to make independent decisions. Moreover, CBP failed to adequately track whether agents were completing the existing training on the screening and processing of UACs. The GAO recommended that CBP revise its training materials and Form 93 screening guidance to ensure the adequate screening of UACs for trafficking, capacity, and asylum concerns. Nearly three years later, CBP has still not updated these materials, much less implemented them, with the current projected finalization being the end of June 2018.

How does DHS account for this failure to fulfill the most basic requirements of the anti-trafficking and child protection mechanisms in our law?

Response: (b)(5)
(b)(5)

Response: (b)(5)
(b)(5)

Question#:	11
Topic:	Appearing for Court
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: In recent months DHS has proffered wildly variable statistics on unaccompanied children who do not appear in immigration court. On January 16, Secretary Nielsen claimed that 90% of unaccompanied children do not show up for court. Only a month later on February 15, DHS claimed in a press release that 66% of unaccompanied children fail to appear for court. In either case, it appears that DHS isolates a subset of the overall data--those cases that resulted in a removal order--a misleading characterization, given the reality that with significant court backlogs many unaccompanied children's cases remain pending.

Moreover, this mischaracterization elides the critical importance of legal counsel for children, as data shows that more 95% of unaccompanied children with legal representation show up for court and, more importantly, that children are five times more likely to gain protection when they're represented. This is evidence recognized by the GAO, which recently acknowledged in a Senate hearing that studies show representation helps immigrants move through the process more efficiently. The GAO's acknowledgement is just the latest in a long line of government studies and analyses confirming the critical efficiencies that access to legal counsel and information provides.

Please describe your methodology for arriving at the 90% figure. How do you account for the vast statistical disparity between the Secretary's testimony and your agency's press release?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	12
Topic:	Family Reunification II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: There is a Catch-22 element to the "zero tolerance" policy. The Administration intends to prosecute people for "illegal entry", which is often the way refugees present themselves when seeking asylum. Many cannot make it to a Port of Entry and have to cross the border at the nearest point in order to surrender to the Border Patrol. If they are then charged with a crime, it makes it impossible for them to get asylum and they are separated from their families. Parents seeking asylum do not set out on a dangerous journey of hundreds of miles with their children with no certainty of refuge if there is not a serious threat at home. I find this policy inhumane, and I'd like to know more about the specifics of what has been going on even without its having taken effect for long.

How many families since Apr. 11, 2017, when the AG announced his recommitment to border prosecutions, have been separated due to the mother, father, or other family member being prosecuted?

Response: (b)(5)

(b)(5)

Question: How many have since been reunited?

Response: (b)(5)

(b)(5)

Question: How are the agencies working together to ensure separated family members maintain communication, especially to ensure separated children have the information and documents they need to prove their claim for immigration relief?

(b)(5)

Question#:	12
Topic:	Family Reunification II
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Response: (b)(5)

(b)(5)

(b)(5)

DI

Question#:	13
Topic:	Parental Relationship
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: DHS officials have asserted that these families have been separated to protect the interests of minor children because CBP is unable to ascertain the parental relationship or otherwise believe that the child is in imminent danger.

Please describe how DHS investigates the veracity of a parent-child relationship.

Response: (b)(5)

(b)(5)

Question: What time benchmarks or other accountability measures do you use to make sure that children do not languish in ORR custody while DHS fails to take steps to confirm the parent-child relationship, as happened in the case of the Congolese mother and her 7-year-old daughter for months?

Response: (b)(5)

(b)(5)

Question#:	14
Topic:	Change of Interpretation
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: Is the Administration considering taking steps to allow the interpretation of "unaccompanied alien child" as defined by the Homeland Security Act of 2002?

Wouldn't a change undermine Congress' intent as expressed in the TVPRA and the Homeland Security Act?

Response (b)(5)

(b)(5)

(b)(5)

DRAFT

Question#:	15
Topic:	Zero Tolerance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: The Trump Administration has been very aggressive in using the separation of families as a scare tactic, designed to deter immigration from Central America, where children are being targeted by gangs and sex traffickers. With the new "zero tolerance" policy, this can only get worse. Already this fiscal year, according to the New York Times, more than 700 children have been separated from their parents, including more than 100 under the age of four.

If parents in the families that are separated at the border are criminally prosecuted and convicted, won't the children be held in ORR custody indefinitely?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	15
Topic:	Zero Tolerance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: What instruction has been given to the CBP and ICE agents and officers on how to process families apprehended and/or separated at the border?

Response: (b)(5)

(b)(5)

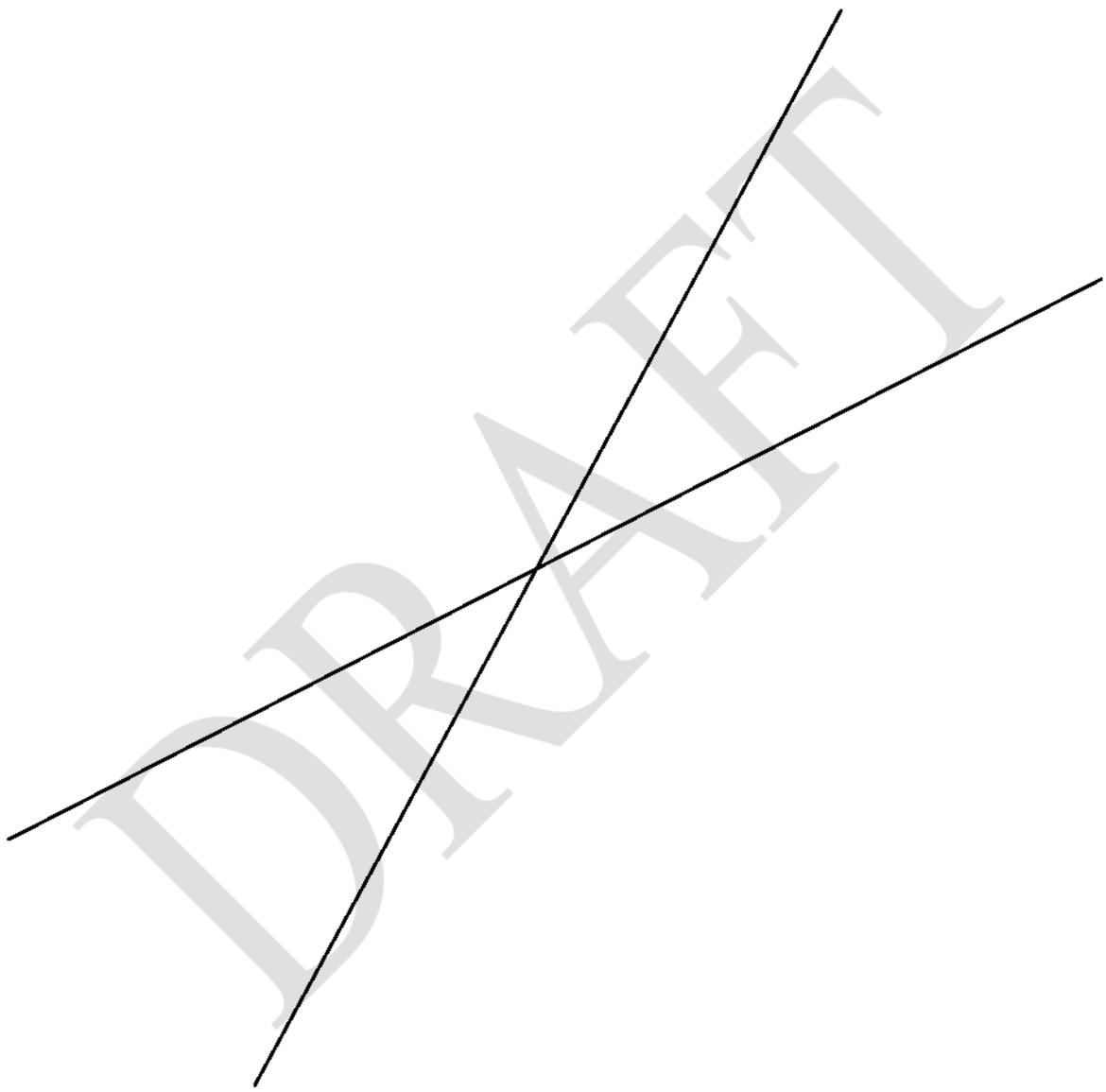
Question: What sort of training is provided to agents and officers on how to conduct separations?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	15
Topic:	Zero Tolerance
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)



Question#:	16
Topic:	Interview Children
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: CBP has acknowledged that one main indicator CBP uses when deciding to separate a family is based on interviews with children.

Is a child welfare professional present when the CBP officer is conducting such questioning?

Response: (b)(5)

(b)(5)

Question: Is there a training guide or protocol that CBP officers use to interview children coming across the border to determine whether the parent/child relationship is bona-fide?

Response: (b)(5)

(b)(5)

Question: Are children of all ages questioned about family ties to the individual they enter the US with?

Response: (b)(5)

(b)(5)

Question#:	17
Topic:	Child Trafficking Victims
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Mazie Hirono
Committee:	JUDICIARY (SENATE)

Question: CBP has been criticized by the United Nations High Commission on Refugees and the GAO over its inability to identify child trafficking victims. Has the agency revamped its screening tools or trainings to improve detection?

Response: (b)(5)

(b)(5)

Question#:	18
Topic:	Databases Used
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Against what databases or sources of data do you pull intelligence to determine who amongst the UAC population have criminal charges or are gang-affiliated?

Response: (b)(5)

(b)(5)

Question: How do you determine affiliation? What sources of information do you pull from?

Response: (b)(5)

(b)(5)

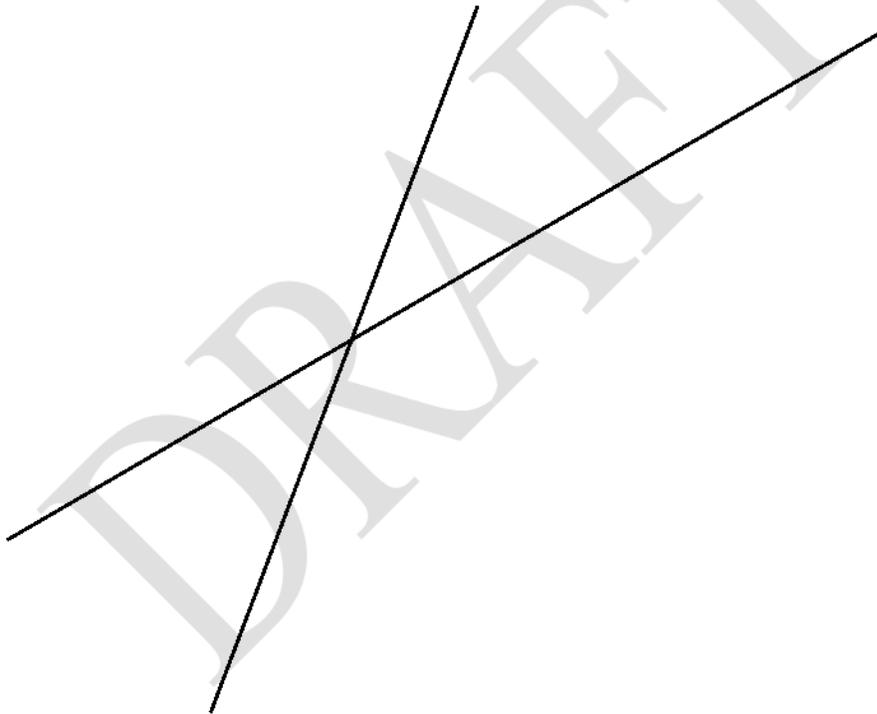
Question#:	19
Topic:	Immigration System
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: Is it fair to assume that smugglers and traffickers know how our system work? By that I mean, is it common knowledge to them that if they bring minors to our border, that Border Patrol will apprehend them, ICE will transport them and turn them over to HHS, and then HHS will reunify them with parents who are here illegally or with sponsors who have not been properly vetted?

(b)(5)

Response: (b)(5)

(b)(5)



Question#:	20
Topic:	UAC Parents
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: If a parent, who is here in the US illegally, pays smugglers or traffickers, to bring their kids to the US to join them, is that child considered “unaccompanied”? What happens to the parents?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: What are your agency's biggest operational challenges when trying to prevent human trafficking across our borders?

Response: (b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: How can Congress help?

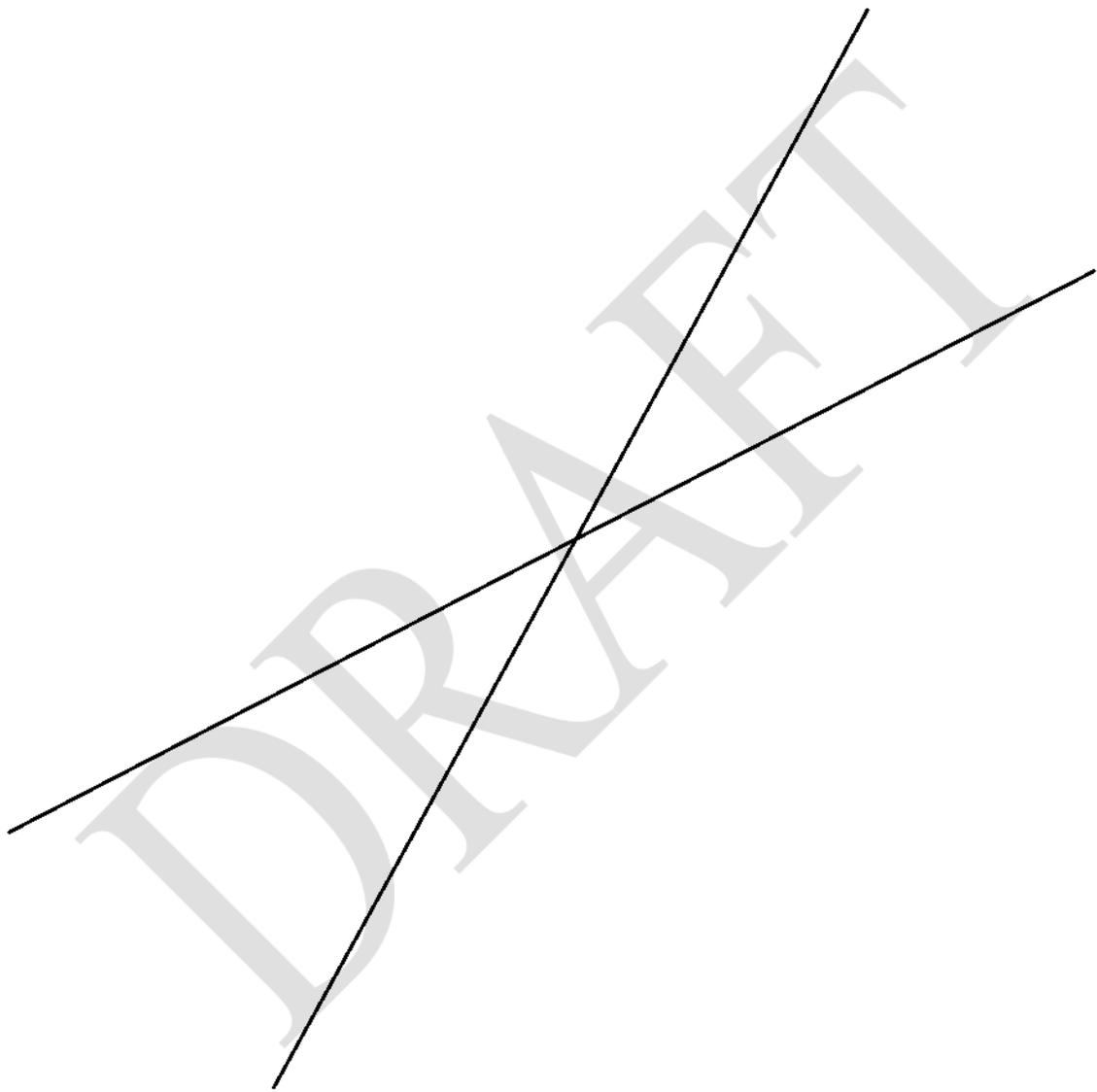
Response: (b)(5)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question#:	21
Topic:	Operational Challenges
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)



Question#:	22
Topic:	Workload Increase
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: What more can you tell us about your respective increases in workload?

Response: (b)(5)

(b)(5)

Question: How can Congress help?

Response: (b)(5)

(b)(5)

Question#:	22
Topic:	Workload Increase
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

(b)(5)

(b)(5)

Question#:	23
Topic:	Criminal Influence
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	Senator Thom Tillis
Committee:	JUDICIARY (SENATE)

Question: In 2015, the Senate Homeland Security & Governmental Affairs Committee found that 40 percent of unaccompanied minors failed to show for immigration hearings over an 18-month period. I am concerned about what happens in the time between when they are released and the day of their hearing, for which many seem not to show up. My concern is during that window, they are typically in communities already populated with MS-13 or other gangs such as the 18th Street Gang.

Is it fair to say that improving follow-up procedures are not enough when more needs to be done in the individual communities to prevent a gang-stronghold?

What should we be doing to limit the influence criminals have in these communities?

Response:

(b)(5)

(b)(5)

Question#:	1
Topic:	Verifying Relationships
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain the criteria and process CBP personnel are required to use for verifying family relationships?

Response: (b)(5)

(b)(5)

Question: Is this process different for families who present themselves at ports of entry than for those apprehended by Border Patrol?

Response: (b)(5)

(b)(5)

Question#:	2
Topic:	TEDS Application
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain what CBP does to ensure family units are kept together, per its 2015 National Standards on Transport, Escort, Detention, and Search (TEDS)?

Response:

(b)(5)

(b)(5)

Question: How does the Administration's zero-tolerance directive for adult border crossers hinder your ability to keep families together?

Response:

(b)(5)

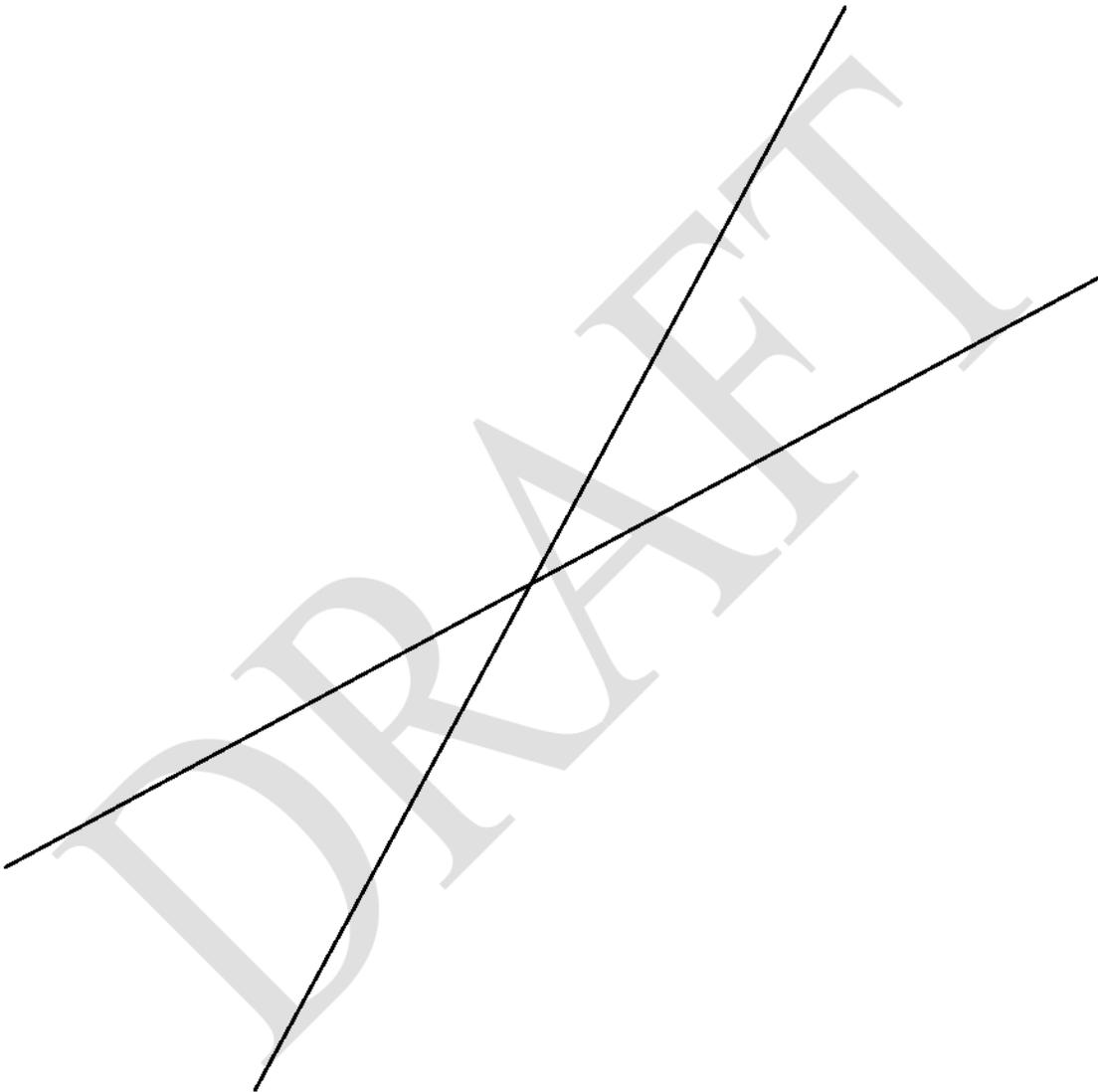
(b)(5)

Question: Do your 2015 TEDS still apply to Border Patrol's operations?

Response:

(b)(5)

Question#:	2
Topic:	TEDS Application
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018



Question#:	3
Topic:	GAO Recommendations
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: In July 2015, GAO recommended that CBP revise the methods and questions used by Border Patrol agents and OFO officers to screen unaccompanied alien children. What is the status of CBP's efforts to address these recommendations?

Response: (b)(5)

(b)(5)

Question: In July 2015, GAO found that CBP personnel were not properly screening all Mexican unaccompanied children who had credible fear of returning to Mexico and who were victims of a severe form of trafficking in persons. The related recommendations remain open. Why has CBP not issued updated guidance per these recommendations?

Response: (b)(5)

(b)(5)

Question: What is the status of CBP's efforts to address these recommendations?

Response: (b)(5)

(b)(5)

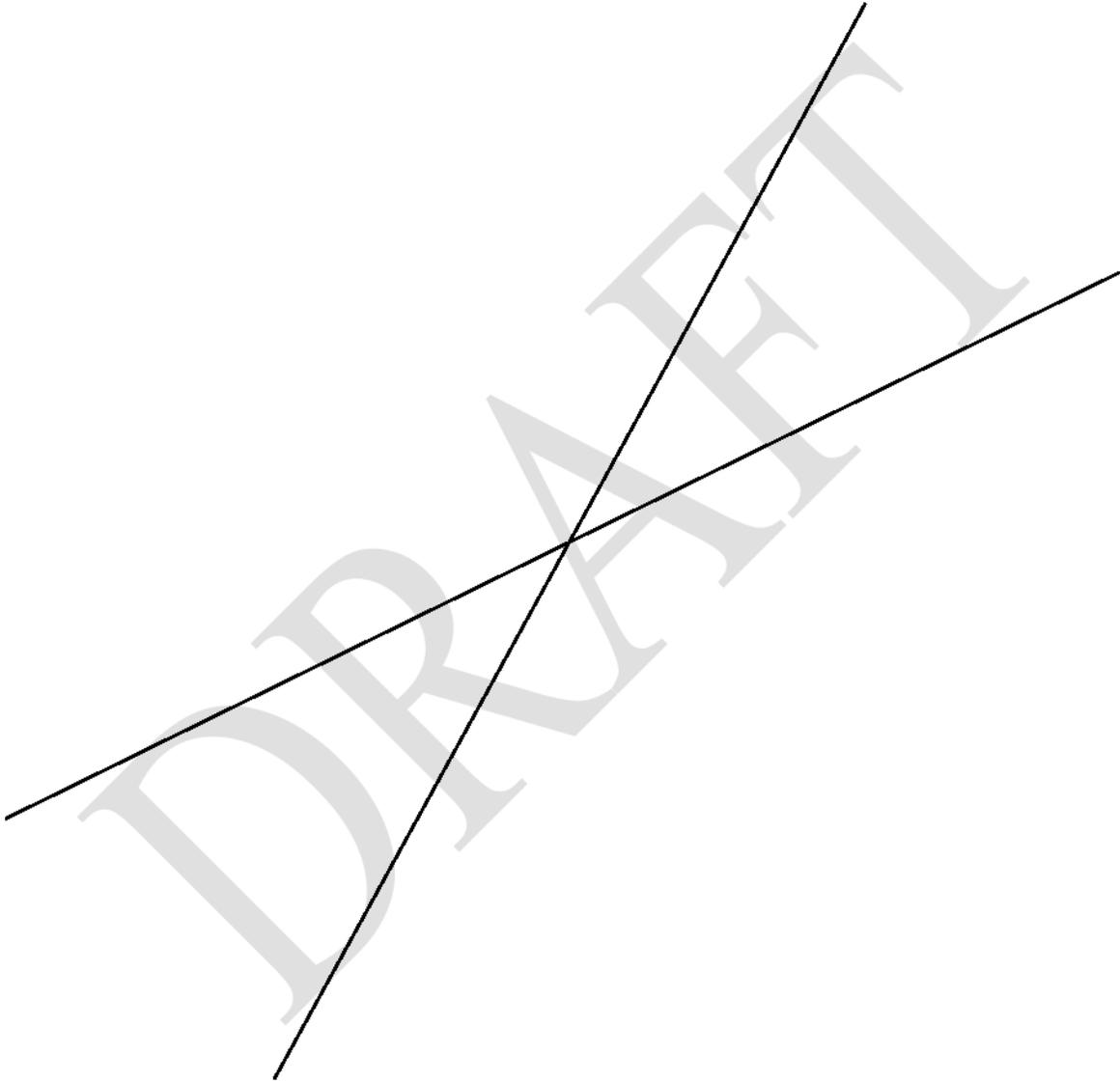
Question: In the absence of such guidance, how is CBP ensuring that agents and officers are complying with trafficking preventions requirements and addressing the weaknesses that GAO identified in 2015?

Response: (b)(5)

(b)(5)

Question#:	7
Topic:	Differences in Processes
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	8
Topic:	Referral to DOJ
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: The Attorney General's April 6, 2018, memorandum directs each United States Attorney's Office, in consultation with DHS, to adopt a zero-tolerance policy for all first-time illegal entrants along the southwest border. How, if at all, are foreign nationals who are apprehended between ports of entry prioritized for referral to DOJ?

Response: (b)(5)

(b)(5)

Question: How does CBP ensure that individuals referred to DOJ and who have articulated fear claims receive access to a credible fear interview by USCIS?

Response: (b)(5)

(b)(5)

Question#:	8
Topic:	Referral to DOJ
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Under what circumstances is CBP referring foreign nationals to DOJ for prosecution before the individual received a credible fear interview with USCIS?

Response: (b)(5)

(b)(5)

Question: What type of information does Border Patrol track regarding individuals that the agency refers to DOJ for immigration-only offense prosecutions, as well as individuals that Border Patrol refers to USCIS for credible fear interviews?

Response: (b)(5)

(b)(5)

Question#:	9
Topic:	Administration Policy
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Is it now the policy of the Trump Administration to question the citizenship of anyone who is conversing a language other than English?

Response: (b)(5)

Question: What kind of training measures is the Border Patrol providing to its agents so that we do not have a repeat of the Montana incident recorded in mid-May 2018 in which a Border Patrol agent questioned two U.S. citizens after he overheard them speaking in Spanish?

Response: (b)(5)

(b)(5)

Question#:	10
Topic:	Detention Facilities
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: This last December, the Inspector General issued a report that found extremely serious problems with the treatment of detainees and conditions at various ICE detention facilities across the country. What are you doing to correct the many violations that facilities are committing?

What, if anything, has been done in the past six months to address the very serious issues raised by the DHS Inspector General?

Response: (b)(5)

(b)(5)

Question#:	11
Topic:	Families in Custody
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How many families does ICE currently have in its custody?

How many of these families have been referred to ICE custody since the beginning of the zero-tolerance policy that took effect in early May 2018?

Response:

(b)(5)

(b)(5)

¹ ICE FRCs includes Berks County Family Shelter, Karnes County Residential Center, and South Texas Family Residential Center.

Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: When CBP transfers an adult who has been separated from his or her children into ICE custody, what does ICE do to ensure that both the adult and child know of each other's location?

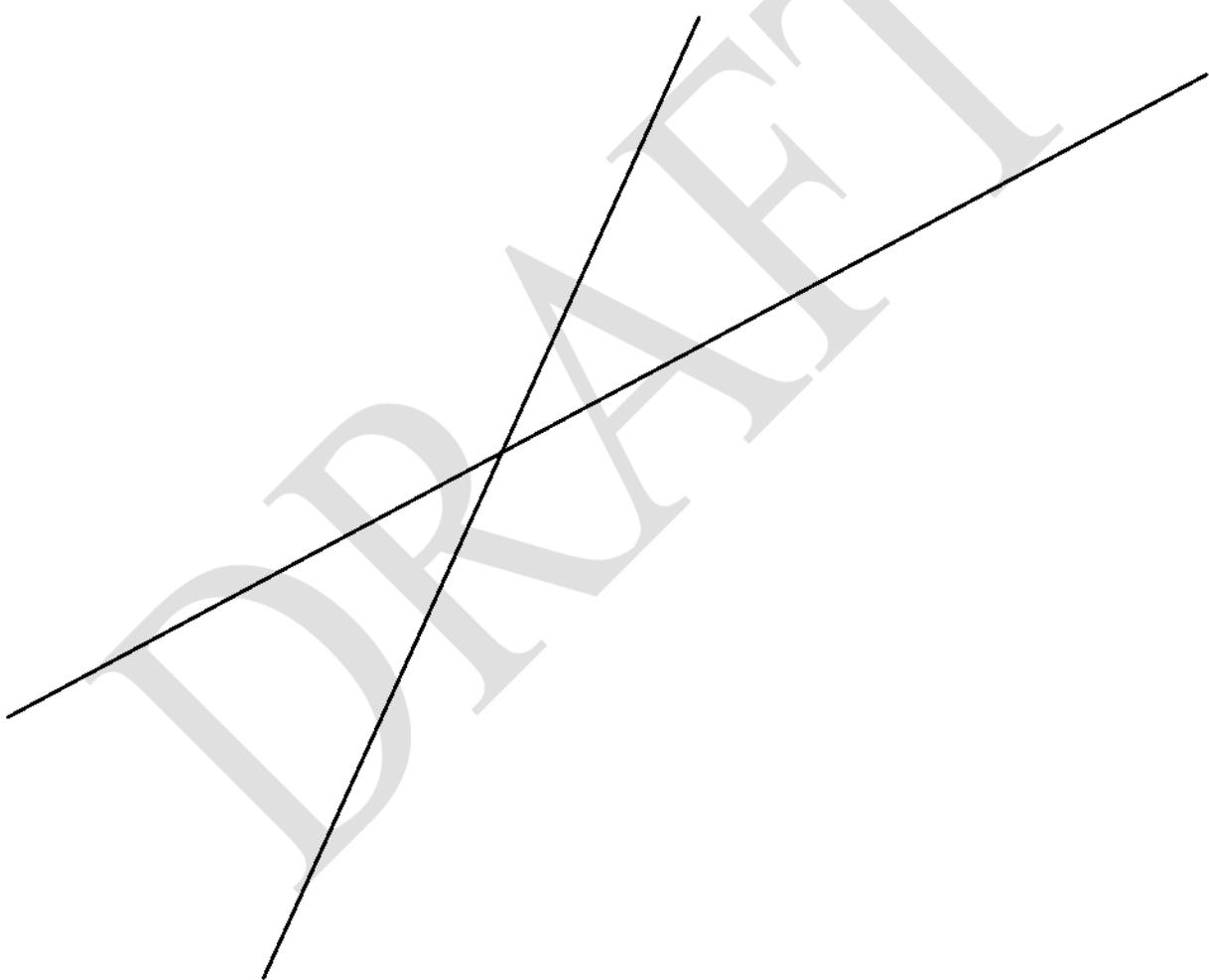
What does ICE do to ensure families can eventually be unified?

Response: (b)(5)

(b)(5)

Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	13
Topic:	Asylum Claims
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Operation Streamline has been in effect for some time now. Though I understand that the current zero-tolerance policy is different, what has been the effect of criminal prosecution through Streamline on a person's ability to claim asylum?

Response:

(b)(5)

(b)(5)

Question: Have asylum claims been denied because of a criminal illegal entry or re-entry charge?

How will claims filed by asylum seekers who are charged with illegal entry or re-entry be affected by these charges?

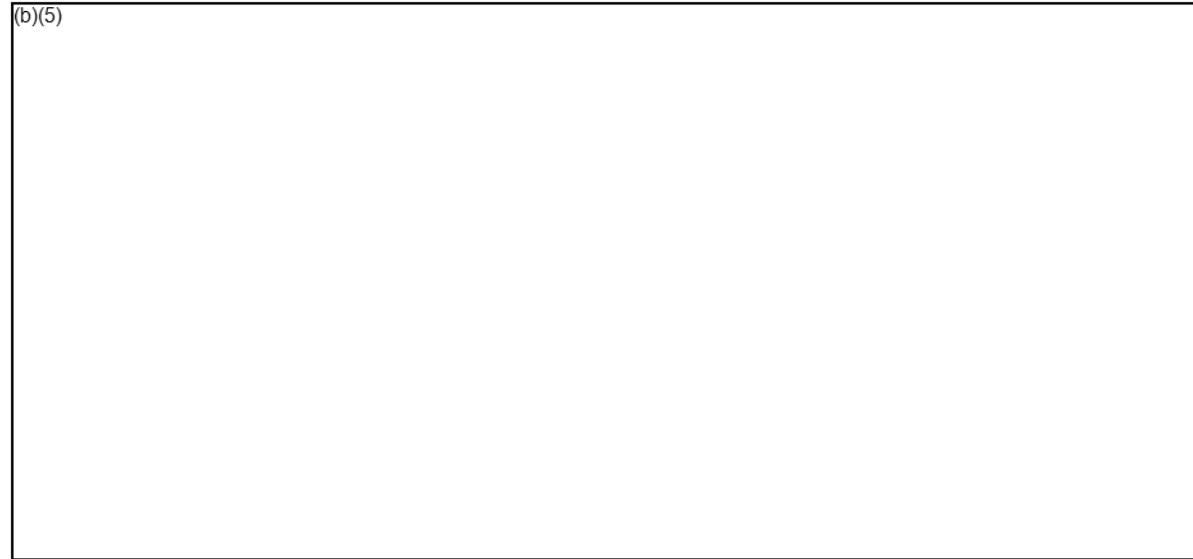
Response:

(b)(5)

(b)(5)

Question#:	13
Topic:	Asylum Claims
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	14
Topic:	Credible Fear Interviews
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How, if at all, does USCIS ensure that illegal entrants apprehended by CBP or ICE are receiving credible fear interviews, as required?

When do foreign nationals who are apprehended by Border Patrol and referred to DOJ for prosecution receive access to a credible fear interview if they have made a fear claim?

Where and how are individuals detained while awaiting credible fear interviews?

If USCIS determines that an individual has a credible fear of persecution, what are the next steps for that individual?

Response: (b)(5)

(b)(5)

Question#:	14
Topic:	Credible Fear Interviews
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)

² If an individual neither requests nor declines review of the determination, the individual is still referred to the Immigration Judge for review of the credible fear determination.

Question#:	15
Topic:	CAM Program
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: The Central American Minors Refugee program was cancelled abruptly in 2017. There were 4,000 applicants who have legally-present adult family members in the United States whose applications were cancelled when the program was shut down. Can you please tell us why the program was shuttered?

Is it the Trump Administration's position that it is in the best interest of these children to stay in violent countries or risk a dangerous journey through Mexico?

If not, what was the purpose of closing down a legal pathway to refugee status?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: For the past ten fiscal years, how many asylum-seekers that originally intended to come to the United States are provided asylum and assisted by the Mexican government?

Response: (b)(5)

(b)(5)

Question: How many asylum-seekers actually reach the U.S. - Mexico border?

Response: (b)(5)

(b)(5)

Question: Of those asylum-seekers that reach the U.S. - Mexico border, what is the number and percentage that are granted asylum in the United States?

Response: (b)(5)

(b)(5)

Question: Can you please describe how Mexico has helped CBP by assisting migrants along its southern border?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

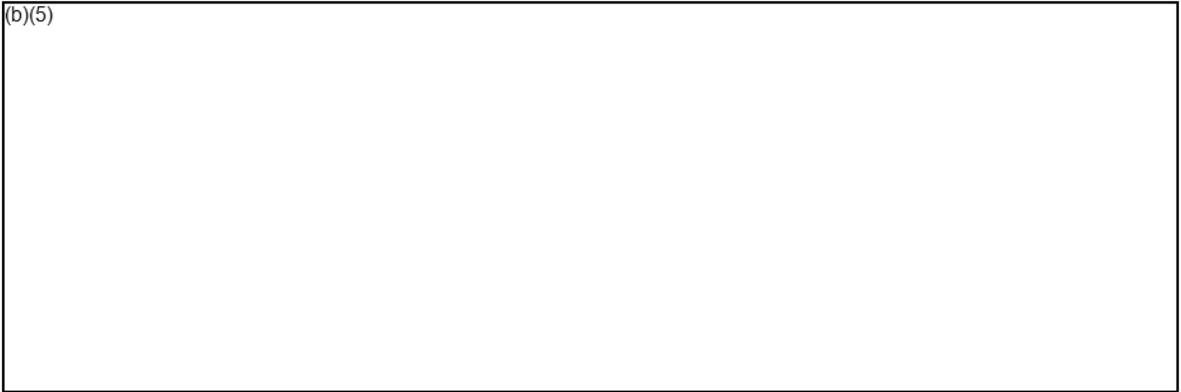
Question: How has CBP helped the Mexican government in efforts to build up its border management?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	17
Topic:	Children Separated
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

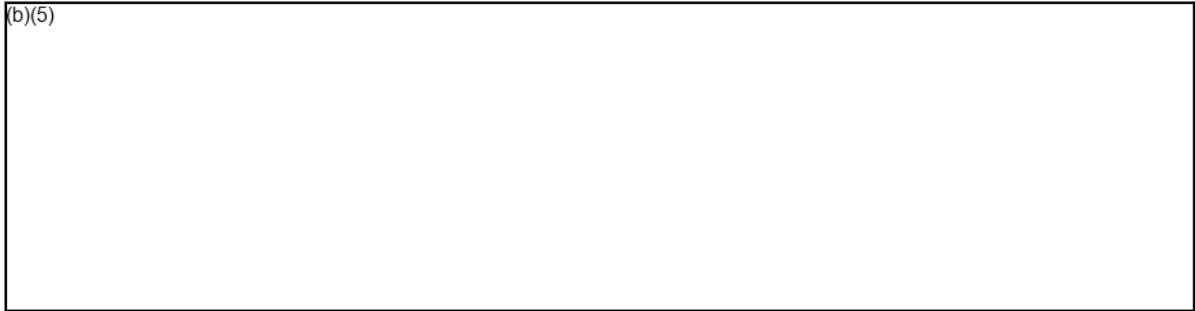
Question: According to the New York Times more than 700 children had to be taken from adults claiming to be their parents since October 2017, including more than 100 children under the age of four. Secretary Nielsen disputed this figure at a May 15th Senate Homeland hearing. She said that the 700 children figure was an HHS number and not a DHS figure. What is the DHS figure for the number of children separated from their family member since October 2017, disaggregated by month?

Response: (b)(5)

(b)(5)

Question#:	17
Topic:	Children Separated
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	18
Topic:	CBP Verification Process
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain what process CBP personnel are supposed to follow when they are unable to verify familial relationships?

Response: (b)(5)

(b)(5)

Question: Of the 700 children who were separated from adults claiming familial relationships since October 2017, how many of these instances led to human trafficking charges?

Response: (b)(5)

(b)(5)

Question#:	19
Topic:	OPR Report
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: In January 2017, CBP's Office of Professional Responsibility publicly released a report on its activities for fiscal year 2015. Has any subsequent reporting occurred?

Response: (b)(5)

Question: When will reports for fiscal years 2016 and 2017 be released publicly?

Response: (b)(5)

(b)(5)

Question#:	20
Topic:	Defining Asylum Fraud
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How does USCIS define "fraud" for asylum claims?

How does USCIS determine a person's asylum claim is fraudulent?

How many of the asylum claims denied by USCIS in the past five fiscal years have led to perjury charges?

Response: (b)(5)

(b)(5)

Question#:	20
Topic:	Defining Asylum Fraud
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)

Question#:	1
Topic:	Verifying Relationships
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain the criteria and process CBP personnel are required to use for verifying family relationships?

Response: (b)(5)

(b)(5)

Question: Is this process different for families who present themselves at ports of entry than for those apprehended by Border Patrol?

Response: (b)(5)

(b)(5)

Question#:	2
Topic:	TEDS Application
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain what CBP does to ensure family units are kept together, per its 2015 National Standards on Transport, Escort, Detention, and Search (TEDS)?

Response: (b)(5)

(b)(5)

Question: How does the Administration's zero-tolerance directive for adult border crossers hinder your ability to keep families together?

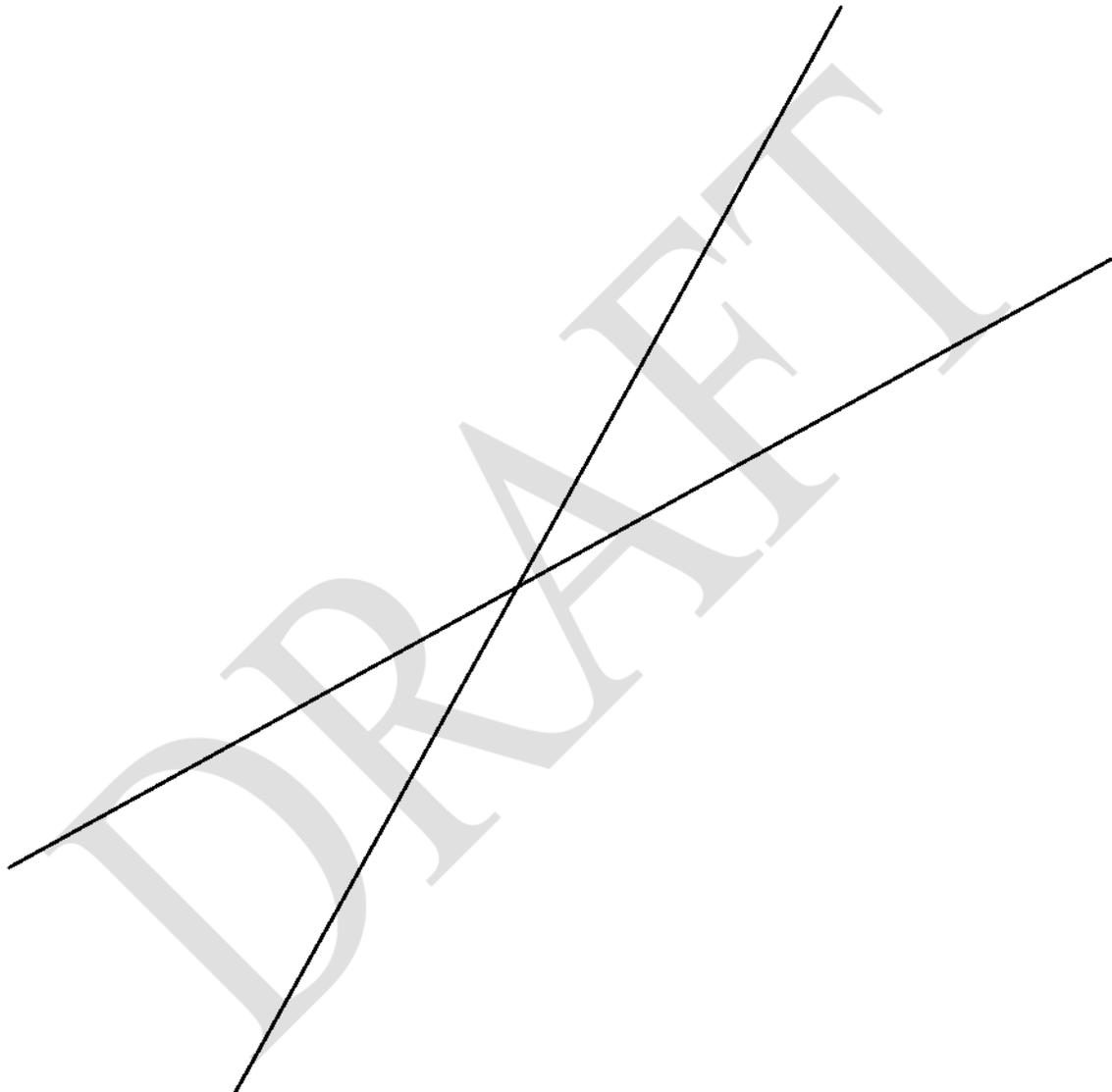
Response: (b)(5)

(b)(5)

Question: Do your 2015 TEDS still apply to Border Patrol's operations?

Response: (b)(5)

Question#:	2
Topic:	TEDS Application
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018



Question#:	3
Topic:	GAO Recommendations
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: In July 2015, GAO recommended that CBP revise the methods and questions used by Border Patrol agents and OFO officers to screen unaccompanied alien children. What is the status of CBP's efforts to address these recommendations?

Response: (b)(5)

(b)(5)

Question: In July 2015, GAO found that CBP personnel were not properly screening all Mexican unaccompanied children who had credible fear of returning to Mexico and who were victims of a severe form of trafficking in persons. The related recommendations remain open. Why has CBP not issued updated guidance per these recommendations?

Response: (b)(5)

(b)(5)

Question: What is the status of CBP's efforts to address these recommendations?

Response: (b)(5)

(b)(5)

Question: In the absence of such guidance, how is CBP ensuring that agents and officers are complying with trafficking preventions requirements and addressing the weaknesses that GAO identified in 2015?

Response: (b)(5)

(b)(5)

Question#:	7
Topic:	Differences in Processes
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)

Question#:	8
Topic:	Referral to DOJ
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: The Attorney General's April 6, 2018, memorandum directs each United States Attorney's Office, in consultation with DHS, to adopt a zero-tolerance policy for all first-time illegal entrants along the southwest border. How, if at all, are foreign nationals who are apprehended between ports of entry prioritized for referral to DOJ?

Response: (b)(5)

(b)(5)

Question: How does CBP ensure that individuals referred to DOJ and who have articulated fear claims receive access to a credible fear interview by USCIS?

Response: (b)(5)

(b)(5)

Question#:	8
Topic:	Referral to DOJ
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Under what circumstances is CBP referring foreign nationals to DOJ for prosecution before the individual received a credible fear interview with USCIS?

Response: (b)(5)

(b)(5)

Question: What type of information does Border Patrol track regarding individuals that the agency refers to DOJ for immigration-only offense prosecutions, as well as individuals that Border Patrol refers to USCIS for credible fear interviews?

Response: (b)(5)

(b)(5)

Question#:	9
Topic:	Administration Policy
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Is it now the policy of the Trump Administration to question the citizenship of anyone who is conversing a language other than English?

Response: (b)(5)

Question: What kind of training measures is the Border Patrol providing to its agents so that we do not have a repeat of the Montana incident recorded in mid-May 2018 in which a Border Patrol agent questioned two U.S. citizens after he overheard them speaking in Spanish?

Response: (b)(5)

(b)(5)

Question#:	10
Topic:	Detention Facilities
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: This last December, the Inspector General issued a report that found extremely serious problems with the treatment of detainees and conditions at various ICE detention facilities across the country. What are you doing to correct the many violations that facilities are committing?

What, if anything, has been done in the past six months to address the very serious issues raised by the DHS Inspector General?

Response: (b)(5)

(b)(5)

Question#:	11
Topic:	Families in Custody
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How many families does ICE currently have in its custody?

How many of these families have been referred to ICE custody since the beginning of the zero-tolerance policy that took effect in early May 2018?

Response:

(b)(5)

(b)(5)

¹ ICE FRCs includes Berks County Family Shelter, Karnes County Residential Center, and South Texas Family Residential Center.

Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: When CBP transfers an adult who has been separated from his or her children into ICE custody, what does ICE do to ensure that both the adult and child know of each other's location?

What does ICE do to ensure families can eventually be unified?

Response:

(b)(5)

(b)(5)

Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	13
Topic:	Asylum Claims
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Operation Streamline has been in effect for some time now. Though I understand that the current zero-tolerance policy is different, what has been the effect of criminal prosecution through Streamline on a person's ability to claim asylum?

Response: (b)(5)

(b)(5)

Question: Have asylum claims been denied because of a criminal illegal entry or re-entry charge?

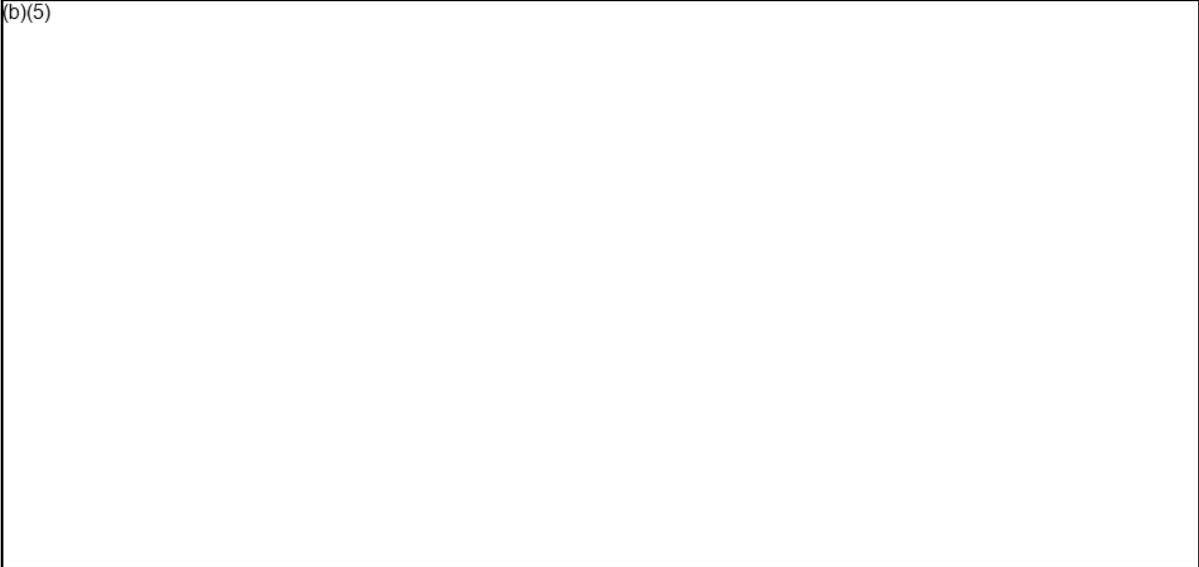
How will claims filed by asylum seekers who are charged with illegal entry or re-entry be affected by these charges?

Response: (b)(5)

(b)(5)

Question#:	13
Topic:	Asylum Claims
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	14
Topic:	Credible Fear Interviews
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How, if at all, does USCIS ensure that illegal entrants apprehended by CBP or ICE are receiving credible fear interviews, as required?

When do foreign nationals who are apprehended by Border Patrol and referred to DOJ for prosecution receive access to a credible fear interview if they have made a fear claim?

Where and how are individuals detained while awaiting credible fear interviews?

If USCIS determines that an individual has a credible fear of persecution, what are the next steps for that individual?

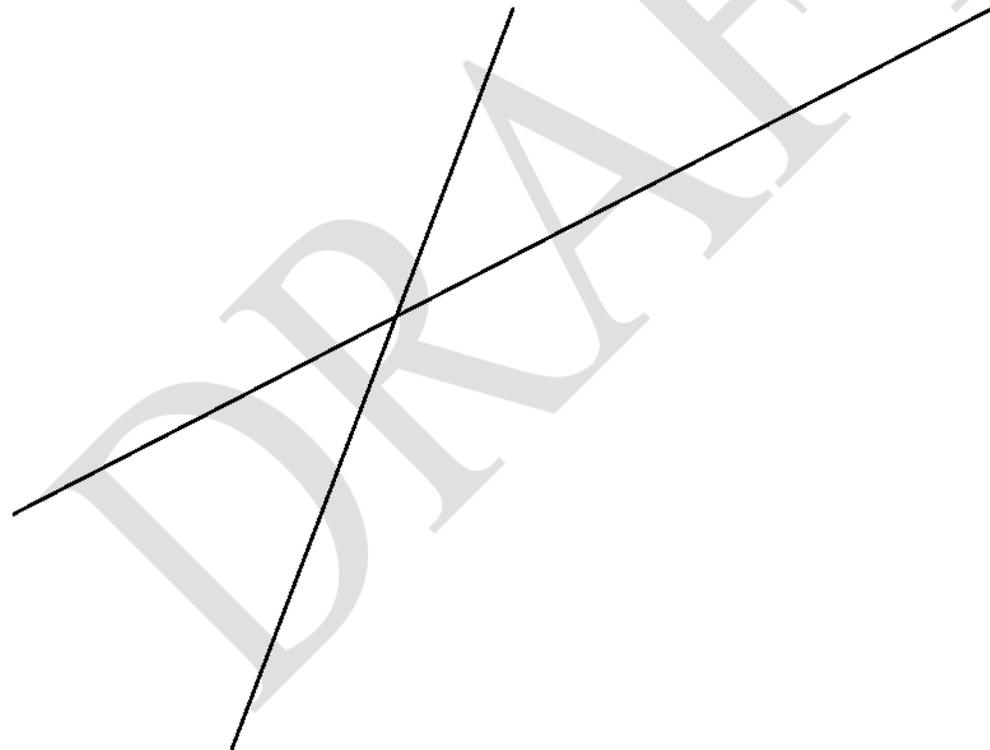
Response:

(b)(5)

(b)(5)

Question#:	14
Topic:	Credible Fear Interviews
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



² If an individual neither requests nor declines review of the determination, the individual is still referred to the Immigration Judge for review of the credible fear determination.

Question#:	15
Topic:	CAM Program
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: The Central American Minors Refugee program was cancelled abruptly in 2017. There were 4,000 applicants who have legally-present adult family members in the United States whose applications were cancelled when the program was shut down. Can you please tell us why the program was shuttered?

Is it the Trump Administration's position that it is in the best interest of these children to stay in violent countries or risk a dangerous journey through Mexico?

If not, what was the purpose of closing down a legal pathway to refugee status?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: For the past ten fiscal years, how many asylum-seekers that originally intended to come to the United States are provided asylum and assisted by the Mexican government?

Response: (b)(5)

(b)(5)

Question: How many asylum-seekers actually reach the U.S. - Mexico border?

Response: (b)(5)

(b)(5)

Question: Of those asylum-seekers that reach the U.S. - Mexico border, what is the number and percentage that are granted asylum in the United States?

Response: (b)(5)

(b)(5)

Question: Can you please describe how Mexico has helped CBP by assisting migrants along its southern border?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

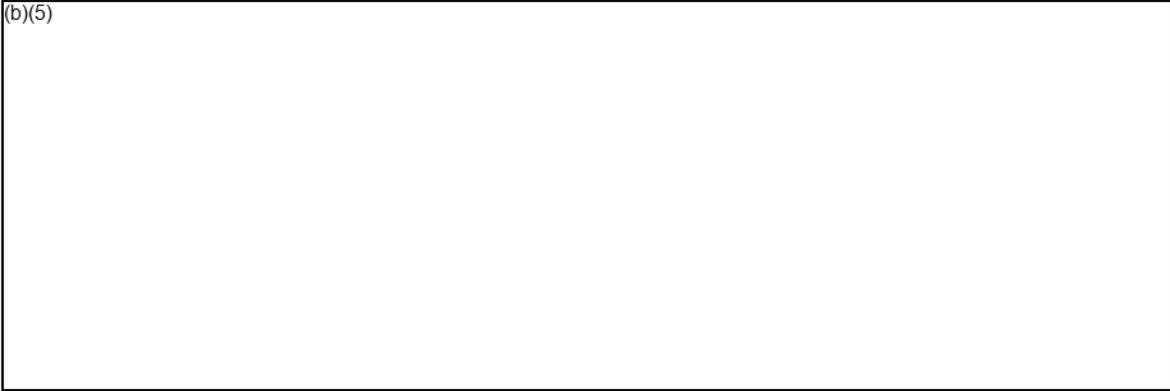
Question: How has CBP helped the Mexican government in efforts to build up its border management?

Response: (b)(5)

(b)(5)

Question#:	16
Topic:	Assistance from Mexican Government
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable J. Luis Correa
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	17
Topic:	Children Separated
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: According to the New York Times more than 700 children had to be taken from adults claiming to be their parents since October 2017, including more than 100 children under the age of four. Secretary Nielsen disputed this figure at a May 15th Senate Homeland hearing. She said that the 700 children figure was an HHS number and not a DHS figure. What is the DHS figure for the number of children separated from their family member since October 2017, disaggregated by month?

Response: (b)(5)

(b)(5)

Question#:	17
Topic:	Children Separated
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

(b)(5)



Question#:	18
Topic:	CBP Verification Process
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: Can you please explain what process CBP personnel are supposed to follow when they are unable to verify familial relationships?

Response: (b)(5)

(b)(5)

Question: Of the 700 children who were separated from adults claiming familial relationships since October 2017, how many of these instances led to human trafficking charges?

Response: (b)(5)

(b)(5)

Question#:	19
Topic:	OPR Report
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: In January 2017, CBP's Office of Professional Responsibility publicly released a report on its activities for fiscal year 2015. Has any subsequent reporting occurred?

Response: (b)(5)

Question: When will reports for fiscal years 2016 and 2017 be released publicly?

Response: (b)(5)

(b)(5)

Question#:	20
Topic:	Defining Asylum Fraud
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Nanette Diaz Barragán
Committee:	HOMELAND SECURITY (HOUSE)
Date:	MAY 22, 2018

Question: How does USCIS define "fraud" for asylum claims?

How does USCIS determine a person's asylum claim is fraudulent?

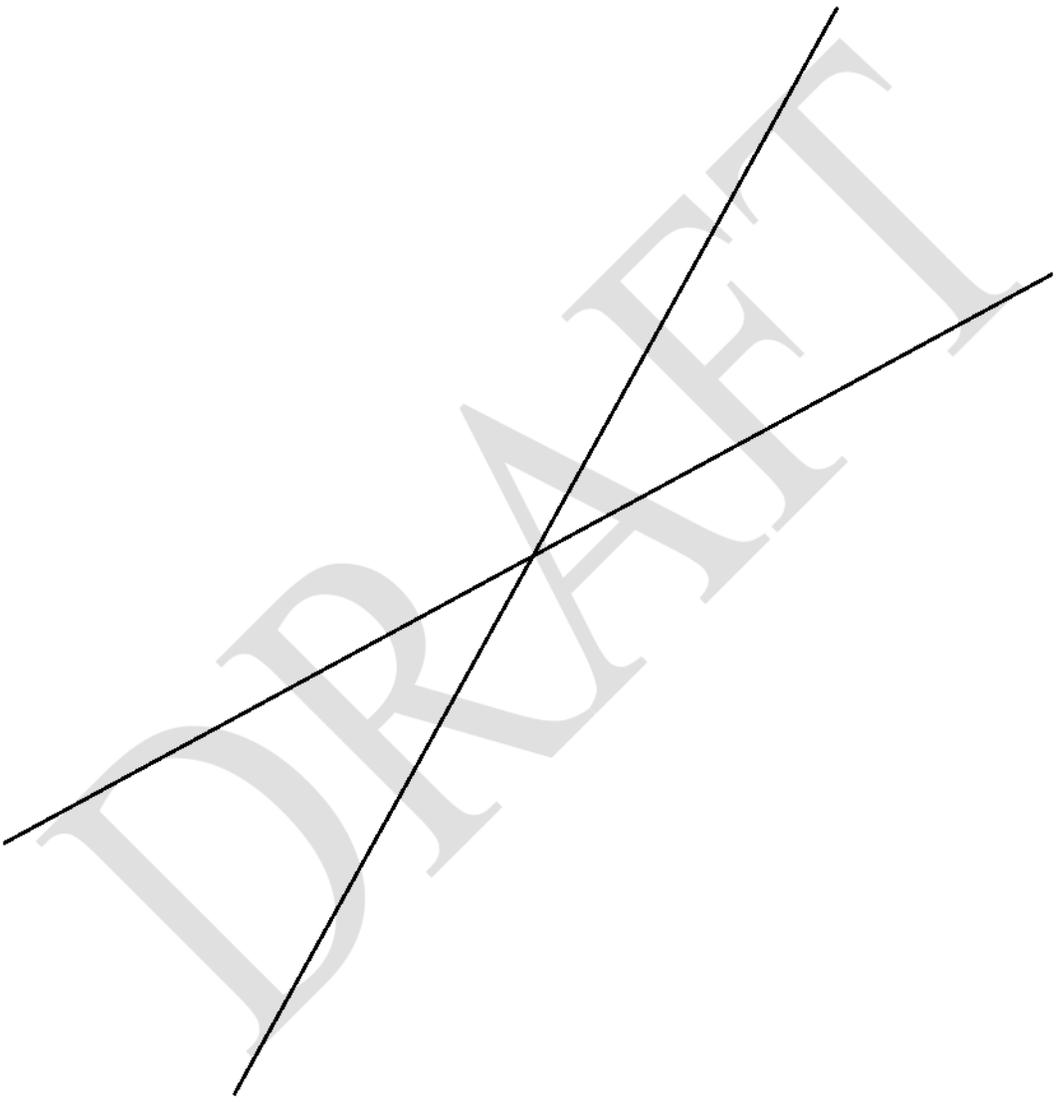
How many of the asylum claims denied by USCIS in the past five fiscal years have led to perjury charges?

Response: (b)(5)

(b)(5)

Question#:	20
Topic:	Defining Asylum Fraud
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Primary:	The Honorable Nanette Diaz Barragán
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Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)

(b)(5)

Question: When CBP transfers an adult who has been separated from his or her children into ICE custody, what does ICE do to ensure that both the adult and child know of each other's location?

What does ICE do to ensure families can eventually be unified?

Response: (b)(5)

(b)(5)

(b)(5)

Question#:	12
Topic:	Family Reunification
Hearing:	Stopping the Daily Border Caravan: Time to Build a Policy Wall
Primary:	The Honorable Filemon Vela
Committee:	HOMELAND SECURITY (HOUSE)

(b)(5)

(b)(5)



U.S. Immigration and Customs Enforcement

STATEMENT

OF

MATTHEW T. ALBENCE

EXECUTIVE ASSOCIATE DIRECTOR
ENFORCEMENT AND REMOVAL OPERATIONS
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

| *“Oversight of Immigration Enforcement ~~the Administration’s and~~ Family Reunification Efforts”*

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

Wednesday, July 31, 2018
226 Dirksen Senate Office Building

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U.S. Immigration and Customs Enforcement

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*Report on Ending “Catch and Release” at
the Borders of the United States*

July 2018

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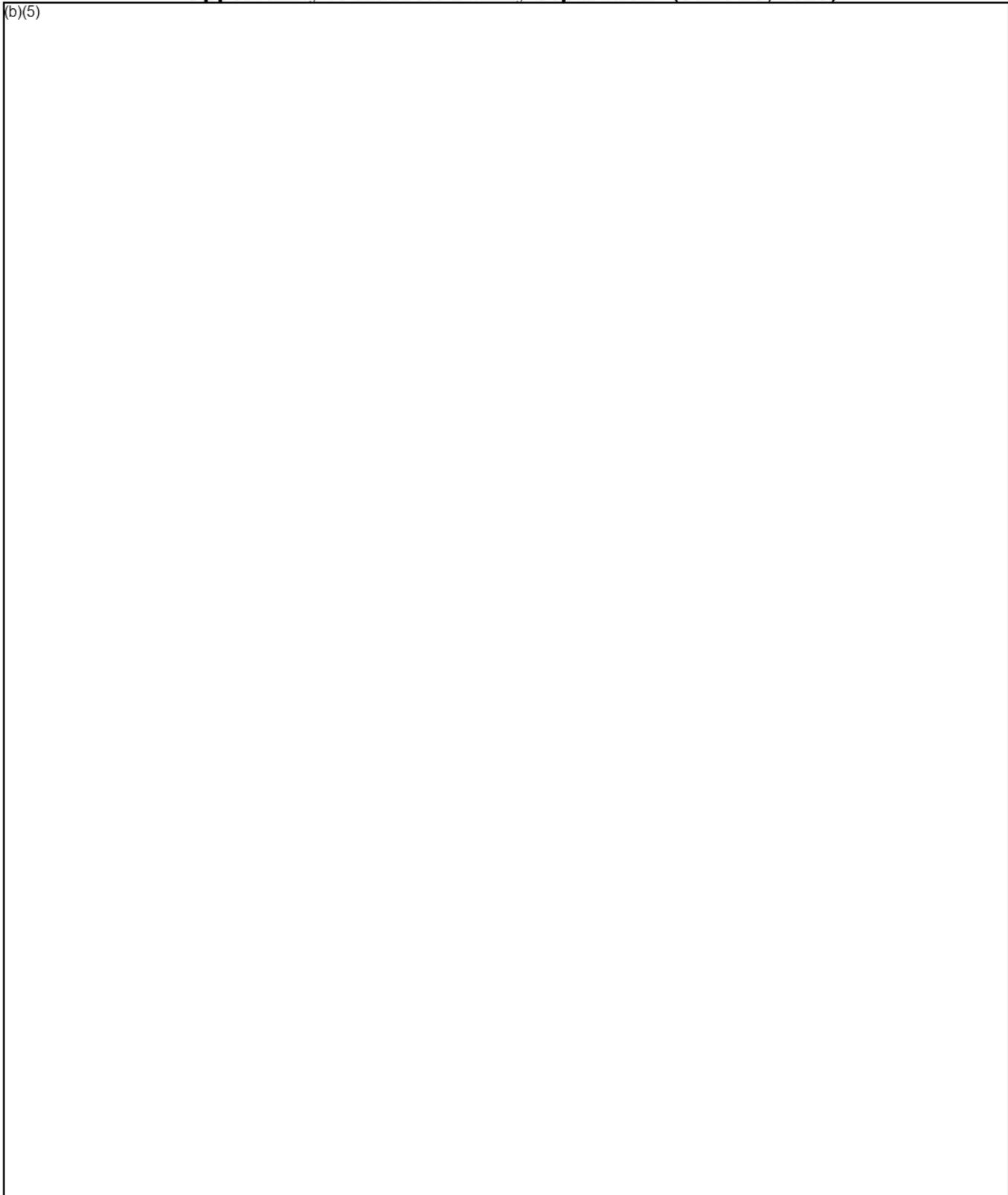
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~~ATTORNEY-CLIENT PRIVILEGE
ATTORNEY WORK PRODUCT
DELIBERATIVE - DRAFT~~

Legal and Policy Analysis Regarding Executive Order, "Affording Congress an Opportunity to Address Family Separation" (June 20, 2018)

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**CALL WITH RANKING MEMBER CLAIRE MCCASKILL (D-MO)
4 pm, Monday, June 25, 2018**

Objective:

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[Redacted content]

History:

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[Redacted content]

Key Issues:

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[Redacted content]

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- Attachments:**
A. Talking Points
B. Media Pull

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Staff Responsible for Briefing Memo: (b)(6) Senior Legislative Advisor, OLA, (b)(6)
(b)(6) OLA, (b)(6)

Reviewed and approved by: David Wonnenberg, Acting A/S, OLA, (b)(6)

OGC Reviewer: