

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?

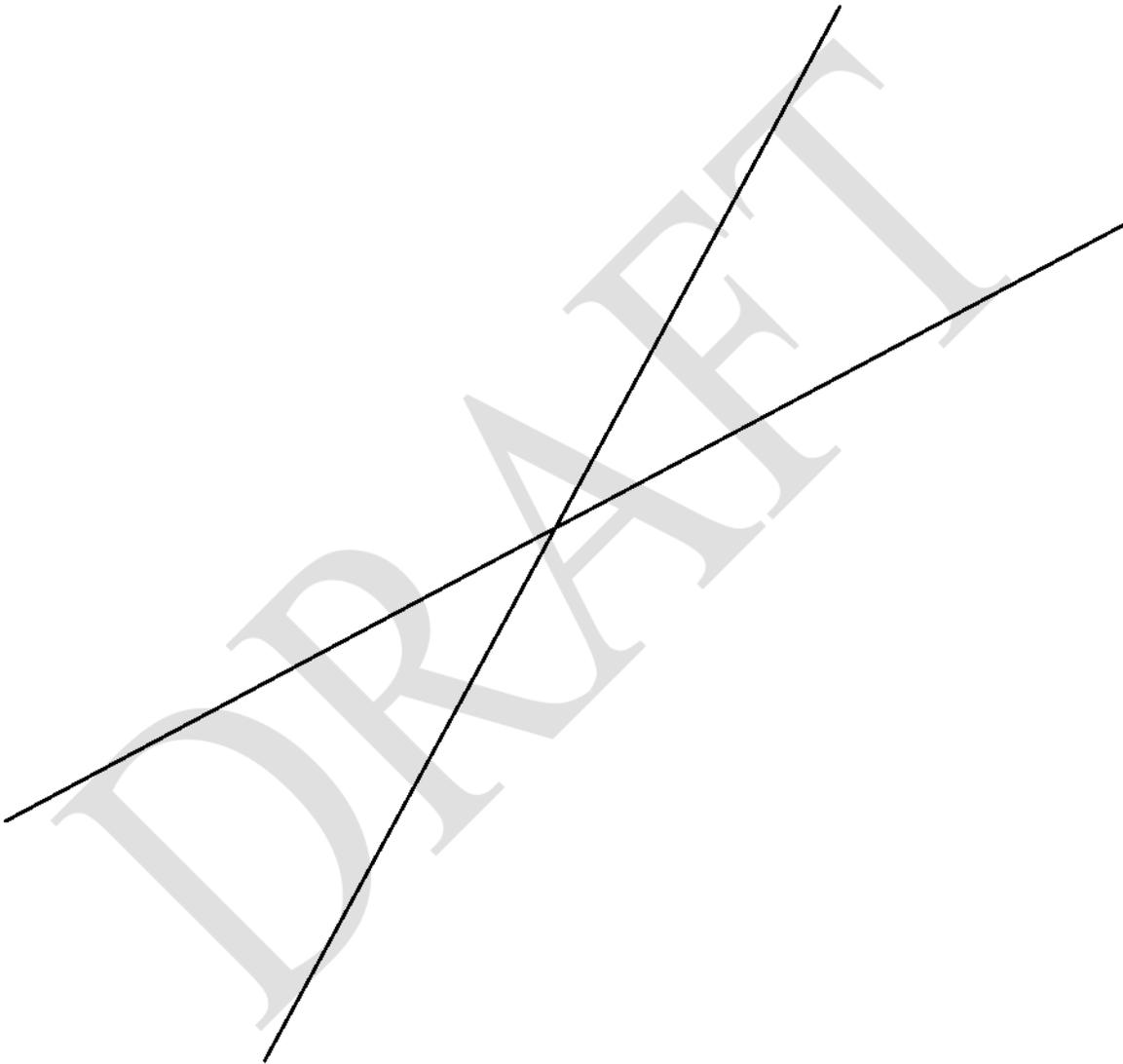
Response: (b)(5)

(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#:	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)

(b)(5)

Question#:	5
Topic:	Special Immigrant Juvenile Status
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Special Immigrant Juvenile status allows children under the age of 21 who have been abused, abandoned or neglected by one or both parents to obtain a green card. To get the status, applicants must first have a ruling from their state's juvenile court, finding that they have been abused, abandoned or neglected. A judge must declare the young person dependent on the court, or appoint a caretaker. The applicant then submits the judge's order to U.S. Citizenship and Immigration Services (USCIS). The Trump administration is reinterpreting the law to narrow it, stating that in cases where applicants are over 18 they no longer qualify, because family courts lack jurisdiction over people age 18 or older.

Why was the Special Immigrant Juvenile status law reinterpreted to exclude individuals between the ages of 18 and 21?

Response: (b)(5)

(b)(5)

Question: What was the decision making process for this change? Please provide any documents memorializing the legal reasoning for the decision.

Response: (b)(5)

(b)(5)

Question#:	5
Topic:	Special Immigrant Juvenile Status
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: What alternate process is the Administration providing those individuals Congress explicitly protected by statute?

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 (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?"]

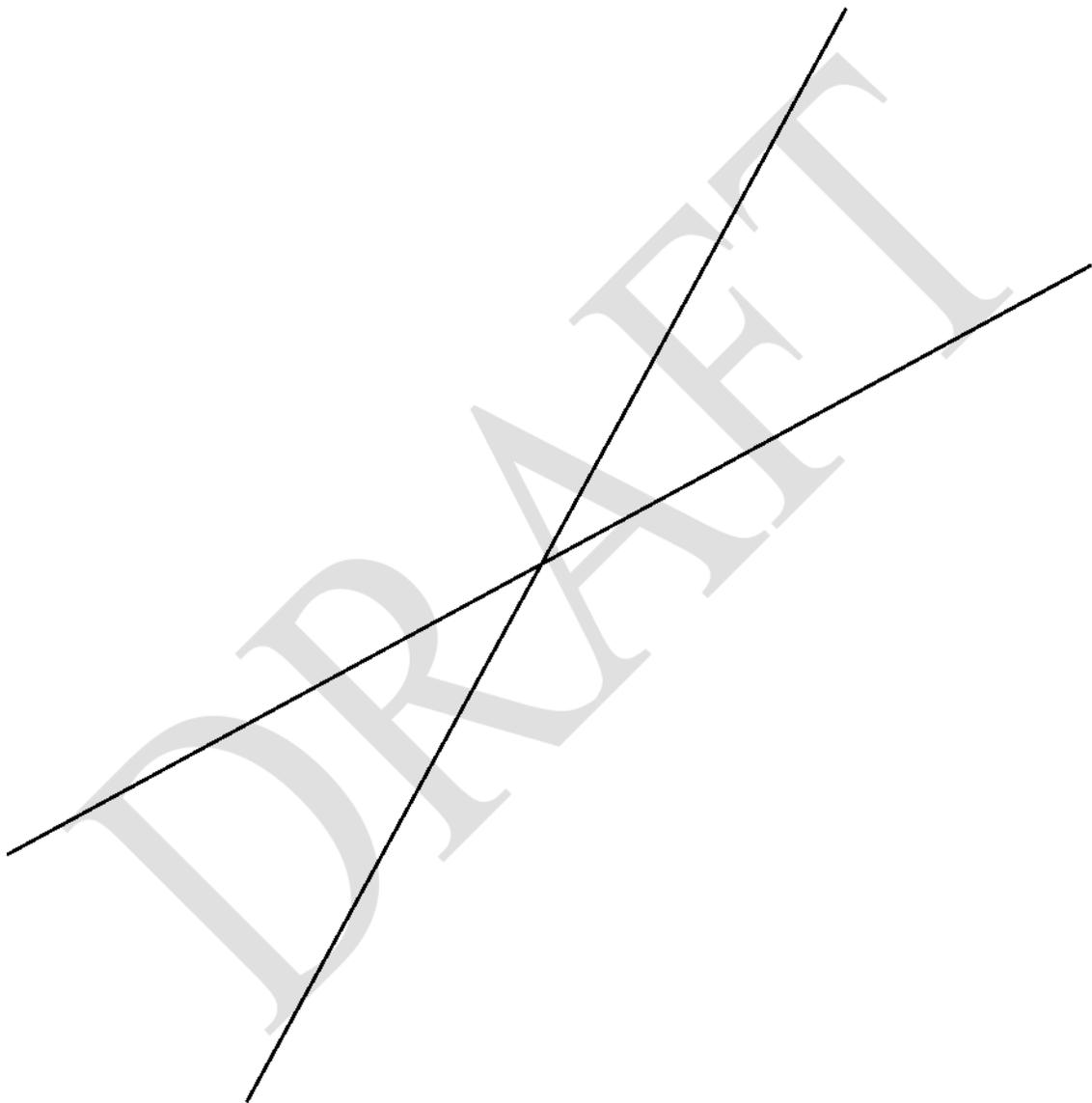
Response: (b)(5)

(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)

(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)

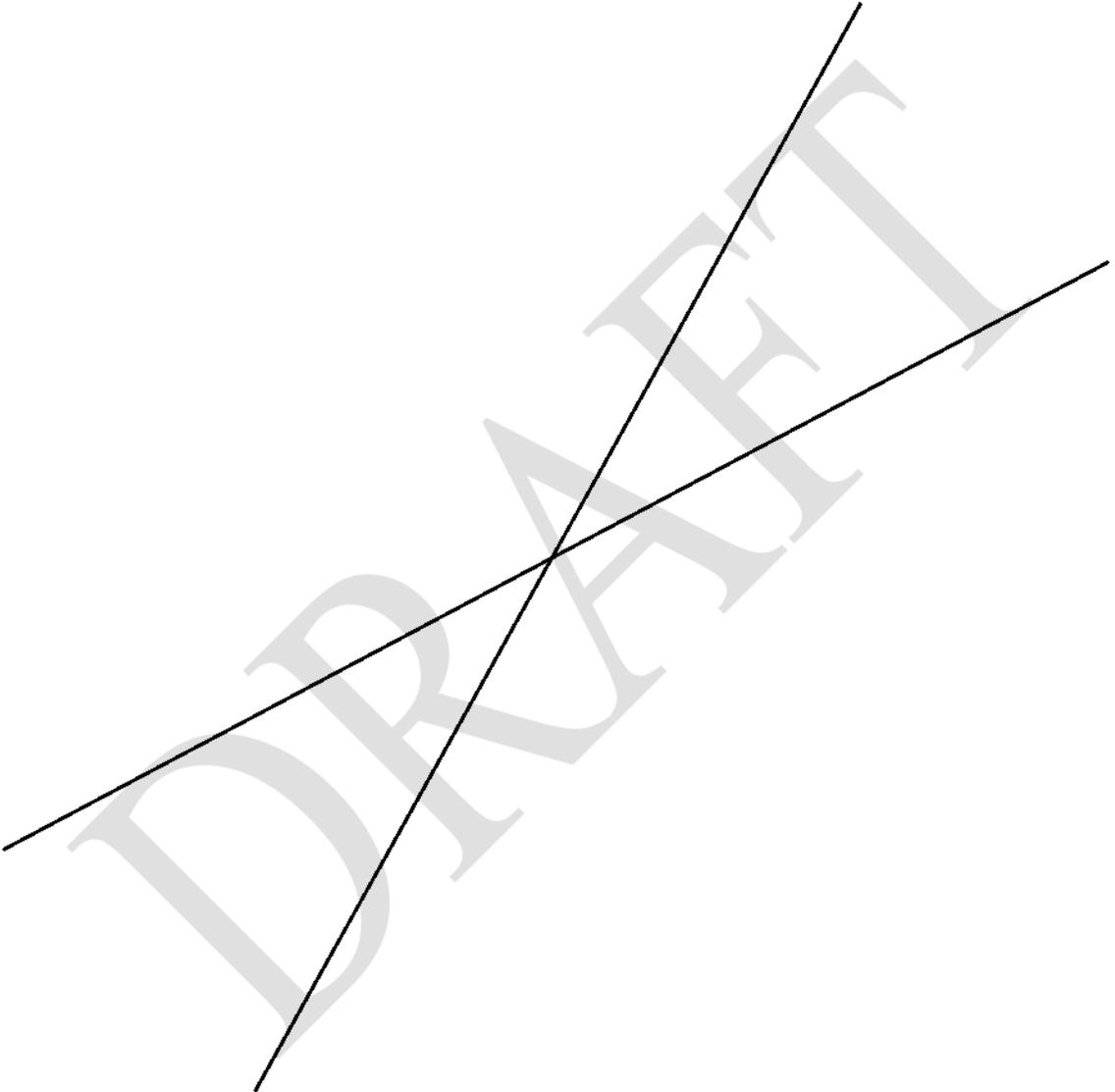
Question: When does the 72-hour statutory period begin running?

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)

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:	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)

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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)

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)

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)

DRAFT

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?

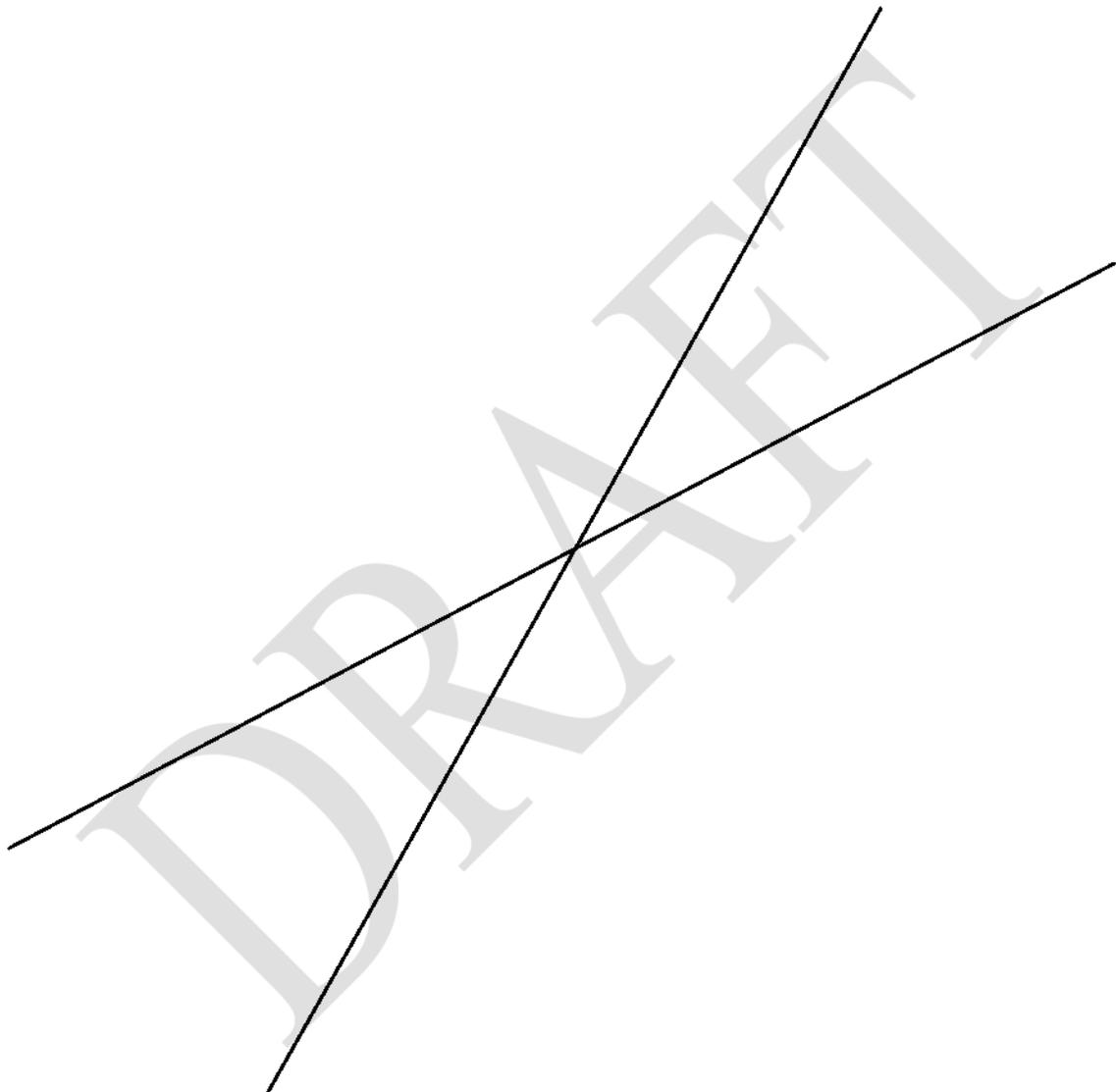
Response: (b)(5)

(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)

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(b)(5)

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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)

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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)

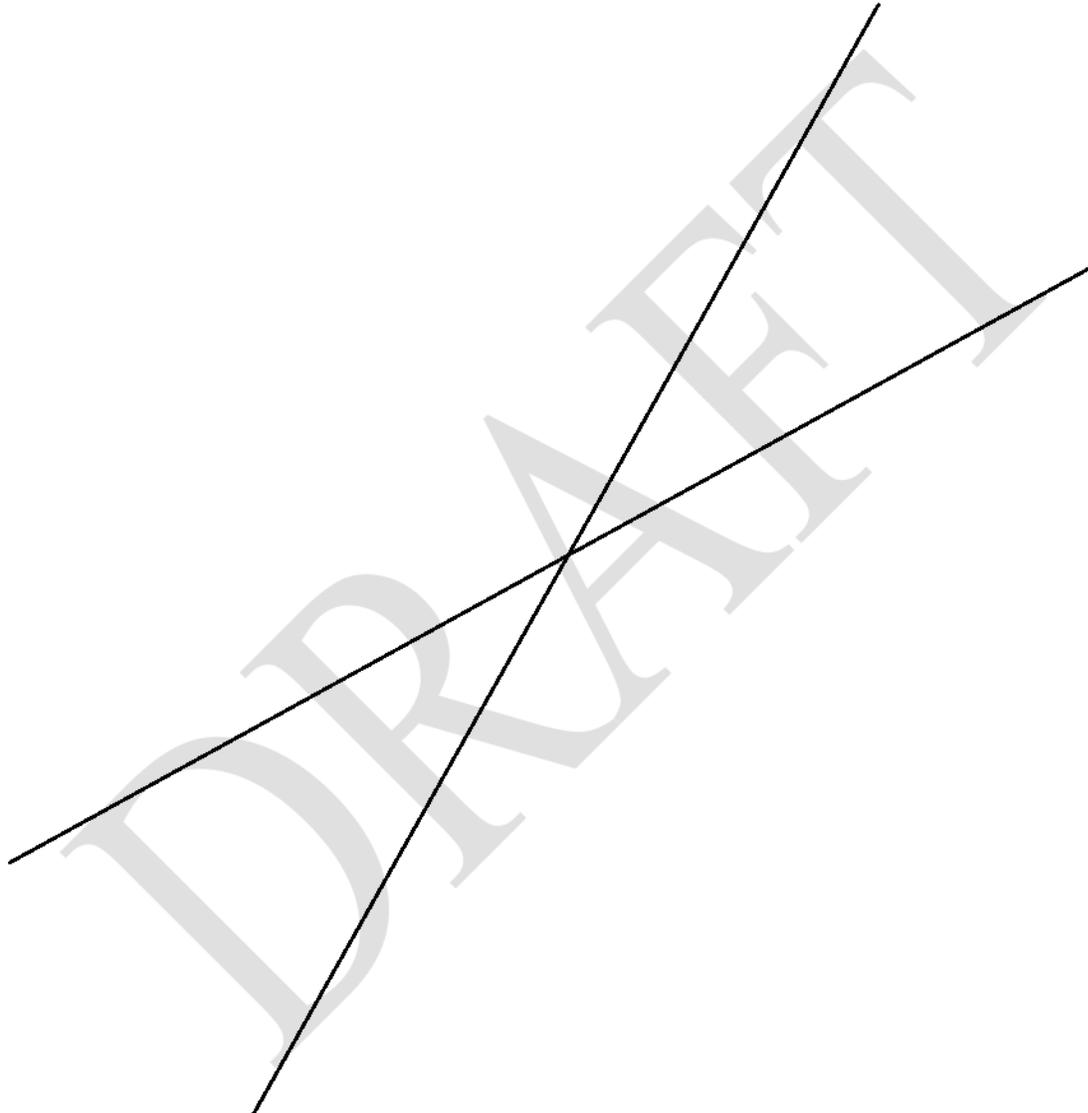
(b)(5)

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#:	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)

(b)(5)

Question#:	5
Topic:	Special Immigrant Juvenile Status
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: Special Immigrant Juvenile status allows children under the age of 21 who have been abused, abandoned or neglected by one or both parents to obtain a green card. To get the status, applicants must first have a ruling from their state's juvenile court, finding that they have been abused, abandoned or neglected. A judge must declare the young person dependent on the court, or appoint a caretaker. The applicant then submits the judge's order to U.S. Citizenship and Immigration Services (USCIS). The Trump administration is reinterpreting the law to narrow it, stating that in cases where applicants are over 18 they no longer qualify, because family courts lack jurisdiction over people age 18 or older.

Why was the Special Immigrant Juvenile status law reinterpreted to exclude individuals between the ages of 18 and 21?

Response: (b)(5)

(b)(5)

Question: What was the decision making process for this change? Please provide any documents memorializing the legal reasoning for the decision.

Response: (b)(5)

(b)(5)

Question#:	5
Topic:	Special Immigrant Juvenile Status
Hearing:	TVPRA and Exploited Loopholes Affecting Unaccompanied Alien Children
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

(b)(5)

Question: What alternate process is the Administration providing those individuals Congress explicitly protected by statute?

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 (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?"]

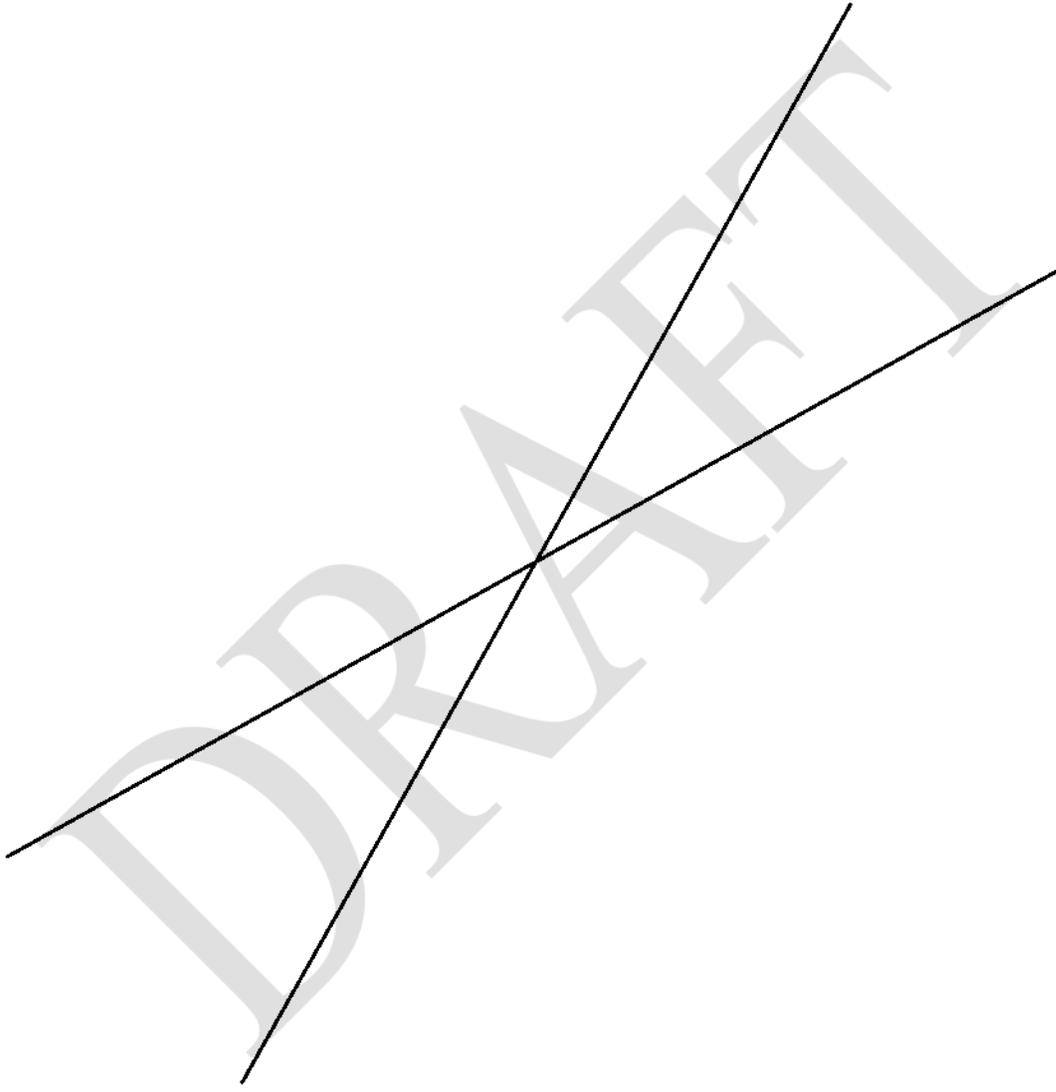
Response: (b)(5)

(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)

(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)

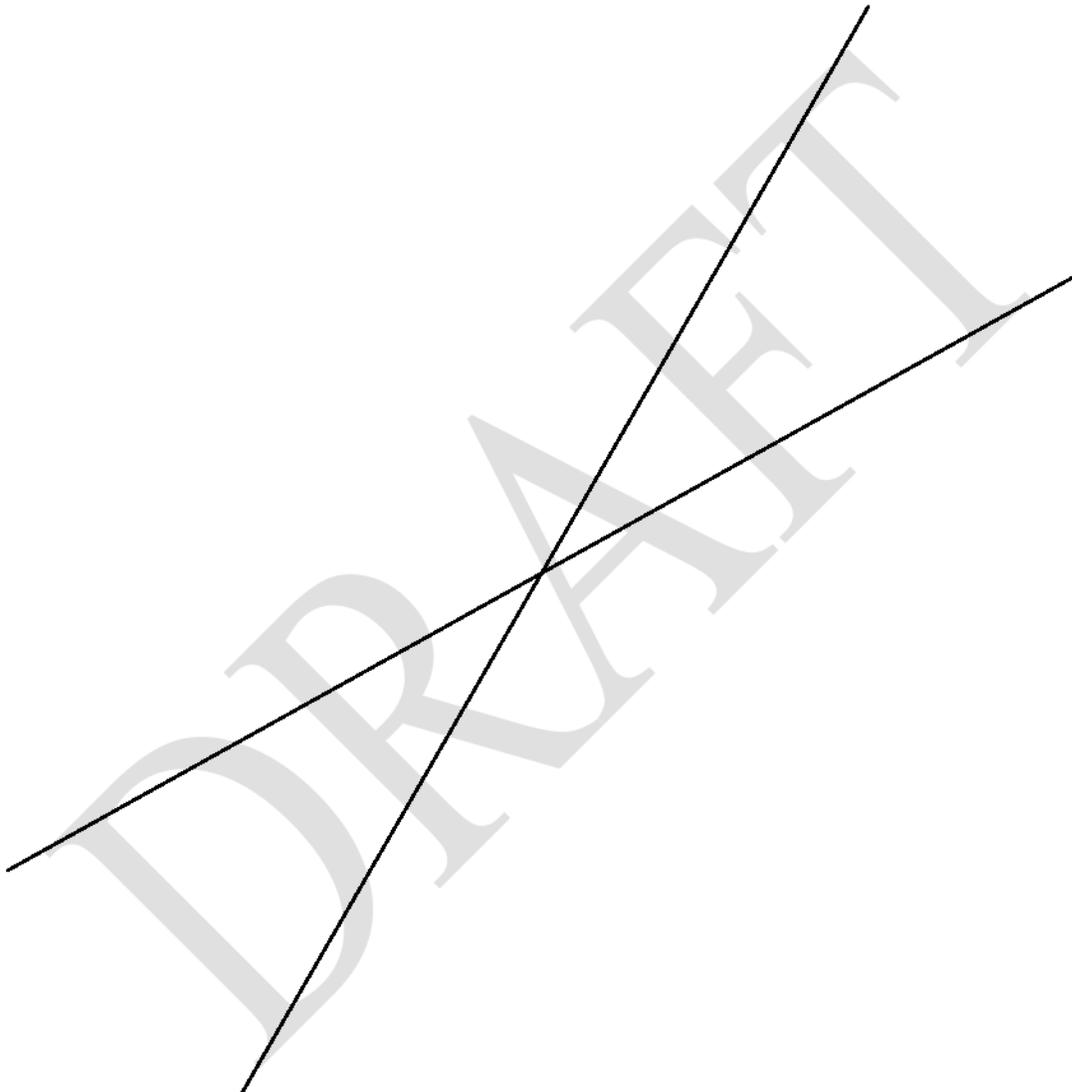
Question: When does the 72-hour statutory period begin running?

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)

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:	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)

DRAFT

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)

[Redacted]

(b)(5)

[Redacted]

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)

[Redacted]

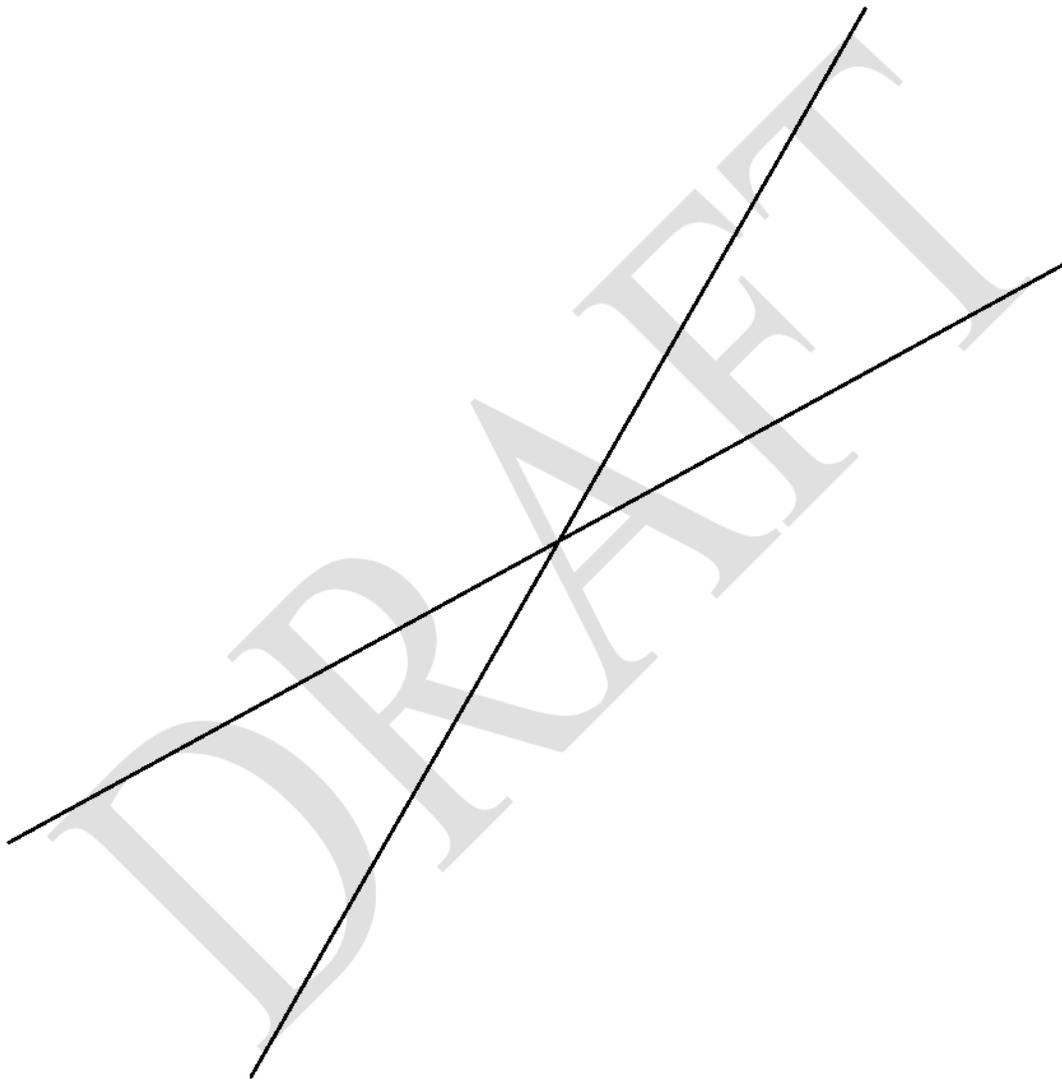
Question: What sort of training is provided to agents and officers on how to conduct separations?

Response: (b)(5)

(b)(5)

[Redacted]

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?

Response: (b)(5)

(b)(5)

(b)(5)

DRAFT

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)

~~DRAFT~~

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)

(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)

From:	Baroukh, Nader (b)(6) (b)(6)
To:	"Swartz, Neal (b)(6) (b)(6)
Subject:	FW: FOR REVIEW: DRAFT UPDATE MEMO
Date:	2018/06/22 17:18:00
Priority:	Normal
Type:	Note

Here is the latest version.

Nader Baroukh
Associate General Counsel, Immigration
Department of Homeland Security, Office of the General Counsel

(b)(6)

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From: McCament, James
Sent: Friday, June 22, 2018 10:11:54 PM
To: Mitnick, John; Fulghum, Chip; Shah, Dimple; Baroukh, Nader; Short, Tracy; Scudder, Ryan; Dougherty, Michael; (b)(6)
Cc: Petyo, Briana; Neumann, Elizabeth; Bobb, Christina; (b)(6)
Subject: RE: FOR REVIEW: DRAFT UPDATE MEMO

All, apologies, this version is with all changes accepted for ease of reference. Thanks all.

James W. McCament
Deputy Under Secretary for Strategy, Policy and Plans
Department of Homeland Security

(b)(6)

From: McCament, James
Sent: Friday, June 22, 2018 5:10 PM
To: Mitnick, John (b)(6) Fulghum, Chip (b)(6)
Shah, Dimple (b)(6) Baroukh, Nader (b)(6)

Short, Tracy (b)(6) Scudder, Ryan (b)(6)
 Dougherty, Michael (b)(6)
Cc: Petyo, Briana (b)(6) Neumann, Elizabeth
 (b)(6) Bobb, Christina (b)(6)
 (b)(6)
Subject: RE: FOR REVIEW: DRAFT UPDATE MEMO

Thank you, John. All, I've incorporated the edits received from Michael and Chip as well into this version. Chip, can you provide answers to John's 2 comments re: bed space calculations? In addition, Tracy/Ryan, do you have any additional edits?

Thanks all,

James W. McCament
 Deputy Under Secretary for Strategy, Policy and Plans
 Department of Homeland Security

(b)(6)

From: Mitnick, John
Sent: Friday, June 22, 2018 4:40 PM
To: McCament, James (b)(6) Fulghum, Chip
 (b)(6) Shah, Dimple (b)(6) Baroukh, Nader
 (b)(6) Short, Tracy (b)(6) Scudder, Ryan
 (b)(6) Dougherty, Michael (b)(6)
Cc: Petyo, Briana (b)(6) Neumann, Elizabeth
 (b)(6) Bobb, Christina (b)(6)
Subject: RE: FOR REVIEW: DRAFT UPDATE MEMO

~~ATTORNEY CLIENT COMMUNICATION
 ATTORNEY WORK PRODUCT
 DELIBERATIVE~~

Colleagues,

My edits and comments are attached.

John

John M. Mitnick
 General Counsel
 U.S. Department of Homeland Security

(b)(6)

From: McCament, James
Sent: Friday, June 22, 2018 12:50 PM

To: Fulghum, Chip (b)(6) Mitnick, John (b)(6)
 Shah, Dimple (b)(6) Baroukh, Nader (b)(6)
 Short, Tracy (b)(6) Scudder, Ryan (b)(6)
 Dougherty, Michael (b)(6)
Cc: Petyo, Briana (b)(6) Neumann, Elizabeth
 (b)(6); Bobb, Christina (b)(6)
Subject: FOR REVIEW: DRAFT UPDATE MEMO

~~FOR OFFICIAL USE ONLY INTERNAL PRE-DECISIONAL
 DELIBERATIVE ATTORNEY-CLIENT WORK PRODUCT~~

All, for review, edit and comment by 3:00 if possible today, attached is the draft of the memo S1 requested as noted below. Understanding that there are continued discussions which may impact timing and content, we'll want to provide this forward soonest through Exec Sec. I'm adding in Briana and Elizabeth who will assist in further tracking while I'm out of the office Monday and Tuesday (personal). Adding Christina for visibility regarding the forthcoming memo through the Exec Sec process.

Thanks all for the continued quick turn around and collaboration,

James W. McCament
 Deputy Under Secretary for Strategy, Policy and Plans
 Department of Homeland Security

(b)(6)

From: McCament, James
Sent: Friday, June 22, 2018 9:35 AM
To: Fulghum, Chip (b)(6) Taylor, Miles (b)(6)
 Mitnick, John (b)(6)
Cc: MCALEENAN, KEVIN K (b)(6) Albence, Matthew
 (b)(6) Shah, Dimple (b)(6) Hoffman,
 Jonathan (b)(6) Wolf, Chad (b)(6) Baroukh,
 Nader (b)(6); Short, Tracy (b)(6) Scudder,
 Ryan (b)(6)
Subject: RE: Options for Principals

Thanks, Chip. Yes, following to yesterday's meeting and discussion, (b)(5)

(b)(5)

James W. McCament
 Deputy Under Secretary for Strategy, Policy and Plans
 Department of Homeland Security

(b)(6)

From: Fulghum, Chip
Sent: Friday, June 22, 2018 8:15 AM
To: McCament, James (b)(6); Taylor, Miles
(b)(6); Mitnick, John (b)(6)
Cc: MCALEENAN, KEVIN K (b)(6); Albence, Matthew
(b)(6); Shah, Dimple (b)(6); Hoffman,
Jonathan (b)(6); Wolf, Chad (b)(6); Baroukh,
Nader (b)(6); Short, Tracy (b)(6); Scudder,
Ryan (b)(6)
Subject: RE: Options for Principals

In addition, Below for visibility is the input for the memo S1 requested you are working regarding overall implementation status.

(b)(5)

(b)(5)

From: McCament, James

Sent: Friday, June 22, 2018 8:12 AM

To: Taylor, Miles (b)(6); Mitnick, John (b)(6)

Cc: MCALEENAN, KEVIN K (b)(6); Albence, Matthew

(b)(6); Shah, Dimple (b)(6); Hoffman,

Jonathan (b)(6); Fulghum, Chip (b)(6); Wolf,

Chad (b)(6); Baroukh, Nader (b)(6); Short, Tracy

(b)(6); Scudder, Ryan (b)(6)

Subject: RE: Options for Principals

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DELIBERATIVE ATTORNEY-CLIENT WORK PRODUCT~~

All,

Attached is an overview document incorporating all of the input from the below. I've also cut and pasted for reference below.

Policy Question: Enforcing Immigration Laws while Maintaining Family Unity

Where should the balance be between family unity and prosecution referrals?

(b)(5)

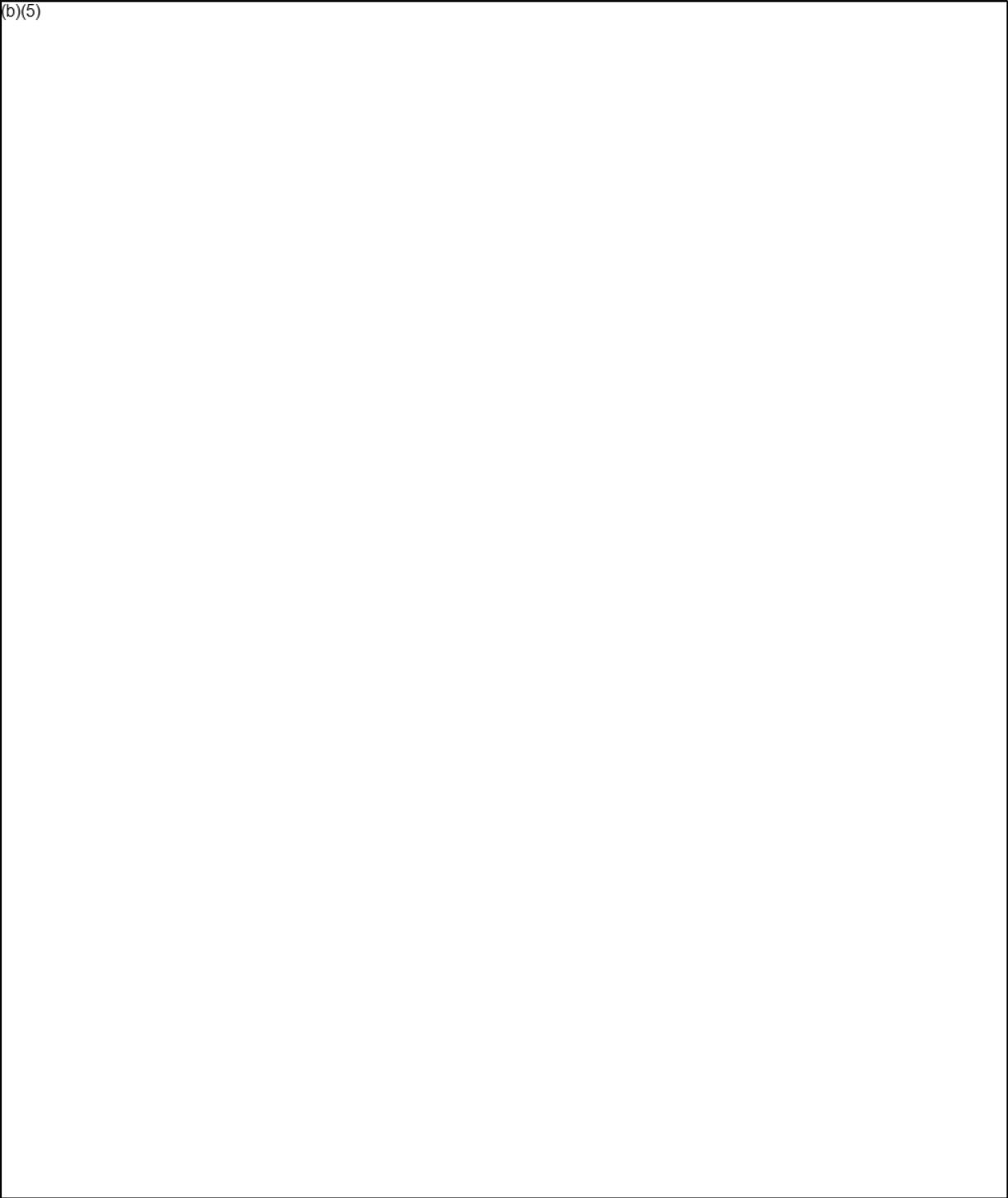
(b)(5)

Policy Question: Family Reunification

Should we reunify families that are currently separated?

(b)(5)

(b)(5)



Policy Question: Prosecuting Parents

Should we continue to prosecute the parents of illegal alien family units?

(b)(5)



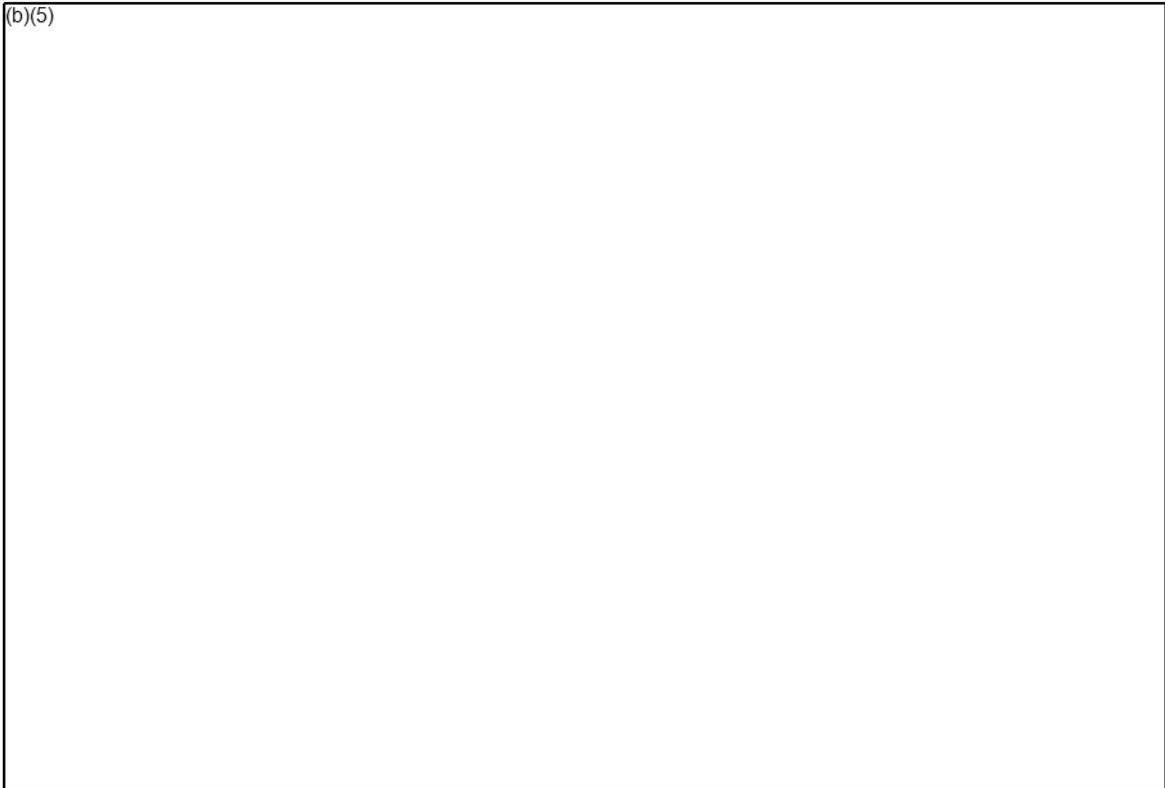
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Policy Question: Flores Deadline (20 days)

Should we keep adults of family units in detention after 20 days or release them with their children?

(b)(5)

(b)(5)



James W. McCament
Deputy Under Secretary for Strategy, Policy and Plans
Department of Homeland Security

(b)(6)

From: McCament, James
Sent: Friday, June 22, 2018 7:07 AM
To: Taylor, Miles (b)(6); Mitnick, John (b)(6)
Cc: MCALEENAN, KEVIN K (b)(6); Albence, Matthew (b)(6); Shah, Dimple (b)(6); Hoffman, Jonathan (b)(6); Fulghum, Chip (b)(6); Wolf, Chad (b)(6); Baroukh, Nader (b)(6)
Subject: RE: Options for Principals

Thanks Miles, and thanks all for the input. Yes I'm finalizing for delivery by/before 830.

James W. McCament
Deputy Under Secretary for Strategy, Policy and Plans
Department of Homeland Security

(b)(6)

From: Taylor, Miles
Sent: Friday, June 22, 2018 6:42:39 AM
To: Mitnick, John
Cc: McCament, James; MCALEENAN, KEVIN K; Albence, Matthew; Shah, Dimple; Hoffman, Jonathan; Fulghum, Chip; Wolf, Chad; Baroukh, Nader
Subject: Re: Options for Principals

Thanks John. James—can we get a final version this AM? S1 has prep time for her WH meetings at 1030.

Miles Taylor
Deputy Chief of Staff
U.S. Department of Homeland Security

(b)(6)

On Jun 21, 2018, at 10:47 PM, Mitnick, John (b)(6) wrote:

The Good app is not allowing me to add text to the points below, so here is my legal summary, which pertains to the direction to continue referrals for prosecution and keep families together:

(b)(5)

From: McCament, James
Sent: Thursday, June 21, 2018 8:34:24 PM

To: Taylor, Miles; MCALEENAN, KEVIN K; Mitnick, John; Albence, Matthew; Shah, Dimple; Hoffman, Jonathan; Fulghum, Chip
Cc: Wolf, Chad; Baroukh, Nader
Subject: RE: Options for Principals

All,

Here are additional points to the below questions with an additional point for the overarching discussion of enforcement of laws and maintaining family unity as outlined in Section 1. Kevin/Matt, in light of tonight's meeting and tomorrow's Border PC, please add any additional points. Chip, if there any additional resource points missed please advise. We can then format per below or more formally as needed for S1 reference. We'll need all final answers by 8AM tomorrow latest.

Thanks all,

Policy Question: Enforcing Immigration Laws while Maintaining Family Unity

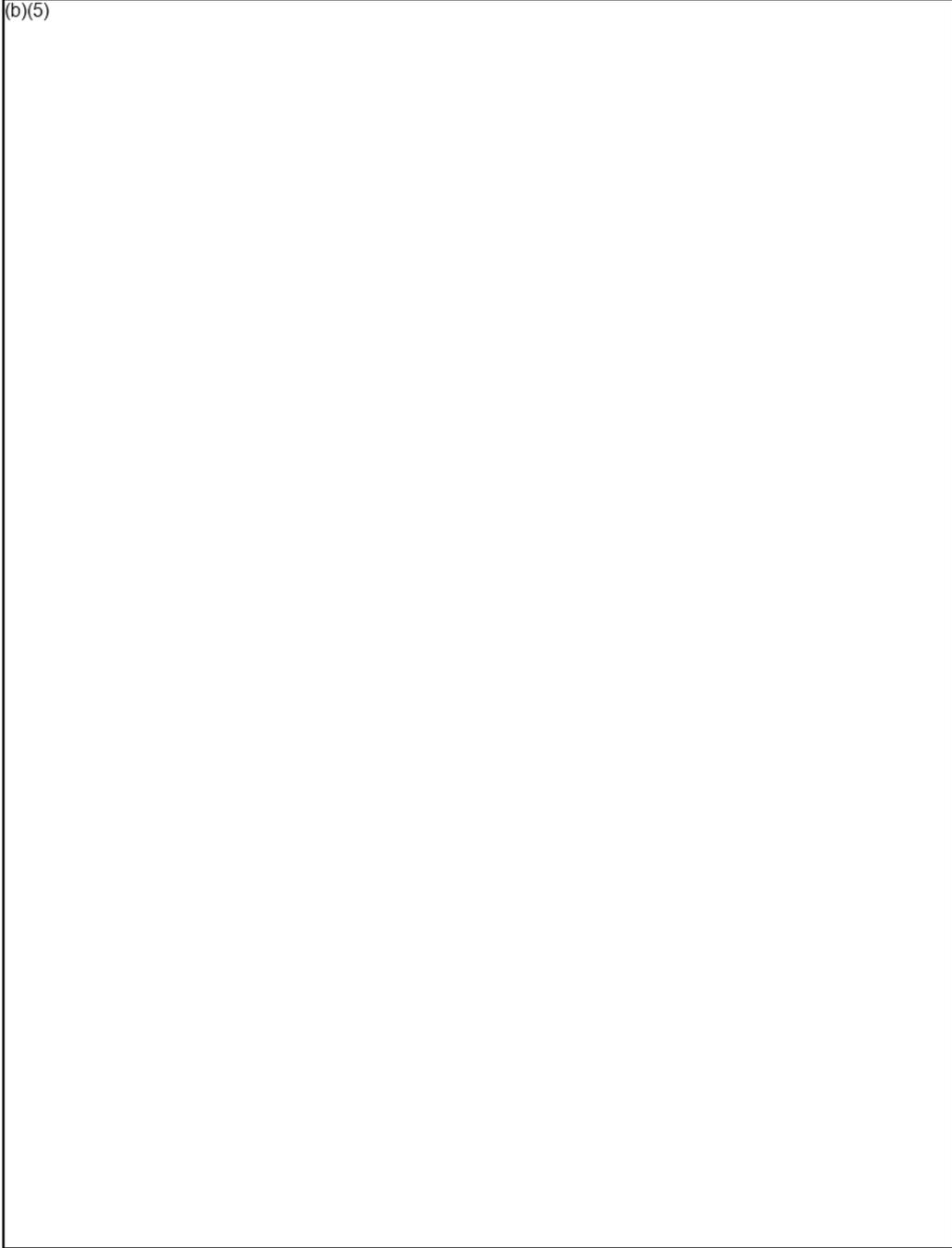
Where should the balance be between family unity and prosecution referrals?

(b)(5)

Policy Question: Family Reunification

Should we reunify families that are currently separated?

(b)(5)



Policy Question: Prosecuting Parents

Should we continue to prosecute the parents of illegal alien family units?

(b)(5)



(b)(5)

Policy Question: Flores Deadline (20 days)

Should we keep adults of family units in detention after 20 days or release them with their children?

(b)(5)

(b)(5)

From: McCament, James
Sent: Thursday, June 21, 2018 6:37 PM
To: Taylor, Miles (b)(6); MCALEENAN, KEVIN K (b)(6); Mitnick, John (b)(6); Albence, Matthew (b)(6); Shah, Dimple (b)(6); Hoffman, Jonathan (b)(6); Fulghum, Chip (b)(6)
Cc: Wolf, Chad (b)(6); Baroukh, Nader (b)(6)
Subject: RE: Options for Principals

Thanks Miles, will review and incorporate points from the updated draft memo OGC has shared. Adding Chip as well re: S1's questions.

From: Taylor, Miles
Sent: Thursday, June 21, 2018 5:18 PM
To: McCament, James (b)(6); MCALEENAN, KEVIN K (b)(6); Mitnick, John (b)(6); Albence, Matthew (b)(6); Shah, Dimple (b)(6); Hoffman, Jonathan (b)(6)
Cc: Wolf, Chad (b)(6); Baroukh, Nader (b)(6)
Subject: Re: Options for Principals

See below. Please feel free to add/amend. These are very rough. As you see, S1 would like additional operational details, stats, etc added to this. James, can PLCY QB?

Policy Question: Family Reunification

Should we reunify families that are currently separated?

(b)(5)

Policy Question: Prosecuting Parents

Should we continue to prosecute the parents of illegal alien family units?

(b)(5)

Policy Question: Flores Deadline (20 days)

Should we keep adults of family units in detention after 20 days or release them with their children?

(b)(5)

Miles Taylor
Deputy Chief of Staff

U.S. Department of Homeland Security

(b)(6)

On Jun 21, 2018, at 4:31 PM, S1KMN <S1KMN@hq.dhs.gov> wrote:

Miles- pls integrate questions.

(b)(5)

Kirstjen Nielsen
Secretary of Homeland Security

From: MCALEENAN, KEVIN K
Sent: Thursday, June 21, 2018 9:10:12 PM
To: S1KMN; Wolf, Chad
Subject: FW: Options for Principals

From: (b)(6) EOP/WHO
Sent: Thursday, June 21, 2018 3:52:49 PM
To: MCALEENAN, KEVIN K; Albence, Matthew
Subject: Options for Principals

We're pushing the principals discussion to tomorrow at 12:30 PM. I know the timing is unfairly tight, but is there any way to have a rough sketch of option on the table by 8PM tonight? Something like:

(b)(5)

We plan to address a wider range of issues as well, so please let us know everything you'd like principals to address.

(b)(6)

(b)(6)

Office of the Deputy Chief of Staff

(b)(6)

Sender:	Baroukh, Nader (b)(6)
	(b)(6)
Recipient:	"Swartz, Neal (b)(6)
	(b)(6)
Sent Date:	2018/06/22 17:18:00

**Meeting on the Family Reunification Process
July 2, 2018**

Objective:

- To update you on the family reunification process, including an overview of the process, associated numbers, cooperation with the Department of Health and Human Services (HHS) and other agencies, and any other outstanding issues that need to be addressed.

Agenda:

- You will discuss the family reunification process and the ongoing challenges related to family reunification.

Key Messages

In light of President Trump's Executive Order, *According Congress an Opportunity to Address Family Separation*, which was issued on June 20, 2018, a process to reunite the parent(s) with their minor child(ren) needs to be established.

Key Issues:

DHS Priorities for Meeting

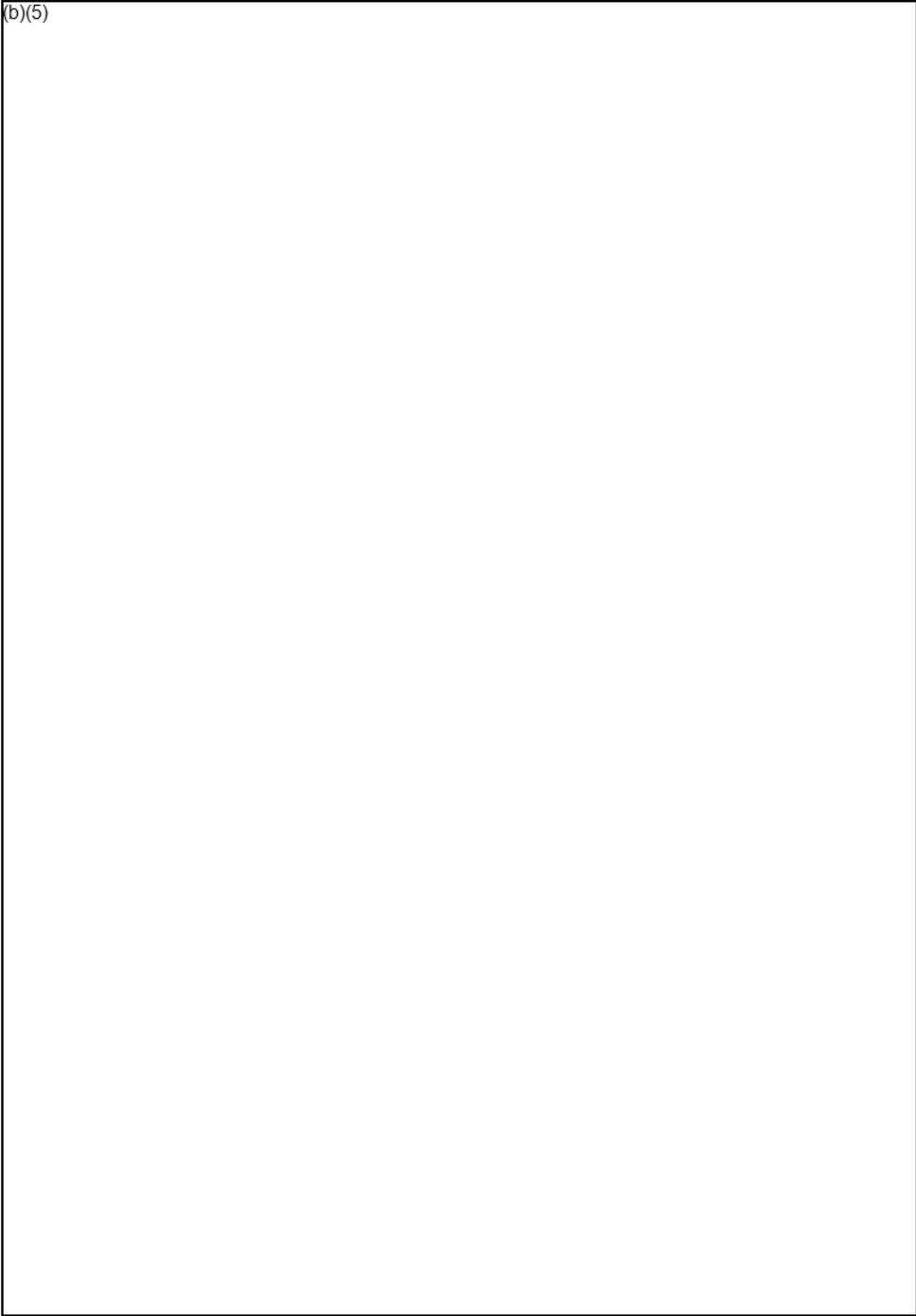
- Provide the Secretary with a solid understanding of the family separation and family reunification process, including progress that has been made and outstanding issues that need to be resolved.
- Review and address any outstanding issues, including coordination with HHS.

Issues Likely to be Raised

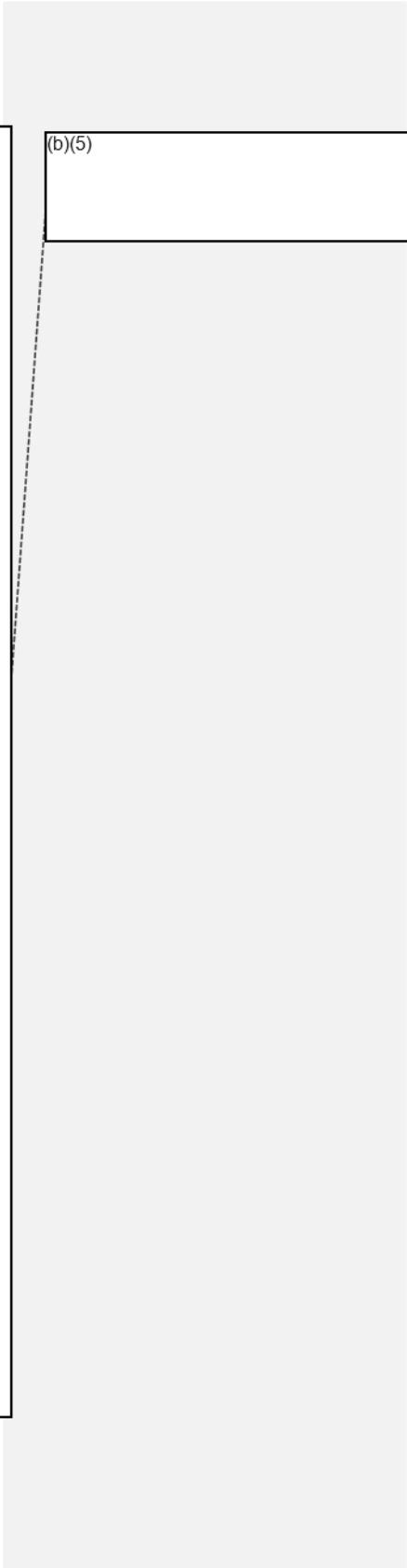
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History:

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[Redacted History Content]

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Logistics:

- This will be a meeting among DHS leadership and ICE and CBP leadership.

Attachments:

- A. Participant List

Staff Responsible for Briefing Memo: Matthew T. Albence, Executive Associate Director, Enforcement and Removal Operations, (b)(6)

Reviewed and approved by: (b)(6);(b)(7)(C) (a) Chief of Staff, Enforcement and Removal Operations, (b)(6);(b)(7)(C)

OGC Reviewer: Attorney in Component Counsel or HQ, Title, Phone Number.

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OGC coordination is essential. Please ensure that briefing materials have been fully coordinated with OGC. Lead components are now required to coordinate with their Component Counsel and identify in their OGC submission of briefing materials, who in their component counsel office reviewed and cleared.

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**Legal Analysis on Executive Order:
Affording Congress an Opportunity to Address Family Separation**

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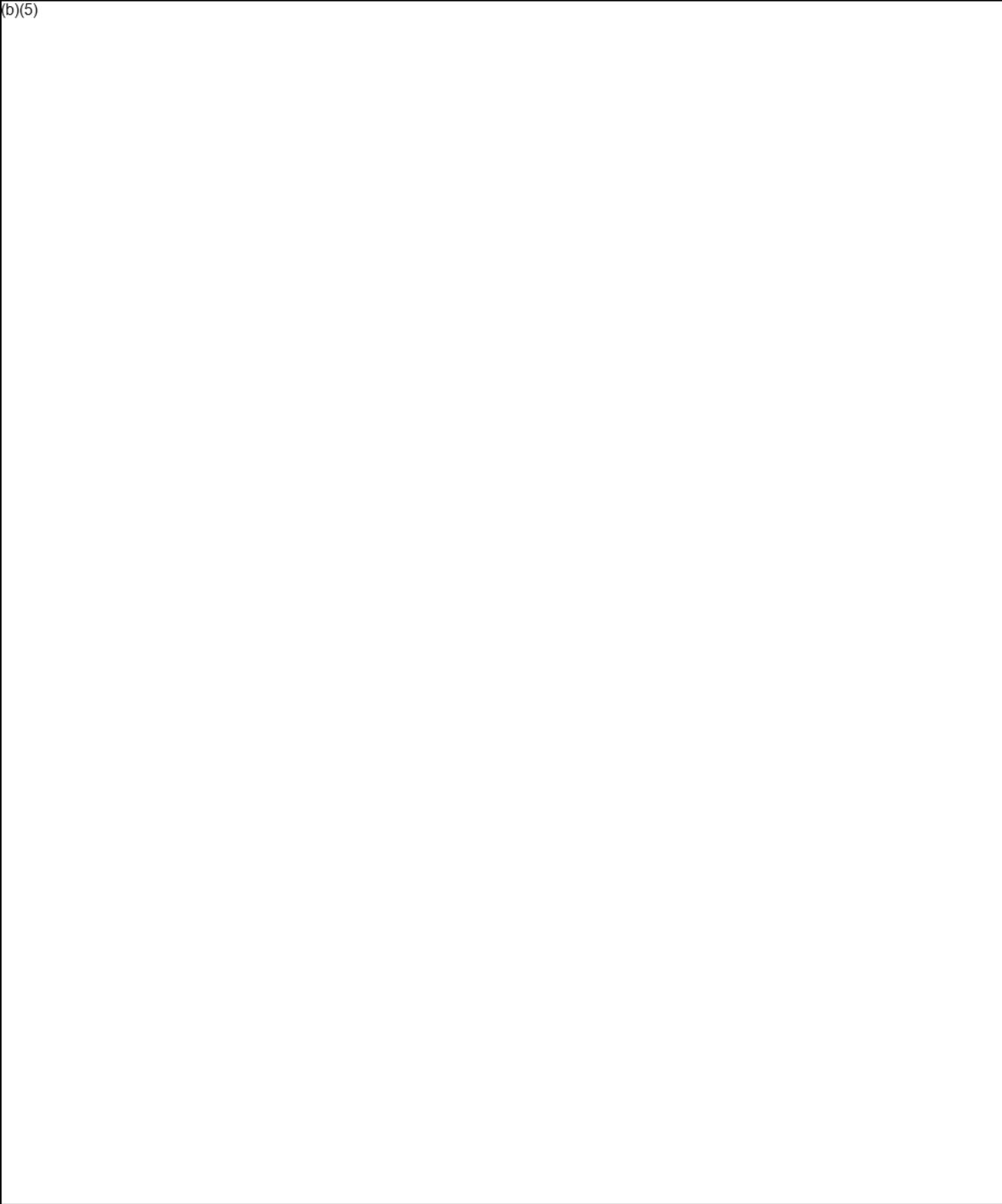
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**Legal Analysis on Executive Order:
Affording Congress an Opportunity to Address Family Separation**

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