Committee:	House Committee on Oversight and Reform
Hearing:	"Full Committee Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan"
Date:	July 18, 2019
Topic:	Family Separation
Primary MOC:	Rep. Raskin (D-MD)

Getback #1: Policy and operational guidance used "to determine whether children should be removed from their parents."

Response: DHS provided a copy of the interim guidance to Committee staff (and Rep. Raskin's personal office) via email on July 24, 2019.

Committee:	House Committee on Oversight and Reform
Hearing:	"Full Committee Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan"
Date:	July 18, 2019
Topic:	Emergency Border Supplemental Funding Spending Plan
Primary MOC:	Rep. Krishnamoorthi (D-IL)

Getback #2: A plan for how DHS funding from the supplemental is being spent; *see* Rep. Krishnamoorthi letter (WF# 1183499).

Response: Deputy Under Secretary Alles sent a letter to Rep. Krishnamoorthi on August 1, 2019, responding to his July letter. In response, Rep. Krishnamoorthi sent a follow up on August 12, 2019, requesting a briefing on the matter. OLA is coordinating a Member-level briefing with Rep Krishnamoorthi and Rep Garcia's office. They are working on scheduling a date.

Committee:	House Committee on Oversight and Reform
Hearing:	"Full Committee Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan"
Date:	July 18, 2019
Topic:	Border CODEL
Primary MOC:	Chairman Cummings (D-MD)

Getback #3: Make CODEL arrangements with Chairman Cummings to visit the border.

Response: OLA was coordinating with Chairman Cummings' staff for an August 14th-15th CODEL, but the Chairman's schedule changed and the trip had to be postponed. CBP & OLA are working with the Chairman and have suggested considering October dates.

Committee:	House Committee on Oversight and Reform
Hearing:	"Full Committee Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan"
Date:	July 18, 2019
Topic:	Interior Enforcement
Primary MOC:	Rep. Wasserman Schultz (D-FL)

Getback #4: Information on number of children detained in the interior of the United States and classified as UACs, or otherwise children designated as UACs but later found to have been improperly designated as such.

Response: The Department of Homeland Security apprehends, transfers, and repatriates unaccompanied alien children (UAC) but is not charged with housing them over the long term. U.S. Customs and Border Protection (CBP) typically takes custody of UAC at the Southwest Border (SWB). Once shelter space has been identified for the UAC by the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), CBP transfers the UAC to U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations' custody for transportation to a HHS ORR facility. At that point, HHS ORR takes custody of the UAC. While most UAC are apprehended at the SWB, any UAC apprehended in the interior would also be transferred into HHS ORR custody.

By definition, if a child is under the age of 18, has no legal status in the United States, and does not have a parent or legal guardian in the United States, or a parent or legal guardian in the United States is not available to provide for the care and physical custody of that minor, ICE must treat the minor as a UAC and refer the minor to HHS ORR for care and custody of the minor. ICE does not refer accompanied minors to HHS ORR custody. All minors encountered by ICE and referred to HHS ORR are UACs at the time of the encounter and referral.

Committee:	House Committee on Oversight and Reform
Hearing:	"Full Committee Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan"
Date:	July 18, 2019
Topic:	ICE Detention Facilities
Primary MOC:	Rep. Escobar (D-TX)

Getback #5: Deep dive on ICE facilities in Rep. Escobar's district that were the location of detainee hunger strikes.

Response: The U.S. Immigration and Customs Enforcement (ICE) El Paso Service Processing Center is required to follow hunger strike protocols as outlined in the Performance Based National Detention Standards which delineate care standards for individuals held in ICE custody. When ICE officers and/or detention facility staff observe a detainee to have not eaten for 72 hours, or 9 consecutive missed meals, the ICE Health Service Corps health staff ("medical staff") receive a referral for detainee evaluation and possible treatment by medical and mental health providers. Medical staff assess detainees as early as possible to determine what may be motivating the starvation and to facilitate resolution, if possible, without resorting to involuntary medical intervention. There is a conscious effort by medical staff to maintain therapeutic trust between doctor and detained patient to make informed health decisions aimed at preservation of life and well-being.

Medical staff monitors referrals and documents the detainee's health to include weight, and intake of foods and liquids. A full clinical and mental health assessment is completed, and a course of treatment, intervention, and follow-up is recommended. A behavioral health provider evaluates the detainee to assess for possible psychiatric causes for the starvation and to provide supportive counseling that may help end the behavior. Detainees considered to be on a hunger strike are housed separately from other non-striking detainees for close monitoring. However, they continue to have access to a variety of services, including recreation, television, attorney visits, law libraries, interpreters, and other avenues for voicing any concerns they may have, including access to a telephone and the mail through which they may contact the media and publicize their grievances.

There are also established procedures which would allow for a member of the media to interview a detainee. Modifications to services may be made to accommodate the health status of the detainee at the time of the request. Generally, individuals who elect to engage in a hunger strike are informed during their initial declaration that they will be monitored to ensure their safety and that all efforts, including medical examinations, hydration and, as a last resort, a nasogastric tube for administration of nutritional supplements, will be utilized if their hunger strike becomes life-threatening or if it will have long-term adverse health consequences for them.

ICE is not legally required to obtain court authorization prior to their medical staff implementing medical intervention on detainees who are hunger-striking but does so as a matter of policy. Results of involuntary blood draws, urinalysis, weigh-ins, and routine medical examinations to monitor health during the hunger strikes alerts ICE and the court if the detainee's health has deteriorated to a point where an order requiring forced feeding is in fact medically necessary. Medical staff make every effort to procure informed consent from detainees prior to requesting a court order for the use of forced medical monitoring, hydration, or a nasogastric tube.

Any medical procedure or treatment performed on a detainee who is on a hunger strike is done only with the detainee's informed consent or pursuant to a court order. If the detainee refuses treatment, they are asked to sign a refusal form. The physician, designee, or other health care provider explains the risks associated with the refusal of treatment. If the detainee refuses to sign the form, the physician, designee, or other health care provider, notes the detainee's refusal on the form and has it witnessed by a second person. Medical staff are always to make a reasonable effort to educate and encourage the detainee to accept voluntary treatment and nourishment in a language and manner that the detainee understands. Medical staff is also required to consult with the local Office of the Principal Legal Advisor (OPLA) for ICE, which in turn consults with OPLA Headquarters as early as possible to discuss the hunger strike before involuntary treatment or emergency care is needed.

Medical research shows that after several weeks without eating, the body's metabolic systems start to breakdown, and hunger-strikers can risk permanent damage, to include cognitive impairment, dementia, and loss of coordination, sometimes irreversible. ICE's medical management of hunger strikes is designed to limit the chance a detainee will deteriorate to such a degree that the decision-making capacity of the detainee to accept or refuse recommended intervention is gone, or permanent injury or death is imminent. If ongoing assessments reveal the detainee's condition is deteriorating despite efforts to encourage food and fluid intake and the physician determines that the detainee's condition threatens the life or long-term health of the detainee, then involuntary feeding and/or treatment may be considered pending authorization through a court order. The physician notifies the facility administrator and the ICE Office of Enforcement and Removal Operations Field Office Director in writing of any proposed plan of involuntary treatment if the hunger strike continues.

The physician completes a declaration with all pertinent information regarding the hunger-striking detainee for submission to the court. An ICE official from the detention center also submits a declaration explaining the reasons why allowing the death or injury of any detainee because of a hunger strike or being pressured to release a detainee due to the hunger strike adversely affects ICE's efforts to maintain the security and good order of its detention facility. The judge reviews this information and may hold a hearing to take testimony from the medical staff declarant, ICE declarant and/or the hunger-striking detainee before deciding whether the detainee may have involuntary medical evaluations, hydration or involuntary feeding.

Each hunger strike event is unique. There are individual circumstances that motivate a detainee to engage in a hunger strike, and there may be individual administrative case circumstances that inform ICE officers to take certain actions for individual cases that may result in a detainee

terminating their hunger strike. Detainees who choose to engage in hunger strikes often have final orders of removal with pending travel documents or travel arrangements for return to their home countries or are subject to mandatory detention.

ICE operates the largest detention system in the nation, and detention remains an important and necessary part of immigration enforcement and removal. ICE takes the health and welfare of its detained population very seriously, and detention standards establish uniform policies and procedures for the safe, secure, and humane treatment of aliens in ICE custody. Notwithstanding, ICE has used its authority to parole certain individuals who otherwise were statutorily subject to mandatory detention and will continue to do so on a case-by-case basis.

Under the authority of section 212(d)(5) of the Immigration and Nationality Act, as delegated by the Secretary of Homeland Security, ICE may parole aliens into the United States temporarily and under such conditions as the agency may prescribe. Parole is granted on a case-by-case basis for urgent humanitarian reasons or significant public benefit; [1] it is not an admission or entry. It is a discretionary authority to allow an alien temporary entry into the United States on a case-by-case basis for urgent humanitarian reasons or significant public benefit.

The applicable regulations describe five categories of aliens for whom parole would generally be justified only on a case-by-case basis if the alien has satisfied these threshold requirements: (1) aliens who have serious medical conditions in which continued detention would not be appropriate; (2) women who have been medically certified as pregnant; (3) certain alien juveniles; (4) aliens who will be witnesses in proceedings being, or to be, conducted by judicial, administrative, or legislative bodies in the United States; and (5) aliens whose continued detention is not in the public interest. In general, aliens who are hunger striking would not fall under these categories, absent other factors in their case.

[1] The governing parole standards for those aliens in expedited removal (pending a credible fear inreview or who has been ordered removed) can be found at 8 C.F.R. §§ 235.3(b)(2)(iii) and 235.3(b)(4)(iii).

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Date:	July 18, 2019
Topic:	ICE Detention Facilities (Number of Beds)
Primary MOC:	Rep. Escobar (D-TX)

Getback #6: Information on open beds and total beds each day for the last six months in ICE detention facilities.

Response: The current volume of apprehensions has overwhelmed U.S. Immigration and Customs Enforcement's (ICE) resources, including detention capacity and interior enforcement. Although ICE does not track detention capacity in the specific manner requested, the agency projects a Fiscal Year 2019 high-end requirement for 73,900 beds, assuming all single adults apprehended by U.S. Customs and Border Protection (CBP) are transferred into ICE custody. As of July 27, 2019, the ICE average daily population for the fiscal year-to-date is 48,732, with a current daily population count of approximately 55,000 detainees. As of July 27, 2019, the average length of stay for ICE detainees is 31.8 days. Additionally, at any given time, there may be thousands of aliens being quarantined due to mumps, varicella, and other illnesses, further impacting ICE's ability to use available bed space in the affected housing units.

The unprecedented surge of Southwest Border apprehensions has resulted in ICE requiring additional bed space capacity to meet the growing detention numbers. These beds are needed as additional surge capacity to house the increased number of single adult aliens apprehended and detained by CBP. In fact, approximately 75% of book-ins into detention in FY19 have resulted from apprehensions made by CBP. Since many of the recent border crossers are subject to mandatory detention under the Immigration and Nationality Act, their apprehension leaves limited detention space for those who are arrested in the interior of the country, including those with criminal records, some of whom may also be subject to mandatory detention. Limited detention space runs the risk of preventing ICE from upholding the rule of law and detaining all aliens subject to mandatory detention pursuant to applicable laws.

ICE detains individuals solely to secure their presence for immigration hearings and removal from the United States, with detention resources focused on those who are subject to mandatory detention and present a threat to public safety and national security or a risk of flight. As a result, ICE is focusing on expanding its detention capacity to avoid releasing individuals who pose a threat to the national security, public safety, and border security of our country.