

**Committee on Appropriations
Subcommittee on Labor, Health and Human Services, Education
and Related Agencies**

**Hearing on the Fiscal Year 2019 Budget Request from the
U.S. Department of Health and Human Services
May 10, 2018**

Questions Subcommittee for the Record

Questions from Sen. Roy Blunt:

Not Responsive Records



Unaccompanied Alien Children Program

Blunt Q2: The Department of Justice recently announced it would criminally prosecute all undocumented individuals apprehended attempting to enter the country illegally between points of entry. *How many children does the Administration expect will be referred to HHS as a result of this policy change?*

Response: (b) (5)

Blunt Q2A: *What if any preparations has HHS made to properly care for additional children referred to them as a result of this policy change?*

Response: (b) (5)

Blunt Q3: HHS and DHS recently signed a Memorandum of Agreement (MOA) modifying existing data collection and sharing procedures related to reviewing the suitability of potential sponsors. DHS also recently issued a proposed regulation on the same issue. *How does HHS expect this MOA to impact HHS' administration of the UAC program?*

Response: (b) (5)

Blunt 3A: *Does HHS expect this will increase the length of time children are in HHS' custody?*

Response: (b) (5)

(b) (5)

Blunt Q3B: *Regarding both policy changes described above, does HHS have any revised estimates of funding needs for the UAC program in FY2018 or FY2019, relative to FY2018 enacted appropriations and the FY2019 budget request?*

Response: (b) (5)

Not Responsive Records

PRE-DECISIONAL NOT FOR PUBLIC RELEASE

Not Responsive Records

Family Separation

The Department of Homeland Security (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 your agency. DHS has thus far refused to make public its memo outlining this new “zero tolerance” policy.

Not Responsive Records

Leahy Q4: *Have you estimated how many additional children will end up in the care of the Office of Refugee Resettlement (ORR) as a result of the Trump administration’s new “zero tolerance” policy?*

Response: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Leahy Q4A: *Have you estimated the increased cost associated with this influx of children?*

Response: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED].

Leahy Q4B: *Will you submit an updated budget request for ORR to reflect these costs?*

Response: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

Not Responsive Records

Reed Q3: There have been recent reports that the Department of Health and Human Services is making arrangements to house migrant children on military bases in anticipation of an increase of unaccompanied immigrant minors due to the Administration's new policy to separate children of asylum seekers from their parents. *Please provide details of the Department's discussions with the Department of Defense and the Department of Homeland Security on these plans, including the legal authority to separate families, detain children, and hold them in custody in this manner.*

Response: [REDACTED] (b) (5)

Reed Q3A: *Has the Department estimated how many children will be placed in its custody?*

Response: [REDACTED] (b) (5)

Reed Q3B: *What accommodations are being considered for young children and minors with special needs?*

Response [REDACTED] (b) (5)
[REDACTED]
[REDACTED]

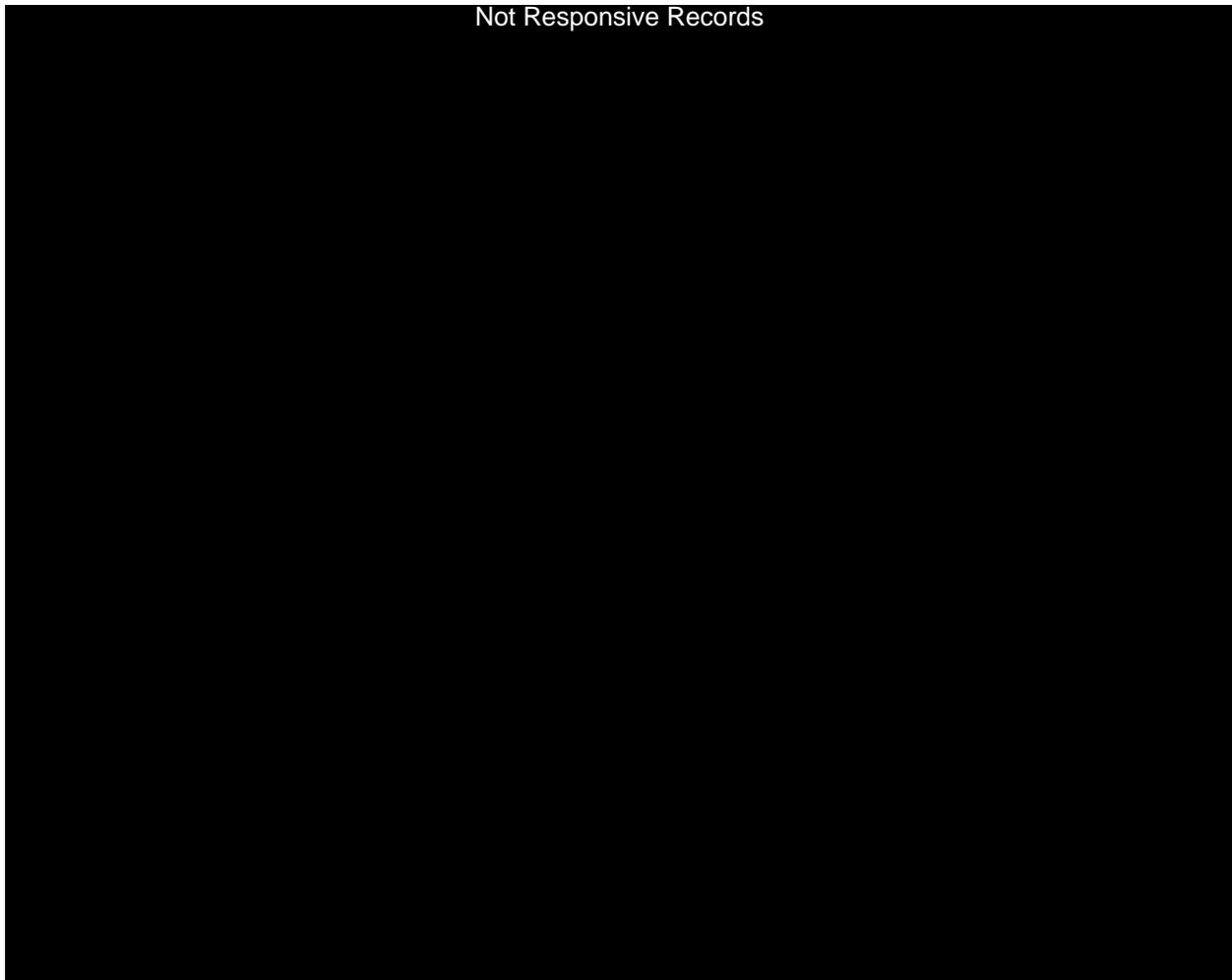
Reed Q3C: *What are the potential impacts on the children’s health and well-being from being forcibly separated from their parents and detained on a military base? Does the Department have a plan to mitigate these impacts?*

Response [REDACTED] (b) (5)
[REDACTED]
[REDACTED]

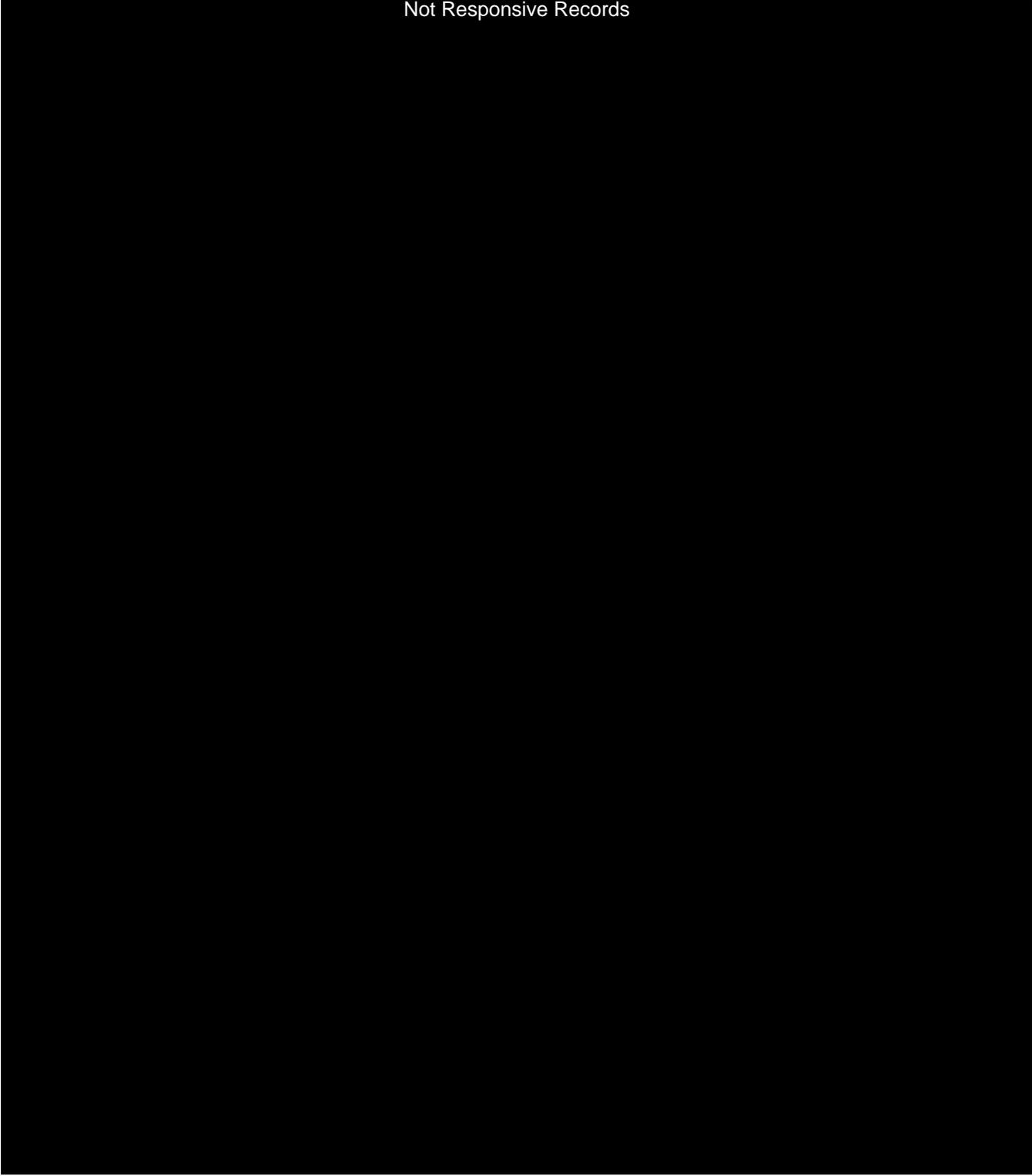
Reed Q3D: *Does the department track and make available any data on negative health effects experienced by children who are separated from their parents and detained in this manner?*

Response: [REDACTED] (b) (5)
[REDACTED]

Not Responsive Records



Not Responsive Records



Shaheen Q8: Due to this Administration's newly-announced policy to separate all children from their parents when apprehended by Customs and Border Protection (CBP). *How many*

additional children does ORR anticipate serving in FY 2018 who have been separated at the border from their parents?

Response: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

Shaheen Q8A: *How does this number compare with ORR's existing capacity to serve unaccompanied children?*

Response: [REDACTED] (b) (5)

Shaheen Q8B: *What is the estimated cost to the taxpayer of holding these additional children under ORR custody?*

Response: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

Shaheen Q8C: *How does ORR plan to coordinate with DHS and DOJ to ensure continued communication and eventual reunification between parents and the children separated from them at the border and placed under ORR custody?*

Response: [REDACTED] (b) (5)
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Not Responsive Records



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Monday, July 16, 2018 3:35 PM
To: Paris, Molly B. (OLA)
Subject: FW: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis
Attachments: Executive Agency Follow-up Questions re Family Detention 071318.docx; AG House Approps QFRs2_clean.docx

The Executive Agency Follow-up document is the one we have to insert RESPONSE: after each question or subpart. The AG House Approps QFRs is a sample of what it normally looks like. Thanks!

From: Escalona, Prim F. (OLA)
Sent: Monday, July 16, 2018 12:40 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: FW: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Coming to see you about this.

From: Stone, Judd (Judiciary-Rep) <(b) (6)>
Sent: Friday, July 13, 2018 6:37 PM
To: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Hamilton, Gene (OAG) <ghamilton@jmd.usdoj.gov>
Subject: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Dear Prim and Gene,

Please find attached some questions from the Senators who attended the briefing week-before-last. Thank you both once again for your help in pulling things together so quickly. Please distribute these internally and to the various departments in whatever way you think proper in order to ensure we receive answers.

We can discuss timelines and such on answers by phone; if you can get us an idea of how long this will take, I'd like to be able to report that back. Give me a call at your convenience: (b) (6)

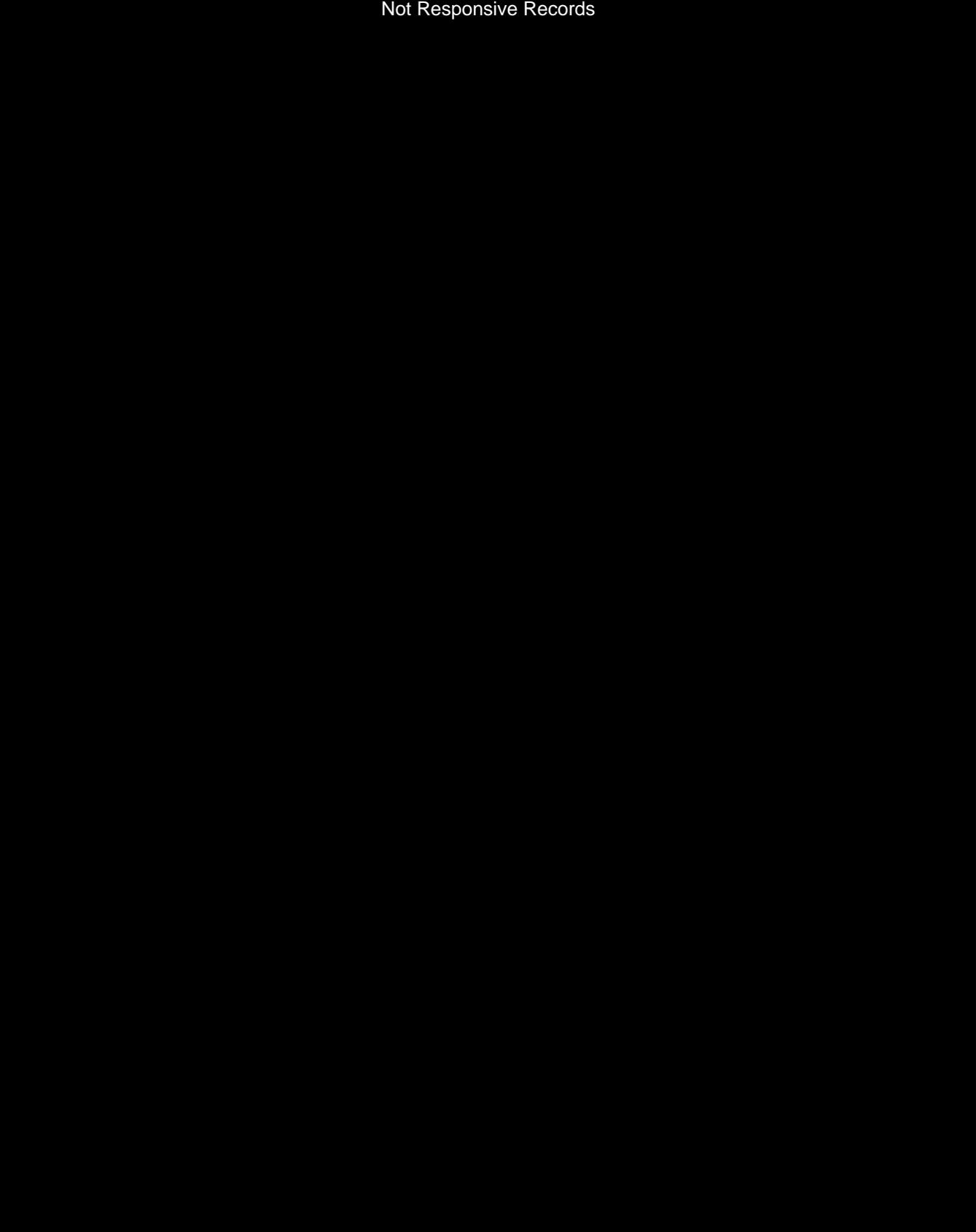
Yours,

Judd

Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records

9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.
 - a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation?
 - b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals?

Not Responsive Records

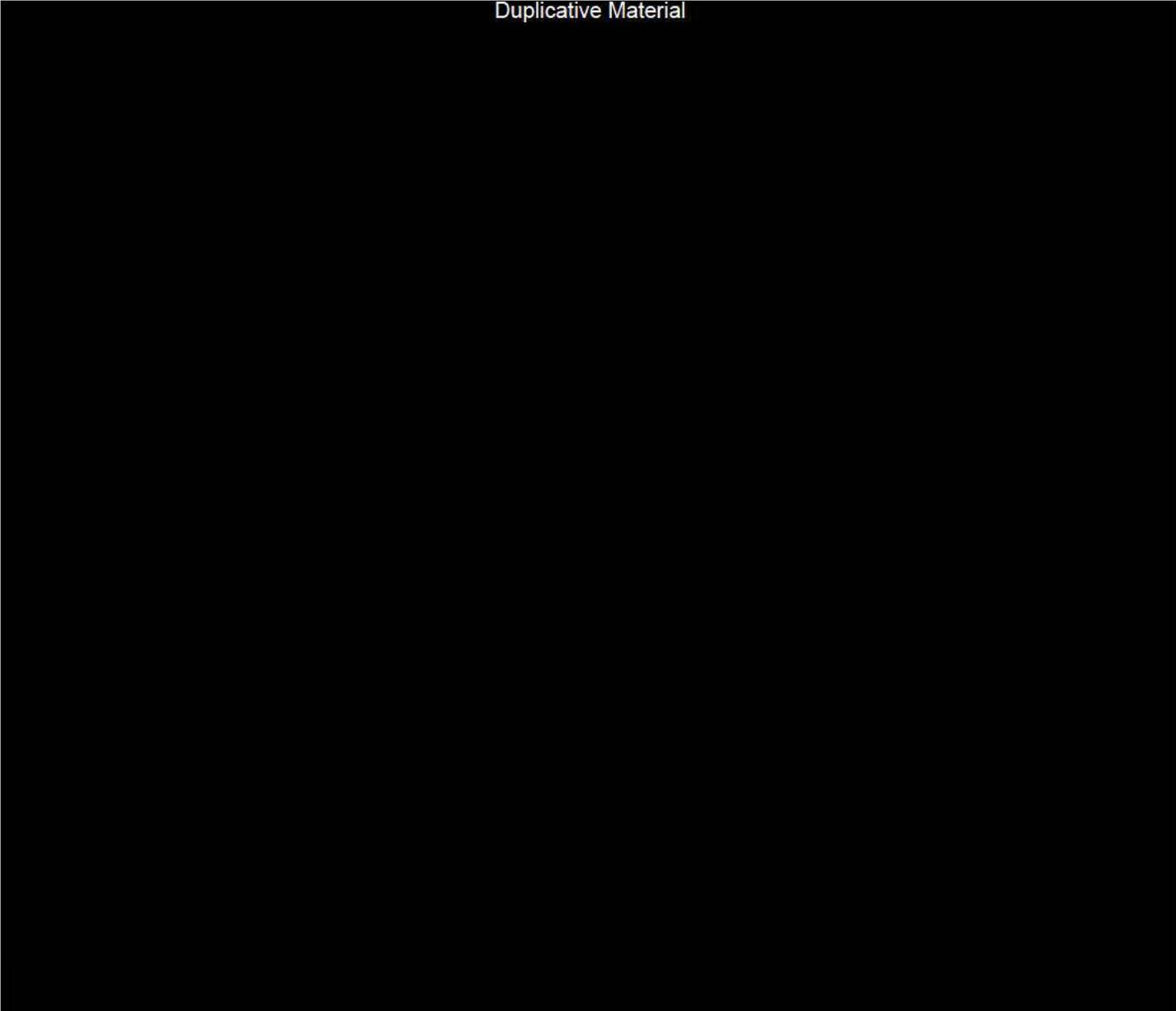
Paris, Molly B. (OLA)

From: Paris, Molly B. (OLA)
Sent: Monday, July 16, 2018 4:39 PM
To: Pickell, Lindsay A. (OLA)
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis
Attachments: Executive Agency Follow-up Questions re Family Detention 071318.docx

Thanks for the example doc. The Executive Agency Follow-up, with response spaces, is attached above.

From: Pickell, Lindsay A. (OLA)
Sent: Monday, July 16, 2018 3:35 PM
To: Paris, Molly B. (OLA) <mbparis@jmd.usdoj.gov>
Subject: FW: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

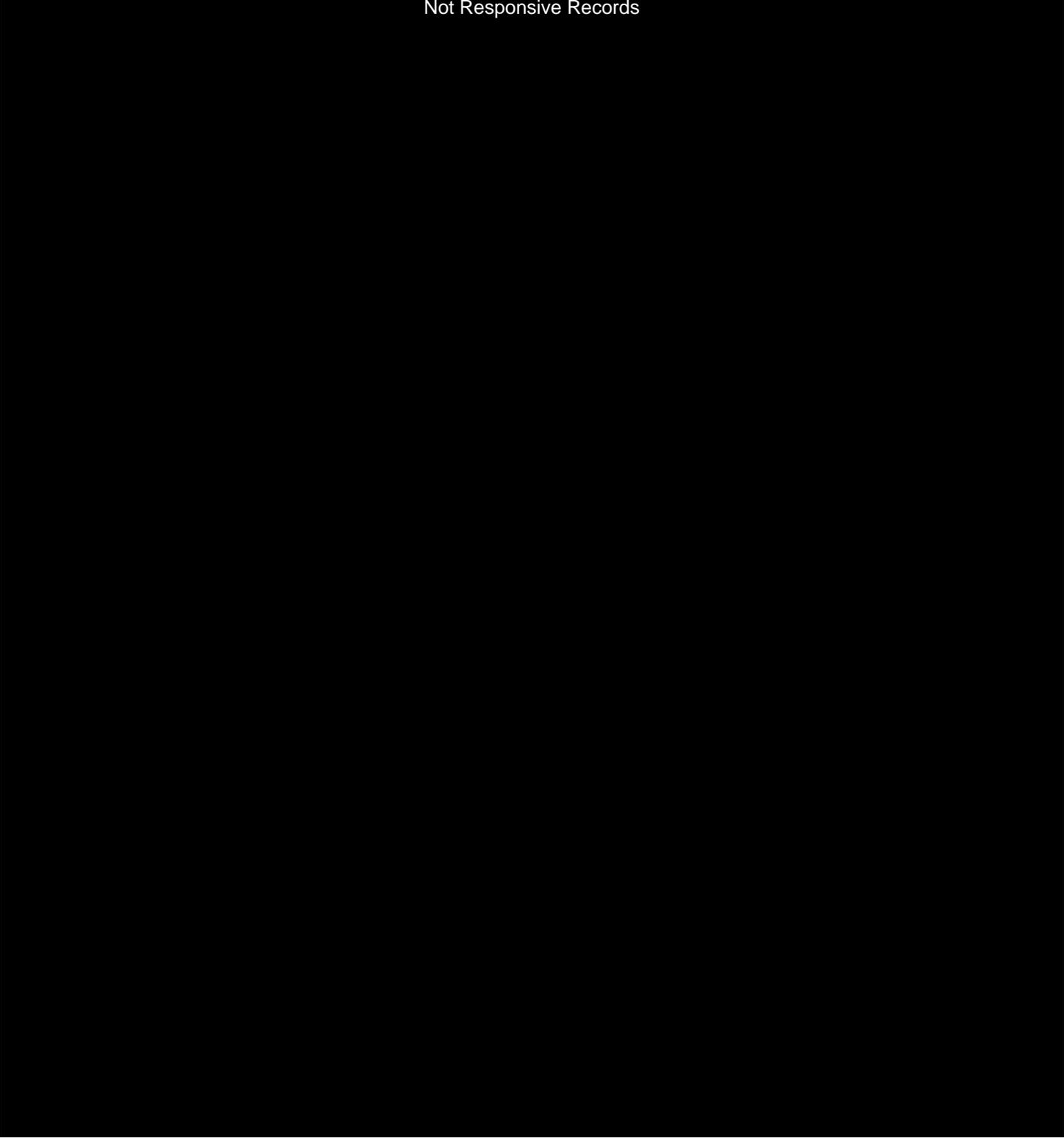
Duplicative Material



Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



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- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation?

RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals?

RESPONSE:

Not Responsive Records



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Monday, July 16, 2018 5:32 PM
To: Edlow, Joseph B. (OLP)
Cc: Hamilton, Gene (OAG); Escalona, Prim F. (OLA)
Subject: Follow up questions - Cruz/Tillis/Feinstein/Durbin
Attachments: Executive Agency Follow-up Questions re Family Detention 071318.docx

Joe,

Attached please find the list of questions we received from Senators Cruz, Tillis, Feinstein, and Durbin following our last briefing with them. We marked which agency should respond to each question. Will you please let us know if you agree with our assignments, and then we'll coordinate the other agencies?

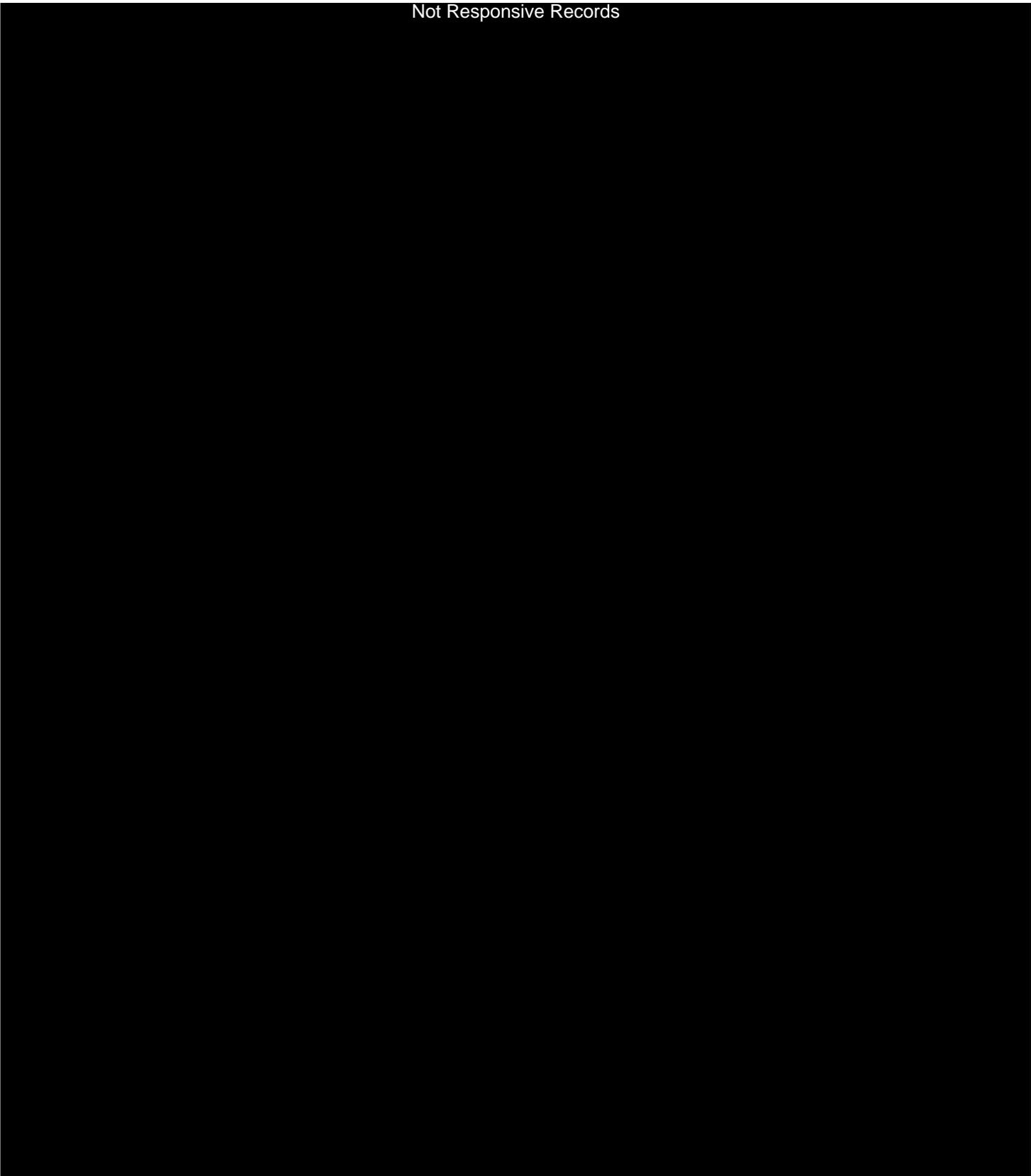
Thanks,
Lindsay

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



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- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Tuesday, July 17, 2018 1:58 PM
To: Dufrene, Lauren; Foltz, Jon; Hayes, Sean (HHS/ASL)
Cc: Escalona, Prim F. (OLA)
Subject: Follow-up questions from Grassley, Cruz, Tillis, Feinstein, and Durbin
Attachments: Executive Agency Follow-up Questions re Family Detention.docx

Hi everyone,

We received the attached list of questions following our last briefing before Senators Grassley, Cruz, Tillis, Feinstein, and Durbin. We have gone through and identified which agency we thought should answer each question. Since DHS is taking the lead coordinating briefings, we'd be happy to coordinate responses to these questions. **If everyone could get their responses back to us by COB Thursday 7/19, we will return a consolidated draft on Friday 7/20** so that everyone can review, edit, and approve all draft responses.

Thanks,
Lindsay

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Tuesday, July 17, 2018 6:22 PM
To: McHenry, James (EOIR); Edlow, Joseph B. (OLP)
Cc: Escalona, Prim F. (OLA)
Subject: EOIR and OLP SJC follow up questions
Attachments: Executive Agency Follow-up Questions re Family Detention.docx

Hi James and Joe,

We're trying to compile answers to the following questions to get back to Senators Cruz, Tillis, Feinstein and Durbin. [REDACTED] (b) (5) Would it be possible to have draft answers by noon on Thursday, and then we'll run them by Gene?

Best,
Lindsay

Paris, Molly B. (OLA)

From: Paris, Molly B. (OLA)
Sent: Wednesday, July 18, 2018 5:13 PM
To: Pickell, Lindsay A. (OLA)
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis
Attachments: Executive Agency Follow-up Questions re Family Detention_tracker.docx

Hi Lindsay,

Please find the tracker attached. If there is a specific place on the G-drive you'd like this saved or additional columns added to the tracker, please let me know.

Thanks,
Molly

From: Pickell, Lindsay A. (OLA)
Sent: Tuesday, July 17, 2018 10:09 AM
To: Paris, Molly B. (OLA) <mbparis@jmd.usdoj.gov>
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Thanks Molly. This is not urgent, we just need it by the end of the week.

From: Paris, Molly B. (OLA)
Sent: Tuesday, July 17, 2018 10:08 AM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Hi Lindsay,

Just following up w/r/t to the tracker, I started formatting it in an excel but given the length of some questions a word doc format might be more user-friendly. I am still working on finding articles/making citations for an SJQ but will work on this next (but if its more urgent please let me know).

Thanks,
Molly

From: Pickell, Lindsay A. (OLA)
Sent: Monday, July 16, 2018 4:40 PM
To: Paris, Molly B. (OLA) <mbparis@jmd.usdoj.gov>
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Thanks!

From: Paris, Molly B. (OLA)
Sent: Monday, July 16, 2018 4:39 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: RE: Questions from Sens. Cruz, Durbin, Feinstein, and Tillis

Duplicative Material

Not Responsive Records

Durbin	9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero tolerance policy in consultation with DHS. He asked each office to			
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	<p>identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.</p> <p>a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation?</p> <p>b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals?</p>			
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Not Responsive Records



Wong, Norman (USAEO)

From: Wong, Norman (USAEO)
Sent: Wednesday, July 18, 2018 5:44 PM
To: Pickell, Lindsay A. (OLA)
Cc: Escalona, Prim F. (OLA)
Subject: RE: Senator Durbin questions - zero tolerance

We haven't forgotten about this. Just waiting on some input from a USAO.

From: Pickell, Lindsay A. (OLA) <Lindsay.A.Pickell@usdoj.gov>
Sent: Tuesday, July 17, 2018 6:39 PM
To: Wong, Norman (USAEO) (b)(6) per EOUSA
Cc: Escalona, Prim F. (OLA) (JMD) <Prim.F.Escalona@usdoj.gov>
Subject: Senator Durbin questions - zero tolerance

Hi Norm,

Senator Durbin submitted some questions in writing for DOJ, and a couple of them had EOUSA equities. We're compiling responses from all of the components and then getting final clearance from Gene. Would it be possible to have EOUSA's draft response to the below questions by COB tomorrow (Wednesday)? I'm sorry for the tight turnaround. We have several briefings this week and the members are not being very patient with us.

Best,
Lindsay

1. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? DOJ (EOUSA)

RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? DOJ (EOUSA)/DHS

RESPONSE:

Not Responsive Records

Not Responsive

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

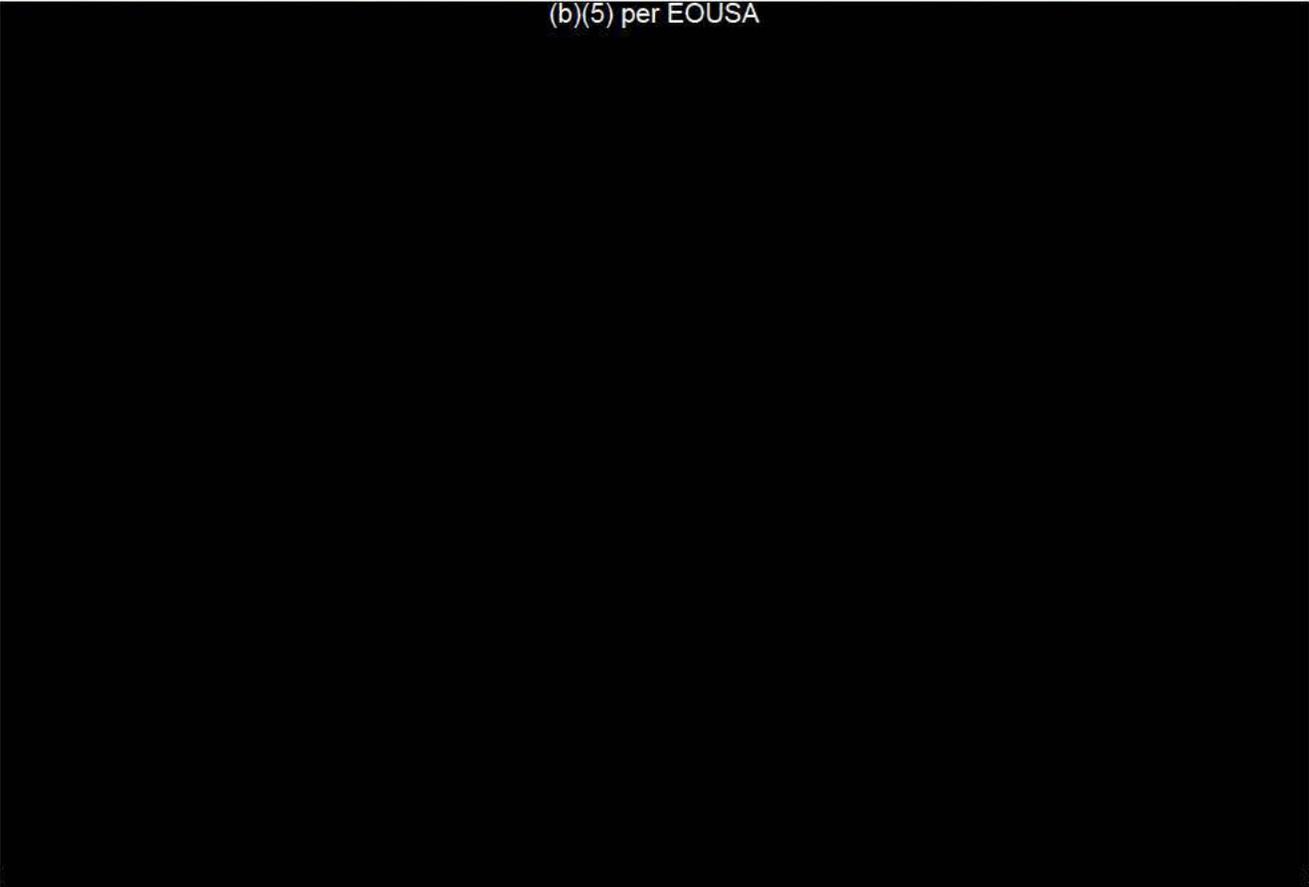
Wong, Norman (USAEO)

From: Wong, Norman (USAEO)
Sent: Wednesday, July 18, 2018 9:38 PM
To: Pickell, Lindsay A. (OLA)
Cc: Escalona, Prim F. (OLA)
Subject: RE: Senator Durbin questions - zero tolerance
Attachments: 4.6.18 Zero Tolerance Memorandum.pdf; Zero Tolerance Personnel.docx

Lindsay,

- In response to the first question, please see the attached memo as well as this [link to the press release](#). **Not for release:** [REDACTED] (b) (5)
[REDACTED] I have the text if you need it.
- We defer to JMD on the cost question. However, the USAOs provided us with the information in the attached Word doc "Zero Tolerance Personnel." [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]
- On the third question re processing these cases, the following is the short, generalized answer:

(b)(5) per EOUSA



(b)(5) per EOUSA

(b)(5) per EOUSA

From: Pickell, Lindsay A. (OLA) [mailto:Lindsay.A.Pickell@usdoj.gov]
Sent: Wednesday, July 18, 2018 2:57 PM
To: Wong, Norman (USAEO) (b)(6) per EOUSA
Cc: Escalona, Prim F. (OLA) (JMD) <Prim.F.Escalona@usdoj.gov>
Subject: RE: Senator Durbin questions - zero tolerance

Hi Norm,

Sorry for my delay getting back to you. We'll take the budget question to JMD. For the first question, it is fine to just provide public memos. We don't have to provide any internal guidance that wouldn't be released under FOIA.

Best,
Lindsay

From: Wong, Norman (USAEO) (b)(6) per EOUSA
Sent: Tuesday, July 17, 2018 9:19 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: Re: Senator Durbin questions - zero tolerance

Hi Lindsay,

On the first question, (b)(5) per EOUSA

?

(b)(5) per EOUSA

?

We'll put something together on the step by step.

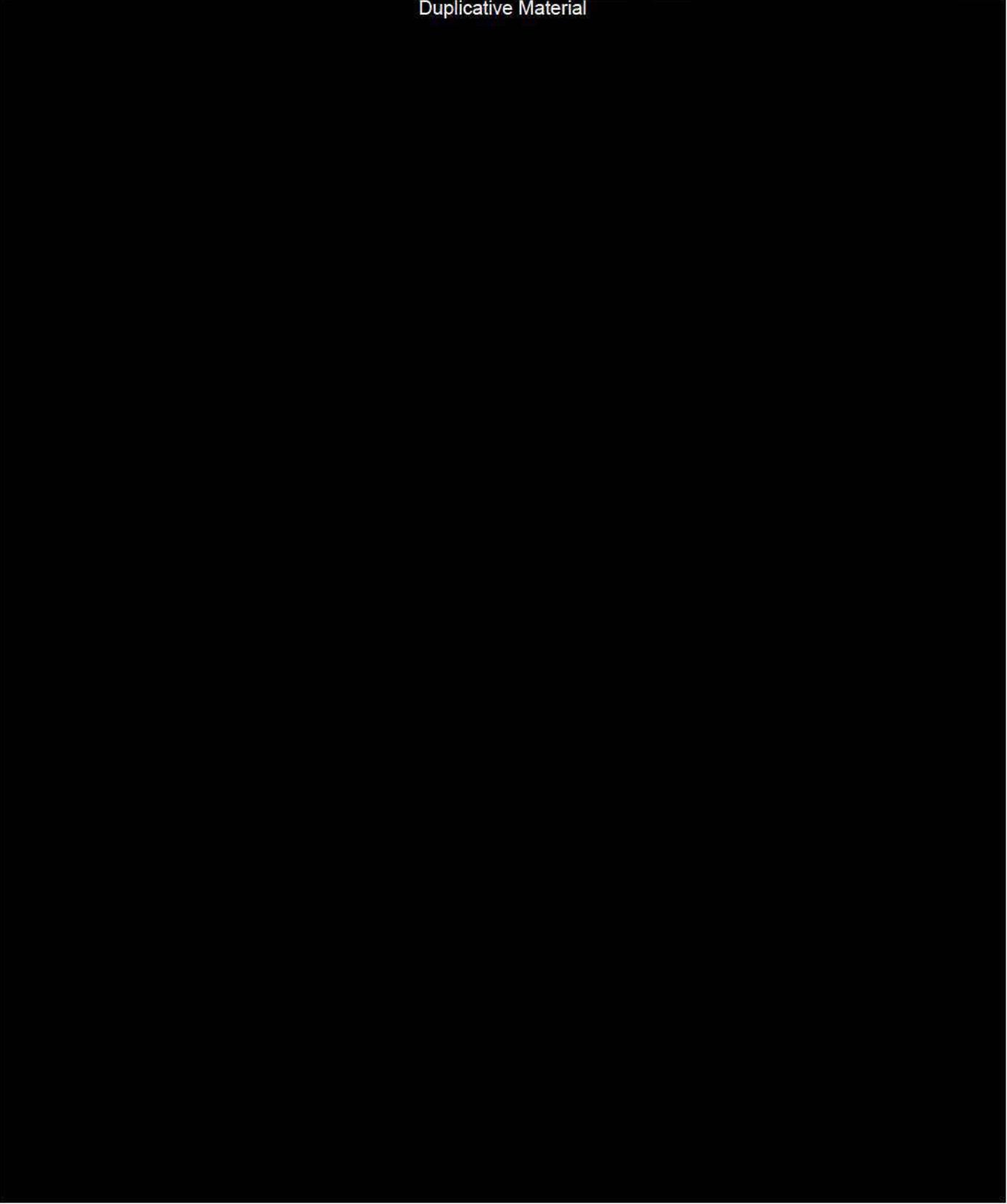
Norm

Norman Wong

Deputy Director and
Counsel to the Director
Executive Office for United States Attorneys
(b)(6) per EOUSA

On Jul 17, 2018, at 6:40 PM, Pickell, Lindsay A. (OLA) <Lindsay.A.Pickell@usdoj.gov> wrote:

Duplicative Material





Office of the Attorney General
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to be "A. M. B. 4/6/18", written over the printed name of the Attorney General.

SUBJECT: Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Pickell, Lindsay A. (OLA)

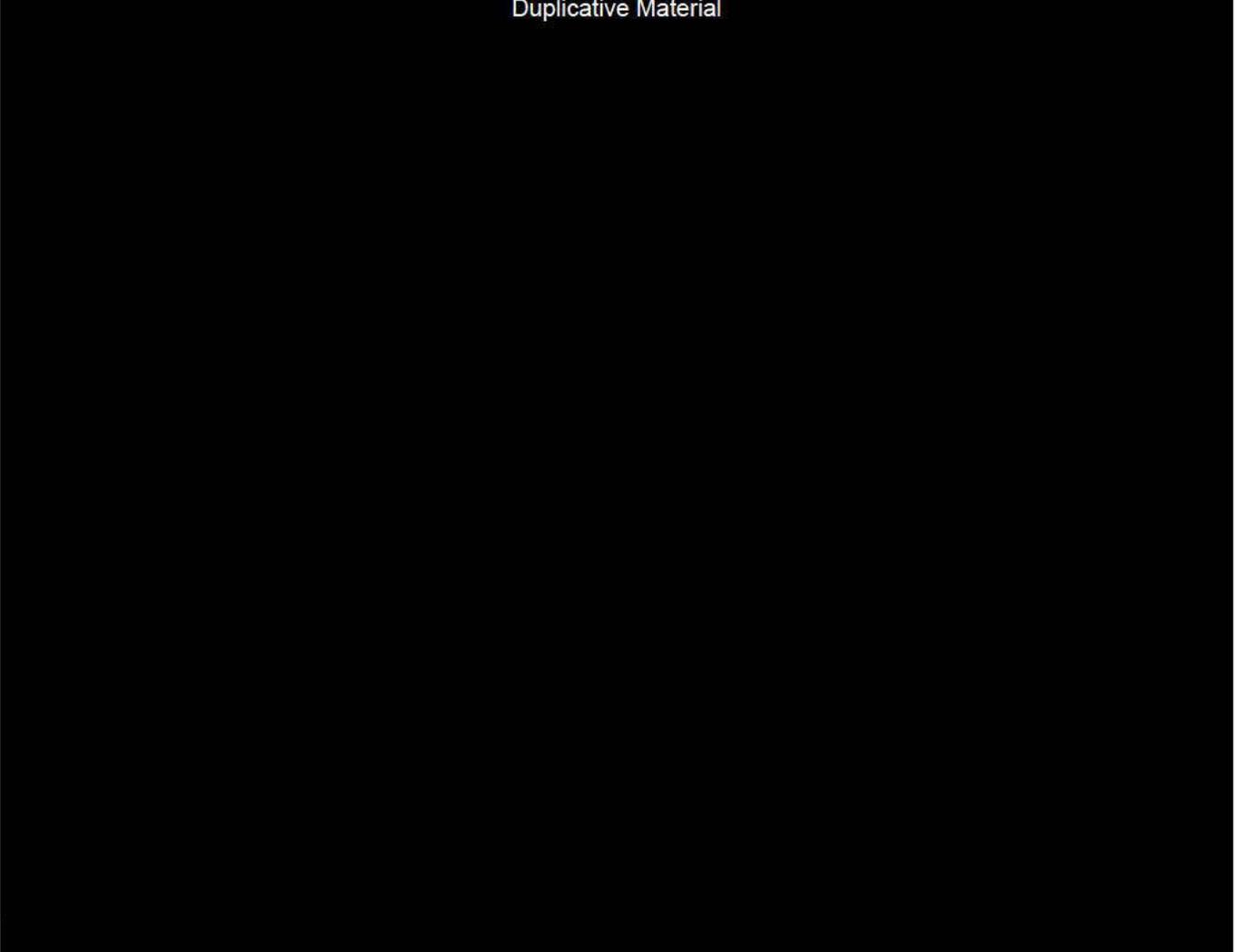
From: Pickell, Lindsay A. (OLA)
Sent: Thursday, July 19, 2018 9:40 AM
To: Wong, Norman (USAEO)
Cc: Escalona, Prim F. (OLA)
Subject: RE: Senator Durbin questions - zero tolerance

Thank you so much for all of the information! This will be more than sufficient. We will work with JMD on the cost question.

Best,
Lindsay

From: Wong, Norman (USAEO) (b)(6) per EOUSA
Sent: Wednesday, July 18, 2018 9:38 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: RE: Senator Durbin questions - zero tolerance

Duplicative Material



McHenry, James (EOIR)

From: McHenry, James (EOIR)
Sent: Thursday, July 19, 2018 11:29 AM
To: Edlow, Joseph B. (OLP)
Cc: Escalona, Prim F. (OLA); Pickell, Lindsay A. (OLA)
Subject: RE: EOIR and OLP SJC follow up questions
Attachments: Executive Agency Follow-up Questions re Family Detention(2).docx

Joe,

Our draft responses to the questions are in the attached with the requested data. (b) (5)

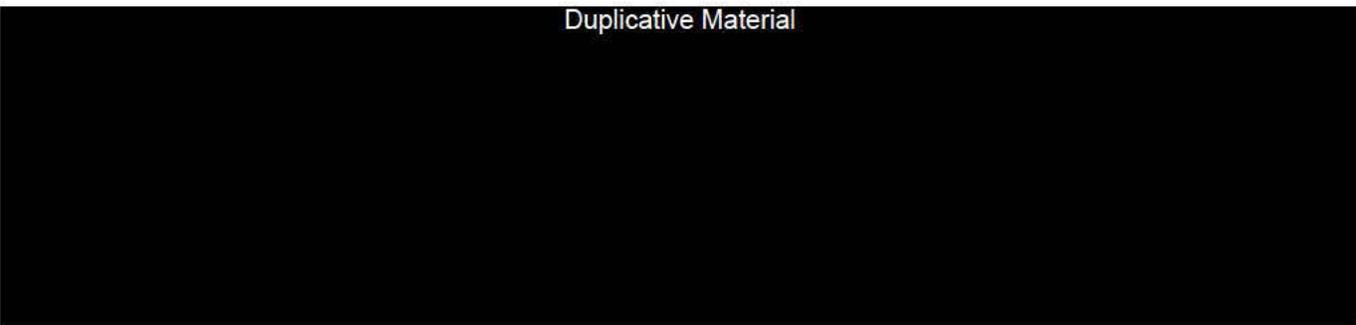
If you need any additional information from us, let me know.

Thanks.

James

From: Pickell, Lindsay A. (OLA)
Sent: Tuesday, July 17, 2018 6:22 PM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>; Edlow, Joseph B. (OLP) <jbedlow@jmd.usdoj.gov>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: EOIR and OLP SJC follow up questions

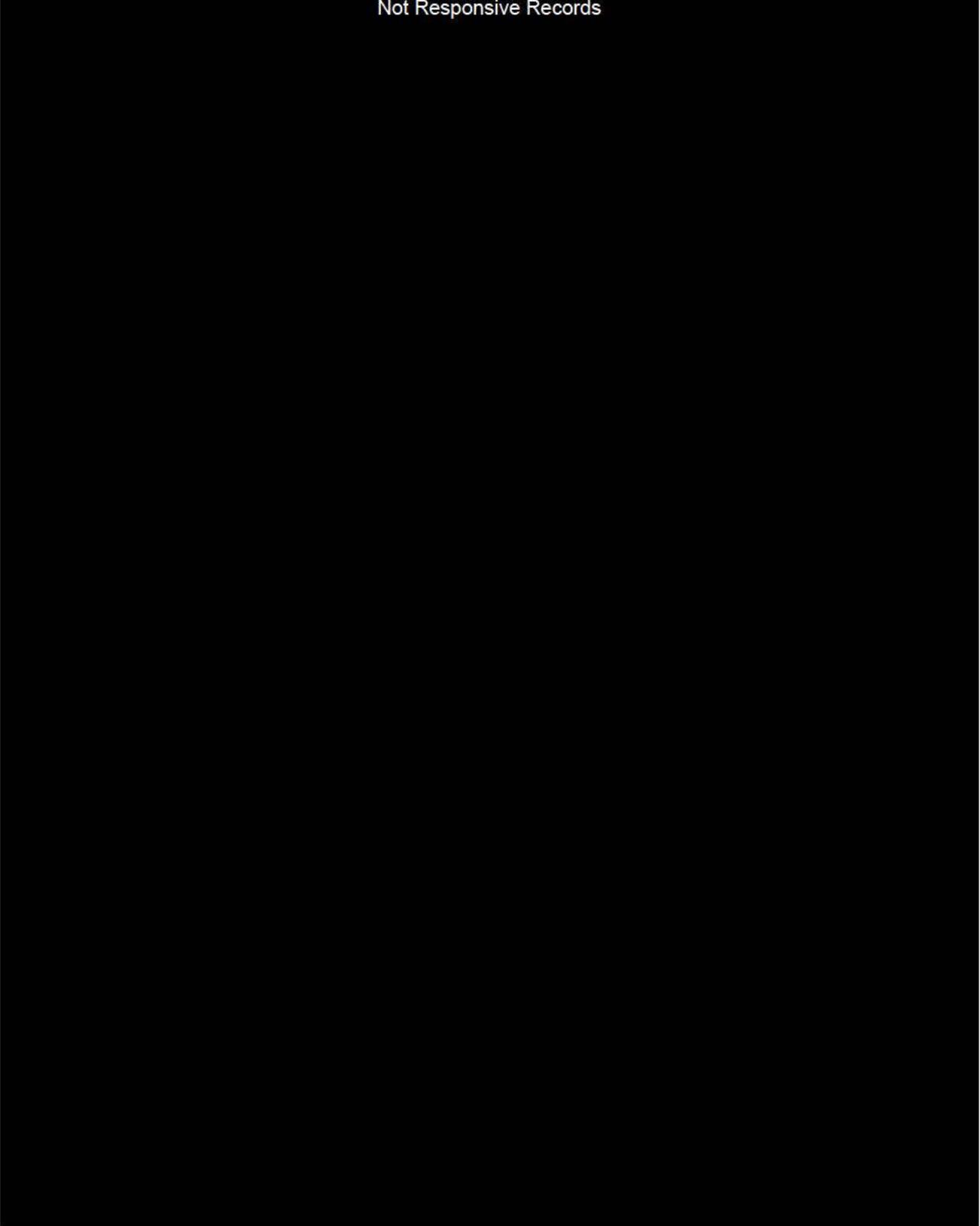
Duplicative Material



Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



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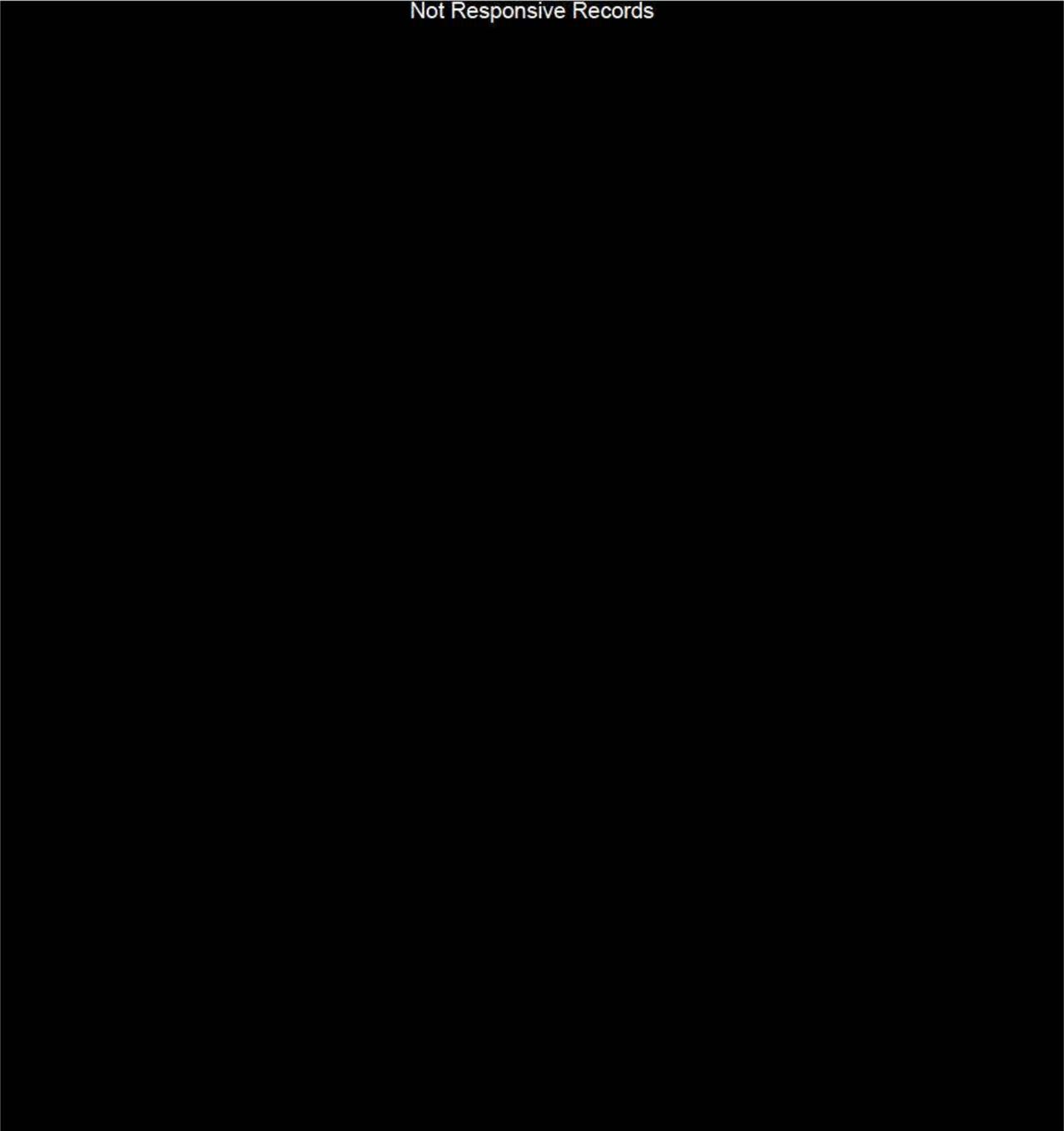
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RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Not Responsive Records



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Thursday, July 19, 2018 11:43 AM
To: Munro, Shannon L. (JMD); Allen, Michael (JMD DAAG); Kleppinger, Eric (JMD); Attucks, Mark (JMD)
Subject: RE: Durbin question

We received a list of questions in response to a briefing this week and we are going to submit draft responses to other questions to OAG for approval tomorrow morning. If it isn't possible to have an answer by then, we can submit the budget information sometime next week. We have a hearing on July 31 so we will need to provide the information before then.

Thanks!

From: Munro, Shannon L. (JMD)
Sent: Thursday, July 19, 2018 11:39 AM
To: Allen, Michael (JMD DAAG) <mallen@jmd.usdoj.gov>; Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>; Kleppinger, Eric (JMD) <ekleppinger@jmd.usdoj.gov>; Attucks, Mark (JMD) <mattucks@jmd.usdoj.gov>
Subject: RE: Durbin question

Thanks, Mike. Lindsay, I'm working with Budget Staff on a response. What is the timeframe for responding back to Senator Durbin's staff?

From: Allen, Michael (JMD DAAG)
Sent: Wednesday, July 18, 2018 5:22 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>; Kleppinger, Eric (JMD) <ekleppinger@jmd.usdoj.gov>; Attucks, Mark (JMD) <mattucks@jmd.usdoj.gov>; Munro, Shannon L. (JMD) <smunro@jmd.usdoj.gov>
Subject: Re: Durbin question

Lindsay

I'm going to start with our Budget Staff and let them decide where the best answer lies, maybe multiple sources. I'm also adding in Shannon Munro from the appropriation liaisons.

Mike

Michael H. Allen
Deputy Assistant Attorney General
Policy, Management, and Planning
Justice Management Division
(202)-514-3101

On Jul 18, 2018, at 3:32 PM, Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov> wrote:

...

HI MIKE,

We received the below question from Senator Durbin regarding the zero tolerance policy. Do you know who would be the best person to direct this question to?

“Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals?”

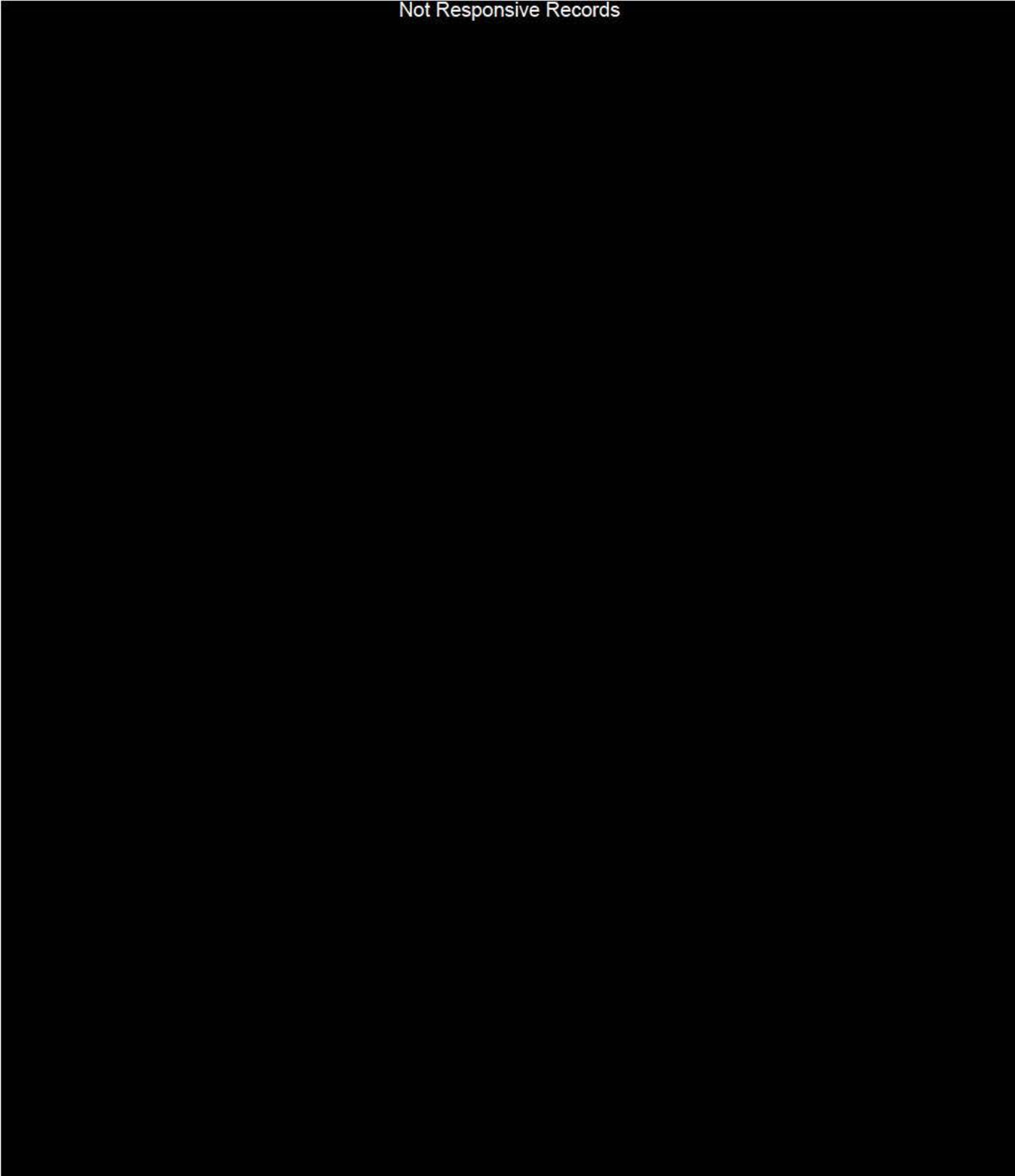
Thanks,
Lindsay

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records

9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE: [REDACTED] (b) (5)

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Not Responsive Records

Edlow, Joseph B. (OLP)

From: Edlow, Joseph B. (OLP)
Sent: Thursday, July 19, 2018 1:51 PM
To: McHenry, James (EOIR)
Cc: Escalona, Prim F. (OLA); Pickell, Lindsay A. (OLA)
Subject: RE: EOIR and OLP SJC follow up questions
Attachments: Executive Agency Follow-up Questions re Family Detention(3).docx

All,
I've included my draft response on UAC asylum jurisdiction for review.
Joe

From: McHenry, James (EOIR)
Sent: Thursday, July 19, 2018 11:29 AM
To: Edlow, Joseph B. (OLP) <jbedlow@jmd.usdoj.gov>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: RE: EOIR and OLP SJC follow up questions

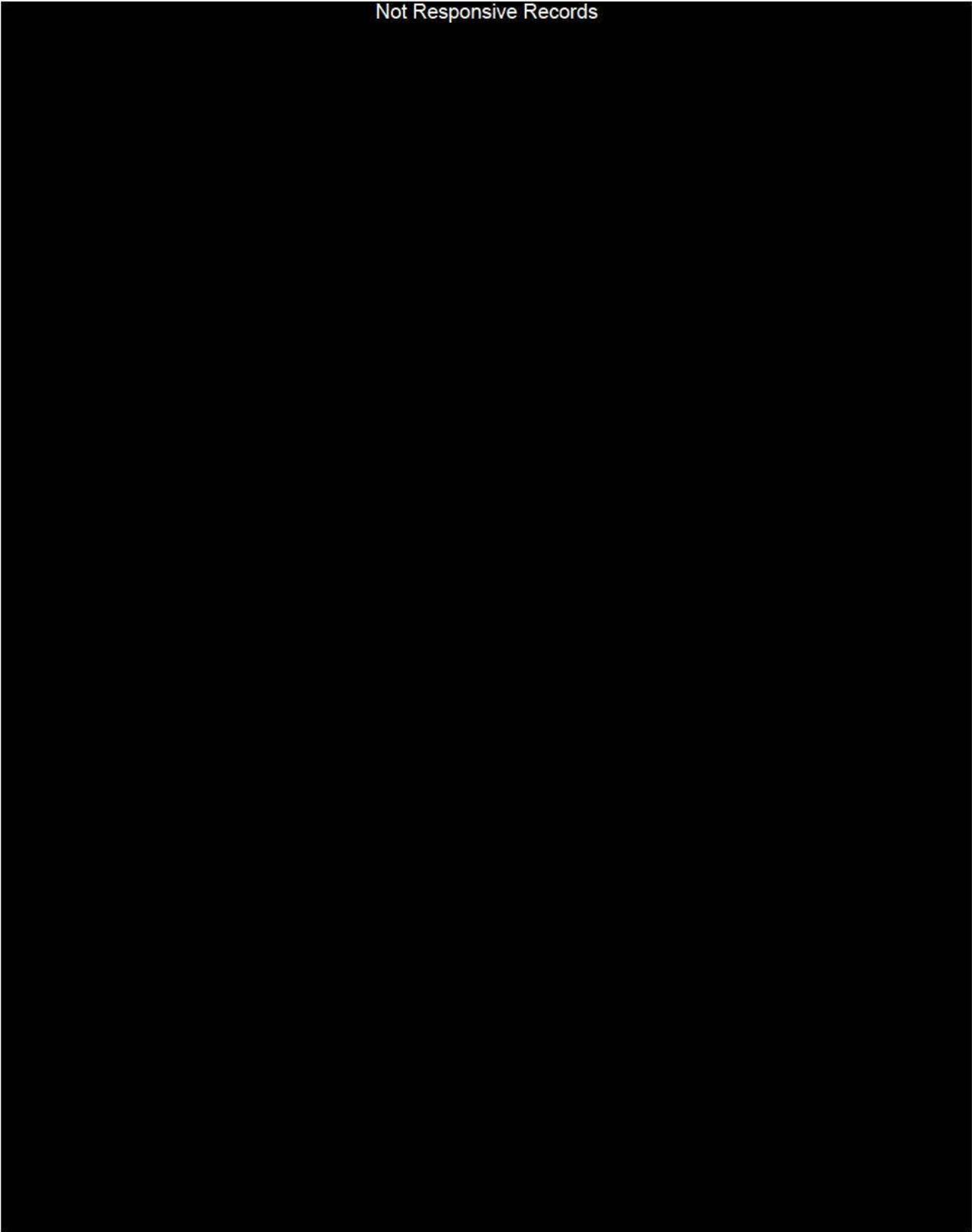
Duplicative Material



Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records

9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

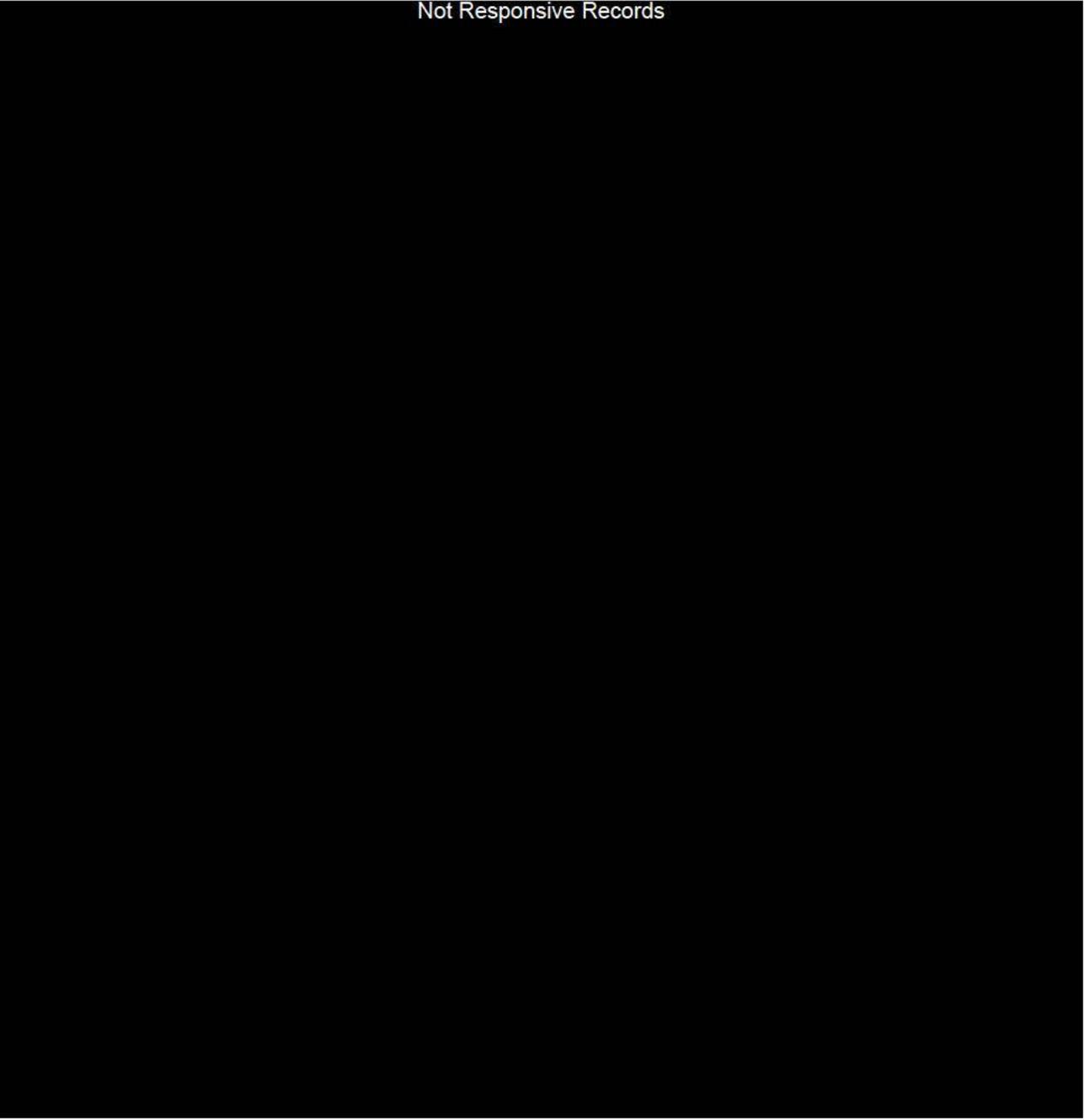
- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Not Responsive Records



McHenry, James (EOIR)

From: McHenry, James (EOIR)
Sent: Thursday, July 19, 2018 3:52 PM
To: Edlow, Joseph B. (OLP); Pickell, Lindsay A. (OLA)
Cc: Escalona, Prim F. (OLA)
Subject: RE: EOIR and OLP SJC follow up questions
Attachments: Executive Agency Follow-up Questions re Family Detention(4) (002).docx

Added something in the attached. Feel free to augment or edit as you see fit.

(b) (5)

From: Edlow, Joseph B. (OLP)
Sent: Thursday, July 19, 2018 2:38 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>; McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: RE: EOIR and OLP SJC follow up questions

(b) (5)

From: Pickell, Lindsay A. (OLA)
Sent: Thursday, July 19, 2018 2:03 PM
To: Edlow, Joseph B. (OLP) <bedlow@jmd.usdoj.gov>; McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: RE: EOIR and OLP SJC follow up questions

DHS believes these are more appropriately directed to DOJ:

- Tillis

5- DOJ

What operational challenges do the agencies have (that may need to be addressed legislatively) when carrying out and expediting immigration proceedings?

- Durbin

13.c- - OIL

How many of these individuals had indicated an intention to file or had already filed an appeal of their administrative removal order with a U.S. Circuit Court of Appeals?

From: Edlow, Joseph B. (OLP)
Sent: Thursday, July 19, 2018 1:51 PM
To: McHenry, James (EOIR); Edlow, Joseph B. (OLP); Pickell, Lindsay A. (OLA); Escalona, Prim F. (OLA)

To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>

Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>

Subject: RE: EOIR and OLP SJC follow up questions

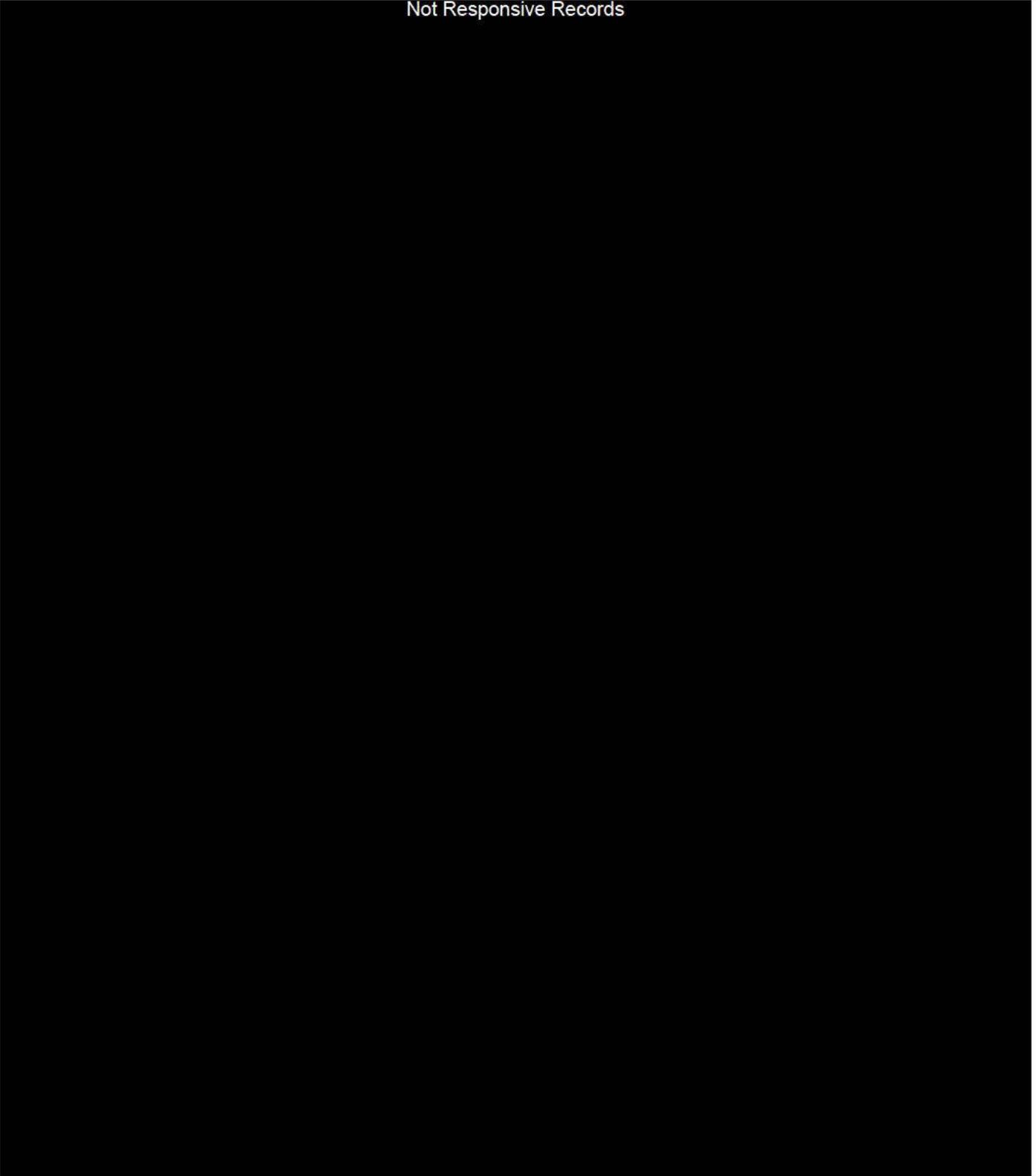
Duplicative Material



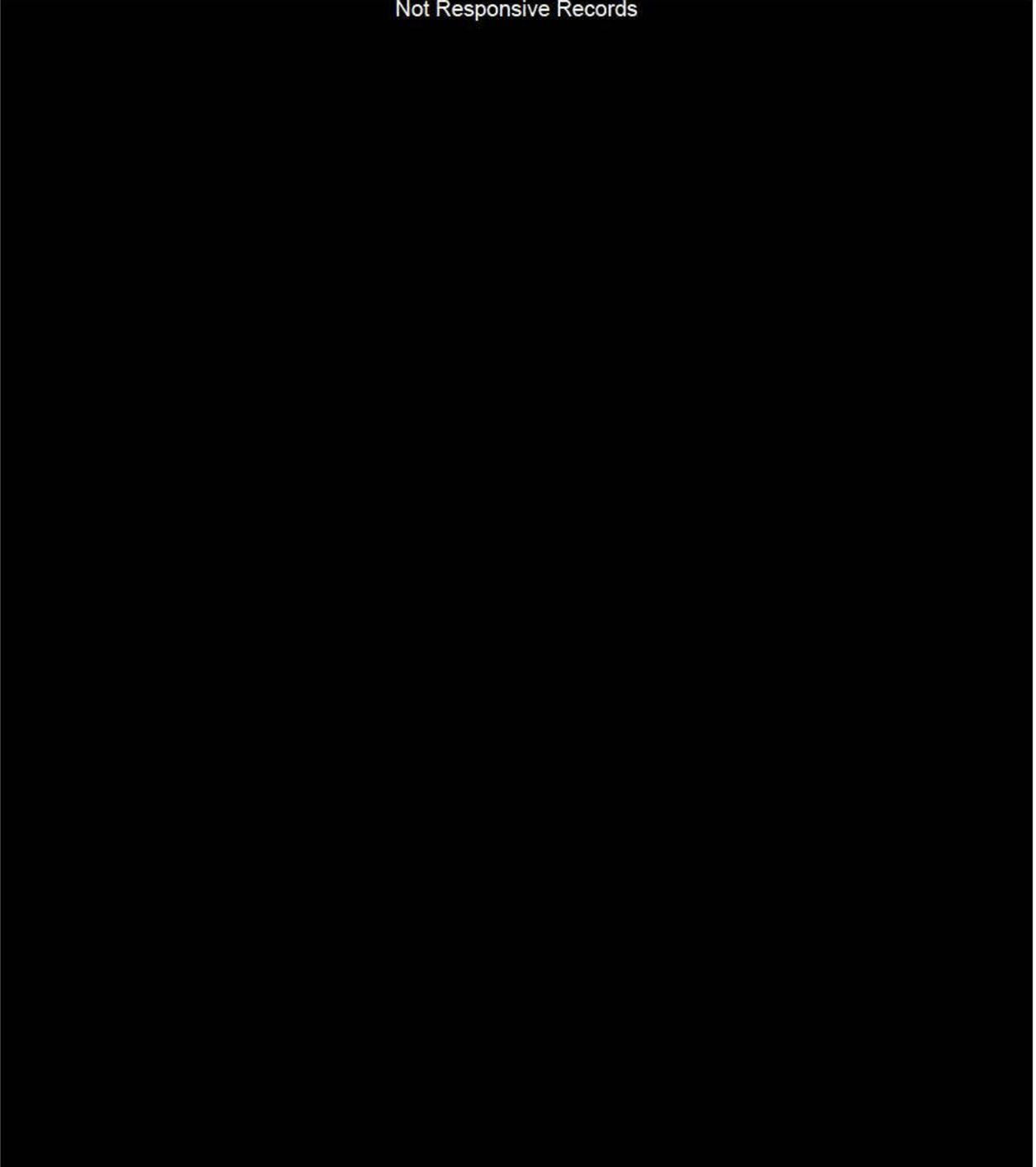
Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records



9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE:

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Not Responsive Records



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Friday, July 20, 2018 3:05 PM
To: Hamilton, Gene (OAG)
Cc: Escalona, Prim F. (OLA)
Subject: Clearance for Executive Agency Follow-up Questions re Family Detention
Attachments: Executive Agency Follow-up Questions re Family Detention(3).docx

Hi Gene,

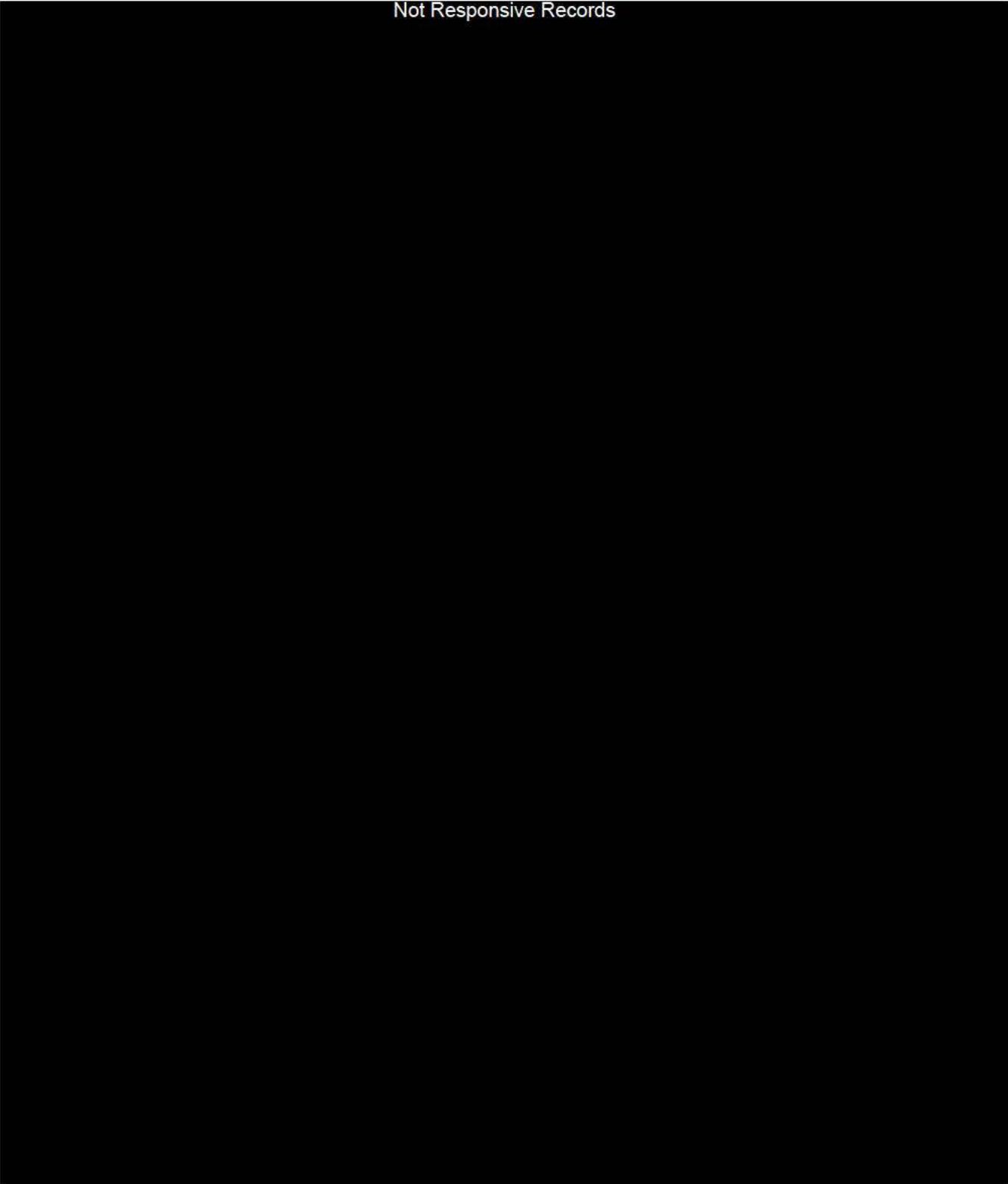
We received the attached draft responses to Judd's follow up questions. We are still waiting for two responses (one from OIL on appellate litigation and one from JMD on the costs of zero tolerance), but we thought we should get these out as quickly as possible before the hearing. Please let us know of any edits you may have.

Best,
Lindsay

Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records

9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE: [REDACTED] (b) (5)

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE:

Not Responsive Records

Munro, Shannon L. (JMD)

From: Munro, Shannon L. (JMD)
Sent: Wednesday, July 25, 2018 6:38 PM
To: Allen, Michael (JMD DAAG); Pickell, Lindsay A. (OLA); Kleppinger, Eric (JMD); Attucks, Mark (JMD)
Subject: RE: Durbin question

Lindsay,

I've worked with our Budget Staff, who in turn worked with the relevant components, and unfortunately we cannot track the specific costs associated with the Zero Tolerance Policy. Please see below for our suggested response to Senator Durbin.

Q: Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals?

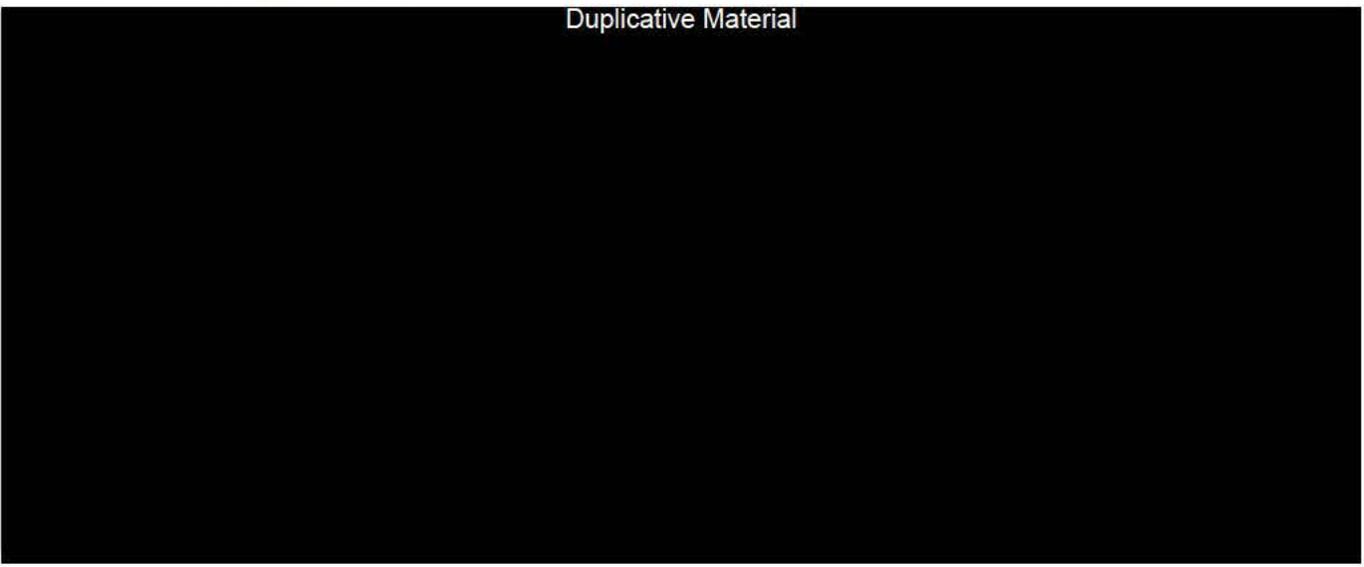
A: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]

I'd be happy to discuss further if you have any questions.

Thanks very much,
Shannon

From: Allen, Michael (JMD DAAG)
Sent: Wednesday, July 18, 2018 5:22 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>; Kleppinger, Eric (JMD) <ekleppinger@jmd.usdoj.gov>; Attucks, Mark (JMD) <mattucks@jmd.usdoj.gov>; Munro, Shannon L. (JMD) <smunro@jmd.usdoj.gov>
Subject: Re: Durbin question

Duplicative Material



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Wednesday, July 25, 2018 6:44 PM
To: Hamilton, Gene (OAG)
Cc: Escalona, Prim F. (OLA)
Subject: RE: Clearance for Executive Agency Follow-up Questions re Family Detention
Attachments: Executive Agency Follow-up Questions re Family Detention(3).docx

Gene,

Please see attached updated draft responses that include JMD and OIL's responses.

Best,
Lindsay

From: Pickell, Lindsay A. (OLA)
Sent: Friday, July 20, 2018 3:05 PM
To: Hamilton, Gene (OAG) <ghamilton@jmd.usdoj.gov>
Cc: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Subject: Clearance for Executive Agency Follow-up Questions re Family Detention

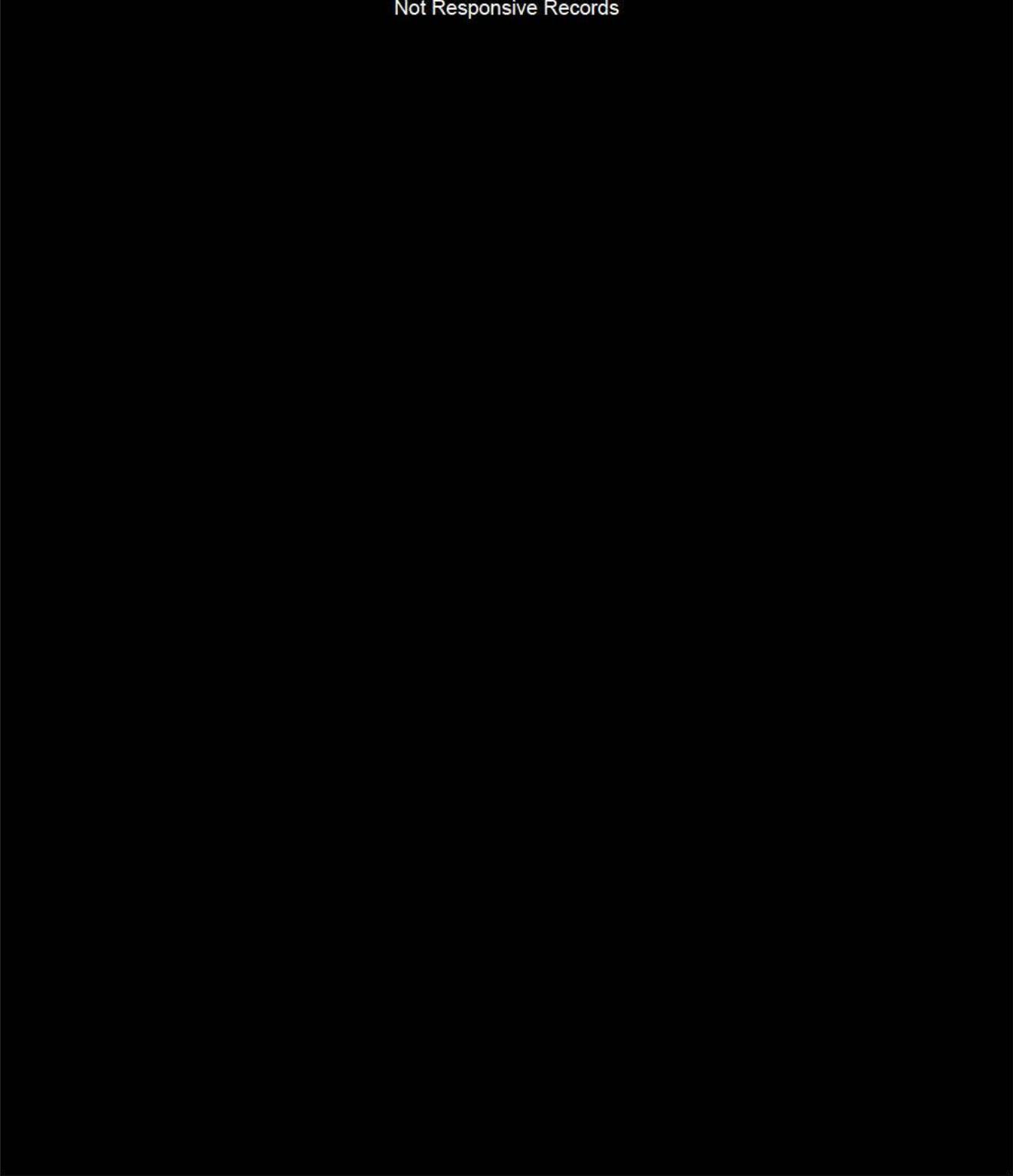
Duplicative Material



Questions for the Administration from Senator Durbin

For questions with subparts, please answer each subpart.

Not Responsive Records



Not Responsive Records

9. On April 6, Attorney General Sessions directed each U.S. Attorney's Office along the Southwest Border to immediately implement a zero-tolerance policy in consultation with DHS. He asked each office to identify and request additional resources needed to implement this policy. On May 7, he announced that he sent 35 prosecutors to the Southwest and moved 18 immigration judges to the border to carry out this zero tolerance policy.

- a. Could you please provide all relevant documentation implementing this directive, including any memoranda provided by DHS to the Justice Department as part of this consultation? **DOJ (EOUSA)**

RESPONSE: [REDACTED] (b) (5)

- b. Could you please provide a breakdown of the cost estimate for the implementation of this policy to date, including judicial costs and the costs of detention of families and separated individuals? **DOJ (EOUSA)/DHS**

RESPONSE: [REDACTED] (b) (5)

Not Responsive Records

Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Monday, July 30, 2018 12:14 PM
To: Edlow, Joseph B. (OLP)
Subject: Fwd: HSGAC Bipartisan Staff Briefing - Week of Aug 6
Attachments: 2018-06-22 CMC Itr DHS re Exec Order.pdf; ATT00001.htm

Hi Joe - would you be potentially available to attend this on August 6?

Lindsay Pickell
Office of Legislative Affairs
202-353-9085

Begin forwarded message:

From: "Dufrene, Lauren" (b)(6) per DHS
Date: July 30, 2018 at 10:35:28 AM EDT
To: (b)(6), (b)(7)(C) per ICE @ice.dhs.gov, "Hayes, Sean (HHS/ASL)" (b)(6) per DHS (b)(6), (b)(7)(C) per CBP (b)(6), (b)(7)(C) per CBP, (b)(6), (b)(7)(C) per CBP "Pickell, Lindsay A. (OLA)" <Lindsay.A.Pickell@usdoj.gov>, "Escalona, Prim F. (OLA)" <Prim.F.Escalona@usdoj.gov>, "Arditti, Avi" (b)(6) per USCIS .gov, "Calkins, Aaron L" (b)(6) per USCIS .gov
Cc: "Wonnenberg, David" (b)(6) per DHS >, "Foltz, Jon" (b)(6) per DHS
Subject: HSGAC Bipartisan Staff Briefing - Week of Aug 6

Good Morning,

Following up on last week's discussion, HSGAC staff have requested an in-person briefing, and have pushed the scheduling request to next week. This briefing will cover zero tolerance/family separations & reunification efforts, and include briefers from DOJ, HHS, CBP, ICE, and USCIS. Minority staff anticipated questions are attached for your review. Request you confirm SME availability.

- Date: HSGAC Staff has requested this briefing the week of August 6, and have open availability except for Thursday afternoon. Please advise as soon as possible which schedule windows can be accommodated by your SME.
- Clearance: This briefing will be UNCLAS

Please contact me with any questions. Thanks.

Lauren Dufrene
202-353-9085

Coast Guard Fellow
Office of Legislative Affairs
Department of Homeland Security
(b)(6) per DHS

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
JOHN HOEVEN, NORTH DAKOTA
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI
THOMAS R. CARPER, DELAWARE
HEIDI HEITKAMP, NORTH DAKOTA
GARY C. PETERS, MICHIGAN
MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA
DOUG JONES, ALABAMA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

June 22, 2018

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, DC 20016

Dear Madam Secretary:

On May 7, 2018, Attorney General Jeff Sessions announced a new policy that will require the prosecution of every adult who crosses the border illegally.¹ When families were apprehended crossing the border, this policy, commonly referred to as the “zero tolerance” policy, resulted in the widespread, forcible separation of children from their parents.

After an outcry from Congress and the American people, President Donald Trump signed an Executive Order on June 20, 2018, that temporarily ended separations.² However, the order did not end the zero tolerance policy.³ Under the order, the Department of Homeland Security is instructed to “maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members.”⁴ As the order acknowledges, the prolonged detention of families with children quickly runs into legal limitations, including the

¹ Department of Justice, *Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration* (May 7, 2018).

² Exec. Order, “Affording Congress an Opportunity to Address Family Separation” (June 20, 2018).

³ Since order was issued, at least one report suggested the Border Patrol will stop referring for prosecution migrant parents who illegally cross into the U.S. However, the same report indicates this is only a temporary measure until Immigration and Customs Enforcement secures sufficient facilities to detain families. Regardless, this report has not been confirmed by DHS and the decision for prosecution still rests with the Department of Justice, whose zero tolerance policy is unchanged. *Border Patrol will stop referring migrant parents who cross into the U.S. illegally with children for prosecution, official says*, Washington Post (June 21, 2018) (https://www.washingtonpost.com/world/national-security/us-will-stop-prosecuting-parents-who-cross-the-border-illegally-with-children-official-says/2018/06/21/4902b194-7564-11e8-805c-4b67019fcfe4_story.html?utm_term=.ec5ba0ce2240).

⁴ Exec. Order, “Affording Congress an Opportunity to Address Family Separation” (June 20, 2018).

1997 *Flores* settlement.⁵ While the President instructed the Department of Justice (DOJ) to seek relief from these restrictions, this leeway is not assured.⁶ The order allows for the renewed separation of children from families should the courts prohibit extended family detentions.⁷

The order did not address the hundreds of separated families prior to June 20, 2018. After the zero tolerance policy began, the Department of Homeland Security (DHS) separated thousands of children from their families and turned them over to the Department of Health and Human Services (HHS) for custody and placement. According to DHS, between May 5, 2018, and June 9, 2018, DHS separated 2,342 children from their parents.⁸ The average daily number of children placed into the custody of HHS jumped from approximately three to 70.⁹

In order to ensure proper Congressional oversight regarding the zero tolerance policy and the Executive Order, including the reunification of families under the order and the potential for family separations to resume in the future, I ask that you provide the following information:

1. What steps, if any, has DHS taken since June 20 to reunite separated families? If none, please identify any provisions in the Executive Order or the law that prohibit DHS from reuniting families.
2. Since May 7, what is the average length of time that separated children have remained separated from their parents? Since May 7, how many separated families have been reunited? Since June 20?
3. Should the courts determine that the prolonged detention of families is prohibited, will DHS resume separating children from families? Please describe DHS's plans in the event that the administration is unable to secure an amendment to the *Flores* settlement.

⁵ *Flores v. Meese—Stipulated Settlement Agreement* (C. D. Cal. 1997).

⁶ *Top DOJ official: Government can only detain families together for up to 20 days*. The Hill (June 20, 2018).

⁷ Exec. Order, "Affording Congress an Opportunity to Address Family Separation" (June 20, 2018).

⁸ Department of Homeland Security, Department of Health and Human Services, Department of Justice, Briefing with Congressional Staff (June 18, 2018).

⁹ Between October 2017 and April 2018. *Complaint targets separation of immigrant families at border*, Washington Post (May 31, 2018) (https://www.washingtonpost.com/national/complaint-targets-separation-of-immigrant-families-at-border/2018/05/31/58bc031e-6534-11e8-81ca-bb14593acaa6_story.html?noredirect=on&utm_term=.337a6902c86e); Department of Homeland Security, Department of Health and Human Services, Department of Justice, Briefing with Congressional Staff (June 18, 2018).

4. Please provide the number of children DHS referred to HHS each month since January 1, 2018. How many of these children were unaccompanied when they were apprehended? How many were accompanied by a parent, guardian, or family member? Of those accompanied, how many were under the age of 14, under the age of 5, and under the age of 1?
5. Please provide all policies and guidance, if any, given to Customs and Border Protection (CBP) officers and agents on how to separate accompanied children from their families, including communicating both to an accompanied child and a parent about an impending act of separation, the appropriate use of force to separate a child from their parent, the information to be provided to children and parents about each other's location and when and how they may be reunited, and the access given to parents regarding the health, welfare, and immigration case status of their children.
6. Since May 7, how many complaints has DHS received of excessive force, dishonesty, or unprofessionalism in executing family separations? How are such complaints investigated? How many, if any, have been substantiated? What consequences have culpable officers or agents, if any, faced?
7. After immigrants convicted of illegal entry serve their sentence, they are generally turned over to the custody of ICE pending removal. Meanwhile, their children are in the custody of HHS. Since May 7, of those criminally convicted immigrants with children in the custody of HHS, how many have been turned over to ICE for removal? Of those immigrants in the custody of ICE, how many were reunited with their children prior to removal? Who in DHS is responsible for tracking the criminal case of that individual and the custody of the child so they may be reunited upon the completion of any time served?
8. Please provide all policies or guidance regarding the sharing information between HHS and DHS about the custody, immigration case status, and care of children and the detention, immigration, and deportation proceedings of their parents. Do any of these policies ensure that parents are not deported from the United States without reunification with their children or with the knowledge of where their child is being held and how to contact them?
9. CBP is responsible for up to 72 hours of care for separated children until they are transferred to HHS. What child care training, if any, do agents receive? Since May 7, how many times has CBP had to care for a child beyond 72 hours due to insufficient capacity at HHS?
10. Since May 7, have any CBP facilities had insufficient capacity to process, detain or care for separated children or detained families? Has DHS taken any steps to provide additional resources to facilities responsible for caring for children since May 1, or to secure new detention space? If so, please provide a detailed list of all additional resources being allocated or locations under consideration, their funding source, and

in the case of officer or agent support, where those officers or agents will be detailed from. Does DHS plan to expand facility space to process and care for detained children and families? If so, please provide a detailed description of those plans.

11. What alternatives to detention does DHS currently use to monitor individuals awaiting immigration proceedings? How many individuals are currently being monitored this way? How many of them are part of family units?
12. In your comments following the announcement of this policy, you have advocated that asylum seekers should approach ports of entry as opposed to crossing the border between ports of entry.¹⁰ Please provide, by month, the number of total and family unit asylum requests at ports of entry since January 1, 2017. Has DHS made any changes to operations at ports of entry to handle the influx? If so, please describe the steps that DHS has taken.
13. Since May 7, 2018, have any children who entered at ports of entry accompanied by a parent, guardian, or family member (or any individual claiming to be a parent, guardian, or family member) who claimed asylum been separated from their families? If so, please provide the total number, the reason for each separation, and whether the children have been reunited.
14. Please provide, by month, the number of total and family unit apprehensions since the zero-tolerance policy was announced. If the number of apprehensions are higher than the corresponding month in 2017, please explain whether the zero-tolerance policy should be considered effective, and why or why not.

I ask that you respond to this letter as soon as possible but in no event later than July 13, 2018. In addition, I also ask that you provide a briefing to my staff no later than June 28, 2018 on the zero tolerance policy and the implementation of the Executive Order. Finally, I ask that you provide Committee staff access to requested DHS detention facilities holding detained families no later than July 13, 2018. If you are unable to meet this deadline, or should you have any questions, please contact Caitlin Warner at (202) 224-2627 or Caitlin_Warner@hsgac.senate.gov. Please send any official correspondence related to this request to Rina Patel at Rina_Patel@hsgac.senate.gov. Thank you for your attention to this matter.

¹⁰ Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Authorities and Resources Needed to Protect and Secure the United States* (May 15, 2018).

The Honorable Kirstjen Nielsen
June 22, 2018
Page 5

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being more prominent and the last name "McCaskill" following in a similar style.

Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman

Dufrene, Lauren

Subject: HOLD - PREP - HSGAC Bipartisan Staff Briefing

Location: (b) (6)

Start: Friday, August 10, 2018 11:30 AM

End: Friday, August 10, 2018 12:00 PM

Show Time As: Tentative

Recurrence: (none)

Organizer: Dufrene, Lauren

Required Attendees: (b)(6), (b)(7)(C) per ICE Hayes, Sean (HHS/ASL); Escalona, Prim F. (OLA); Wonenberg, David; Lafferty, John L; Foltz, Jon; Arditti, Avi; Calkins, Aaron L; Asher, Nathalie R; (b)(6), (b)(7)(C) per CBP; Atkinson, Ronald A (Alan); Pickell, Lindsay A. (OLA); DHS Legislative Affairs; Kovacic, Raymond; (b)(6), (b)(7)(C) per CBP.; Morse, Sara (HHS/ASL)

Attachments: 2018-06-22 CMC Itr DHS re Exec Order.pdf

This will be a prep session for an in-person bi-partisan staff level briefing for the Homeland Security & Government Affairs Committee (HSGAC) on zero tolerance and family reunifications, to include briefers from DOJ, HHS, CBP, ICE, and USCIS.

- Scope: This briefing will cover the following topics:
 - o Updates on the Family Reunification process
 - o Recordkeeping practices for linking parents with separated children (administratively)
 - o HHS' protocols for DNA testing and background interviews to ascertain parentage
 - o Selection process for sites where family reunifications occur
 - o Support framework for immediate aftermath following family reunification (i.e. NGOs' role, follow-on immigration court proceedings, ATD, etc.)
 - o Site Selection Process and Standards of Care at Family Residential Centers
 - o Information sharing between CBP, ICE, and HHS

- Clearance: This briefing will be UNCLAS

The attachment contains anticipated questions from HSGAC minority staff. Please propose a new time if this does not work with your schedule.

Wong, Norman (USAEO)

From: Wong, Norman (USAEO)
Sent: Wednesday, August 15, 2018 2:30 PM
To: Pickell, Lindsay A. (OLA)
Subject: RE: EOIR hearing QFRs
Attachments: 2018.07.31 Oversight of Immigration Enforcement and Family Reunification.._.docx

Lindsay,
Please see our proposed responses. We also took a crack at answering question 3b on page 13.
Norm

From: Pickell, Lindsay A. (OLA) <Lindsay.A.Pickell@usdoj.gov>
Sent: Tuesday, August 14, 2018 12:37 PM
To: Wong, Norman (USAEO) (b)(6) per EOUSA
Subject: EOIR hearing QFRs

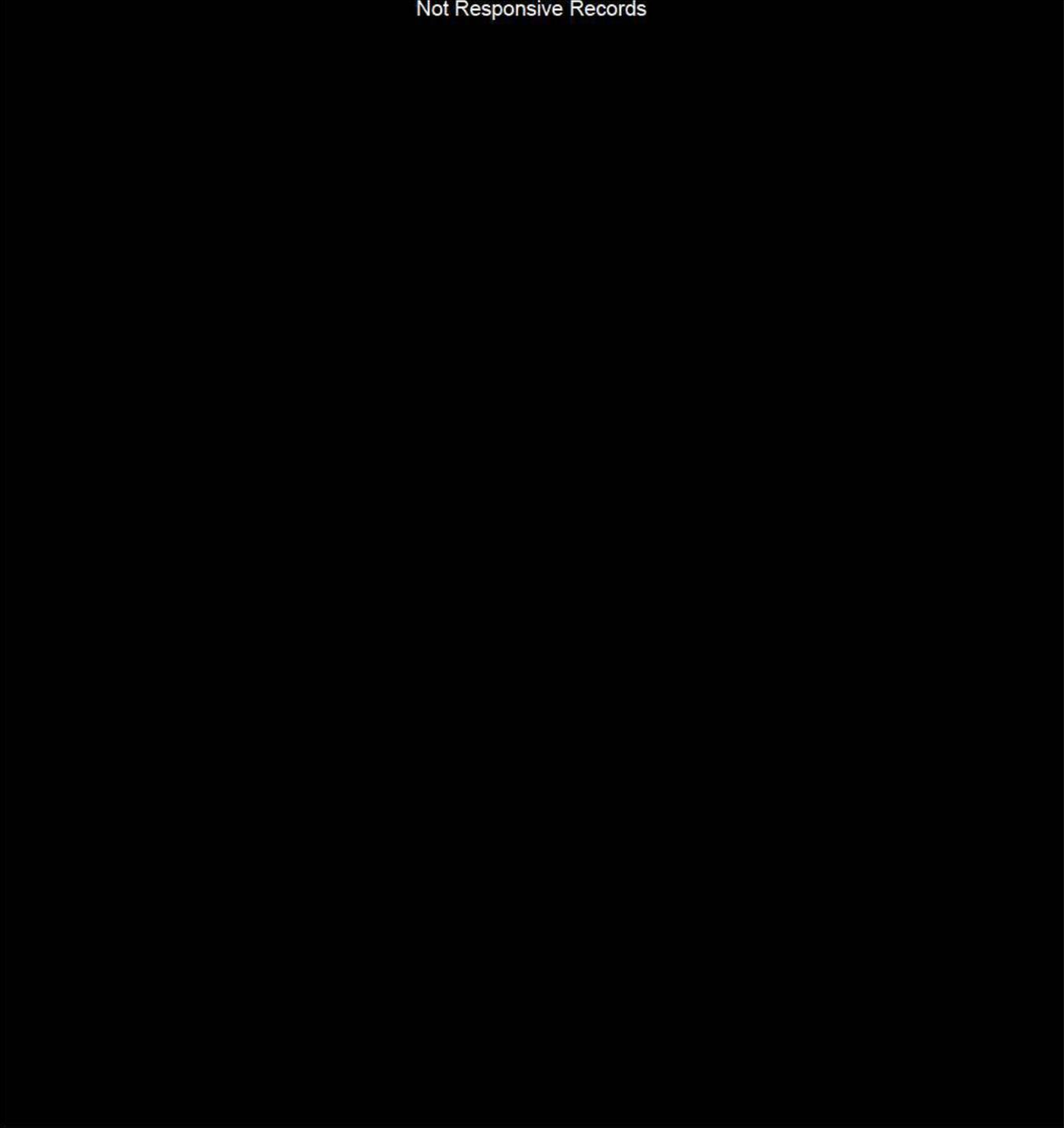
Hi Norm,

Thank you so much for helping James prepare for the SJC hearing on the Zero Tolerance Policy last month. We received some QFRs that are likely best addressed to EOUSA. Would you be able to take a look and provide draft responses to the ones marked for EOUSA? Thank you!

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

**Questions for the Record for Director James McHenry
Executive Office for Immigration Review
U.S. Senate Committee on the Judiciary
Hearing on “Oversight of the Administration’s Immigration Enforcement and Family
Reunification Efforts”
July 31, 2018**

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QUESTIONS FROM SENATOR WHITEHOUSE

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3. Has the enforcement of the zero tolerance required the Department to reallocate prosecutorial resources from other Department priorities? Please specify. If zero tolerance has not required the reallocation of resources, please explain how it has not.

RESPONSE: [REDACTED] (b) (5)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Not Responsive Records

Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Friday, September 14, 2018 10:03 AM
To: Kaplan, Lindsay (USAEO)
Subject: FW: DoD providing detailees for immigration prosecutions
Attachments: Handling border enforcement prosecutions - Lieu + Brown #4064598 (Lindsa....docx; 2018-6-21 active duty JAGs to go to border and prosecute immigration cases - Lieu #4064598.pdf

Hi Lindsay,

(b) (5)

. Would you be able to please check on that?

Thank you!
Lindsay

Congress of the United States
Washington, DC 20515

June 21, 2018

The Honorable Jeff Sessions
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Attorney General Sessions:

As Members of Congress who previously served on active duty as Judge Advocate Generals (JAGs), we are writing to ask you to withdraw your request for active duty JAGs to go to the border and prosecute immigration cases. Your proposal is unwise, inefficient and hurts our national security. There are at least three reasons why you need to withdraw your proposal.

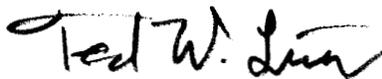
First, JAGs are not trained in immigration law. We are trained to prosecute and defend cases under the Uniform Code of Military Justice (UCMJ). Directing attorneys who are unfamiliar with immigration laws to prosecute immigration cases on behalf of the government would be unfair to both to the United States and the detainees.

Second, the JAG Corps is small and already stretched thin. The budget sequestration of the last few years has downsized our military. The recent increase in funding will take time to have an effect.

Third, and most importantly, our national security and troops will suffer. The main mission of JAGs is to advise military commanders in fighting our wars. From advising on what targets can be attacked under the law of war, to ensuring contracts in Afghanistan are done properly, to prosecuting sexual assault and other major crimes under the UCMJ to ensure good order and discipline, JAGs play an integral role in our war efforts. Another mission of JAGs is to provide legal assistance to our troops and their families when service members are deployed abroad. Taking JAGs away from the military mission to prosecute misdemeanor immigration cases is a big mistake.

Instead of creating new problems for our military, you should focus your efforts on undoing the manufactured crisis you have caused. Simply reverse the policy change you announced earlier this year. Do not take JAGs away from their critical military missions.

Sincerely,



Ted W. Lieu
Member of Congress



Anthony Brown
Member of Congress

RECEIVED
MAIL REFERRAL UNIT
11

2019 JUL 10 AM 11: 50

Faint, illegible text at the bottom of the page, possibly a header or footer area.

Kaplan, Lindsay (USAEO)

From: Kaplan, Lindsay (USAEO)
Sent: Friday, September 21, 2018 3:20 PM
To: Pickell, Lindsay A. (OLA)
Subject: RE: DoD providing detailees for immigration prosecutions
Attachments: Handling border enforcement prosecutions - Lieu + Brown #4064598 (Lindsa..._.docx)

Lindsay,

Here you go. We suggested [REDACTED] (b) (5)

Thanks,
Lindsay

From: Pickell, Lindsay A. (OLA) <Lindsay.A.Pickell@usdoj.gov>
Sent: Wednesday, September 19, 2018 4:45 PM
To: Kaplan, Lindsay (USAEO) <LKaplan1@usa.doj.gov>
Subject: RE: DoD providing detailees for immigration prosecutions

Hi Lindsay,

Just a quick reminder about this letter.

Best,
Lindsay

From: Pickell, Lindsay A. (OLA)
Sent: Friday, September 14, 2018 10:43 AM
To: 'Kaplan, Lindsay (USAEO)' <Lindsay.Kaplan@usdoj.gov>
Subject: RE: DoD providing detailees for immigration prosecutions

That's fine. Thank you.

From: Kaplan, Lindsay (USAEO) <Lindsay.Kaplan@usdoj.gov>
Sent: Friday, September 14, 2018 10:43 AM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: Re: DoD providing detailees for immigration prosecutions

Lindsay,

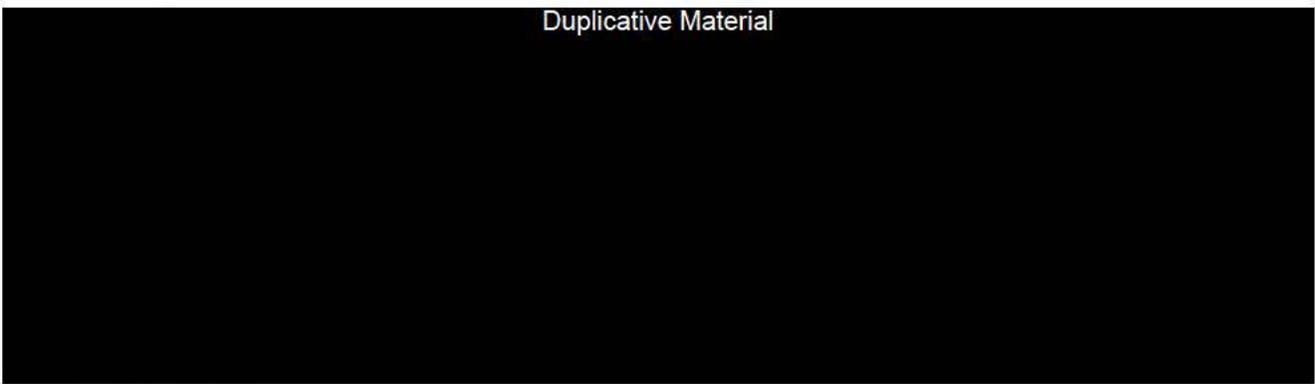
No problem, I'll take a look. I'm in training off site today. Would early next week work?

Thanks,
Lindsay

Embassy

On Sep 14, 2018, at 10:03 AM, Pickell, Lindsay A. (OLA) <Lindsay.A.Pickell@usdoj.gov> wrote:

Duplicative Material



Pickell, Lindsay A. (OLA)

From: Pickell, Lindsay A. (OLA)
Sent: Wednesday, October 17, 2018 6:18 PM
To: Kaplan, Lindsay (USAEO)
Subject: FW: 118237 EOIR QFRs for 7/31 hearing before SJC re: "Oversight of the Administration's Family Reunification Efforts"
Attachments: 118237_2018.07.31 Oversight of Immigration Enforcement and Family Reunification_10-17-18 EOUSA CRM OLP OLC2.docx

Hi Lindsay – could you please provide EOUSA's responses to the attached comments that were drafted by EOUSA?

Thanks!

From: McHenry, James (EOIR)
Sent: Wednesday, October 17, 2018 5:57 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Subject: RE: 118237 EOIR QFRs for 7/31 hearing before SJC re: "Oversight of the Administration's Family Reunification Efforts"

Responses are attached.

(b) (5)

From: Pickell, Lindsay A. (OLA)
Sent: Wednesday, October 17, 2018 5:47 PM
To: McHenry, James (EOIR) <James.McHenry@EOIR.USDOJ.GOV>
Subject: FW: 118237 EOIR QFRs for 7/31 hearing before SJC re: "Oversight of the Administration's Family Reunification Efforts"

Hi James,

Please see comments on your QFRs from the SJC hearing for response. Please let me know if you have any questions.

Best,
Lindsay

From: Wahdan, Rana S. (OLA)
Sent: Wednesday, October 17, 2018 4:30 PM
To: Pickell, Lindsay A. (OLA) <lapickell@jmd.usdoj.gov>
Cc: Wahdan, Rana S. (OLA) <rswahdan@jmd.usdoj.gov>
Subject: 118237 EOIR QFRs for 7/31 hearing before SJC re: "Oversight of the Administration's Family Reunification Efforts"

Attaching EOUSA, CRM, and OLP comments on EOIR QFRs for 7/31 hearing before SJC re: "Oversight of the Administration's Family Reunification Efforts "

Please let me know how EOIR responds.

Thanks,

Rana

From: Pickell, Lindsay A. (OLA)
Sent: Wednesday, August 29, 2018 1:09 PM
To: Wahdan, Rana S. (OLA) <rswahdan@jmd.usdoj.gov>
Subject: McHenry (EOIR) QFRs

Rana,

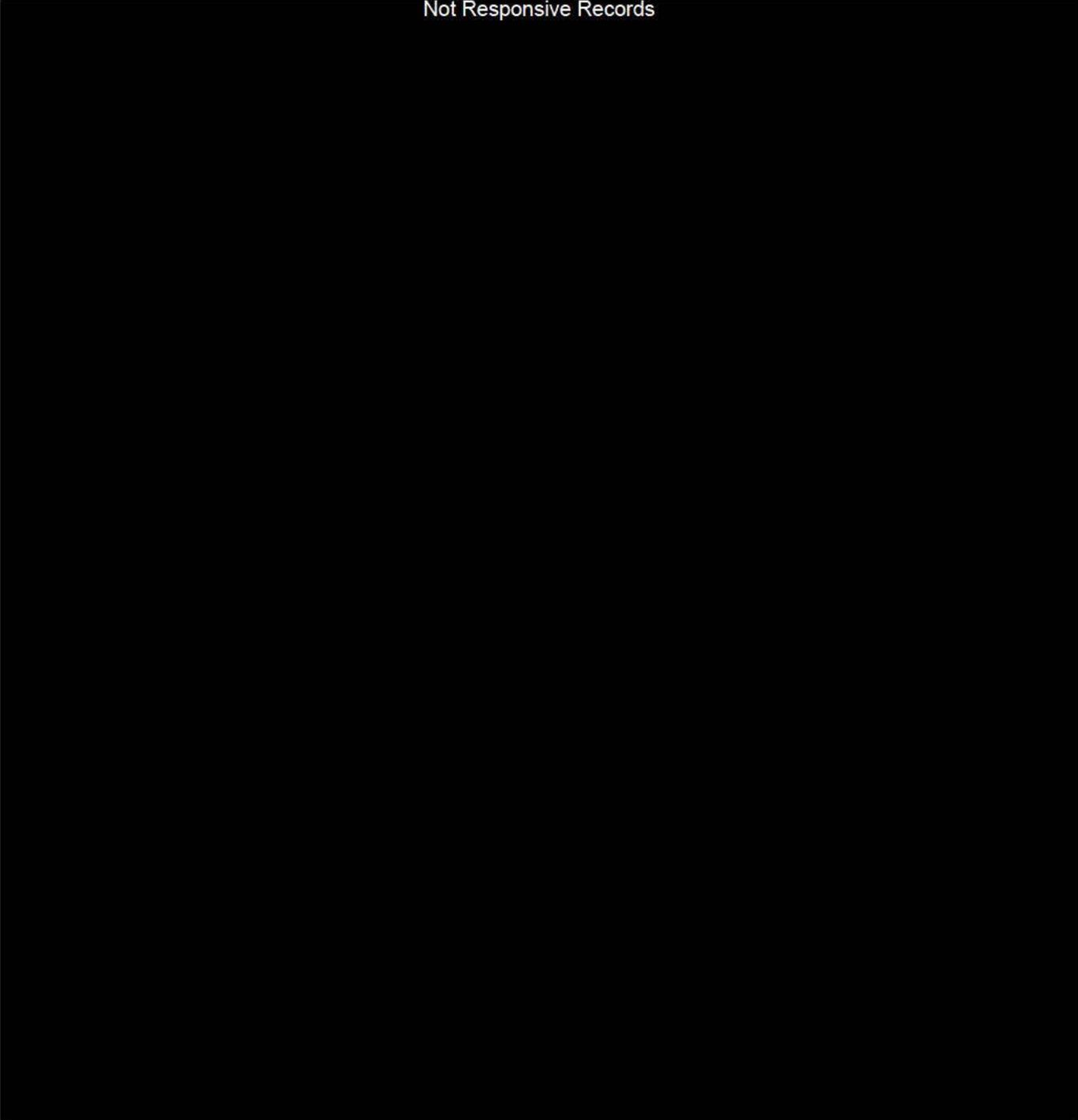
Will you please circulate these through clearance?

Thank you!

Lindsay Pickell
Counsel
Office of Legislative Affairs
U.S. Department of Justice
202-353-9085

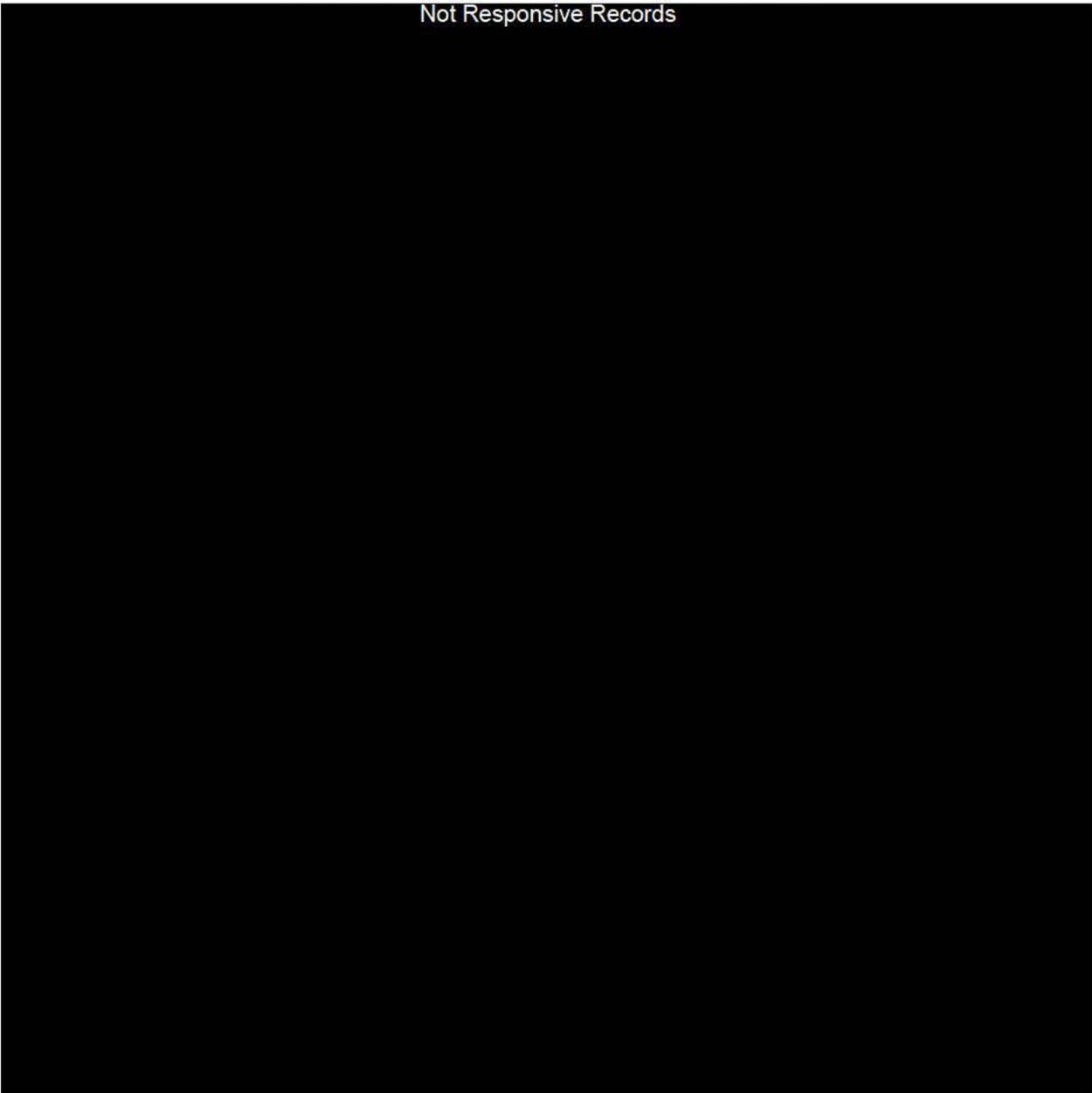
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3. Has the enforcement of the zero tolerance required the Department to reallocate prosecutorial resources from other Department priorities? Please specify. If zero tolerance has not required the reallocation of resources, please explain how it has not.

RESPONSE

(b) (5)

