

Committee on Banking, Housing, and Urban Affairs
Nominations Hearing
July 19, 2018

Questions for Ms. Kathleen Laura Kraninger, Director-Designate, Bureau of Consumer Financial Protection, on behalf of Ranking Member Brown, Senator Catherine Cortez Masto, Senator Robert Menendez, and Senator Elizabeth Warren.:

Child Separation

In the hearing, you dodged questions about your involvement in the Administration's policy to separate children from their parents at the border, refusing to answer or using passive language to avoid describing your personal role.

- You testified that your “involvement level” on any issue “really does vary substantially based on the president's priorities, the director's priorities, the agency heads' priorities, how much authority they have.” How would you characterize your involvement level on policies resulting in child separations at the border?

Response: I had no role in setting the zero tolerance policy. Since the beginning of the administration, officials within the Office of Management and Budget (OMB), including the director, the deputy director, me, and my staff, participated in meetings related to immigration and border security policy that included relevant officials across the administration. OMB has an extensive role in supporting agencies as they implement the President's priorities and agenda, which includes reviewing legislative proposals, regulatory proposals, and the availability of budgetary resources, including those regarding immigration and border security. I also testified more specifically that OMB raises questions and supports agencies in analyzing their resource needs.

- You testified that “[s]ubsequent to the attorney general's announcement [of the zero-tolerance policy], there were meetings within the administration on the general topic of the implementation, and again, the Office of Management and Budget does actively participate in those meetings.” Please provide a list of the meetings that you attended, the title of the meeting, the dates of the meetings, and who else was in attendance.

Response: In light of the confidentiality interests that attach to executive branch decision-making, I am unable to answer this question.

- You testified that “[i]n terms of what generally comes before the Office of Management and Budget, it is what the agencies are formulating. They put forward what their leadership would like to pursue or they have received direction from the President about activities that they should undertake. And they are formulating the – a manner in how to address what the President's priorities are, and what he has asked of them. And then we are supporting that effort.” Please describe how you “support[ed] the effort” of the Department of Homeland Security as the agency separated thousands of parents from their children at the border.

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Response: I had no role in setting the zero tolerance policy. Since the beginning of the administration, officials within the Office of Management and Budget, including the director, the deputy director, me, and my staff, participated in meetings related to immigration and border security policy that included relevant officials across the administration. OMB has an extensive role in supporting agencies as they implement the President's priorities and agenda, which includes reviewing legislative proposals, regulatory proposals, and the availability of budgetary resources, including those regarding immigration and border security. I also testified more specifically that OMB was engaged in discussions regarding resource needs, including supporting agencies in analysis of those needs and appropriations law.

- You testified that “with respect to the IRS rule [on disclosing political donations], I was aware of it happening. I know that my staff reviewed it.” Were you aware that the child separation policy was happening? Did you or your staff review it?

Response: I was not involved in setting the policy. The IRS action is different in kind as it was undertaken through a rulemaking effort, which is why my staff reviewed it.

- You testified that “horrible disasters last fall, because there was clear need for additional resources, the Office of Management and Budget was -- was very engaged.” Were additional resources required to implement the child separation policy? If so, did the Office of Management and Budget approve or reject any requests for additional resources or play any other role in providing resources? What role did you personally play in determining whether to approve or deny any such requests?

Response: I had no role in setting the policy. Since the Office of Management and Budget (OMB) has an extensive role in supporting agencies as they implement the President's priorities and agenda, including reviewing legislative proposals, regulatory proposals, and the availability of budgetary resources, I have participated in a number of meetings on immigration and border security in that context. DHS submitted a reprogramming and transfer request to the Committees on Appropriations, Subcommittees on Homeland Security, on June 30th. I did not personally review the request, since the discussions occurred after my nomination.

- Please provide a complete description of any role you may have played in OMB budgetary or policy decisions, analyses, or recommendations related to DOJ's “Zero-Tolerance Policy,” DHS's implementation of the changes stemming from this policy, and the separation of children from their parents who were detained under such policy. Please include a list of all meetings you attended (in person or by telephone or other electronic means) related to these budgetary or policy decisions, analyses, or recommendations, the topics discussed in these meetings, and a list of all other attendees of these meetings.

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Response: In light of the confidentiality interests that attach to executive branch decision-making, I am unable to answer this question.

- Please provide all emails and other documents related to your communications with DOJ officials related to the development and implementation of DOJ's "Zero-Tolerance Policy" and the separation of children from their parents who were detained under such policy.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails and other documents related to your communications with DHS officials regarding the DHS's role in separation of children from their parents who were detained under the DOJ Zero Tolerance policy.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails and other documents related to your communications with White House officials, including Senior Advisor to the President Stephen Miller, related to the development of the Zero Tolerance Policy, DHS's implementation of changes stemming from the Zero Tolerance Policy, or the separation of children from their parents who were detained under the DOJ Zero Tolerance policy.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide any final or draft OMB analyses, recommendations, or budgetary or policy decisions in which you were involved related to the DOJ Zero Tolerance Policy, or related to DHS role in this policy, including DHS's role in the separation of children from their parents who were detained under the DOJ Zero Tolerance policy, and any emails, or other communications related to these final or draft recommendations, or budgetary or policy decisions.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

Puerto Rico

- Please provide a complete description of any role you may have played in OMB disaster supplemental appropriations requests to Congress, budgetary or policy decisions,

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analyses, or recommendations related to the Trump Administration's response to Hurricane Maria. Please include a list of all meetings you attended (in person or by telephone or other electronic means) related to these disaster supplemental appropriations requests to Congress, budgetary or policy decisions, analyses, or recommendations, the topics discussed in these meetings, and a list of all other attendees of those meetings. Such documents should cover, but not be limited to, any meetings, communications, or deliberations related to the following requests and appropriations:

- October 4, 2017 requested supplemental;
- Public Law Number 115-72;
- November 17, 2017 requested supplemental; and
- Public Law Number 115-123.
- Please provide all emails and other documents related to your communications with DHS officials related to the development of disaster supplemental appropriations requests to Congress and implementation of enacted appropriations.

Response: The Office of Management and Budget has a role in reviewing disaster declarations that go to the President and putting together the supplemental requests that the administration transmits to the Congress. In my role at OMB, I supported the President in the development of the supplemental requests for Hurricanes Irma and Maria. In light of the confidentiality interests that attach to executive branch decision-making, I am unable to fulfill your request. As to the request for documents, any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails and other documents related to your communications with Treasury officials related to the development of disaster supplemental appropriations requests to Congress and implementation of enacted appropriations.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails and other documents related to your communications with HUD officials related to the development of disaster supplemental appropriations requests to Congress and implementation of enacted appropriations.

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Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails and other documents related to your communications with Puerto Rico government officials, employees, and consultants, related to the development of disaster supplemental appropriations requests to Congress and implementation of enacted appropriations.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide any final or draft OMB analyses, recommendations, or budgetary or policy decisions in which you were involved related to the Administration's response to Hurricane Maria, and any emails, or other communications related to these final or draft recommendations, disaster supplemental appropriations requests, or other budgetary or policy decisions.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- Please provide all emails or other documents relating to your involvement with the Trump Administration's response to Hurricane Maria, including but not limited to: negotiations or discussions with Puerto Rico government officials, employees, and consultants regarding the intent, design, statutory language, and implementation of the community disaster loan in the Public Law Number 115-72; and negotiations or discussions with Puerto Rico government officials, employees, and consultants regarding the procedures related to Section 428 of the Stafford Act.

Response: Any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

Transparency

- At the hearing, you claimed that the information and documents multiple Senators were requesting about your role in the development and implementation of the child separation policy were protected by the deliberative process privilege. You also testified that the Administration was not formally invoking the deliberative process privilege and that you were not personally invoking the deliberative process privilege on the advice of counsel.

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- As of the date of your response to the questions in this document, is the Trump Administration invoking any privilege with regard to any of the information or documents requested in the letter from Senators Warren and Brown on June 18, 2018?

Response: I am not in a position to comment on behalf of the Administration.

- As of the date of your response to the questions in this document, are you personally invoking any privilege with regard to any of the information or documents requested in the letter from Senators Warren and Brown on June 18, 2018?

Response: In light of the confidentiality interests that attach to executive branch decision-making, I am unable to provide responses to the requests for information. As to the requests for documents, any such documents would not belong to me, and, as a result, I would not have the authority to produce any such documents if they existed.

- If either you or the Trump Administration is invoking any privilege with regard to any of the documents or information requested in the June 18th letter, please describe in detail which documents and information the privilege protects and cite legal precedent for your claim that the privilege applies to such documents or information.

Response: Please see the response above.

- If neither you nor the Trump Administration is invoking any privilege with regard to the some or all of the information or documents requested in the June 18th letter, please explain why it is appropriate to withhold that non-privileged information from the Banking Committee before the Committee votes on your nomination. Please keep in mind that the material requested bears directly on your ability to manage complicated and important policies – which will be your responsibility if confirmed to run the CFPB – and that both you and the Trump Administration have specifically touted your purported management expertise as the primary reason to confirm you to this position.

Response: Please see the response above.