



Family Unit Actions Report

October 1, 2018–September 30, 2019

April 15, 2020

Fiscal Year 2019 Report to Congress



**Homeland
Security**

Office of Strategy, Policy, and Plans

Message from the Office of Strategy, Policy, and Plans

April 15, 2020

I am pleased to submit the following “Family Unit Actions Report,” which has been prepared by the U.S. Department of Homeland Security’s (DHS) Office of Strategy, Policy, and Plans with support from U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

This document has been compiled pursuant to requirements in the Fiscal Year 2019 DHS Appropriations Act (P.L. 116-6), its accompanying Joint Explanatory Statement, and Senate Report 115-283. The Joint Explanatory Statement also references House Report 115-948. The report covers family unit apprehensions occurring October 1, 2018–September 30, 2019. This specific report includes updated data for each month of the fiscal year.



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Lucille Roybal-Allard
Chairwoman, House Appropriations Subcommittee on Homeland Security

The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions that you may have. Please do not hesitate to contact my office at (202) 282-9708.

Sincerely,

A handwritten signature in blue ink that reads "James W. McCament". The signature is stylized and cursive.

James W. McCament
Deputy Under Secretary
Office of Strategy, Policy, and Plans



Family Unit Actions Report October 1, 2018–September 30, 2019

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I. Legislative Language

This document has been compiled in response to requirements in the Fiscal Year (FY) 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6), its accompanying Joint Explanatory Statement, and Senate Report 115-283. The Joint Explanatory Statement also references House Report 115-948.

P.L. 116-6 states:

Provided further, That of the funds provided under this heading...\$13,000,000 shall be withheld from obligation until the Secretary complies with section 106 of this Act and \$13,000,000 shall be withheld from obligation until the Secretary provides the first report on border apprehensions required under this heading by the report accompanying this Act.

The Joint Explanatory Statement accompanying P.L. 116-6 includes the following requirement:

The Secretary is directed to provide a monthly report, to be made public on the Department's website, on family separations, referrals for prosecution, family unit detention, referral of minors to the Office of Refugee Resettlement, and removals, as detailed in Senate Report 115-283. The report shall also include data on the total number of referrals for prosecution, as described in House Report 115-948.

Senate Report 115-283 states:

Border Apprehension Report.—The Department is directed to provide the Committee with a monthly report, which will be made public on the Department's website, documenting when and where all family separations occur, the ages of all minors being separated from their family units, the nature of administrative or criminal charges filed against adult family members, as well as how often family units apprehended together are detained in ICE custody, referred to the Department of Health and Human Services Office of Refugee Resettlement [ORR], and/or deported separately. The report shall also detail plans on the reunification of family units.

House Report 115-948, referenced in the Joint Explanatory Statement, states:

The Department is directed to provide a report to the Committee, ... on its policies related to the separation of minor children from their parents or legal guardians while in DHS custody. The report should discuss policies in effect both prior and subsequent to the implementation of Executive Order 13841, and shall include a description of any guidance to field personnel on implementation of such policies; a description of the process for reuniting families that are separated as a result of the prosecution of an adult family member; data on the number of separations during fiscal year 2018 as a result of the prosecution of a parent or legal guardian

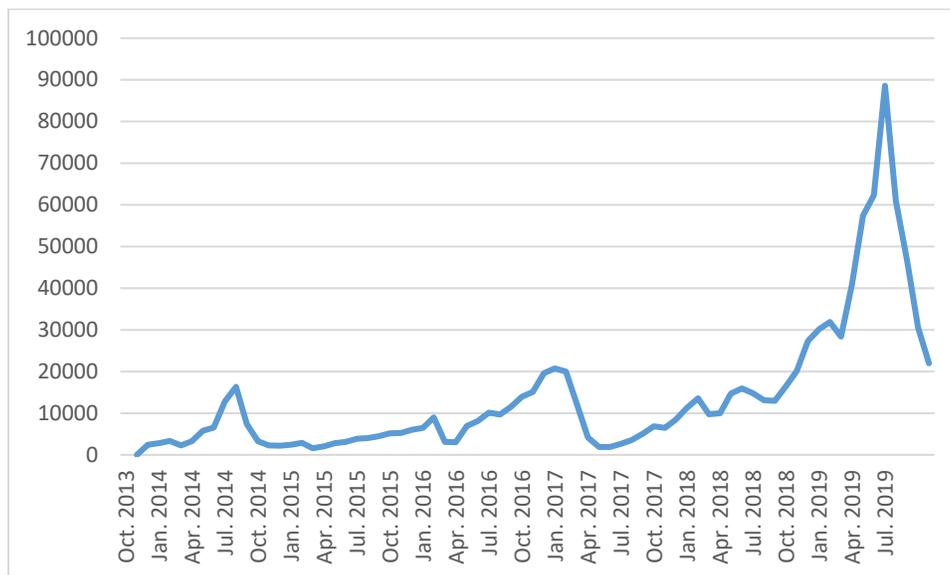
due to medical necessity, in the interest of the immediate safety of the child, or due to fraudulent family relationship or guardianship claims; a description of how DHS determines the validity of family relationship or guardianship claims; and an assessment of how that process could be improved, including the feasibility of using rapid DNA testing with appropriate privacy protections.

II. Background

In FY 2019, DHS experienced an unprecedented humanitarian and border security crisis. Between October 1, 2018, and September 30, 2019, U.S. Customs and Border Protection's (CBP) U.S. Border Patrol (USBP) apprehended a total of 851,508 aliens (including but not limited to family units) between ports of entry (POE) along the Southwest Border, and CBP's Office of Field Operations (OFO) deemed an additional 126,001 aliens (including, but not limited to family units) inadmissible at POEs along the Southwest Border. As previously reported, more than 144,000 aliens were apprehended between POEs or deemed inadmissible at POEs along the Southwest Border in May 2019 alone, representing a nearly 32-percent increase compared to April 2019 and the highest monthly total since 2006.

The majority of illegal border crossers and aliens found inadmissible at POEs between October 1, 2018, and September 30, 2019, have been family units—a population that has grown exponentially in the last 3 years. Overall, CBP saw a 463-percent increase in family unit alien (FMUA) encounters when comparing fiscal year-to-date numbers up to May 2019 to the same period in FY 2018. At their peak in May 2019, family units comprised 61 percent of all border enforcement actions. FMUA encounters have fallen more than 75 percent between May and September, but the 22,010 FMUAs apprehended or found inadmissible in September 2019 still exceeded the 1-month total for any single month prior to FY 2019 (see Figure 1).

Figure 1: FMUA Apprehensions and Inadmissibles, Southwest Border, October 2013-September 2019



Source: DHS analysis of CBP data.

Note: Data depict USBP apprehensions for October 2013-September 2019 and OFO inadmissibility determinations for March 2016-September 2019 (the X axis shows the first month of each quarter); OFO data on FMUA inadmissibility determinations are not available prior to March 2016.

The term “family unit” is derived from the statutory definition of “unaccompanied alien child,” and refers to alien child(ren) younger than 18 accompanied by adult alien parents or legal guardians. Under the *Flores* Settlement Agreement as interpreted by the courts, family units generally are not detained at U.S. Immigration and Customs Enforcement (ICE) family residential centers for more than approximately 20 days.

Per the CBP Transportation, Escort, Detention, and Search (TEDS) policy implemented in 2015, CBP maintains family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern. Historically, DHS has separated a minor from an adult who is the parent or legal guardian in certain limited circumstances: when DHS determines that the minor may be at risk with the adult, for urgent medical issues, or when the adult is transferred to criminal detention.

In addition, CBP screens to validate family relationships and legal guardianship claims to ensure that children are not being claimed fraudulently by adults and to establish children’s true identities for legal and practical reasons. Such fraud cases identified by CBP are not included in this report because they do not involve actual FMUA separations.¹ Frontline personnel use articulable observations or information that indicate fraudulent families and document the interactions among travelers to assess whether a family relationship exists. Indicators may include observed behaviors that are inconsistent with the behavior of an actual family. Personnel check all forms of identification against available data systems and may contact the alien’s consulate to verify documentation. Personnel also conduct interviews to identify adults who are claiming fraudulently to be the parent of a minor child. In addition, if agents reasonably believe that they have observed the same child younger than the age of 14 on multiple occasions, they are permitted on a case-by-case basis to collect fingerprints, photographs, and iris scans.

On April 6, 2018, the U.S. Department of Justice (DOJ) instituted Zero Tolerance, a policy to prosecute all referred violations of 8 U.S.C. § 1325(a). This provision of law criminalizes both improper entry and *attempted* improper entry by an alien. On May 4, 2018, former Secretary of Homeland Security Kirstjen Nielsen directed officers and agents to ensure that all adults, including those traveling with children, amenable for prosecution for improper entry in violation of 8 U.S.C. § 1325(a), be referred to the DOJ for criminal prosecution. On May 5, 2018, USBP began referring greater numbers of violators of 8 U.S.C. § 1325(a) for prosecution. The Zero Tolerance initiative applied to all amenable adults, including parents or legal guardians traveling with minor children.

When a parent or legal guardian traveling with a child is accepted for prosecution by DOJ and is transferred to U.S. Marshals Service custody for the duration of his or her criminal proceedings, the child cannot remain with the parent or legal guardian during criminal proceedings or subsequent incarceration. These children generally are determined to be unaccompanied alien children and are referred to the care and custody of the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR).

¹ Fraudulent family claims identified after aliens are transferred from CBP to ICE *are* included in this report even though they technically do not include FMUA separations; see Table 3.

On June 20, 2018, President Trump issued Executive Order (E.O.) 13841, *Affording Congress an Opportunity to Address Family Separation*.² E.O. 13841 directs the Executive Branch to continue to enforce immigration laws rigorously and to prosecute illegal border crossers, while simultaneously maintaining family unity consistent with existing law and available resources. Following the issuance of E.O. 13841, CBP leadership issued guidance to field offices directing that parents or legal guardians who entered with children generally no longer were to be referred for prosecution for violating 8 U.S.C. § 1325(a), consistent with previous CBP policy. Family units are separated only consistent with the preliminary injunction in *Ms. L v. ICE (Ms. L)*.³

Consistent with the executive order, as well as with applicable law and court orders, including court orders in the case of *Ms. L*, DHS works in conjunction with HHS to ensure that family units, if separated, are reunified as appropriate. As directed by the Joint Explanatory Statement accompanying P.L. 116-6, this report details the separation and reunification of family units by the Department.

² <https://www.govinfo.gov/content/pkg/FR-2018-06-25/pdf/2018-13696.pdf>

³ *Ms. L v. U.S. Immigration and Customs Enforcement*, 310 F. Supp. 3d 1133 (S.D. Cal. June 26, 2019).

III. Data Tables

This section provides information relating to family units apprehended by USBP or determined to be inadmissible by OFO between October 2018 and September 2019 that resulted in family separations. The detailed tables that follow focus exclusively on FMUAs encountered between October 2018 and September 2019, and Tables 4–6 include information about events that transpired *after* September 30, 2019, related to this population.

This report includes data provided to the court in *Ms. L*, as well as other data, including separations of family units in which the parent is not a member of the certified class in *Ms. L* because of exclusions set forth by the court. Therefore, these separations would not be reflected in the regular reporting to the court in that case. Data provided are accurate as of the date reported but fluctuate daily as a result of the normal course of operations.

Throughout this report, “family separations” refers to separations of alien parents or legal guardians from their minor alien children following their arrival at the border as a family unit. “Encounter date” refers to the date on which a family unit was deemed inadmissible or apprehended at the border.

Data in this report are limited to cases involving parents or legal guardians and children deemed inadmissible or apprehended and separated by DHS between October 1, 2018, and September 30, 2019, with information on detention, removals, and transfers to HHS updated on the basis of ICE and CBP records that are current as of February 25, 2020. Totals for each of the tables are not representative of unique counts of people. These figures represent the cumulative count of cases involving parents or legal guardians and children separated by DHS. Subsequent versions of this report will provide updates to the previous months’ populations and data because analysis of family units and family separations is ongoing, and those data are subject to change as new information becomes available.

Family Separations by Location and Date

Table 1 summarizes the number of family units apprehended by USBP or determined to be inadmissible by OFO between October 2018 and September 2019 that resulted in family separations, broken down by month and by USBP sector or OFO field office. As Table 1 indicates, a total of 919 families were separated during this period. (Most families included only one child. Some families included between two and four children, so that the 919 separations involved a total of 999 children. See Table 2.) Family separations increased in all but 1 month between October and May before declining through the remainder of FY 2019, a trend that roughly parallels (at a much lower level) the number of family unit apprehensions during the same periods. The largest numbers of separations continued to occur in USBP’s Rio Grande Valley and El Paso Sectors, where the majority of family units were apprehended.

Table 1: Family Separations by Location and Date of Inadmissible Determination or Apprehension

Location	Oct. 2018	Nov. 2018	Dec. 2018	Jan. 2019	Feb. 2019	Mar. 2019	Apr. 2019	May 2019	Jun. 2019	Jul. 2019	Aug. 2019	Sep. 2019	Total
USBP Sectors													
Rio Grande Valley, TX	19	20	25	26	38	68	87	83	88	69	32	13	568
El Paso, TX	5	4	8	7	11	20	23	35	20	6	2	2	143
Yuma, AZ	1	3	3	4	4	12	10	23	11	2	1	1	75
Tucson, AZ	2	2	2	1	2	7	2	5	4	2	2	2	33
Del Rio, TX	0	1	0	2	2	4	1	6	0	2	3	0	21
El Centro, CA	0	3	4	2	7	1	1	0	0	0	0	0	18
San Diego, CA	1	0	1	1	2	2	1	3	2	0	0	0	13
Big Bend, TX	0	0	1	1	0	0	0	4	0	0	0	0	6
Swanton, VT	0	0	1	0	0	0	1	0	0	0	0	0	2
Blaine, WA	1	0	0	0	0	0	0	0	0	0	0	0	1
USBP Subtotal	29	33	45	44	66	114	126	159	125	81	40	18	880
OFO Field Offices													
Laredo, TX	2	1	1	0	2	5	4	2	1	1	0	0	19
El Paso, TX	0	1	0	1	0	0	0	1	2	1	1	0	7
San Diego, CA	1	2	0	2	0	2	0	0	0	0	0	0	7
Tucson, AZ	0	1	0	0	0	1	0	1	0	0	0	1	4
Chicago, IL	0	0	0	0	0	0	1	0	0	0	0	0	1
OFO Subtotal	3	5	1	3	2	8	5	4	3	2	1	1	38
Unknown	0	0	0	0	0	0	0	0	1	0	0	0	1
Total	35	45	53	49	70	123	135	168	130	83	42	19	919

Source: CBP.

Note: Table 1 reports on the number of families separated. Family separations affected 919 parents or legal guardians and 999 children.

Family Separations by Age of Minor Child and Date

Some of the 919 families apprehended or determined to be inadmissible that resulted in family separations included more than one child, as noted above. Therefore, as Table 2 depicts, a total of 999 children were separated from their parents or legal guardians during the reporting period. Slightly more than one-quarter of the children were 5 years old or younger, nearly 40 percent were 6 to 12 years old, and the remainder were 13 years old or older.

Table 2: Family Separations by Age of Minor Child and Date of Inadmissible Determination or Apprehension

Age	Oct. 2018	Nov. 2018	Dec. 2018	Jan. 2019	Feb. 2019	Mar. 2019	Apr. 2019	May 2019	Jun. 2019	Jul. 2019	Aug. 2019	Sep. 2019	Total
0-5 years	12	13	18	11	17	43	37	46	30	22	14	4	267
6-12 years	14	19	24	18	28	50	61	65	64	29	14	13	399
13-17 years	10	12	13	22	27	38	43	63	44	37	18	6	333
Total	36	44	55	51	72	131	141	174	138	88	46	23	999

Source: CBP.

Note: Table 2 reports on the ages of individual children separated from their parents or legal guardians. Ages reported are based on children's ages on the date of a CBP encounter.

Reasons for Family Separations

Table 3 summarizes the number of families apprehended by USBP or determined to be inadmissible by OFO between October 2018 and September 2019 that resulted in family

separations, broken down by the reason for separation.⁴ As Table 3 indicates, the majority of separations occurred because of criminality concerns, including the parent’s or legal guardian’s criminal history (75 percent), cartel/gang affiliation (6 percent), or a warrant of arrest/referral for prosecution (7 percent).

Table 3: Reasons for Family Separations

Reason for Separation	Oct. 2018	Nov. 2018	Dec. 2018	Jan. 2019	Feb. 2019	Mar. 2019	Apr. 2019	May 2019	Jun. 2019	Jul. 2019	Aug. 2019	Sep. 2019	Total
Health Issue	2	3	1	1	0	0	2	0	3	0	1	0	13
Warrant of Arrest/ Referred for Prosecution	0	5	3	2	2	12	6	11	13	5	3	3	65
Cartel/Gang Affiliation	6	8	4	3	4	4	4	6	5	7	2	1	54
Criminal History	21	22	30	40	49	95	99	121	102	69	26	11	685
Parent Fitness/Child Safety	0	0	2	0	2	1	6	4	0	0	0	0	15
Unverified Familial Relationship	2	0	5	1	10	8	10	18	5	1	7	3	70
Other	1	0	1	0	1	2	4	3	1	1	2	1	17
Total	32	38	46	47	68	122	131	163	129	83	41	19	919

Source: ICE.

Note: Thirteen individuals with cartel/gang affiliations also had criminal and/or immigration histories; 385 individuals with criminal histories also had immigration histories and/or gang affiliations. “Unverified familial relationships” included in this report involve groupings initially classified by CBP as FMUAs and subsequently determined to be nonparental family relationships or fraudulent family claims after the aliens entered ICE custody.

Book-Ins to ICE Detention of Separated Adults by Detention Date

Table 4 summarizes the numbers of adults involved in family separations occurring between October 2018 and September 2019 who had been booked into ICE detention facilities as of February 25, 2020. (For a variety of reasons, adults may be booked into detention up to several months after the family’s initial apprehension or determination of inadmissibility, so book-in dates extend beyond September 2019.) As Table 4 indicates, not all 919 adults covered by the current report had been booked into ICE custody as of the time of this report; adults not booked into ICE custody may have been transferred to U.S. Marshals Service custody, turned over to another agency on an extraditable warrant, and/or directly repatriated to Mexico or Canada by CBP.

⁴ Table 3 includes data directed by House Report 115-948 and Senate Report 115-283, along with other reasons for family separations during the reporting period.

Table 4: Book-Ins to ICE Detention of Separated Adults by Detention Date

Detention Date	Number of Parents Booked Into Detention
Oct. 2018	15
Nov. 2018	30
Dec. 2018	34
Jan. 2019	31
Feb. 2019	40
Mar. 2019	71
Apr. 2019	103
May 2019	110
Jun. 2019	92
Jul. 2019	102
Aug. 2019	65
Sep. 2019	26
Oct. 2019	26
Nov. 2019	27
Dec. 2019	31
Jan. 2020	19
Feb. 2020	4
Total	826

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date (as of February 25, 2020) for unique adults in separated families who were deemed inadmissible or were apprehended between October 2018 and September 2019.

CBP Referrals of Separated Children to HHS by Date of Referral

Table 5 summarizes the numbers of children involved in family separations occurring between October 2018 and September 2019 whom CBP referred to HHS as of February 25, 2020. (Referrals to HHS occurred sometime after the family’s initial apprehension or determination of inadmissibility, so referral dates extend beyond September 2019.) As the table indicates, not all 999 children covered by the current report had been referred to HHS at the time that this report was prepared. Children not referred to HHS may have been repatriated by CBP to Mexico or Canada without entering ICE custody.

Table 5: CBP Referrals of Separated Children to HHS by Date of Referral

Referral Date	Number of Children Referred to HHS
Oct. 2018	34
Nov. 2018	43
Dec. 2018	57
Jan. 2019	46
Feb. 2019	71
Mar. 2019	118
Apr. 2019	150
May 2019	167
Jun. 2019	146
Jul. 2019	95
Aug. 2019	47
Sept. 2019	25
Total	999

Source: CBP.

Note: Table 5 reports referrals to HHS by referral date as of February 25, 2020, for children who were deemed inadmissible or were apprehended between October 2018 and September 2019. Data on referral dates are only available for 999 unaccompanied alien children at the time of this report. Unaccompanied alien children (including those who enter as FMUAs and are separated from their parents) are referred to the care of HHS ORR. Although HHS ORR has responsibility for the care of the unaccompanied alien children placed in its facilities, ICE Enforcement and Removal Operations manages their immigration cases. Data may not match referrals reported by HHS because this table is limited to information on children deemed inadmissible or apprehended during the reporting period and because the DHS and HHS reports were produced on different schedules.

Removals and Returns of Separated Adults by Final Book-Out Date

Table 6 reports on the number of adults in families who were separated between October 2018 and September 2019 and had been removed or returned as of February 25, 2020.⁵ Removal dates occurred sometime after the family’s initial apprehension or determination of inadmissibility, so several dates in Table 6 extend beyond September 2019. Not all 919 adults covered by the current report are included in this table; parents not removed by ICE may remain in ICE or U.S. Marshals Service custody or, in some cases, may have been released by CBP or ICE for humanitarian or other reasons.

⁵ Data in Table 6 are based on book-out dates for aliens booked out of detention to complete a removal or return; actual removals and returns typically occur within 3 days of final book-out.

Table 6: Removals and Returns of Separated Adults by Final Book-Out Date

Final Book-Out Date	Number of Parents Removed or Returned
Oct. 2018	1
Nov. 2018	1
Dec. 2018	9
Jan. 2019	22
Feb. 2019	24
Mar. 2019	36
Apr. 2019	76
May 2019	77
Jun. 2019	80
Jul. 2019	90
Aug. 2019	72
Sept. 2019	63
Oct. 2019	57
Nov. 2019	41
Dec. 2019	41
Jan. 2020	41
Feb. 2020	12
Total	743

Source: ICE.

Note: Table 6 reports removals and returns by final book-out date (as of February 25, 2020) for adults who were deemed inadmissible or were apprehended between October 2018 and September 2019 and were separated from their children.

IV. Family Reunification Plan

CBP and ICE continue to share information related to separated parents and legal guardians and children with HHS ORR. CBP, ICE, and HHS ORR each have dedicated personnel who review the data and share information to identify all family separations. Separation data are shared, reviewed, and updated weekly. The general process is managed through internal data tracking, and system updates occur anytime new information is discovered. Once cases are identified and shared between DHS and HHS operators, the interagency effort for reunification, if appropriate, begins. Each separation case is tracked in order for ICE and HHS ORR to coordinate reunification of family members.

When DHS and HHS operators identify a case that requires reunification, ICE's Juvenile and Family Residential Management Unit (JFRMU) officers identify the adult's detention location and the current status of the adult's immigration proceedings. A summary of the adult's immigration and criminal history is provided to HHS ORR operators for review. Upon HHS ORR's approval of the minor's release to the adult, JFRMU officers communicate with the ICE Enforcement and Removal Field Office where the adult is detained to determine whether the adult requests to be reunified with the minor and has completed the Notice of Parental Rights form as required under the *Ms. L* injunction. If the adult elects reunification, JFRMU officers coordinate with HHS ORR to reunify the family.

Appendix: Abbreviations

Abbreviation	Definition
CBP	U.S. Customs and Border Protection
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
E.O.	Executive Order
FMUA	Family Unit Alien
FY	Fiscal Year
HHS	U.S. Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
JFRMU	Juvenile and Family Residential Management Unit
<i>Ms. L</i>	<i>Ms. L v. ICE</i>
OFO	Office of Field Operations
ORR	Office of Refugee Resettlement
POE	Port of Entry
TEDS	Transportation, Escort, Detention, and Search
USBP	U.S. Border Patrol