



Family Unit Actions Report

October 1, 2018 – April 30, 2019

August 5, 2019

Fiscal Year 2019 Report to Congress



Homeland
Security

Office of the Secretary

Message from the Acting Secretary

August 5, 2019

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.

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

If you have any questions, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. McAleenan', with a long horizontal flourish extending to the right.

Kevin McAleenan





Family Unit Actions Report

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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.

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 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:

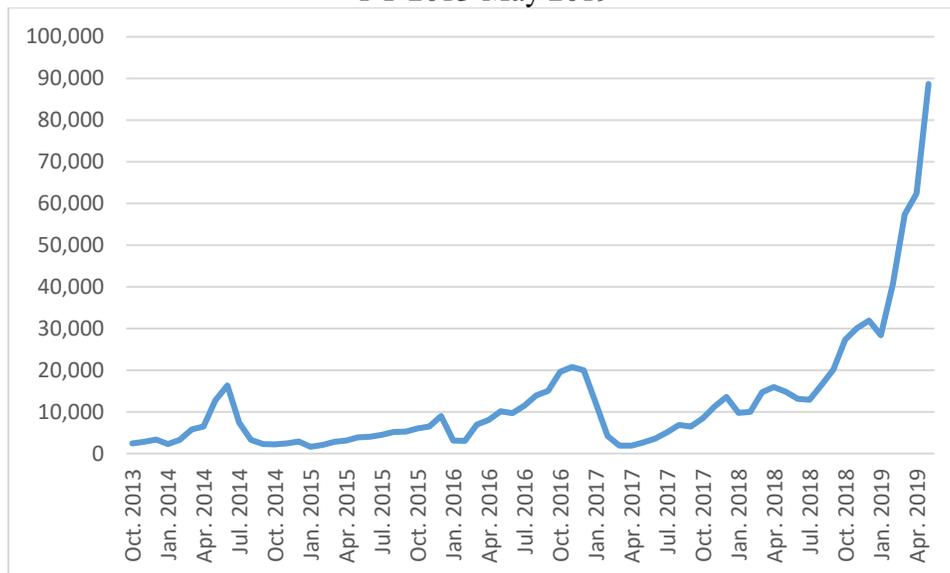
Border Apprehension Report.—The Department is directed to provide the Committee with a monthly report, which will be made public on the Department's website, documenting when and where all family separations occur, the ages of all minors being separated from their family units, the nature of administrative 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.

II. Background

DHS is experiencing an unprecedented humanitarian and border security crisis. Between October 1, 2018, and May 31, 2019, U.S. Customs and Border Protection’s (CBP) U.S. Border Patrol (USBP) apprehended more than 593,000 aliens between ports of entry (POE) along the Southwest Border, and CBP’s Office of Field Operations (OFO) found an additional 82,808 aliens inadmissible at POEs along the Southwest Border. More than 144,000 aliens were apprehended between POEs or deemed inadmissible at POEs along the Southwest Border in May 2019 alone, representing a 32-percent increase compared to April 2019 and the highest monthly total since 2006. To put this number in perspective, in FY 2018, there were only 522,626 apprehensions/inadmissible aliens for the entire year.

The majority of illegal border crossers and aliens found inadmissible at POEs during FY 2019 have been family units—a population that has grown exponentially in the last 3 years (see Figure 1). In May 2019, family units comprised 61 percent of all border enforcement actions. Overall, CBP has seen a 463-percent increase in family unit encounters when comparing the fiscal year-to-date numbers for May 2019 to the same period in FY 2018.

Figure 1: Family Unit Apprehensions (FMUA) and Inadmissible Aliens, Southwest Border, FY 2013-May 2019



Source: DHS analysis of CBP data.

Note: Data depict USBP apprehensions for October 2013-May 2019 and OFO inadmissibility determinations for March 2016-May 2019; 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) under the age of 18 accompanied by alien adult parent(s) or legal guardian(s). Under the *Flores* Settlement Agreement and subsequent court opinions, family units generally cannot be detained at U.S. Immigration and Customs Enforcement (ICE) family residential centers for more than 20 days. Historically, DHS has separated an alien minor from an adult claiming to be a parent or legal guardian in certain limited circumstances, such as if

DHS is unable to determine a custodial relationship; when DHS determines the minor may be at risk with the adult; for urgent medical issues; or when the adult is transferred to criminal detention.

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 prohibits 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 parents of legal guardians traveling with children, deemed prosecutable for improper entry in violation of 8 U.S.C. § 1325(a) were referred to the Department of Justice for criminal prosecution. On May 5, 2018, acting at the Secretary's direction, U.S. Border Patrol began referring greater numbers of violators of 8 U.S.C. § 1325(a) for prosecution.

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

On June 20, 2018, President Trump issued Executive Order No. 13841, *Affording Congress an Opportunity to Address Family Separation*.¹ Executive Order 13841 directs the Executive Branch to continue to protect the border and to prosecute illegal crossers, while simultaneously maintaining family unity to the extent consistent with the law. Within hours of the Order's issuance, CBP leadership issued guidance to the field directing that parents or legal guardians who entered with children generally were no longer to be referred for prosecution for 8 U.S.C. § 1325(a).

As expressed in the Executive Order, it is the policy of DHS to maintain family unity by detaining alien families together when appropriate and consistent with the law and available resources. Under the Department's current policy, family units are only separated consistent with the preliminary injunction in *Ms. L v. ICE*, 3:18-cv-428 (S.D. Cal.).

Consistent with the Executive Order, as well as with applicable law and court orders, including court orders in the case of *Ms. L v. ICE* ("*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.

¹ <https://www.govinfo.gov/content/pkg/FR-2018-06-25/pdf/2018-13696.pdf>

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 April 2019 that resulted in family separations. The data provided in this report include 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* due to 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 parents or legal guardians from their 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 April 30, 2019, with information on detention and removals updated based on ICE records that are current as of June 14, 2019. Subsequent versions of this report will provide monthly updates based on encounter dates. Note that analysis on family units and family separations is ongoing and data in this report are subject to change as new information becomes available.

Family Separations by Location and Date

Table 1 summarizes the number of families apprehended by USBP or determined to be inadmissible by OFO between October 2018 and April 2019 that resulted in family separations, broken down by month and by USBP sector or OFO Field Office. As the table indicates, a total of 504 families were separated during this period. (Certain families included more than one child, so the 504 separations involved a total of 550 children; see Table 2.) Family separations increased in all but one month during the reporting period, a trend that roughly parallels (at a much lower level) the growing number of family unit apprehensions during the same months. The largest numbers of separations occurred in USBP’s Rio Grande Valley and El Paso Sectors, the locations in which the majority of families are apprehended.

Table 1: Family Separations by Location and Date Family Was Deemed Inadmissible or Apprehended

| Location | Oct. 2018 | Nov. 2018 | Dec. 2018 | Jan. 2019 | Feb. 2019 | Mar. 2019 | Apr. 2019 | Total |
|--------------------------|-----------|-----------|-----------|-----------|-----------|------------|------------|------------|
| USBP Sectors | | | | | | | | |
| Rio Grande Valley, TX | 20 | 21 | 27 | 29 | 39 | 68 | 86 | 290 |
| El Paso, TX | 5 | 7 | 10 | 8 | 12 | 18 | 19 | 79 |
| Yuma, AZ | 2 | 7 | 5 | 5 | 4 | 13 | 14 | 50 |
| Tucson, AZ | 2 | 2 | 4 | 1 | 3 | 7 | 2 | 21 |
| El Centro, CA | | 3 | 4 | 2 | 7 | 1 | | 17 |
| Del Rio, TX | | 1 | | 2 | 2 | 4 | | 9 |
| San Diego, CA | 1 | | 1 | 1 | 1 | 1 | | 5 |
| Big Bend, TX | | | 1 | 1 | | | | 2 |
| Swanton, VT | | | 1 | | | | 1 | 2 |
| Blaine, WA | 1 | | | | | | | 1 |
| USBP Subtotal | 31 | 41 | 53 | 49 | 68 | 112 | 122 | 476 |
| OFO Field Offices | | | | | | | | |
| Laredo | 2 | 1 | 1 | | 2 | 5 | 4 | 15 |
| San Diego | 1 | 2 | | 2 | | 2 | | 7 |
| Tucson | | 1 | | | | 1 | | 2 |
| Chicago | | | | | | | 1 | 1 |
| El Paso | | 1 | | 1 | | | | 2 |
| OFO Subtotal | 3 | 5 | 1 | 3 | 2 | 8 | 5 | 27 |
| Unknown | | | | | 1 | | | 1 |
| Total | 34 | 46 | 54 | 52 | 71 | 120 | 127 | 504 |

Source: CBP.

Note: Table 1 reports on the number of families separated. Family separations affected 504 unique parents and 550 children.

Family Separations by Age of Minor Child and Date

Some of the 504 families apprehended or determined to be inadmissible included more than one child, as noted above. Thus, as Table 2 summarizes, a total of 550 children were separated from their parents or legal guardians during the reporting period. Slightly more than one-quarter of the children were five or younger; about four out of ten were six through 12, and the remainder were 13 or older.

Table 2: Family Separations by Age of Minor Child and Date Family Was Deemed Inadmissible or Apprehended

| Age | Oct. 2018 | Nov. 2018 | Dec. 2018 | Jan. 2019 | Feb. 2019 | Mar. 2019 | Apr. 2019 | Total |
|--------------|-----------|-----------|-----------|-----------|-----------|------------|------------|------------|
| 0-5 years | 12 | 14 | 20 | 11 | 17 | 44 | 38 | 156 |
| 6-12 years | 16 | 21 | 27 | 19 | 30 | 48 | 55 | 216 |
| 13-17 years | 10 | 17 | 15 | 25 | 28 | 39 | 44 | 178 |
| Total | 38 | 52 | 62 | 55 | 75 | 131 | 137 | 550 |

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 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 April 2019 that resulted in family separations, broken down by separation reason.² As the table indicates, the majority of separations occurred because of criminality concerns, including the parent or guardian's criminal history (74 percent), cartel/gang affiliation (7 percent), or warrant of arrest/referral for prosecution (6 percent).

Table 3: Reasons for Family Separations

| Reason for Separation | Oct. 2018 | Nov. 2018 | Dec. 2018 | Jan. 2019 | Feb. 2019 | Mar. 2019 | Apr. 2019 | Total |
|--|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|
| Health Issue | | 2 | 2 | 3 | 1 | | | 10 |
| Warrant of Arrest/Referred for Prosecution | | | 5 | 3 | 2 | 2 | 14 | 31 |
| Cartel/Gang Affiliation | | 6 | 9 | 4 | 4 | 4 | 4 | 36 |
| Criminal History | | 23 | 29 | 36 | 45 | 50 | 95 | 375 |
| Parent Fitness/Child Safety | | | | 2 | | 3 | 1 | 13 |
| Unverified Familial Relationship | | 3 | | 5 | 1 | 10 | 5 | 31 |
| Other | | 1 | | 1 | | 1 | 2 | 8 |
| Total | | 35 | 45 | 54 | 53 | 70 | 121 | 504 |

Source: ICE.

Note: Five individuals with cartel/gang affiliations also had criminal and/or immigration histories; 124 individuals with criminal histories also had immigration histories and/or gang affiliations; unverified familial relationships include nonparental family relationships and fraudulent family claims. Unverified familial relationships included in this report involve non-parental family relationships and fraudulent family claims identified and/or confirmed after the aliens entered ICE custody. Note that CBP identified an additional 3,555 fraudulent family aliens during the

² Table 3 includes data directed by Senate Report 115-283, along with other reasons for family separations during the reporting period.

period covered by this report prior to referral to ICE; these cases are not included in this report since they do not involve actual family separations.

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 April 2019 who had been booked in to ICE detention facilities as of June 14, 2019. (Adults were booked in to detention sometime after the family’s initial apprehension or determination of inadmissibility, so book-in dates extend beyond April 2019.) As the table indicates, not all 504 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 a extraditable warrant, and/or directly repatriated to Mexico by CBP.

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

| Detention Date | Number of Parents Booked Into Detention |
|-----------------------|--|
| Oct. 2018 | 16 |
| Nov. 2018 | 40 |
| Dec. 2018 | 39 |
| Jan. 2019 | 34 |
| Feb. 2019 | 41 |
| Mar. 2019 | 71 |
| Apr. 2019 | 107 |
| May 2019 | 53 |
| Jun. 2019 | 7 |
| Total | 408 |

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date for unique adults in separated families that were deemed inadmissible or apprehended between October 2018 and April 2019.

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 April 2019 who had been referred to HHS as of June 14, 2019. (Referrals to HHS occurred sometime after the family’s initial apprehension or determination of inadmissibility, so referral dates extend beyond April 2019.) As the table indicates, not all 550 children covered by the current report had been referred to HHS at the time this report was prepared. Children not referred to HHS may remain in CBP custody or, in some cases, may have been repatriated to Mexico or Canada. Future versions of this report will provide updated referral information for these unreported cases.

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

| Referral Date | Number of Children Referred to HHS |
|----------------------|---|
| Oct. 2018 | 35 |
| Nov. 2018 | 41 |
| Dec. 2018 | 57 |
| Jan. 2019 | 45 |
| Feb. 2019 | 73 |
| Mar. 2019 | 116 |
| Apr. 2019 | 142 |
| May 2019 | 8 |
| Total | 517 |

Source: CBP.

Note: Table 5 describes referrals to HHS by referral date for children who were deemed inadmissible or apprehended between October 2018 and April 2019. Data on referral dates are only available for 517 unaccompanied alien children at the time of this report. Other children may have remained in CBP custody at the time of this report and/or been subject to a reporting delay. Future reports will update referral information for this population of children. Unaccompanied alien children are held in the custody of the HHS Office of Refugee Resettlement (ORR). Although ORR has responsibility for the custody of the unaccompanied alien children placed in its facilities, ICE Enforcement and Removal Operations manages their immigration cases.

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

Table 6 reports on the number of adults in families that were separated between October 2018 and April 2019 who had been removed or returned as of June 14, 2019.³ Removal dates occurred sometime after the family’s initial apprehension or determination of inadmissibility, so several dates in table 6 extend beyond April 2019. Not all 504 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.

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 | 6 |
| Jan. 2019 | 29 |
| Feb. 2019 | 31 |
| Mar. 2019 | 48 |
| Apr. 2019 | 72 |
| May 2019 | 65 |
| Jun. 2019 | 24 |
| Total | 277 |

Source: ICE.

Note: Table 6 describes removals and returns by final book-out date for unique adults who were deemed inadmissible or apprehended between October 2018 and April 2019 and separated from their children.

³ Data in Table 4 is 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.

IV. Family Reunification Plan

CBP and ICE continue to share information related to separated parents and legal guardians and children with ORR. CBP, ICE, and ORR each have dedicated personnel who review the data and share information to identify all family separations. Separation data are shared, reviewed, and updated on a weekly basis. 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 begins. Each separation case is tracked in order for ICE and ORR to coordinate reunification of family members whenever it is deemed appropriate.

Appendix: Abbreviations

| Abbreviation | Definition |
|---------------------|--|
| CBP | U.S. Customs and Border Protection |
| DHS | U.S. Department of Homeland Security |
| FMUA | Family Unit Apprehensions |
| FY | Fiscal Year |
| HHS | U.S. Department of Health and Human Services |
| ICE | U.S. Immigration and Customs Enforcement |
| OFO | Office of Field Operations |
| ORR | Office of Refugee Resettlement |
| POE | Port of Entry |
| USBP | U.S. Border Patrol |