



Family Unit Actions Report

October 1, 2018–August 31, 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–August 31, 2019.



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 fluid and cursive.

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



Family Unit Actions Report October 1, 2018–August 31, 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

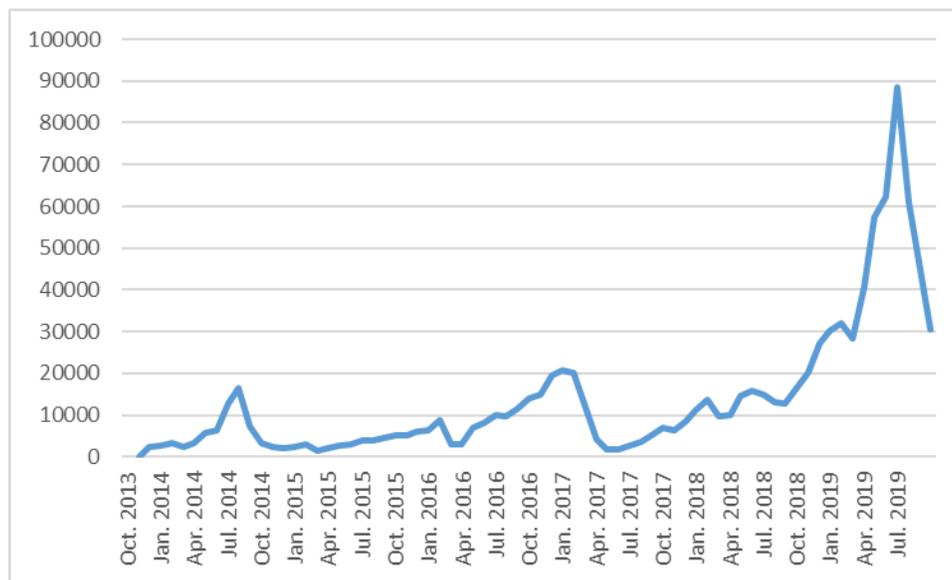
due to medical necessity, in the interest of the immediate safety of the child, or due to fraudulent family relationship or guardianship claims; a description of how DHS determines the validity of family relationship or guardianship claims; and an assessment of how that process could be improved, including 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 August 31, 2019, U.S. Customs and Border Protection's (CBP) U.S. Border Patrol (USBP) apprehended a total of 811,001 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 113,962 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 August 31, 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 65 percent between May and August, but the 30,529 FMUAs apprehended or found inadmissible in August 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-August 2019



Source: DHS analysis of CBP data.

Note: Data depict USBP apprehensions for October 2013-August 2019 and OFO inadmissibility determinations for March 2016-August 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 that 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). 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 August 2019 that resulted in family separations. The detailed tables that follow focus exclusively on FMUAs encountered between October 2018 and August 2019, and Tables 4–6 include information about events that transpired *after* August 31, 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 August 31, 2019, with information on detention, removals, and transfers to HHS updated on the basis of ICE records that are current as of October 10, 2019, and CBP records as of October 25, 2019. 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 August 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 889 families were separated during this period. (Certain families included more than one child, so that the 889 separations involved a total of 963 children. See Table 2.) Family separations increased in all but 1 month between October and May before declining through the summer months, 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 occurred 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	Total
USBP Sectors												
Rio Grande Valley, TX	20	21	27	29	39	68	86	78	85	68	30	551
El Paso, TX	5	7	10	8	12	18	19	31	15	2	2	129
Yuma, AZ	2	7	5	5	4	13	14	24	10	2	1	87
Tucson, AZ	2	2	4	1	3	7	2	4	3	2	2	32
El Centro, CA		3	4	2	7	1						17
Del Rio, TX		1		2	2	4		5		1	2	17
San Diego, CA	1		1	1	1	1		3	2			10
Big Bend, TX			1	1				4				6
Swanton, VT			1				1					2
Blaine, WA	1											1
USBP Subtotal	31	41	53	49	68	112	122	149	115	75	37	852
OFO Field Offices												
Laredo	2	1	1		2	5	4	2				17
San Diego	1	2		2		2						7
Tucson		1				1		1				3
Chicago							1					1
El Paso		1		1				1	2	1		6
OFO Subtotal	3	5	1	3	2	8	5	4	2	1	0	34
Unknown					1			1			1	3
Total	34	46	54	52	71	120	127	154	117	76	38	889

Source: CBP.

Note: Table 1 reports on the number of families separated. Family separations affected 889 parents or legal guardians and 963 children.

Family Separations by Age of Minor Child and Date

Some of the 889 families apprehended or determined to be inadmissible that resulted in family separations included more than one child, as noted above. Thus, as Table 2 summarizes, a total of 963 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, about 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	Total
0-5 years	12	14	20	11	17	44	38	45	27	20	13	261
6-12 years	16	21	27	19	30	48	55	57	62	26	14	375
13-17 years	10	17	15	25	28	39	44	62	36	35	16	327
Total	38	52	62	55	75	131	137	164	125	81	43	963

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 August 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 (77 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	Total
Health Issue	2	3	2	1	0	0	2	0	3	0	1	14
Warrant of Arrest/ Referred for Prosecution	0	5	3	2	2	13	6	10	13	4	2	60
Cartel/Gang Affiliation	6	9	4	5	3	4	4	7	3	8	2	55
Criminal History	22	29	37	43	51	95	99	123	95	63	28	685
Parent Fitness/Child Safety	0	0	2	0	3	1	7	4	0	0	0	17
Unverified Familial Relationship	3	0	5	1	10	5	7	7	2	1	4	45
Other	1	0	1	0	2	2	2	3	1	0	2	14
Total	34	46	54	52	71	120	127	154	117	76	39	890

Source: ICE.

Note: Twelve individuals with cartel/gang affiliations also had criminal and/or immigration histories; 372 individuals with criminal histories also had immigration histories and/or gang affiliations. “Unverified familial relationships” included in this report involve groupings initially classified 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 August 2019 who had been booked into ICE detention facilities as of October 10, 2019. (Adults were booked into detention sometime after the family’s initial apprehension or determination of inadmissibility, so book-in dates extend beyond August 2019.) As Table 4 indicates, not all 889 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	16
Nov. 2018	40
Dec. 2018	39
Jan. 2019	34
Feb. 2019	41
Mar. 2019	71
Apr. 2019	107
May 2019	107
Jun. 2019	82
Jul. 2019	111
Aug. 2019	35
Sept. 2019	3
Total	686

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date (as of October 10, 2019) for unique adults in separated families who were deemed inadmissible or were apprehended between October 2018 and August 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 August 2019 whom CBP referred to HHS as of October 25, 2019. (Referrals to HHS occurred sometime after the family's initial apprehension or determination of inadmissibility, so referral dates extend beyond August 2019.) As the table indicates, not all 963 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	35
Nov. 2018	41
Dec. 2018	57
Jan. 2019	45
Feb. 2019	73
Mar. 2019	116
Apr. 2019	142
May 2019	143
Jun. 2019	134
Jul. 2019	87
Aug. 2019	44
Sept. 2019	2
Total	919

Source: CBP.

Note: Table 5 reports referrals to HHS by referral date (as of October 25, 2019) for children who were deemed inadmissible or were apprehended between October 2018 and August 2019. Data on referral dates are only available for 919 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 August 2019 and had been removed or returned as of October 10, 2019.⁵ Removal dates occurred sometime after the family's initial apprehension or determination of inadmissibility, so several dates in Table 6 extend beyond August 2019. Not all 889 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	6
Jan. 2019	29
Feb. 2019	31
Mar. 2019	48
Apr. 2019	72
May 2019	82
Jun. 2019	70
Jul. 2019	47
Aug. 2019	19
Sept. 2019	9
Total	415

Source: ICE.

Note: Table 6 reports removals and returns by final book-out date (as of October 10, 2019) for adults who were deemed inadmissible or were apprehended between October 2018 and August 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