



# **Family Unit Actions Report**

**October 1, 2018 – May 31, 2019**

*January 10, 2020*

Fiscal Year 2019 Report to Congress



**Homeland  
Security**

*Office of Strategy, Policy, and Plans*

# Message from the Office of Strategy, Policy, and Plans

January 10, 2020

I am pleased to submit the following “Family Unit Actions Report” covering family unit apprehensions occurring October 1, 2018 – May 31, 2019, 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, Senate Report 115-283, and House Report 115-948.

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 – May 31, 2019

## Table of Contents

I.	Legislative Language.....	1
II.	Background.....	3
III.	Data Tables .....	6
	Family Separations by Location and Date.....	6
	Family Separations by Age of Minor Child and Date .....	7
	Reasons for Family Separations .....	8
	Book-Ins to ICE Detention of Separated Adults by Detention Date .....	8
	Referrals of Separated Children to HHS by Date of Referral.....	9
	Removals and Returns of Separated Adults by Final Book-Out Date.....	10
IV.	Family Reunification Plan .....	12
	Appendix: Abbreviations.....	13

# 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, Senate Report 115-283, and 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

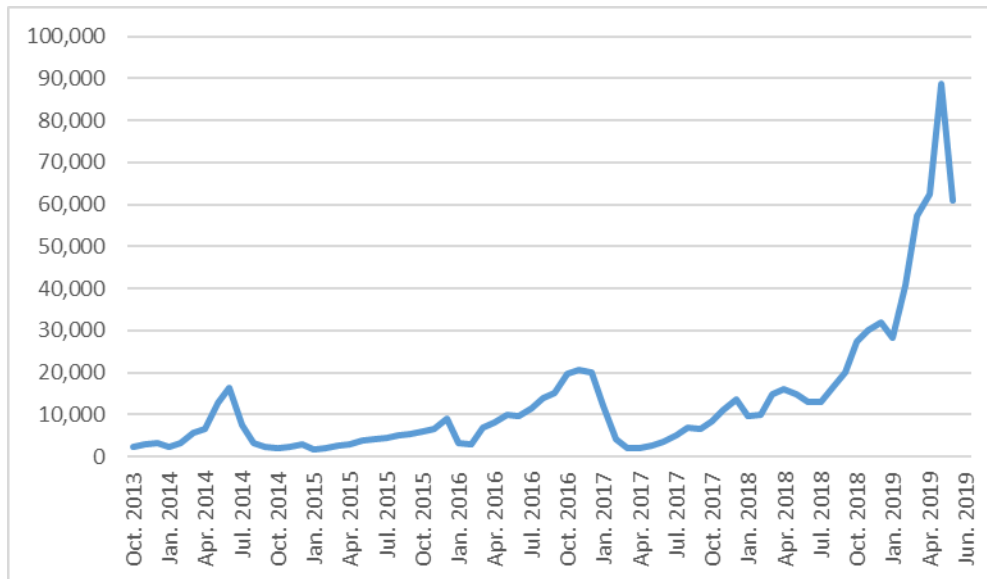
to fraudulent family relationship or guardianship claims; a description of how DHS determines the validity of family relationship or guardianship claims; and an assessment of how that process could be improved, including the feasibility of using rapid DNA testing with appropriate privacy protections.

## II. Background

In FY 2019, DHS experienced an unprecedented humanitarian and border security crisis. Between October 1, 2018, and May 31, 2019, U.S. Customs and Border Protection’s (CBP) U.S. Border Patrol (USBP) apprehended more than 593,000 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) 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 522,626 Southwest Border apprehensions/inadmissible aliens for the entire fiscal year.

The majority of illegal border crossers and aliens found inadmissible at POEs between October 1, 2018, and May 31, 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 alien (FMUA) encounters when comparing fiscal year-to-date numbers up to May 2019 to the same period in FY 2018.

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



Source: DHS analysis of CBP data

Note: Data depict USBP apprehensions for October 2013-June 2019 and OFO inadmissibility determinations for March 2016-June 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) younger than 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.

Per the CBP Transportation, Escort, Detention, and Search 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 guardian claims to ensure that children are not being claimed fraudulently by adults and to establish children's true identities for legal and practical reasons. Frontline personnel use articulable observations or information that indicate fraudulent families and document the interactions among travelers to assess whether a family relationship exists. Suspicions 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 fraudulently are claiming 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.

The Department also has forward-deployed a mobile DNA technical solution on a pilot basis to improve the ability of CBP and ICE personnel to validate family status. The proposed DNA initiative would streamline family unit processing and provide an additional tool for agents to identify groups making fraudulent family claims. The initiative would focus on ensuring that DNA can be conducted quickly, guaranteeing a known level of accuracy, storing the DNA data, and ensuring appropriate privacy protections.

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 or legal guardians traveling with children, deemed prosecutable for improper entry in violation of 8 U.S.C. § 1325(a), be referred to 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 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 reclassified as 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).

On June 20, 2018, President Trump issued Executive Order (E.O.) 13841, *Affording Congress an Opportunity to Address Family Separation*.<sup>1</sup> E.O. 13841 directs the Executive Branch to continue to enforce immigration laws rigorously and to prosecute illegal 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 8 U.S.C. § 1325(a). Family units are separated only consistent with the preliminary injunction in *Ms. L v. ICE (Ms. L)*.<sup>2</sup>

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.

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

<sup>2</sup> 3:18-cv-428 (S.D. Cal.)



### 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 May 2019 that resulted in family separations. Although the detailed tables that follow focus exclusively on FMUAs encountered between October 2018 and May 2019, Tables 4–6 also include information about events related to this population that transpired after May 31, 2019.

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 parents or legal guardians from their minor 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 May 31, 2019, with information on detention, removals, and transfers to HHS updated on the basis of ICE and CBP records that are current as of July 15, 2019.<sup>3</sup> 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 monthly updates based on encounter dates. Note that analysis of family units and family separations is ongoing and that 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 May 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 658 families were separated during this period. (Certain families included more than one child, so the 658 separations involved a total of 714 children; see Table 2.) Family separations increased in all but 1 month during the reporting period, a trend that roughly parallels (at a much lower level) the 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, where the majority of families were apprehended.

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<sup>3</sup> The Department began tracking family separations in April 2018. An estimated total of nearly 6,000 family units apprehended by USBP or determined to be inadmissible by OFO between April and September 2019 subsequently were separated. The detailed analysis in this report begins with family units encountered during FY 2019.

**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	Total
USBP Sectors									
Rio Grande Valley, TX	20	21	27	29	39	68	86	78	368
El Paso, TX	5	7	10	8	12	18	19	31	110
Yuma, AZ	2	7	5	5	4	13	14	24	74
Tucson, AZ	2	2	4	1	3	7	2	4	25
El Centro, CA		3	4	2	7	1			17
Del Rio, TX		1		2	2	4		5	14
San Diego, CA	1		1	1	1	1		3	8
Big Bend, TX			1	1				4	6
Swanton, VT			1				1		2
Blaine, WA	1								1
<b>USBP Subtotal</b>	<b>31</b>	<b>41</b>	<b>53</b>	<b>49</b>	<b>68</b>	<b>112</b>	<b>122</b>	<b>149</b>	<b>625</b>
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	3
<b>OFO Subtotal</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>8</b>	<b>5</b>	<b>4</b>	<b>31</b>
Unknown					1			1	2
<b>Total</b>	<b>34</b>	<b>46</b>	<b>54</b>	<b>52</b>	<b>71</b>	<b>120</b>	<b>127</b>	<b>154</b>	<b>658</b>

Source: CBP.

Note: Table 1 reports on the number of families separated. Family separations affected 658 parents or legal guardians and 714 children.

## Family Separations by Age of Minor Child and Date

Some of the 658 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 714 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 4 out of 10 were 6–12 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	Total
0-5 years	12	14	20	11	17	44	38	45	201
6-12 years	16	21	27	19	30	48	55	57	273
13-17 years	10	17	15	25	28	39	44	62	240
<b>Total</b>	<b>38</b>	<b>52</b>	<b>62</b>	<b>55</b>	<b>75</b>	<b>131</b>	<b>137</b>	<b>164</b>	<b>714</b>

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 May 2019 that resulted in family separations, broken down by the reason for separation.<sup>4</sup> As Table 3 indicates, the majority of separations occurred because of criminality concerns, including the parent’s or legal guardian’s criminal history (76 percent), cartel/gang affiliation (6 percent), or a 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	May 2019	Total
Health Issue	2	2	3	1			2		10
Warrant of Arrest/Referred for Prosecution		5	3	2	2	14	5	10	41
Cartel/Gang Affiliation	6	9	4	4	4	4	4	7	42
Criminal History	23	29	36	45	50	95	98	123	499
Parent Fitness/Child Safety			2		3	1	7	4	17
Unverified Familial Relationship	3		5	1	10	5	7	7	38
Other	1		1		1	2	3	3	11
<b>Total</b>	<b>35</b>	<b>45</b>	<b>54</b>	<b>53</b>	<b>70</b>	<b>121</b>	<b>126</b>	<b>154</b>	<b>658</b>

Source: ICE.

Note: Nine individuals with cartel/gang affiliations also had criminal and/or immigration histories; 233 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. Fraudulent FMUAs include groups of aliens making false claims to parent/guardian-child relationships; these cases are not included in this report because they do not involve actual FMUA 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 May 2019 who had been booked into ICE detention facilities as of July 15, 2019. (Adults were booked into detention sometime after the family’s initial apprehension or determination of inadmissibility, so book-in dates extend beyond May 2019.) As Table 4 indicates, not all 658 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 by CBP.

<sup>4</sup> 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**

<b>Detention Date</b>	<b>Number of Parents Booked into Detention</b>
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	50
Jul. 2019	14
<b>Total</b>	<b>519</b>

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date (as late as July 15, 2019) for unique adults in separated families that were deemed inadmissible or apprehended between October 2018 and May 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 May 2019 whom CBP referred to HHS as of July 15, 2019. (Referrals to HHS occurred sometime after the family’s initial apprehension or determination of inadmissibility, so referral dates extend beyond May 2019.) As the table indicates, not all 714 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**

<b>Referral Date</b>	<b>Number of Children Referred to HHS</b>
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	18
<b>Total</b>	<b>670</b>

Source: CBP.

Note: Table 5 describes referrals to HHS by referral date (as of July 15, 2019) for children who were deemed inadmissible or apprehended between October 2018 and May 2019. Data on referral dates are only available for 670 unaccompanied alien children at the time of this report. Data for other children may have been subject to a reporting delay. 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. Future reports will update referral information for this population of children. Unaccompanied alien children (including those who enter as FMUAs and are separated from their parents) are held in the custody of HHS 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 May 2019 who had been removed or returned as of July 15, 2019.<sup>5</sup> Removal dates occurred sometime after the family's initial apprehension or determination of inadmissibility, so several dates in Table 6 extend beyond May 2019. Not all 658 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.

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<sup>5</sup> 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**

<b>Final Book-Out Date</b>	<b>Number of Parents Removed or Returned</b>
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	52
Jul. 2019	15
<b>Total</b>	<b>337</b>

Source: ICE.

Note: Table 6 describes removals and returns by final book-out date (as of July 15, 2019) for unique adults who were deemed inadmissible or apprehended between October 2018 and May 2019 and 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 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 ORR to coordinate reunification of family members whenever it is deemed appropriate.

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 ORR operators for review. Upon 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 the logistics of the reunification ORR.

## Appendix: Abbreviations

<b>Abbreviation</b>	<b>Definition</b>
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
OFO	Office of Field Operations
ORR	Office of Refugee Resettlement
POE	Port of Entry
USBP	U.S. Border Patrol