Family Unit Actions Report

October 1, 2019–October 31, 2019

June 2020

Fiscal Year 2020 Report to Congress

Homeland Security

Office of Strategy, Policy, and Plans

Message from the Office of Strategy, Policy, and Plans

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 Immigration Statistics in the 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 2020 DHS Appropriations Act (P.L. 116-93), its accompanying and Senate Report 116-125. The report covers family unit apprehensions that occurred between October 1 and October 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,

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

Family Unit Actions Report
October 1, 2019–October 31, 2019

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I. Legislative Requirement

This document has been compiled in response to requirements in the Fiscal Year (FY) 2020 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-93) and its accompanying Senate Report 116-125.

Senate Report 116-125 states:

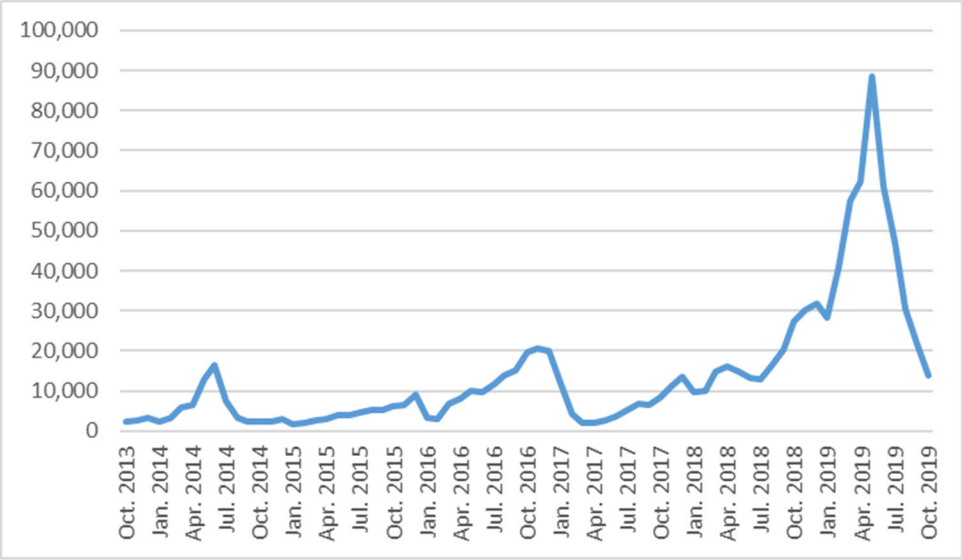
> The Department is directed to provide the Committee with a monthly report, which will be made public on the Department's website, documenting when and where all family separations occur, the ages of all minors being separated from their family units, the nature of administrative or criminal charges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

Between October 1 and October 31, 2019 U.S. Customs and Border Protection's (CBP) U.S. Border Patrol (USBP) apprehended a total of 35,406 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 9,778 aliens (including, but not limited to family units) inadmissible at POEs along the Southwest Border. The total number of aliens apprehended between POEs or deemed inadmissible at POEs along the Southwest Border was 45,184 in October 2019.

The majority of illegal border crossers and aliens found inadmissible at POEs between October 1 and October 31, 2019 were Single Adults. Overall, CBP saw a 26-percent decrease in family unit alien (FMUA) encounters when comparing fiscal year-to-date numbers up to October 2019 to the same period in FY 2019. FMUA encounters continue to fall and the numbers for October 2019 were the lowest since February 2018 (see Figure 1).

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



Source: DHS analysis of CBP data
Note: Data depict USBP apprehensions for October 2013-October 2019 and OFO inadmissibility determinations for March 2016-October 2019 (the 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] Front-line 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 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.

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 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).

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

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

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 Senate Report 116-125, this report details the separation and reunification of family units by the Department.

[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 in October 2019 that resulted in family separations. The detailed tables that follow focus exclusively on FMUAs encountered in October 2019 and Tables 4–7 include information about events that transpired *after* October 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 and October 31, 2019 with information on detention, removals, and transfers to HHS updated on the basis of ICE records that are current as of February 25, 2020 and CBP records that are current as of March 2, 2020.[4] 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 in October 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 17 families were separated during this period. (Most families include only one child. Some families included multiple children, so the 17 family separations involved a total of 21 children. See Table 2.) Family separations decreased in October 2019 continuing the trend that started in May 2019. The largest numbers of separations occurred in USBP's Rio Grande Valley and San Diego Sectors.

[4] The Department began tracking family separations in April 2018. An estimated total of 17 family units apprehended by USBP or determined to be inadmissible by OFO in October 2019 subsequently were separated. The detailed analysis in this report begins with family units encountered in FY 2020

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

Location	Oct. 2019	Total
USBP Sectors		
Rio Grande Valley, TX	4	4
San Diego, CA	4	4
Tucson, AZ	3	3
El Paso, TX	2	2
Del Rio, TX	1	1
USBP Subtotal	**14**	**14**
OFO Field Offices		
Tucson, AZ	2	2
Laredo, TX	1	1
OFO Subtotal	**3**	**3**
Total	**17**	**17**

Source: CBP.
Note: Table 1 reports on the number of families separated as of March 2, 2020. Family separations affected 17 parents or legal guardians and 21 children in October 2019.

Family Separations by Age of Minor Child and Date

Some of the families apprehended or determined to be inadmissible that resulted in family separations included more than one child in October 2019, as noted above. Therefore, as Table 2 depicts, a total of 21 children were separated from their parents or legal guardians during the reporting period. The majority of children were between 13 and 17 years old.

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

Age	Oct. 2019	Total
0-5 years	4	4
6-12 years	8	8
13-17 years	9	9
Total	**21**	**21**

Source: CBP.
Note: Table 2 reports on the ages of individual children separated from their parents or legal guardians for October 2019 with data as of March 2, 2020. 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 1 and October 31, 2019 that resulted in family

separations, broken down by the reason for separation.[5] As Table 3 indicates, Criminal History was the major reason for separation in October 2019.

Table 3: Reasons for Family Separations

Reason for Separation	Oct. 2019	Total
Warrant of Arrest/ Referred for Prosecution	5	5
Cartel/Gang Affiliation	1	1
Criminal History	7	7
Parent Fitness/Child Safety	1	1
Unverified Familial Relationship	1	1
Other	2	2
Total	**17**	**17**

Source: ICE.
Note: Table 3 reports on the number of family separations as of March 2, 2020
Note: Six individuals with criminal histories also had immigration histories. "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. FMUAs identified by CBP are not included in this report, as noted above.

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

Tables 4 summarizes the numbers of adults involved in family separations occurring in October 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 October 2019.) As Table 4 indicates, only half of the parents were booked into ICE detention. 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.

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

Detention Date	Number of Parents Booked Into Detention
Oct. 2019	5
Nov. 2019	2
Dec. 2019	2
Total	**9**

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 apprehended in October 2019.

[5] Table 3 includes data directed by Senate Report 116-125, along with other reasons for family separations during the reporting period.

CBP Referrals of Separated Children to HHS by Date of Referral

Table 5 summarizes the numbers of children involved in family separations occurring in October 2019 whom CBP referred to HHS. (Referrals to HHS occurred sometime after the family's initial apprehension or determination of inadmissibility, so referral dates extend beyond October 2019.)

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

Referral Date	Number of Children Referred to HHS
Oct. 2019	20
Nov. 2019	1
Total	**21**

Source: CBP.
Note: Table 5 reports referrals to HHS by referral date as of March 2, 2020 for children who were deemed inadmissible or apprehended in October 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 in October 2019 and had been removed or returned as of February 25, 2020.[6] Removal dates occurred sometime after the family's initial apprehension or determination of inadmissibility, so several dates in Table 6 extend beyond October 2019. Not all adults are 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. 2019	1
Nov. 2019	2
Dec. 2019	1
Jan. 2020	3
Total	**7**

Source: ICE.

[6] 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.

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

Repatriation and Reunification by Child Release Date

In accordance with (P.L. 116-93), OIS has included data regarding repatriations of children with and without parents. This submission of data has been determined through a manual review of case files. ICE is determining automation of this extraction and will operationalize this effort with field units. OIS expects to be able to consistently provide the data in early summer reporting.

Table 7 reports on the number of children who were repatriated. Of those children who were apprehended in October 2019, four were repatriated as of February 25, 2020. Of those four children repatriated children, three were reunified with their parents or legal guardians at time of repatriation.

Table 7: Repatriation and Reunification by Child Release Date

IID Release Date	Number of Children Repatriated	Number of Children Reunified
Dec. 2019	2	2
Jan. 2020	2	1
Total	**4**	**3**

Source: ICE

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
Ms. L	*Ms. L v. ICE*
OFO	Office of Field Operations
ORR	Office of Refugee Resettlement
POE	Port(s) of Entry
TEDS	Transportation, Escort, Detention, and Search
USBP	U.S. Border Patrol