



Family Unit Actions Report

October 1, 2019–March 31, 2020

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 Senate Report 116-125. The report covers family unit apprehensions occurring October 1, 2019–March 31, 2020.

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–March 31, 2020

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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), its accompanying Senate Report 116-125.

Senate Report 116-125 states:

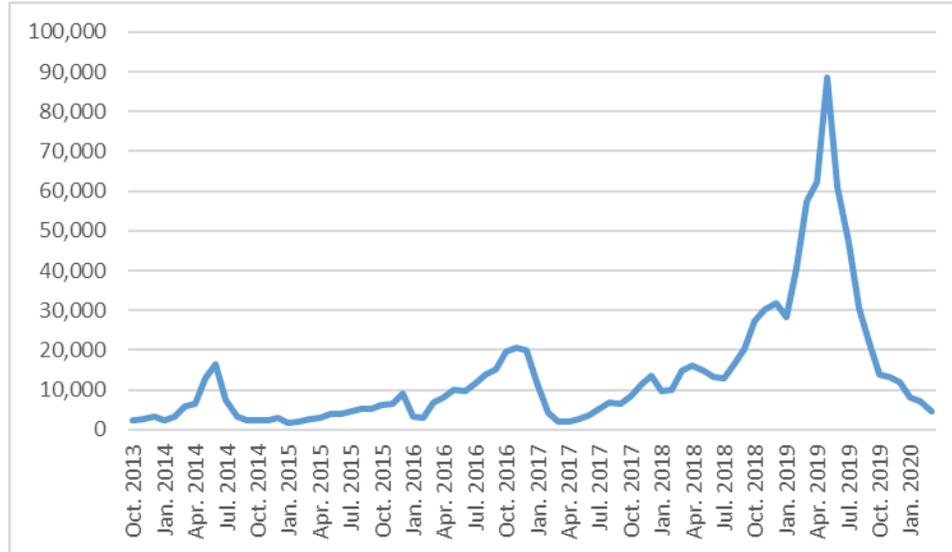
The Department is directed to provide the Committee with a monthly report, which will be made public on the Department's website, documenting when and where all family separations occur, the ages of all minors being separated from their family units, the nature of administrative or criminal charges filed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

In FY 2019, DHS experienced an unprecedented humanitarian and border security crisis. The apprehensions of aliens are decreasing for FY 2020. The apprehensions of aliens for FY 2020 from October 1, 2019 through March 31, 2020, are lower than both FY 2017 for the period October 1, 2016 through March 31, 2017 and FY 2018 for the period October 1, 2017 through March 31, 2018. These numbers are higher for FY 2016 for the period October 1, 2015 through March 31, 2016. Between October 1, 2019 and March 31, 2020 U.S. Customs and Border Protection's (CBP) U.S. Border Patrol (USBP) apprehended a total of 191,065 aliens (including but not limited to family units) between ports of entry (POEs) along the Southwest Border, and CBP's Office of Field Operations (OFO) deemed an additional 45,571 aliens (including, but not limited to family units) inadmissible at POEs along the Southwest Border. The total number of aliens apprehended between POEs along the Southwest Border or deemed inadmissible at POEs was 34,064 in March 2020, a 76 percent decrease from May 2019.

The majority of apprehensions between POEs and aliens found inadmissible at POEs between October 1, 2018 and September 30, 2019 were family units but for the period from October 1, 2019 through March 31, 2020, Single Adults are now the majority. Overall, CBP saw a 79-percent decrease in family unit alien (FMUA) encounters when comparing fiscal year-to-date numbers up to March 2020 to the same period in FY 2019. FMUA encounters continue to fall and the numbers for March 2020 are the lowest since June 2017 (see Figure 1).

Figure 1: FMUA Apprehensions and Inadmissibles, Southwest Border, October 2013-March 2020



Source: DHS analysis of CBP data

Note: Data depict USBP apprehensions for October 2013-March 2020 and OFO inadmissibility determinations for March 2016-March 2020 (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 will separate a child from an adult who fraudulently claims to be the child’s parent or legal guardian. Such fraud cases identified by CBP are not included in this report because they do not involve actual FMUA separations.¹ When assessing the validity of a family relationship, CBP officers and agents rely on articulable observations, such as the interactions between the adult and child to assess whether a family relationship exists. Indicators may include observed behaviors that are inconsistent with the behavior of an actual family. Additionally, officers and agents 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.

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.

CBP may also separate a child from an adult based on a reasonable belief that the same child has been encountered on multiple occasions with different adults or claimed family members. CBP refers suspected fraudulent families to ICE Homeland Security Investigations for Rapid DNA testing, as appropriate.²

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 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*.³ 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*.

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.

² On January 13, 2020, the Court in *Ms. L v. U.S. Immigration and Customs Enforcement*, 310 F.Supp.3d 1133 (S.D. Cal. June 26, 2019) (*Ms. L*) ordered that Defendants “must conduct DNA testing before separating an adult from a child based on parentage concerns.”

³ <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 1, 2019 and March 31, 2020 that resulted in family separations. The detailed tables that follow focus exclusively on FMUAs encountered between October 1, 2019 and March 31, 2020 and Tables 4–7 include information about events that transpired *after* March 31, 2020 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, 2019 and March 31, 2020 with information on detention, removals, and transfers to HHS updated on the basis of ICE records that are current as of May 6, 2020 and CBP records that are current as of May 27, 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

Tables 1a and 1b summarize the number of family units apprehended by USBP or determined to be inadmissible by OFO between October 2019 and March 2020 that resulted in family separations, broken down by month and by USBP sector or OFO field office. These two tables indicate a total of 57 families were separated during this period. Families consisting of a single parent or legal guardian and a single child accounted for the highest percentage (82 percent) of separations. Families consisting of a parent or legal guardian and two children accounted for the second highest percentage (9 percent) of separations, followed by families consisting of a parent or legal guardian and three children (4 percent). Families consisting of two parents or legal guardians and one child were also separated during this period (5 percent). This resulted in a total of 57 families, 60 parents or legal guardians, and 66 children. (See Tables 2 and 3.)

⁴ The Department began tracking family separations in April 2018. A total of 57 family units apprehended by USBP or determined to be inadmissible by OFO between October 2019 and March 2020 subsequently were separated. The detailed analysis in this report begins with family units encountered between October 1, 2019 and March 31, 2020.

Overall, family separations decreased in March 2020, continuing the trend that started in May 2019. This trend roughly parallels (at a much lower level) the number of family unit apprehensions during the same periods. The largest numbers of separations continue to occur in USBP’s Rio Grande Valley Sector.

Table 1a: Family Separations by Location and Date of Inadmissible Determination or Apprehension – USBP Sectors

Location	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Total
Rio Grande Valley, TX	4	6	0	2	7	1	20
Tucson, AZ	3	1	2	0	3	0	9
San Diego, CA	4	1	0	0	1	0	6
Del Rio, TX	1	2	3	0	0	0	6
El Paso, TX	2	0	1	0	2	0	5
Yuma, AZ	0	0	1	0	1	0	2
Big Bend, TX	0	0	1	0	0	0	1
USBP Subtotal	14	10	8	2	14	1	49

Source: CBP.

Table 1b: Family Separations by Location and Date of Inadmissible Determination or Apprehension – OFO Field Offices

Location	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Total
Laredo, TX	1	1	0	1	1	0	4
Tucson, AZ	2	0	0	0	0	0	2
San Diego, CA	0	0	0	0	1	0	1
El Paso, TX	0	0	0	0	1	0	1
OFO Subtotal	3	1	0	1	3	0	8

Source: CBP.

Table 1c: Family Separations by Location and Date of Inadmissible Determination or Apprehension –Total for USBP Sectors and OFO Field Offices

	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Total
CBP Total	17	11	8	3	17	1	57

Source: CBP.

Note: Tables 1a-c report on the number of families separated as of May 27, 2020. There were 57 family separations which affected 60 parents or legal guardians and 66 children between October 1, 2019 through March 31, 2020.

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 for the period October 1, 2019 to March 31, 2020 as noted above. Thus, as Table 2 depicts, a total of 66 children were separated from their parents or legal guardians during the reporting period. The majority of children were between 6 and 12 years of age. Less than a third were under 6 years of age.

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

Age	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Total
0-5 years	4	5	2	0	7	1	19
6-12 years	8	5	5	1	9	0	28
13-17 years	9	2	4	2	2	0	19
Total	21	12	11	3	18	1	66

Source: CBP.

Note: Table 2 reports on the ages of individual children separated from their parents or legal guardians between October 1, 2019 through March 31, 2020 with data as of May 6, 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, 2019 and March 31, 2020 that resulted in family separations, broken down by the reason for separation.⁵ As Table 3 indicates, Warrants and Criminal History were the major reasons for separation for the period of October 1, 2019 through March 31, 2020.

Table 3: Reasons for Family Separations

Reason for Separation	Total
Health issue/hospitalization	10
Other	2
Other-Warrant	9
Parent cartel/gang affiliation	4
Parent cartel/gang affiliation and criminal history	1
Parent criminal history	6
Parent criminal history and immigration history	14
Parent criminal history/Referred for prosecution	1
Parent fitness (other than for hospitalization)/child danger concerns	1
Referred for prosecution	9
Unverified Familial Relationship/ Fraud	3
Total	60

Source: ICE.

Note: Table 3 reports on the number of family separations as of May 6, 2020.

Note: Fourteen 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 between October 1, 2019 and March 31, 2020 who had been booked into ICE detention facilities. As of May 6, 2020, more than half of the parents were booked directly into ICE detention by CBP. 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.

⁵ Table 3 includes data directed by Senate Report 116-125, 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. 2019	5
Nov. 2019	7
Dec. 2019	3
Jan. 2020	6
Feb. 2020	6
Mar. 2020	8
Total	35

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date (as of May 6, 2020) for unique adults in separated families who were deemed inadmissible or apprehended between October 2019 and March 2020.

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 1, 2019 and March 31, 2020 whom CBP referred to HHS. (Referrals to HHS occurred sometime after the family's initial apprehension or determination of inadmissibility, so referral dates could extend beyond March 2020.)

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	11
Dec. 2019	12
Jan. 2020	4
Feb. 2020	18
Mar. 2020	1
Total	66

Source: CBP.

Note: Table 5 reports referrals to HHS by referral date as of May 27, 2020 for children who were deemed inadmissible or apprehended between October 1, 2019 and March 31, 2020. Unaccompanied alien children (including those who enter as FMUAs and are separated from their parents) are referred to the care of HHS ORR. Although 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 1, 2019 and March 31, 2020 and had been removed or returned as of May 6, 2020.⁶ Removal dates occurred sometime after the family's initial apprehension or determination of inadmissibility, so it is possible several dates in Table 6 could extend beyond March 2020. 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. 2020	4
Jan. 2020	5
Feb. 2020	2
Mar. 2020	1
Apr. 2020	6
Total	21

Source: ICE.

Note: Table 6 reports removals and returns by final book-out date (as of May 6, 2020) for adults who were deemed inadmissible or apprehended and separated from their children. As we get more data, the number should increase.

In accordance with (P.L. 116-93), the Office of Immigration Statistics (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.

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.

Repatriation and Reunification by Child Release Date

Table 7 reports on the number of children who were repatriated. For the period October 1, 2019 through March 31, 2020 twelve children were repatriated. Of those twelve, eight were reunified with their parents or legal guardians.

Table 7: Repatriation and Reunification by Child Release Date

IIDS Release Date	Number of Children Repatriated	Number of Children Reunited
Oct. 2019	0	0
Nov. 2019	0	0
Dec. 2019	4	4
Jan. 2020	4	1
Feb. 2020	1	1
Mar. 2020	1	0
Apr. 2020	2	2
Total	12	8

Source: ICE (as of May 6, 2020)

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.

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 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
Q1	First quarter
TEDS	Transportation, Escort, Detention, and Search
USBP	U.S. Border Patrol