



Family Unit Actions Report

October 1, 2019–September 30, 2020

June 17, 2021

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) and its accompanying Senate Report 116-125. The report covers family unit encounters occurring October 1, 2019–September 30, 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 Chris Murphy
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
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 black ink, appearing to read "K. Burriesci", with a long horizontal flourish extending to the right.

Kelli Ann Burriesci
Acting Under Secretary
Office of Strategy, Policy, and Plans



Family Unit Actions Report October 1, 2019–September 30, 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) 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. Summary of Changes

This report addresses a cohort of individuals associated with family unit encounters occurring between October 1, 2019–September 30, 2020. Tables 1-3 are updated to include new additions of monthly cohorts. Tables 4–7 include information about events that transpired *after* September 30, 2020 related to this population. The data supporting those tables are drawn from U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) records that are current as of November 6, 2020. Analysis of FMs and family separations is ongoing and data are subject to change as new information becomes available. Changes in subsequent monthly versions of this report include updates to the previous months’ populations and data. The report’s introduction and narrative have been updated.

Future reports on activity from October 2020 through January 2021 will continue to respond to the FY 2020 reporting requirements. DHS will implement FY 2021 reporting requirements beginning with the February 2021 report, as this will be the first month for which data were collected for the new requirements.

III. Background

CBP policy is to “maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation.” This was formalized in 2015 as part of CBP’s *National Standards on Transport, Escort, Detention, and Search* (TEDS) policy. Historically, DHS has generally separated a minor from his or her parent or legal guardian in certain limited circumstances, such as when DHS determines that the minor may be at risk with the adult, urgent medical issues require separation, or the adult should be transferred for criminal detention.

Based on the statutory definition of an “unaccompanied child” (UC), DHS/CBP defines family units (FM) to include minors traveling with parents or legal guardians.¹ Minor children traveling with adult family members who are not their parents or legal guardians are unaccompanied children and thus legally required to be transferred to the care and custody of the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). Children are also referred to ORR when they are traveling with adults who fraudulently claim a family relationship.² Such non-FM separations are not included in this report.³

On April 6, 2018, the U.S. Department of Justice (DOJ) instituted “Zero Tolerance,” a policy to prosecute, to the extent practicable, all referred violations of 8 U.S.C. § 1325(a), which criminalizes improper entry or attempted entry by a noncitizen.⁴ On May 4, 2018, the Secretary of Homeland Security directed CBP to refer all illegal border crossers to DOJ for criminal prosecution pursuant to 8 U.S.C. § 1325(a), to the extent practicable, including parents or legal guardians traveling with their minor children. The children in these cases were generally transferred to ORR as unaccompanied children.

On June 20, 2018, the President issued Executive Order (E.O.) 13841, *Affording Congress an Opportunity to Address Family Separation*. That order directed DHS to maintain family unity, including by detaining families together where appropriate and consistent with law and available

¹ An unaccompanied child is defined as a child who has no lawful immigration status; is under the age of 18; and for whom no parent or legal guardian is present in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

² When assessing the validity of a family relationship, CBP officers and agents rely on articulable observations, such as interactions between the adult and child, to assess whether the claimed 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 noncitizen’s consulate to verify documentation. Personnel also conduct interviews to identify adults who fraudulently are claiming to be the parent of a minor child. CBP may also look for evidence that the same child has been encountered on multiple occasions with different adults or claimed family members. 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.” CBP now generally refers suspected fraudulent families to ICE Homeland Security Investigations (HSI) for Rapid DNA testing prior to any separation.

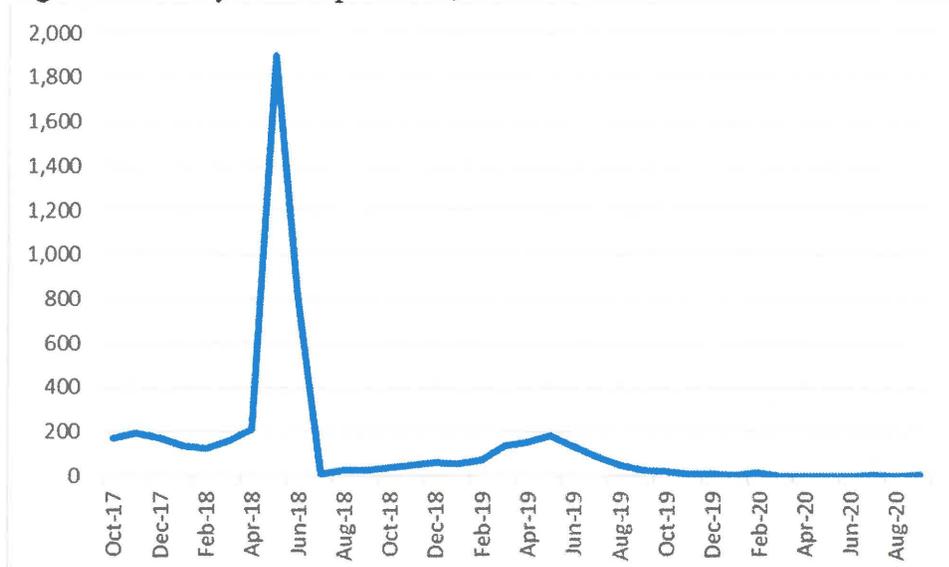
³ Fraudulent family claims identified after noncitizens are transferred from CBP to ICE are included in this report even though they technically do not constitute a family separation; see Table 3.

⁴ A policy similar to the Zero Tolerance policy was previously implemented as a pilot program in the El Paso Sector between April and December 2017.

resources. This E.O. effectively resulted in the discontinuation of the Zero Tolerance policy with respect to FMs.

A total of 2,663 children were separated from their parents or legal guardians during the 6 weeks that the Zero Tolerance policy was applied to family units, for an average of 58 separations per day. By comparison, an average of six family separations per day occurred between July 1, 2017 and May 4, 2018; and an average of two family separations per day occurred between June 21, 2018 and the start of the pandemic in March 2020 (see Figure 1).

Figure 1: Family Unit Separations, FYs 2018 - 2020



Source: DHS analysis of ICE and CBP data.

Note: Data depict confirmed separations of family units encountered at the border occurring between October 1, 2017 and September 30, 2020 (the axis shows every other month during this period). Data depicted are current as of March 19, 2021.

Following the issuance of E.O. 13841, CBP leadership issued guidance to field offices and sectors directing that parents or legal guardians who entered with children generally no longer were to be referred for prosecution under 8 U.S.C. § 1325(a). The following week, on June 26, 2018, 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*”), issued a preliminary injunction generally prohibiting DHS from detaining a class of noncitizen parents separately from their children absent a determination that the parent is unfit or presents a danger to the child, and requiring the reunification of certain previously-separated parents and children. The class excluded those parents with criminal histories, those with communicable diseases, or those encountered in the interior. Since the issuance of the preliminary injunction in *Ms. L*, separation of FMs by DHS has been consistent with the injunction.

On February 2, 2021, President Biden issued E.O. 14011, *Establishment of Interagency Task Force on the Reunification of Families*, which revoked E.O. 13841. This Task Force is charged with “identifying all children who were separated from their families between January 20, 2017 and January 20, 2021 in connection with the operation of the Zero Tolerance policy” and, “to the

greatest extent possible, facilitating and enabling the reunification of each of the identified children with their families.” The Task Force is also charged with making recommendations to ensure that the Federal Government will not repeat the policies and practices that led to the separation of families at the border in the previous administration.

Progress has been made in establishing the Task Force and working groups, and in collaboration with the Departments of State, HHS, and Justice, to explore options associated with the identification and reunification of children who were separated from their parents or legal guardians.

As directed by Senate Report 116-125, this fiscal year-end report details the separation and reunification of FMs by DHS. This DHS report covers separations and reunifications occurring between October 1, 2019 and September 30, 2020.

IV. Data and Analysis

This section provides information relating to FMs encountered by CBP’s U.S. Border Patrol (USBP) or Office of Field Operations (OFO) between October 1, 2019 and September 30, 2020 that resulted in family separations. The detailed tables that follow focus exclusively on FMs encountered between October 1, 2019 and September 30, 2020. Tables 1-3 include data showing new additions to monthly cohorts, and Tables 4–7 include data about events that transpired *after* September 30, 2020 related to these monthly populations.

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 in these tables 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 noncitizen parents or legal guardians from their minor noncitizen children following their encounter at the border as an FM. “Encounter date” refers to the date on which the FM was encountered at the border.

Data in this report are limited to cases involving parents or legal guardians and children encountered and separated by DHS between October 1, 2019 and September 30, 2020, with information on detention, removals or returns (“repatriations”), and transfers to HHS updated on the basis of ICE and CBP records that are current as of November 6, 2020.⁵ Totals for each of the tables are not representative of unique counts of individual people. These figures represent the cumulative count of cases involving parents or legal guardians and children separated by DHS. This report provides updates to the previous months’ populations and data, because analysis of FMs 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-c summarize the number of FMs encountered by USBP and OFO for FY 2020 that resulted in family separations, broken down by month and by USBP sector or OFO field office. As Table 1c indicates, a total of 66 FMs were separated during this period, a decrease of 93 percent in family separation when compared to the 919 family units that were separated in FY 2019.⁶ Notably, for three consecutive months between June and August, there were no new FMs separated either at or between Ports of Entry on the Southwest Border.

Families consisting of a single parent or legal guardian and a single child accounted for the highest percentage (83 percent) of separations. Families consisting of a parent or legal guardian and two children accounted for the second highest percentage (9 percent) of separations,

⁵ The Department began tracking family separations in April 2018. The detailed analysis in this report begins with FMs encountered between October 1, 2019 and September 30, 2020.

⁶ DHS Family Unit Action Report, August 2019.

followed by families consisting of a parent or legal guardian and three children (3 percent). Families consisting of two parents or legal guardians and one child were also separated during this period (5 percent). The 66 family separations involved a total of 69 parents or legal guardians and 76 children (see Tables 2 and 3).

Table 1a: Family Separations by Location and Date of Encounter– USBP Sectors

Location	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Apr. 2020	May 2020	Jun. 2020	Jul. 2020	Aug. 2020	Sep. 2020	Total
Rio Grande Valley, TX	4	7	0	2	7	1	0	0	0	0	0	0	21
Tucson, AZ	3	1	2	2	3	0	0	0	0	0	0	0	11
San Diego, CA	4	1	0	0	1	0	0	0	0	0	0	0	6
Del Rio, TX	1	2	3	0	0	0	0	0	0	0	0	0	6
El Paso, TX	2	0	1	1	2	0	0	0	0	0	0	2	8
Yuma, AZ	0	0	1	0	1	0	0	0	0	0	0	0	2
Big Bend, TX	0	0	1	0	0	0	0	1	0	0	0	0	2
USBP Subtotal	14	11	8	5	14	1	0	1	0	0	0	2	56

Source: CBP.

Table 1b: Family Separations by Location and Date of Encounter– OFO Field Offices

Location	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Apr. 2020	May 2020	Jun. 2020	Jul. 2020	Aug. 2020	Sep. 2020	Total
Laredo, TX	1	1	0	1	1	0	0	0	0	0	0	0	4
Tucson, AZ	2	0	0	0	0	0	1	0	0	0	0	0	3
San Diego, CA	0	0	0	0	1	0	0	0	0	0	0	0	1
El Paso, TX	0	0	0	0	1	0	0	1	0	0	0	0	2
OFO Subtotal	3	1	0	1	3	0	1	1	0	0	0	0	10

Source: CBP.

Table 1c: Family Separations by Location and Date of Encounter – Total for CBP

Location	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Apr. 2020	May 2020	Jun. 2020	Jul. 2020	Aug. 2020	Sep. 2020	Total
CBP Total	17	12	8	6	17	1	1	2	0	0	0	2	66

Source: CBP.

Note: Tables 1a-c report on the number of families separated through September 30, 2020, as of CBP records that are current through November 6, 2020. There were 66 family separations, which affected 69 parents or legal guardians and 76 children, between October 1, 2019 through September 30, 2020.

Family Separations by Age of Minor Child and Date

Some of the families encountered that resulted in family separations included more than one child for the period October 1, 2019 to September 30, 2020, as noted above. Thus, as Table 2 depicts, a total of 76 children were separated from their parents or legal guardians during this reporting period. The majority of children were between 6 and 12 years of age. Less than one-third were under 6 years of age.

Table 2: Family Separations by Age of Minor Child and Date of Encounter

Age	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Apr. 2020	May 2020	Jun. 2020	Jul. 2020	Aug. 2020	Sep. 2020	Total
0-5 years	4	6	2	1	7	1	0	0	0	0	0	1	22
6-12 years	8	5	5	1	9	0	2	2	0	0	0	1	33
13-17 years	9	2	4	4	2	0	0	0	0	0	0	0	21
Total	21	13	11	6	18	1	2	2	0	0	0	2	76

Source: CBP.

Note: Table 2 reports on the ages of individual children separated from their parents or legal guardians between October 1, 2019 through September 30, 2020, as of November 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 encountered by USBP or OFO between October 1, 2019 and September 30, 2020 that resulted in family separations, by the reason for separation.⁷ As Table 3 indicates, Criminal History and Warrants of Arrest were the most common reasons for separation for the period of October 1, 2019 through September 30, 2020.

Table 3: Reasons for Family Separations

Reason for Separation	Oct. 2019	Nov. 2019	Dec. 2019	Jan. 2020	Feb. 2020	Mar. 2020	Apr. 2020	May 2020	Jun. 2020	Jul. 2020	Aug. 2020	Sep. 2020	Total
Health Issue	0	3	2	0	5	0	0	1	0	0	0	2	13
Warrant of Arrest/ Referred for Prosecution	5	3	1	1	5	1	0	0	0	0	0	0	16
Cartel/ Gang Affiliation	1	2	1	0	2	0	0	0	0	0	0	0	6
Criminal History	7	5	3	2	5	0	1	0	0	0	0	0	23
Parent Fitness/ Child Safety	1	0	0	0	0	0	0	1	0	0	0	0	2
Not a Family Unit	1	1	2	2	0	0	0	0	0	0	0	0	6
Other	2	0	0	1	0	0	0	0	0	0	0	0	3
Total	17	14	9	6	17	1	1	2	0	0	0	2	69

Source: ICE.

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

Note: Fourteen individuals with criminal histories also had previous immigration violations. Entries in the "Not a Family Unit" row in this report involve groupings initially classified by CBP as FMs and subsequently determined to be nonparental family relationships or involve fraudulent family claims after the noncitizens entered ICE custody.

⁷ Table 3 includes data directed by Senate Report 116-125, along with other reasons for family separations during the reporting period.

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

Table 4 summarizes the numbers of adults who were involved in family separations occurring between October 1, 2019 and September 30, 2020 and booked into ICE detention facilities. As of November 6, 2020, more than two-thirds 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.

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	8
Feb. 2020	7
Mar. 2020	8
Apr. 2020	2
May 2020	4
Jun. 2020	3
Jul. 2020	1
Aug. 2020	0
Sep. 2020	0
Oct. 2020	2
Total	50

Source: ICE.

Note: Table 4 reports on book-ins to ICE detention by book-in date (as of November 6, 2020) for unique adults in separated families who were encountered between October 2019 and September 2020.

CBP Referrals of Separated Children to HHS by Date of Referral

Table 5 summarizes the number of children who were involved in family separations occurring between October 1, 2019 and September 30, 2020 and whom CBP referred to HHS. (Referrals to HHS occurred sometime after the family's initial encounter, so referral dates could extend beyond September 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	12
Dec. 2019	12
Jan. 2020	7
Feb. 2020	18
Mar. 2020	1
Apr. 2020	2
May 2020	2
Jun. 2020	0
Jul. 2020	0
Aug. 2020	0
Sep. 2020	2
Total	76

Source: CBP.

Note: Table 5 reports referrals to HHS by referral date as of November 6, 2020 for children who were encountered between October 1, 2019 and September 30, 2020. UCs (including those who enter as FMs and are separated from their parents) are referred to the care of HHS ORR. Although ORR has responsibility for the care of the UCs 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 encountered during the reporting period and because the DHS and HHS reports were produced on different schedules.

Repatriations 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 September 30, 2020 and who had been repatriated (i.e., removed or returned) as of November 6, 2020.⁸ Repatriations occurred sometime after the family’s initial encounter, so it is possible several dates in Table 6 could extend beyond September 2020. Not all adults that are covered by the current report are included in this table; parents not repatriated 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: Repatriations of Separated Adults by Final Book-Out Date

Final Book-Out Date	Number of Parents Repatriated
Oct. 2019	1
Nov. 2019	3
Dec. 2019	5
Jan. 2020	6
Feb. 2020	4
Mar. 2020	2
Apr. 2020	6
May 2020	5
Jun. 2020	1
Jul. 2020	2
Aug. 2020	1
Sep. 2020	0
Oct. 2020	4
Total	40

Source: ICE.

Note: Table 6 reports repatriations by final book-out date (as of November 6, 2020) for adults who were separated from their children. As data are attained, the number should increase.

In accordance with the FY 2020 DHS Appropriations Act (P.L. 116-93) and its accompanying Senate Report 116-125, the Office of Immigration Statistics has included data in this report regarding repatriations of children with and without parents. ICE’s data was determined through a manual review of case files. ICE is considering automation of this extraction and will require operation of this effort with field units.

⁸ Data in Table 6 are based on book-out dates for noncitizens booked out of detention to complete a removal or return; actual repatriations 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 and the number of repatriated children reunited with their parents. For FY 2020, 17 children were repatriated. Of those 17, 11 were reunited with their parents or legal guardians at the time of removal or return.

Table 7: Repatriation and Reunification by Child Release Date

ICE Integrated Decision Support System Release Date	Number of Children Repatriated	Number of Repatriated Children Reunited
Oct. 2019	0	0
Nov. 2019	0	0
Dec. 2019	5	5
Jan. 2020	4	1
Feb. 2020	1	1
Mar. 2020	1	0
Apr. 2020	2	2
May 2020	0	0
Jun. 2020	1	0
Jul. 2020	1	0
Aug. 2020	1	1
Sep. 2020	0	0
Oct. 2020	1	1
Total	17	11

Source: ICE (as of November 6, 2020)

V. 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 Operations 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.

Consistent with E.O. 14011, the Family Reunification Task Force will evaluate current policies and make recommendations to protect family unity and ensure that the Federal Government will not repeat the policies and practices leading to the separation of families at the border.

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
FM	Family Unit
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
TEDS	Transport, Escort, Detention, and Search
USBP	U.S. Border Patrol