

# Monthly Report to Congress on Separated Children | July 2019



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

The Department of Health and Human Services (“HHS”) submits this report to Congress as required by two Congressional mandates: the joint explanatory statement accompanying Conference Report 115-952, which states Congress expects HHS to adhere to the directive at section 236 of H.R. 6470, and section 408 of the Department of Health and Human Services Emergency Supplemental Appropriations Act, 2019. Please find the language for each one below:

H.R. 6470 states:

*Sec. 236. Beginning with April 2018, the Secretary shall submit to Congress a monthly report on, with respect to children who were separated from their parents or legal guardians by the Department of Homeland Security and subsequently classified as unaccompanied alien children and transferred to the custody of the HHS’ Office of Refugee Resettlement (1) the number and ages of children so separated at or between ports of entry; (2) the length of any such separation; (3) the status of any efforts undertaken by the Secretary to reunify such children with a parent or legal guardian; and (4) the number of any such reunifications, and whether the reunified families were placed in family detention.*

The Department of Health and Human Services Emergency Supplemental Appropriations Act, 2019 states:

*Sec. 408. Not later than 14 days after the date of enactment of this Act, and monthly thereafter, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and make publicly available online, a report with respect to children who were separated from their parents or legal guardians by the Department of Homeland Security (DHS) (regardless of whether or not such separation was pursuant to an option selected by the children, parents, or guardians), subsequently classified as unaccompanied alien children, and transferred to the care and custody of ORR during the previous month. Each report shall contain the following information:*

*(1) the number and ages of children so separated subsequent to apprehension at or between ports of entry, to be reported by sector where separation occurred; and*

*(2) the documented cause of separation, as reported by DHS when each child was referred.*

### **Response to Section 236 of H.R. 6470**

The information provided in this report on separated children is primarily based on HHS’ regular reporting to the court and to the plaintiffs in *Ms. L v. U.S. Immigration & Customs Enf’t (“ICE”)*, 3:18-cv-00428 (S.D. Cal. 2018) (“*Ms. L.*”), as well as the Department of Homeland Security (DHS) and the Office of Refugee Resettlement (ORR) reconciled list of all children DHS separated and referred to ORR for care.

On June 26, 2018, the *Ms. L.* court granted a preliminary injunction and certified a class of all adult parents who enter the United States at or between designated ports of entry who (1) have been, are,

or will be detained in immigration custody by the Department of Homeland Security (“DHS”), and (2) have a minor child who is or will be separated from them by DHS and detained in HHS custody, HHS foster care, or DHS custody, absent a determination that the parent is unfit or presents a danger to the child. As of this writing, the preliminary injunction remains in effect.

After the court issued the preliminary injunction, as part of an interagency effort, HHS identified 2,814 minors in its custody on June 26, 2018 who were possible children of potential class member parents. HHS has also subsequently tracked and reported referrals of children separated from their parents and in HHS custody on or after June 26, 2018. These reports, and the underlying data used to generate them, served as the bases for the reporting below.<sup>1</sup>

Monthly Reporting from April 2018 through July 31, 2019

1. The number and ages of children separated at or between ports of entry, as described in the Appropriations Act

The following table describes the number of referrals to the HHS Office of Refugee Resettlement (ORR) of children DHS separated from their parents or legal guardians, from April 1, 2018, through July 31, 2019.

<b>Count and ages of Minor separated from April 2018 through July 2019</b>			
	<b>4 and Under</b>	<b>5 and Above</b>	<b>Grand Total</b>
<b>2018</b>			
Apr	14	95	109
May	27	1482	1509
Jun	39	952	991
Jul	2	10	12
Aug	5	19	24
Sep	4	25	29
Oct	8	29	37
Nov	12	39	51

<sup>1</sup> Separately, on March 8, 2019, the *Ms. L.* court expanded the class to include parents who entered the United States on or after July 1, 2017. See Order Granting Plaintiffs’ Motion to Modify Class Definition, *Ms. L.* (S.D. Cal. Mar. 8, 2019), ECF No. 386. After the parties met and conferred on the issue, the Court approved the government’s plan for identifying possible children of potential class members in the expanded class, ordering that the plan be completed in six months, or by October 25, 2019. See Order Following Status Conference, *Ms. L.* (S.D. Cal. Apr. 25, 2019), ECF No. 405.

Dec	11	55	66
<b>2019</b>			
Jan	7	39	46
Feb	14	58	72
Mar	29	91	120
Apr	37	116	153
May	28	100	128
Jun	28	146	174
Jul	12	69	81
<b>Grand Total</b>	<b>277</b>	<b>3325</b>	<b>3602<sup>2</sup></b>

*Note: Because information on cases of separation may not be immediately available at the time of a child's referral to ORR but instead uncovered during the duration of a child's stay in ORR care, monthly tabulations of separations may vary between updates to this report. For example, if a child was referred to ORR in February but was not confirmed to have been separated until May, the February total would increase by one between this and the previous version of the report.*

2. The length of any such separation

The following table shows: (1) the average amount of time separated children have spent in ORR care before being released to a sponsor; and (2) the average amount of time in care for all separated children, including children that have not yet been released. Both figures are as of July 31, 2019.

<b>Length of Care for Separated Minors Referred from April 2018 through July 2019</b>	<b>Average Length of Care</b>
Average Length of Care for Minors Referred from April 2018 - July 2019 (for both discharged minors and those currently in ORR custody)	74
Average Length of Care for Minors Referred from April 2018 - July 2019, subsequently discharged	72

<sup>2</sup> The total number of separations reported is greater than the count of 2,814 children identified in *Ms. L.* because this count reflects a longer timeframe relative to the original *Ms. L.* class certification. 3,602 children is the count of all possible children of potential class members referred to ORR from 4/1/18 through 7/31/2019

3. The status of any efforts undertaken by the Secretary to reunify such children with apparent or guardian

HHS regularly reports on the status of reunifications of separated children to the *Ms. L* court. Reunifications occur in accordance with interagency plans approved by Judge Dana Sabraw.<sup>3</sup> The relevant plans accompany this report. In addition, the government outlined procedures regarding release of separated children in the Joint Status Report filed on March 6, 2019,<sup>4</sup> which also accompanies this report. To date, HHS has released 3,145 of the 3,602 separated children referred to ORR between April 1, 2018 and July 31, 2019.

4. The number of any such reunifications, and whether the reunified families were placed in family detention.

As stated below, through July 31, 2019, ORR discharged 3,145 children separated from their parents at the border, and referred to it from April 2018 through July 2019. ORR discharged 2,183 to their separated parent, and 962 children under other appropriate circumstances, including discharges to sponsors where the parent was ineligible for reunification.

Separated Minors' Discharge Circumstances from April 1, 2018 through July 31, 2019	
Reunited with separated Parent	2183 <sup>5</sup>
Reunited (Other Appropriate Circumstances)	962
Grand Total	3145

HHS is able to identify the parties to whom it released separated children; however, HHS respectfully defers to ICE with respect to providing the number of reunified families ultimately placed in family detention.

### **Response to Section 408 of Conference Report 115-952**

DHS provides a weekly list of new separations to ORR. ORR also creates its own list of new separations, based on its data, and appends it the DHS list to form a combined list of new separations. ORR and DHS then conduct concurrent reviews of the combined list, and create a reconciled new separations master list that shows those separations confirmed by both DHS and ORR. In cases where there is no concurrence between ORR and DHS, or more information is needed to

<sup>3</sup> See HHS/DHS Unified Plan of Operations, *Ms. L*. (S.D. Cal. Jul. 15, 2018), ECF No. 109-1; see also Interagency Plan for Reunification of Separated Minors with Removed Parents, *Ms. L*. (S.D. Cal. Aug. 16, 2018), ECF No. 189.

<sup>4</sup> Joint Status Report, *Ms. L*. (S.D. Cal. March 6, 2019), ECF No. 382.

<sup>5</sup> The discharge type of some minors were re-categorized, which affected discharges to separated parents in July compared to June

confirm a separation, the agencies work with their field staff to reconcile discrepancies until a final determination of separation/not separation is reached. The purpose of this reconciliation is to make sure that ORR has an accurate list of all children that DHS has separated and referred to ORR for care. As a result of the process, however, the data usually lags by two weeks.

The tables below reflect data for minors referred<sup>6</sup> to ORR during the month of July 2019.

*Table 1 Children Separated by DHS by Cause of Separation and Age<sup>7</sup>*

<b>UAC Separations*: Month of July 2019</b>						
<b>Reason for Separation</b>	<b>0-5</b>	<b>6-12</b>	<b>13-14</b>	<b>15-16</b>	<b>17</b>	<b>Total</b>
Parent criminal history and immigration history	12	16	4	11	5	48
Parent criminal history	4	4	1	7	2	18
Parent cartel/gang affiliation and immigration history	1	2	2	0	0	5
Referred for prosecution	0	0	2	2	0	4
Parent cartel/gang affiliation	2	1	0	0	0	3
Other-Warrant <sup>8</sup>	0	1	0	0	0	1
Parent criminal history, immigration history, and cartel/gang affiliation	0	1	0	0	0	1
Other <sup>9</sup>	0	0	0	1	0	1
Health issue/hospitalization	0	0	0	0	0	0
Parent fitness (other than for hospitalization)/child danger concerns	0	0	0	0	0	0
Separated from Other Adult Relative <sup>10</sup>	0	0	0	0	0	0
Unverified Familial Relationship/ Fraud	0	0	0	0	0	0
Communicable disease	0	0	0	0	0	0
<b>Total</b>	<b>19</b>	<b>25</b>	<b>9</b>	<b>21</b>	<b>7</b>	<b>81<sup>11</sup></b>

<sup>6</sup> ORR does not consistently receive apprehension date information from CBP and ICE when referring UACs to its ORR care. As a result, because it is a more reliable source of data, ORR used referral dates to generate the information provided in this report.

<sup>7</sup> Table 1 lists the categories of permissible reasons for separation used in the government's reporting to plaintiffs in the *Ms. L.* litigation.

<sup>8</sup> "Other – Warrant" is defined as the parent having an active warrant for his/her arrest in either home country or the United States.

<sup>9</sup> "Other" is defined as a separation based on sensitive law enforcement related reasons. DHS does not share law enforcement sensitive information with ORR unless authorized by the court or legal counsel.

<sup>10</sup> "Separated from Other Adult Relative" is defined as an initial separation by CBP based on its identification of the adult as a non-parent relative.

<sup>11</sup> 81 is the confirmed number of separations for the entire month of July. Previous reporting only reflected partial list of separations for July because some separations may have not been confirmed at the time of reporting.

Table 2 Referring Sectors of Separated UACs by Age Group

UAC Separations: <sup>12</sup> Month of July 2019						
Referring Sector	0-5	6-12	13-14	15-16	17	Total
Harlingen (SNA)	18	22	7	19	6	72
Phoenix, AZ (PHO)	0	2	1	1	0	4
El Paso (ELP)	0	0	1	1	0	2
DHS did not provide sector	1	0	0	0	1	2
Del Rio (DRO)	0	1	0	0	0	1
<b>Total</b>	<b>19</b>	<b>25</b>	<b>9</b>	<b>21</b>	<b>7</b>	<b>81<sup>13</sup></b>

<sup>12</sup> In some cases, final determinations on separation status reported during weekly data reconciliation require further review. As a result, data on separations is subject to change.

<sup>13</sup> See FN 11.

