

**DHS Lacked Technology
Needed to Successfully
Account for Separated
Migrant Families**





DHS OIG HIGHLIGHTS

DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families

**November 25,
2019**

Why We Did This Audit

In fiscal year 2018, the Department of Homeland Security apprehended more than 100,000 families for illegal entry. From May 5, 2018, to June 20, 2018, DHS adopted a *Zero Tolerance Policy* to refer for prosecution all adults illegally entering the United States. We conducted this audit to determine the effectiveness of DHS' IT systems in tracking detainees and supporting efforts to reunify unaccompanied alien children with separated families.

What We Recommend

We made five recommendations to DHS to improve its IT systems to support tracking and reunification of separated family units.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

DHS did not have the information technology (IT) system functionality needed to track separated migrant families during the execution of the *Zero Tolerance Policy*. U.S. Customs and Border Protection (CBP) adopted various ad hoc methods to record and track family separations, but these methods led to widespread errors. CBP officials have been aware of these IT deficiencies since at least November 2017 when U.S. Border Patrol conducted an initiative that mirrored the *Zero Tolerance Policy*. These conditions persisted because CBP did not address its known IT deficiencies adequately before implementing Zero Tolerance in May 2018. DHS also did not provide adequate guidance to personnel responsible for executing the *Zero Tolerance Policy*.

Because of these IT deficiencies, we could not confirm the total number of families DHS separated during the Zero Tolerance period. DHS estimated that Border Patrol agents separated 3,014 children from their families while the policy was in place. DHS also estimated it had completed 2,155 reunifications in response to a court order, although this effort continued for 7 months beyond the July 2018 deadline for reunifying children with their parents. However, we conducted a review of DHS data during the Zero Tolerance period and identified 136 children with potential family relationships who were not accurately recorded by CBP. In a broader analysis of DHS data between the dates of October 1, 2017, to February 14, 2019, we identified an additional 1,233 children with potential family relationships that were not accurately recorded by CBP. Without a reliable account of all family relationships, we could not validate the total number of separations, or reunifications.

Although DHS spent thousands of hours and more than \$1 million in overtime costs, it did not achieve the original goal of deterring "Catch-and-Release" through the *Zero Tolerance Policy*. Instead, thousands of detainees were released into the United States. Moreover, the surge in apprehended families during this time resulted in children being held in CBP facilities beyond the 72-hour legal limit.

Agency Response

DHS concurred with our recommendations.

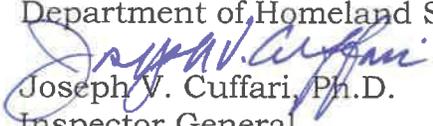


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Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

November 25, 2019

MEMORANDUM FOR: The Honorable Chad F. Wolf
Acting Secretary
Department of Homeland Security

FROM: 
Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *DHS Lacked Technology Needed to Successfully
Account for Separated Migrant Families*

Attached for your information is our final report, *DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families*.¹ We incorporated the formal comments from the Director, Departmental GAO-OIG Liaison Office, in the final report.

The report contains five recommendations aimed at improving the Department's ability to account for and reunify separated families. The Department concurred with all five recommendations. Based on information provided in your response to the draft report, we consider recommendations 1, 2, 4, and 5 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Based on information provided in your response to the draft report, we consider recommendation 3 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendation will be considered open and unresolved.

¹ The IG signed this report to ensure its timely completion and submission to Congress and the public, but did not participate in the investigative phases of the project.



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Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Kristen Bernard, Deputy Assistant Inspector General, at (202) 981-6000.

Attachment



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Abbreviations

| | |
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| CBP | U.S. Customs and Border Protection |
| e3 | ENFORCE 3 |
| EARM | ENFORCE Alien Removal Module |
| EID | Enforcement Integrated Database |
| ERO | Enforcement and Removal Operations |
| FMUA | Family Units |
| GAO | Government Accountability Office |
| HHS | Department of Health and Human Services |
| ICE | U.S. Immigration and Customs Enforcement |
| IT | information technology |
| OFO | Office of Field Operations |
| OIG | Office of Inspector General |
| OMB | Office of Management and Budget |
| ORR | Office of Refugee Resettlement |
| SIGMA | Secured Integrated Government Mainframe Access |
| UAC | Unaccompanied Alien Child(ren) |



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Background

Each year, hundreds of thousands of people attempt to enter the United States illegally through the southern border with Mexico. According to U.S. Customs and Border Protection (CBP), in fiscal year 2018 DHS apprehended about 107,200 families and 50,000 children for unlawful entry at the Southwest Border. Collectively, these crossings represent a 34 percent increase from FY 2017, when CBP apprehended more than 75,000 families and at least 41,400 children.

DHS has primary responsibility for securing U.S. borders from illegal activity and regulating travel and legal trade. Within DHS, CBP's U.S. Border Patrol employs more than 21,000 individuals to enforce immigration laws and safeguard approximately 6,000 miles of U.S. border, including 2,000 miles on the Southwest Border. Border Patrol agents apprehend individuals illegally crossing the border, as well as human traffickers and smugglers. In addition, Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) takes action against foreign nationals who pose a threat to national security or public safety, or who illegally enter the United States. ERO officers arrest, transport, detain, and deport individuals to their countries of origin. ERO officers also monitor individuals released from detention into the interior of the country while awaiting final rulings from immigration proceedings, a practice commonly referred to as "Catch-and-Release."¹

DHS' efforts are aided by the U.S. Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), which is responsible for the care and custody of children who enter the country alone or without legal guardians, referred to as unaccompanied alien children (UAC). ORR places UAC in temporary shelters and facilitates long-term placement with approved sponsors.

Timeline of Family Separation Policies

On April 6, 2018, the President issued a memorandum to the heads of various departments, including DHS, to submit within 45 days a summary of efforts taken to end the practice of "Catch-and-Release."² On the same date, the U.S. Attorney General issued a memorandum directing all Federal prosecutors' offices along the Southwest Border to work with DHS to adopt a "Zero

¹ "Catch-and-Release" refers to the practice of releasing aliens into the United States shortly after their apprehension for violations of immigration laws.

² *Presidential Memorandum for the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Health and Human Services, and the Secretary of Homeland Security*, April 6, 2018



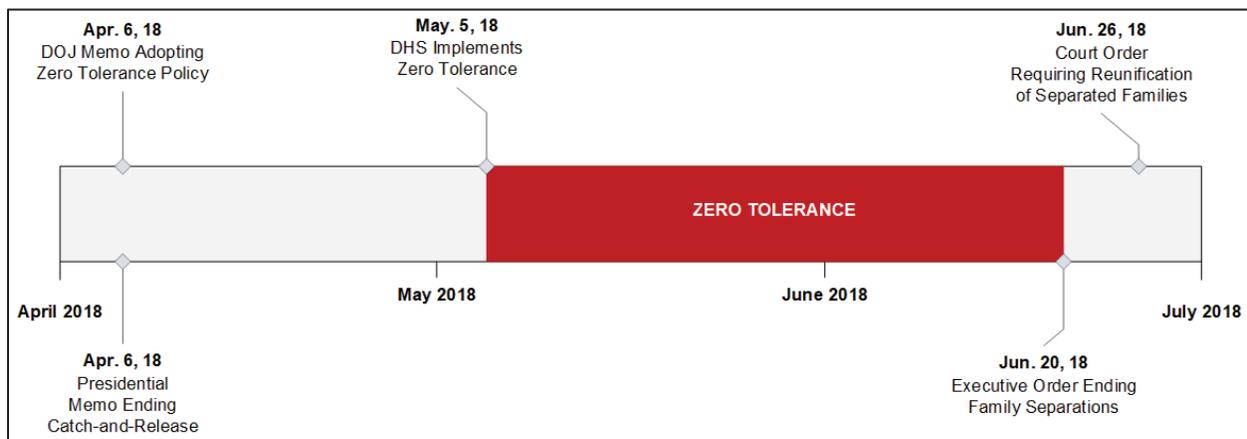
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Tolerance Policy,” which required criminal prosecution of DHS referrals of 8 U.S.C. § 1325(a) violations, to the extent practicable.³

In accordance with the requirements of the memorandum, on May 5, 2018, DHS adopted the *Zero Tolerance Policy* department-wide and began referring for prosecution all adults, including those accompanied by children, who entered the United States illegally. The Department’s *Zero Tolerance Policy* lasted approximately six weeks from the May implementation date. Figure 1 shows key policy implementation dates.

Figure 1: Timeline of Zero Tolerance Policy



Source: Office of Inspector General (OIG)-generated from DHS data and Zero Tolerance related legal documentation

On June 20, 2018, the President issued Executive Order 13841,⁴ ending the practice of family separations. On June 26, 2018, a Federal District Court judge in the *Ms. L. v. ICE* litigation issued a preliminary injunction to stop DHS from separating migrant adults from their children, absent a determination that the parent is unfit or presents a danger to the children, when they are held in DHS custody.⁵ The judge also ordered the Government to reunify children younger than age 5 with their parents within 14 days and children 5 years and older within 30 days of the court order.

³ See Dept. of Justice, *Memorandum for Federal Prosecutors Along the Southwest Border*, April 6, 2018 (directing all United States Attorney’s Offices along the Southwest Border to “adopt immediately a zero-tolerance policy for all offenses referred for prosecution under [8 U.S.C § 1325(a)].”) Entering the United States without inspection and approval is a civil offense that may also result in criminal charges. See 8 United States Code (U.S.C.) §§ 1227 (civil grounds for removal), 1325 (crime of improper entry), 1326 (crime of reentry). The Department of Justice has the authority to decide whether and to what extent to prosecute Federal crimes.

⁴ Exec. Order No. 13841, *Affording Congress an Opportunity to Address Family Separations*, was announced and became effective on June 20, 2018, and was published in the Federal Register at 83 FR 29,435 on June 25, 2018.

⁵*Ms. L. v. ICE*, 18-cv-428 (S.D. Cal. June 26, 2018).



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DHS Standard Operating Procedures for Processing Apprehended Families and Children

When Border Patrol agents apprehend migrants for illegal entry into the United States, they interview them, review any identifying documentation (such as birth certificates or passports), collect biometrics,⁶ and conduct criminal history checks. If a migrant indicates an intention to apply for asylum or a fear of persecution, the agent will refer the migrant for an interview by an asylum officer.⁷ During initial processing, Border Patrol agents determine whether each apprehended individual is part of a family. Border Patrol agents use two methods for classifying apprehended relatives, depending on the family members' relationships:

1. Family Unit Classification: Border Patrol defines a family unit as an adult, age 18 or older, accompanied by a child younger than age 18, who is able to demonstrate parentage or guardianship. Border Patrol agents process all family members together and assign them an information technology (IT) system-generated family unit (FMUA) number. Additional case notes are entered to provide details on each family member, such as apprehension information and any addresses or information for the family's point of contact in the United States.
2. Family Group Classification: Border Patrol defines a family group as two relatives, such as siblings or a child traveling with his/her aunt or grandparent, and records them as a "Family Group" in its IT system and case notes.

After initial processing, Border Patrol agents determine whether to refer an adult parent for criminal prosecution based on the circumstances of the initial apprehension or the individual's prior criminal history. If Border Patrol determines that a parent is unfit or presents a danger to the child, or is held for criminal prosecution, the Border Patrol agent separates the family. When DHS separates children from adults held for prosecution, the children are deemed UAC and transferred to ORR custody. In such cases, Border Patrol reclassifies the parent as a single adult and the child as a UAC in the IT system.

⁶ CBP collects biometrics, such as fingerprints, for alien immigrants who are 14 years or older.

⁷ The Secretary of Homeland Security or the Attorney General may grant asylum to any alien who qualifies as a "refugee" under U.S. Immigration Law [8 U.S.C. § 1158]. Generally, a "refugee" is a person outside his/her country of nationality who is unable or unwilling to return to that country "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion" [8 U.S.C. § 1101(a)(42)(A)].

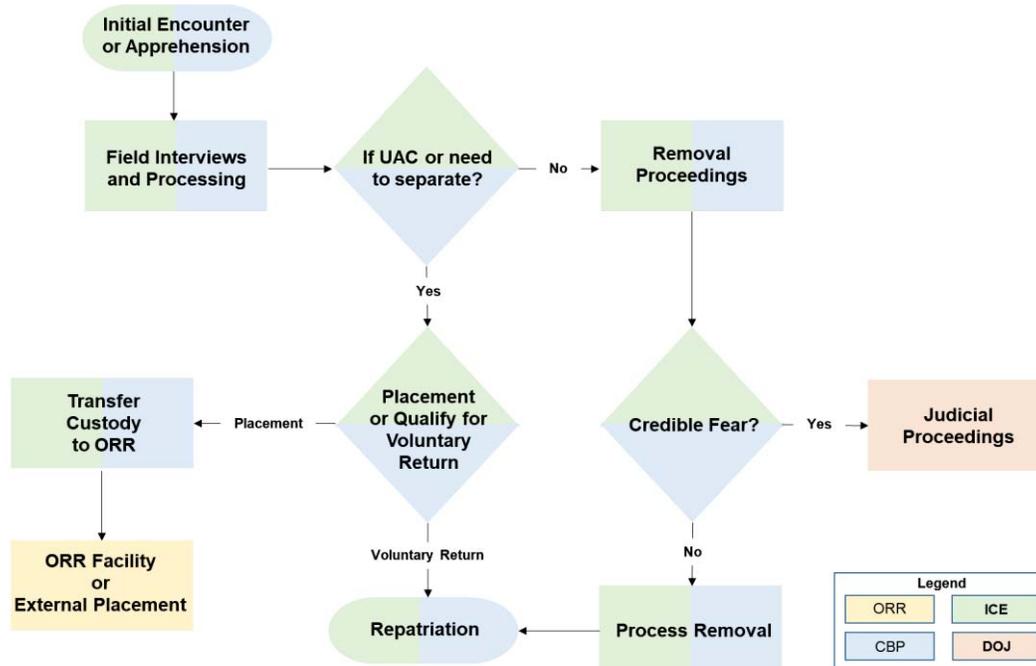


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However, CBP cannot detain migrant adults or children long-term. By law, DHS should refer the adult for prosecution within 48 hours⁸ and must transfer children to HHS within 72 hours of apprehension, absent “exceptional circumstances.”⁹ DHS transfers all UAC to HHS ORR custody through a referral and placement request. The child remains in ORR care until HHS can make custody arrangements. ORR places most detained children in ORR-funded shelters located in different states across the country. Figure 2 depicts the process for adults and children who have entered the country illegally.

Figure 2: Detainee Process for Illegal Entry for Family Units and UAC



Source: OIG-generated based on DHS data¹⁰

Once Border Patrol processes individuals for illegal entry, ICE ERO officers transport them to detention facilities. Specifically, ERO transfers separated children to HHS ORR facilities as needed, but houses single adults, along with a limited number of families awaiting immigration proceedings, at ICE detention centers.

⁸ *City of Riverside v. McLaughlin*, 500 U.S. 56, 57 (1991), probable cause determination must be made within 48 hours after arrest. In *Jones v. Lowndes County*, 678 F.3d 344, 350 (5th Cir. 2012), 48 to 72 hours is also an acceptable timeframe in which to be referred for prosecution and have a hearing before a judge, for example, when the arrest is made over a weekend.

⁹ There are special rules for UAC from Mexico and Canada that may permit a different process, 8 U.S.C. § 1232(a)(2)(A). However, if UAC cannot be processed under those rules, CBP must follow the same process established for unaccompanied alien children from other countries [8 U.S.C. § 1232(a)(3)].

¹⁰ Figure 2 does not represent formal removal proceedings under *Immigration Nationality Act* § 240.



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Separated families can be reunified either after a parent is released from custody or prior to removal from the United States. If DHS releases parents from custody into the United States, eligible parents can contact ORR to coordinate reunification with their children.¹¹ Additionally, parents may request reunification prior to ICE removing them from the United States.

DHS' Role in Family Separations Prior to Zero Tolerance

Before *Zero Tolerance Policy* implementation, DHS played a minimal role in reunifying migrant families, as separations rarely occurred. For example, when CBP apprehended an alien family unit attempting to enter the United States illegally, it usually placed the adult in civil immigration proceedings without referring him or her for criminal prosecution. CBP only separated apprehended parents from children in limited circumstances—e.g., if the adult had a criminal history or an outstanding warrant, or if CBP could not determine whether the adult was the child's parent or legal guardian. Accordingly, in most instances, family units either remained together in family detention centers operated by ICE while their civil immigration cases were pending, or they were released into the United States with orders to appear in immigration court at a later date.

Border Patrol officials reported it conducted a prosecution initiative in FY 2017 in the El Paso Sector to deter illegal border crossings by increasing prosecutions, which resulted in an increase in family separations. On April 11, 2017, the U.S. Attorney General issued a memo that directed all Federal prosecutors to renew their commitment to criminal immigration enforcement. Border Patrol's El Paso Sector conducted the initiative from July to November 2017 to maintain operational control of New Mexico and parts of Texas by prosecuting criminal adults who attempted to exploit the UAC crisis in order to avoid prosecution. Border Patrol ended the El Paso initiative on November 18, 2017, to further review the prosecution policy.

Systems Used to Support Detainee Processing and Tracking

Border Patrol and ICE personnel use various IT systems to track detainees and family separations. Border Patrol agents rely on the ENFORCE 3 (e3) system to record detainee information throughout the process from apprehension to prosecution or release. ICE field officers use the Enforce Alien Removal Module (EARM) to process detainees. Both e3 and EARM data are stored in ICE's Enforcement Integrated Database (EID). CBP's Office of Field Operations (OFO) officers use the Secured Integrated Government Mainframe Access (SIGMA)

¹¹ Parents ineligible for reunification with their children include those with criminal histories or who might be considered a danger to their children.



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platform to process individuals at legal ports of entry.¹² HHS maintains its Unaccompanied Alien Children Portal (UAC Portal) to track children in HHS custody. These systems are detailed in table 1.

Table 1: IT Systems for Managing and Tracking Detainees

| CBP | | |
|---|-------------------|---|
|  | e3 | e3 has separate modules that allow Border Patrol agents to capture detainee biographic data, apprehension information, and biometric data (e.g., fingerprints), as well as track detention status and prosecution referral information. ¹³ |
|  | SIGMA | SIGMA is OFO’s platform for processing adverse actions for inadmissible applicants for admission to the United States. |
| ICE | | |
|  | EARM | ERO’s case management system records custody decisions, detention, and removal specifics in a detainee’s personal record. |
|  | EID | EID is a shared repository for storing law enforcement information from CBP’s e3 and SIGMA systems and ICE’s EARM system on migrants apprehended and detained, as well as family units and family separations. |
| HHS | | |
|  | UAC Portal | HHS’ database tracks information related to juveniles in ORR custody. |

Source: OIG-generated based on DHS data

Recent Reports on the Zero Tolerance Policy

DHS OIG, HHS OIG, and the Government Accountability Office (GAO) have conducted several audits or inspections of DHS’ and HHS’ ability to track family separations. These agencies reported on the challenges DHS faced in tracking family separations during the *Zero Tolerance Policy* period.

- In September 2018, DHS OIG reported initial observations from its June 26–28, 2018 visit to the Southwest Border to evaluate family separation issues resulting from the *Zero Tolerance Policy*. DHS OIG reported that the Department was not fully prepared to implement the Administration’s policy or deal with some of its after-effects. Additionally, DHS OIG found

¹² OFO is responsible for inspecting and examining legitimate travel and trade at ports of entry, and preventing the entry into the United States of contraband and those persons who would harm the United States. Because OFO operates at legal ports of entry, the office played a limited role in implementing the *Zero Tolerance Policy* and separating families.

¹³ The system modules include Intake, Detention, Biometrics, Prosecution, and Processing.



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that the Department struggled to identify, track, and reunify families due to systems limitations, including a lack of interoperability.¹⁴

- In October 2018, GAO reported that HHS and DHS did not plan for increased numbers of children separated from their parents or legal guardians. GAO reported that DHS and HHS officials were unaware of the *Zero Tolerance Policy* until the U.S. Attorney General issued the memo directing all United States Attorney Offices along the Southwest Border to work with DHS to adopt it. Additionally, GAO reported that prior to April 2018, DHS and HHS did not have a consistent way to identify in their data systems children separated from their parents at the border. DHS and HHS made tracking system upgrades between April and July 2018; however, it was too early for GAO to determine the extent to which the changes would consistently identify children separated from their parents or help reunify families.¹⁵
- In January 2019, HHS OIG reported that the total number of children separated from a parent by DHS was unknown. As of December 2018, HHS identified 2,737 children separated by Border Patrol and transferred to ORR custody. However, HHS OIG reported that DHS may have separated thousands more children since 2017 and that HHS faced challenges identifying separated children.¹⁶

We conducted this audit to follow up on DHS OIG's September 2018 report. Our objective was to determine the effectiveness of DHS' IT systems for tracking detainees and supporting efforts to reunify UAC with their families.

Results of Audit

DHS did not have the information technology (IT) system functionality needed to track separated migrant families during the execution of the *Zero Tolerance Policy*. U.S. Customs and Border Protection (CBP) adopted various ad hoc methods to record and track family separations, but these methods led to widespread errors. CBP officials have been aware of these IT deficiencies since at least November 2017 when U.S. Border Patrol conducted an initiative that mirrored the *Zero Tolerance Policy*. These conditions persisted because CBP did not address its known IT deficiencies adequately before DHS implemented Zero Tolerance in May 2018. DHS also did not provide adequate guidance to personnel responsible for executing the *Zero Tolerance Policy*.

¹⁴ *Special Review - Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy*, OIG-18-84, September 2018

¹⁵ *Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border*, GAO-19-163, October 2018

¹⁶ *Separated Children Placed in Office of Refugee Resettlement Care*, HHS, OEI-BL-00511, January 2019



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Because of these IT deficiencies, we could not confirm the total number of families DHS separated during the Zero Tolerance period. DHS estimated that Border Patrol agents separated 3,014 children from their families while the policy was in place. DHS also estimated it had completed 2,155 reunifications in response to a court order, although this effort continued for 7 months beyond the July 2018 deadline for reunifying children with their parents. However, we conducted a review of DHS data during the Zero Tolerance period and identified 136 children with *potential family relationships*¹⁷ who were not accurately recorded by CBP. In a broader analysis of DHS data between the dates of October 1, 2017, to February 14, 2019, we identified an additional 1,233 children with potential family relationships not accurately recorded by CBP.¹⁸ Without a reliable account of all family relationships, we could not validate the total number of separations, or reunifications.

Although DHS spent thousands of hours and more than \$1 million in overtime costs, it did not achieve the original goal of deterring “Catch-and-Release” through the *Zero Tolerance Policy*. Instead, thousands of detainees were released into the United States. Moreover, the surge in apprehended families during this time resulted in children being held in CBP facilities beyond the 72-hour legal limit.

DHS Lacked Adequate IT Functionality to Record and Track Family Separations

DHS did not have the IT system functionality needed to accurately track and account for the total number of families separated during the *Zero Tolerance Policy* period. Border Patrol agents adopted ad hoc techniques to work around the system limitations, but these techniques introduced data errors that further hindered ICE ERO officers’ ability to track migrant parents separated from their children. DHS was aware of these IT deficiencies prior to *Zero Tolerance Policy* implementation, but IT modifications implemented in preparation for the policy did not fully resolve the problems. DHS personnel faced equally significant IT challenges interfacing and coordinating with HHS to facilitate the transfers of thousands of children to ORR custody.

¹⁷ The term *potential family relationship* is used because DHS OIG cannot confirm the family relationship in each instance. CBP’s data suggests that there is a family relationship based on name, age and being apprehended together. But in some circumstances CBP did not record the child and adult as a family in their system or in case notes.

¹⁸ The audit team had access to all CBP apprehension data but did not have access to HHS or U.S. Department of Justice data. Therefore, the review of potential family relationships did not include analysis of HHS or U.S. Department of Justice data.

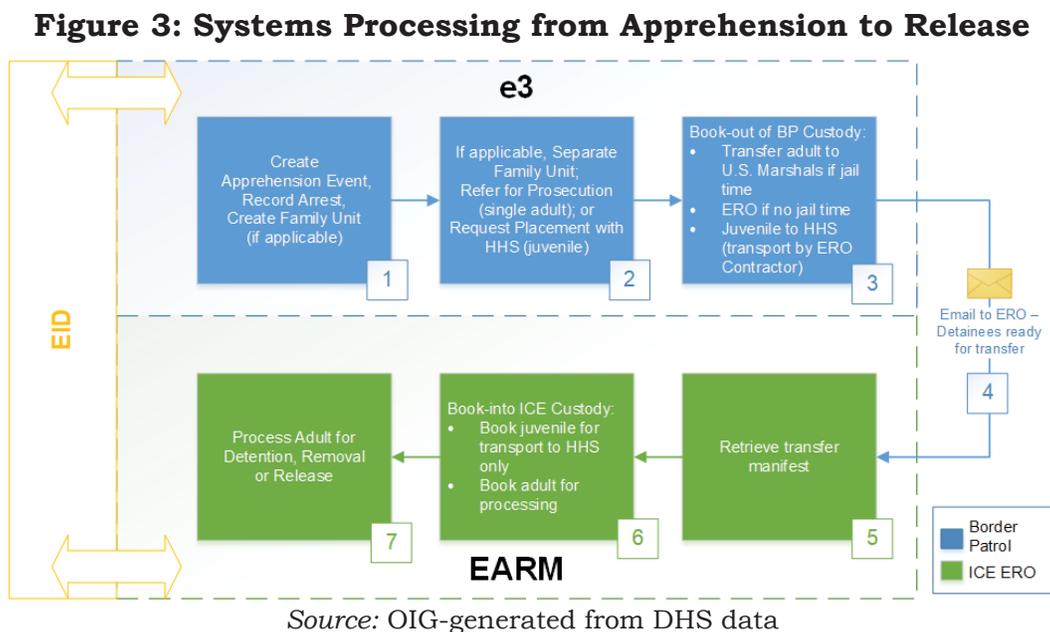


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DHS IT Systems Lacked the Functionality Needed to Effectively Record and Track Family Units

Border Patrol and ICE ERO share a joint responsibility for processing individuals apprehended between ports of entry. On average, Border Patrol apprehended approximately 1,200 individuals per day during Zero Tolerance. Although Federal law requires the Chief Information Officer of each agency to develop and maintain a sound IT environment to ensure integration across IT capabilities used for mission operations,¹⁹ DHS' IT systems did not have the functionality during Zero Tolerance to track and share data on family separations and reunifications. Specifically, Border Patrol agents document apprehensions, family status, and prosecutions in the e3 system for each illegal entry. Next, ICE officers process adults for detention, removal, or release, and facilitate UAC transfers to HHS, using the EARM system. Both Border Patrol's e3 and ICE's EARM systems store and share data through a back-end database, EID. This end-to-end process is depicted in figure 3.



The e3 system lacked critical capabilities to (1) separate grouped family members, (2) track separations once a family unit was deleted from the e3 system, and (3) reunite family members.

¹⁹ *National Defense Authorization Act for Fiscal Year 1996*, Pub. L. No. 104-106, § 5125 (1996); Office of Management and Budget (OMB) Memorandum 15-14, *Management and Oversight of Federal Information Technology*, June 10, 2015



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Separating Family Members

The e3 system did not have built-in functionality to separate adults referred for prosecution from a family unit. Instead, a Border Patrol agent had to delete the entire family unit from e3 in order to process the family members as single adult(s) and UAC. Once the family unit was deleted from the system, the agent could no longer view or retrieve the family unit tracking number from e3. That information remained stored separately in the back-end database, EID, but was retrievable only by IT specialists at CBP headquarters. Figure 4 illustrates how Border Patrol agents deleted family units in the e3 system.

Figure 4: Deleting a Family Unit in e3

Info: Are you sure you want to delete this Family Unit?

Are you sure you want to delete this Family Unit [REDACTED]

Reason: *

FMPO - Family Member Prosecuted - Other Reasons

Comments (List the Approving Official): * 204 characters left

PARENT IS AMENDABLE TO PROSECUTION (ZERO TOLERANCE)

OK Cancel

Source: Screenshot from CBP documentation following the e3 April 2018 update

Tracking Separations

Prior to April 2018, the e3 system did not provide Border Patrol field users the ability to track separations once a family unit was deleted from e3, or identify for headquarters personnel the reason why the family members were separated. In addition, e3 did not have a search capability to match a child and an adult by last name, age range, or apprehension date. In April 2018, Border Patrol updated e3 to add 11 possible separation codes for agents to select as distinct reasons why family members were separated. However, none of the 11 separation codes were specifically tied to the *Zero Tolerance Policy*. That is, agents did not have an option to select “Zero Tolerance” as a reason for separating families. To compensate, Border Patrol agents used *ad hoc* workarounds to capture the reasons for family separations by simply selecting “Criminal History” or “Other Reasons,” as highlighted in table 2.



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Table 2: Family Separation Reasons Added to e3 on April 19, 2018

| Separation Code | Separation Reason |
|-----------------|---|
| ERR | FMUA made in error |
| FCCO | Fraudulent Claim – Child determined to be over 18 |
| FCNR | Fraudulent Claim – No Family Relation (No prosecution) |
| FCNFRP | Fraudulent Claim – No family relation (prosecution of adult) |
| FMEW | Family Member – Extraditable Warrant |
| FMGA | Family Member – Gang Affiliation |
| FMH | Family Member Hospitalized |
| FMPC | Family Member Prosecuted – Criminal History |
| FMPO | Family Member Prosecuted – Other Reasons |
| FMPIV | Family Member – Prior Immigration Violation(s) and order of removal |
| FMT | Family Member – Terrorist |

Source: OIG-generated from DHS data

Border Patrol then typed case notes, in narrative text form, into the e3 system at the top of detainee case files, creating the only accessible record of separated family members. CBP headquarters instructed Border Patrol agents across the Southwest Border to use case notes to record information on separated family members. Ideally, case notes typically included summaries on the individuals apprehended, where and when they were apprehended, and with whom.

The downstream effect of *ad hoc* typing in case notes became apparent when CBP headquarters began efforts to identify separated families needing reunification after the policy ended in June 2018. To locate and reunify family members, Border Patrol headquarters personnel had to review all separations coded as “Criminal History” or “Other Reasons” in the system, as well as all the accompanying case notes. This process was neither easy nor accurate. Lacking critical IT tracking capability, Border Patrol immediately struggled to keep pace with the high volume of migrant apprehensions and separations resulting from Zero Tolerance. They also could not determine how many children in Border Patrol custody were separated from parent(s) at any given time.

Reuniting Family Members

DHS’ IT systems could not electronically rejoin previously deleted family members. Specifically, Border Patrol’s e3 system did not have automated capability to restore the families previously deleted if the individual members were eventually reunited at CBP facilities. Instead, Border Patrol agents had to process the parents and their children together again in e3, assign new family unit numbers (potentially duplicating records), and further annotate the case files to state that family members were reunified. Similarly, when ICE ERO officers reunified families at detention centers, they reprocessed the parents for



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release and noted the reunifications in EARM case comments and on Microsoft Excel spreadsheets.

Manual, Ad Hoc Family Tracking Introduced Widespread Data Errors

Border Patrol personnel inadvertently entered incorrect codes to indicate reasons for family separations, or incorrectly assigned children and adults to family units. Data errors were so extensive that a Border Patrol Chief expressed embarrassment at the number of inaccuracies documented by field personnel. The following are examples of the various challenges stemming from CBP's inability to account for separations consistently in e3:

- **Creating family units:** Upon initial apprehension processing, Border Patrol agents incorrectly created family units for individuals who were not parent/child. Our review of DHS data disclosed 270 instances where family units were created in error.
- **Recording family separations:** Border Patrol personnel incorrectly entered the codes indicating the reason for separation. In other instances, agents separately processed parents as single adults and their children as UAC at initial intake, never recognizing them in the system as members of the same family, making it exceedingly difficult to track and reunify them afterward. We identified nearly 300 individuals whom Border Patrol incorrectly processed in this manner.
- **Separating family members using multiple codes:** Border Patrol personnel selected multiple separation codes when deleting a single family unit, causing confusion for ICE headquarters personnel who later attempted to track the separations by specific, individual codes. Border Patrol's list of separations from e3 contained 62 detainees with multiple separation reason codes. But, only one separation reason code was needed to identify each detainee to avoid conflicting information.

In instances when DHS had no data at all on family separations, DHS only discovered these separations when HHS or nonprofit entities advocating on behalf of the UAC notified the Department. For example, in one case, an Arizona-based nonprofit organization contacted DHS about a deaf minor who had been separated from his father by Border Patrol. Upon ICE's review, the child's official case record discussed neither the separation nor the child's disability. In other instances, UAC records in the ICE system had incomplete or inaccurate information on separated family members.

These tracking challenges worsened when Border Patrol field personnel at various locations used different ad hoc methods to track detainees. For



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example, Border Patrol agents in a Texas sector with one of the highest volumes of apprehensions in the country opted to create separation lists using Microsoft Excel spreadsheets. However, local Border Patrol leadership noted this approach created additional problems, as they were not able to use the spreadsheets easily to report on separation statistics when headquarters requested they do so. The spreadsheets also contained inaccuracies as they were not designed for large-scale processing.

Staff at another Texas Border Patrol sector contacted IT support at headquarters for assistance with tracking and reporting on family separations during Zero Tolerance. At the time, field staff were unable to identify adults held for prosecution who were separated from accompanying children. However, headquarters also did not have centralized information on the number of family separations occurring in each sector to assist the field. Instead, headquarters personnel had to create a specific report based on the sector's requests for family separation data and distribute it daily. Headquarters staff acknowledged that they had received similar requests for assistance in tracking separations from other sectors.

Inability to Properly Record Family Units Hindered Detainee Tracking

Border Patrol's lack of uniform processing of apprehended migrants and numerous data entry errors had a significant downstream effect on ICE, which was responsible for tracking individuals detained, released, or transferred to HHS. ICE's challenges stemmed from (1) a lack of understanding of the separation codes Border Patrol used, and (2) inadequate information provided by Border Patrol in some e3 case records.

- 1) The family separation data recorded in e3 by Border Patrol was often indecipherable for ERO headquarters personnel responsible for generating reports from system data. Specifically, ICE did not understand the 11 new codes, described in table 2, that Border Patrol began using in April 2018 when separating family members. Without this information, ICE ERO personnel were unable to identify which adults in their custody had actually been separated from their children.
- 2) ICE was also hindered from properly tracking separated families because Border Patrol did not always include in its e3 documentation the necessary information on family separations. At a detention center in Texas, ICE officers said the majority of the official records they reviewed had no information on parents separated from their children. Officers said that often they only became aware of separated family members when a parent in custody asked about his or her separated child. Officers said they typically determined family members had been



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separated by searching through records for lists of individuals apprehended together.

To address these concerns, ICE personnel asked Border Patrol to note each family separation at the top of the official narrative case record in e3. However, Border Patrol did not consistently capture this information as requested. We reviewed a random sample of Border Patrol records on 339 adult parents separated from children during Zero Tolerance enforcement. Of the records reviewed, only 139 (41 percent) of the 339 contained family separation information at the top of the case files. Further, 208 (61 percent) contained partial biographical information about separated children and 71 (21 percent) had no information at all on separated children.²⁰ To compensate, some ICE field officers established local procedures to track family separations during Zero Tolerance. These tracking methods included adding narrative text comments to migrant case files or flagging files in the EARM system.

ICE's office responsible for processing UAC and families requested headquarters make changes to the EARM system to track separations in early 2018, before Zero Tolerance. Discussions concerning system upgrades to address tracking needs continued for months. During Zero Tolerance, ICE officers escalated concerns to headquarters about a lack of data consistency and stated that the EARM system did not include a place to note family separations. However, ICE system upgrades to aid in tracking family separations were not completed until August 2018, after the *Zero Tolerance Policy* ended.

IT Deficiencies Pre-dated Zero Tolerance Policy Implementation

CBP headquarters personnel had been aware of the various system deficiencies related to tracking family separations since at least the El Paso initiative in 2017 that mirrored Zero Tolerance. During this initiative DHS and the Department of Justice coordinated to increase prosecutions of illegal entry in the El Paso Sector, including individuals entering with their families. We could not determine the origin of the initiative. Through increased prosecutions, Border Patrol separated nearly 280 families — an increase from prosecuting 0 percent of adults with a family the month before the initiative began to prosecuting 15 percent during the initiative.

However, Border Patrol's e3 system did not have the functionality to track family separations at that time. El Paso Sector agents requested assistance from CBP headquarters, but the necessary system changes were not made. According to Border Patrol headquarters personnel, El Paso Sector's request for

²⁰ The numbers and percentages do not add here because some cases had more than one error.



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e3 functionality to track family separations was not a high enough priority to warrant the time and resources required for system modifications.

As during Zero Tolerance, Border Patrol personnel relied on local spreadsheets to document family separations during the El Paso initiative. However, having to input information manually into spreadsheets increased the likelihood of errors, which in turn complicated efforts to match and reunite separated families after Zero Tolerance ended. For example, of the nearly 280 families separated during the El Paso initiative, at least 7 adults had incorrect alien case file numbers²¹ on the tracking spreadsheets and 33 others recorded no information at all on family separations. The use of spreadsheets in the field, rather than recording information in department-wide systems, prevented ICE and CBP personnel in other locations from seeing where El Paso Sector Border Patrol agents had separated family members.

CBP leadership noted the sensitivity of family separations and recommended improved coordination among CBP, ICE, and HHS officials during the El Paso initiative to mitigate issues associated with family separations and placement of separated children. In November 2017, in an email to CBP's Acting Commissioner and ICE's Acting Director, a senior HHS ORR official identified an increased number of detained migrant children needing placement. The Acting Commissioner responded that CBP would coordinate with HHS on future plans for family separations. Around the same time, CBP headquarters instructed the El Paso Sector to halt the initiative. After it did so, the El Paso Sector provided an after-action report to Border Patrol's Acting Chief of Operations calling for greater coordination among the various stakeholders. The following year, the same Acting Chief assisted in implementing Zero Tolerance and was aware of the need for improved coordination among CBP, ICE, and HHS ORR to address the known challenges encountered in separating migrant families.

DHS Faced Additional Challenges Interfacing with HHS to Track Transfers of Unaccompanied Children

DHS personnel faced equally significant challenges interfacing and coordinating with HHS to facilitate transfers of thousands of UAC to ORR custody during Zero Tolerance. The *Homeland Security Act of 2002* assigned responsibility for care and custody of unaccompanied children to HHS. However, DHS did not have an automated process to request transfer of a child in CBP custody to HHS. Instead, Border Patrol agents pressed a referral request button in e3 that transmitted an encrypted email to HHS' UAC Portal requesting transfer for each separated child. All subsequent communication

²¹ An alien number is a unique DHS-generated identification number for non-citizens applying for immigration benefits or subject to law enforcement actions.



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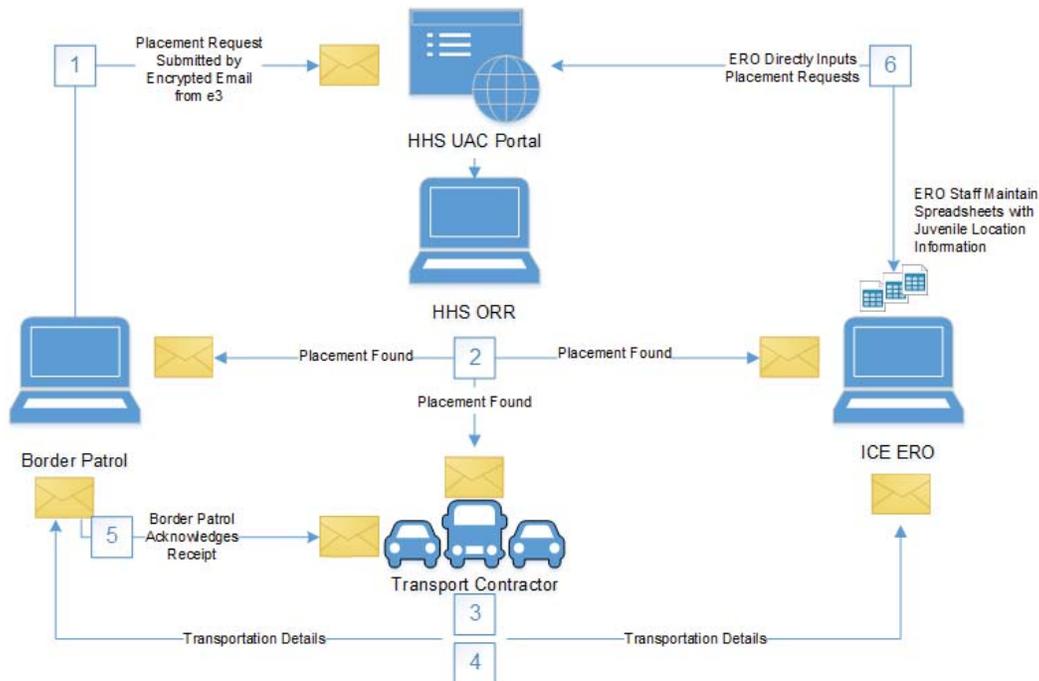
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after the initial system request had to be communicated directly between DHS juvenile coordinators²² and HHS personnel by email. For a routine case, coordinators typically send and receive five or more emails to place just one child in ORR custody. To illustrate:

1. Border Patrol sends an email requesting transfer of a UAC to ORR.
2. ORR sends an email confirming that placement is arranged.
3. The transportation contractor sends an email facilitating travel details for the transfer.
4. The transportation contractor sends another email including the travel itinerary.
5. Border Patrol emails back, acknowledging receipt of the child's travel information. ICE ERO is copied on the emails so it can track the UAC.
6. ICE ERO directly inputs Placement Requests.

The process, end-to-end, is depicted in figure 5.

Figure 5: Manual Processes for Requesting UAC Placement with HHS



Source: OIG-generated from DHS data

Monitoring multiple emails for each child was labor intensive, and emails were received at all hours of the day. One Border Patrol agent estimated that in a 1-week period, she received 1,700 emails regarding UAC placement. At one field

²² Juvenile coordinators are CBP and ICE personnel whose responsibilities include UAC transfers.



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site we visited, Border Patrol had a team of five agents monitoring email exchanges between HHS and a transportation contractor regarding the placement of UAC. Border Patrol staff expressed concerns that reliance on email to share travel details further complicated tracking of UAC transfers and resulted in errors, such as Border Patrol receiving incorrect travel itineraries for some children. To compensate, Border Patrol had to manually compare emails against information in the HHS UAC Portal and then manually input the correct travel data into e3. More concerning, because referral requests were not automated, requests never reached HHS when the encrypted email transfer from e3 to the UAC portal went down, adding to the backlog of UAC in Border Patrol's custody.

ICE ERO field offices also became overwhelmed with the manual work associated with facilitating UAC placement and updating EARM to track UAC placement. During Zero Tolerance, ICE officers estimated that they received up to 300 emails per day. Multiple ICE ERO field office juvenile coordinators we interviewed in Texas during our November 2018 fieldwork stated their full-time jobs entailed monitoring placement of children in different HHS facilities and conducting multiple manual processes to update ICE systems. Specifically, after receiving transfer email notifications, officers manually transferred juveniles using the following steps:

1. copying the information from transfer emails manually into a Microsoft Excel spreadsheet;
2. using the Microsoft Excel spreadsheets to update UAC location information in EARM; and
3. generating a report in Microsoft Excel from EARM to manually cross check against the UAC Portal.

Without automated transfer capability or electronic tracking of UAC transferred to HHS, DHS had to employ various mechanisms to manage this process. Both Border Patrol and ICE personnel relied on spreadsheets as their primary method to track UAC awaiting placement with HHS and to share information with headquarters about children in custody at any given time. To supplement manual logs, one Border Patrol station also used a basic whiteboard, which could accidentally be erased. These methods were susceptible to error and were inadequate to keep pace with the high volume of transfers taking place during the *Zero Tolerance Policy*, averaging more than 64 per day.

DHS Did Not Address IT Deficiencies or Provide Guidance and Standard Procedures Prior to Zero Tolerance Implementation

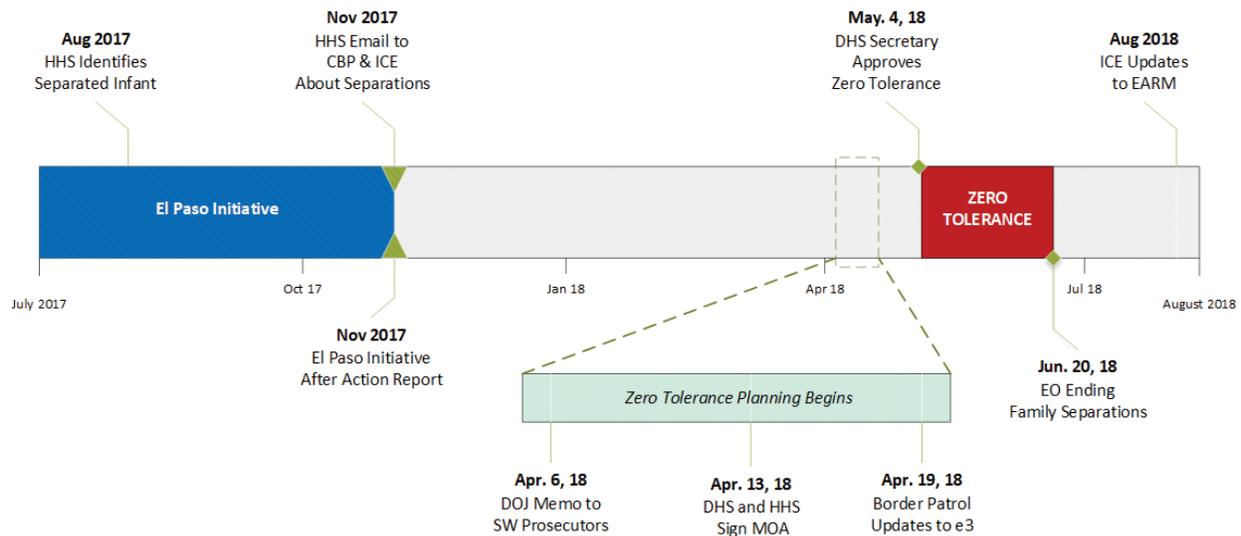
In early May 2018, CBP provided the Office of Management Budget (OMB) with estimates that it would separate more than 26,000 children between May and



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September 2018 because of Zero Tolerance. However, prior to policy implementation, DHS did not address deficiencies recognized and documented in 2017 that could potentially hamper the ability to track separated families. Border Patrol and ICE guidance to field personnel charged with executing the policy was deficient. DHS also did not address several procedural challenges that would make the family reunification process difficult. Figure 6 shows major milestones surrounding the Zero Tolerance period.

Figure 6: Major Zero Tolerance Policy Milestones



Source: OIG-Generated based on data provided by DHS

DHS Did Not Address IT Deficiencies Prior to the Zero Tolerance Policy

On May 4, 2018, the DHS Secretary approved the adoption of the *Zero Tolerance Policy* based on the outcome of the 2017 El Paso initiative, which CBP claimed had reduced family apprehensions by 64 percent.²³ However, DHS did not first confirm whether the various technology-related challenges documented and reported from the El Paso initiative had been resolved. In fact, on May 4, 2018, the same day the Secretary signed the memorandum implementing the *Zero Tolerance Policy*, Border Patrol instructed field personnel to use spreadsheets to track separations because e3 system changes were still pending. One senior CBP official who participated in *Zero Tolerance Policy* planning meetings stated that key stakeholders had pressured DHS to

²³ The *Zero Tolerance Policy* was signed on May 4, 2018, and officially went into effect on May 5, 2018.



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implement the policy in early May 2018 before identified deficiencies in e3 were resolved.²⁴

Federal law and departmental guidance require effective planning to ensure the success of IT development efforts.²⁵ System enhancements to implement new functionality, such as adding capability to track family separations in e3, typically take months to develop, test, and deploy. However, DHS implemented Zero Tolerance 3 months before deploying needed system enhancements in August 2018. Specifically, Border Patrol restructured e3 to add new features for recording the separation and reunification of family members, as well as tracking UAC time in custody, but the new features were not implemented until August 2018, nearly 2 months after the *Zero Tolerance Policy* was terminated. Figure 7 depicts the new functionality added to e3.

Figure 7: Updates to e3 to Track Separation and Reunification of Migrant Family Units (FMUA)

The screenshot shows a web application window for a Migrant Family Unit (FMU) with ID FMU1807000146. On the left, there is an 'Add To' dropdown and an 'Instruction for Juveniles' section. The main area displays a table of family members:

| Lead: | Role in Family | Status |
|----------------|----------------|-------------------|
| [Redacted] | Father | Separated (Red X) |
| INTAKFAUTOTEST | Son | Separated (Red X) |
| INTAKEAUTOTEST | Son | Separated (Red X) |
| INTAKEAUTOTEST | Son | Separated (Red X) |

At the bottom, a warning message reads: "All members have been separated from FMU because lead has been separated. Select a new lead or rejoin the existing lead in order to rejoin other members to the FMU." There are 'Save' and 'Delete' buttons at the bottom right.

Source: Screenshot from CBP documentation

Similarly, ICE did not deploy updates to track family separations until August 2018, almost 2 months after Zero Tolerance ended. ICE updated EARM to allow its data analysts access to Border Patrol separation reasons codes and to enable ICE headquarters to run reports on Border Patrol separations. The new functionality added to e3 and EARM in August 2018, after Zero Tolerance ended, provided CBP and ICE personnel with better visibility of

²⁴ A DHS participant provided meeting invitations for the Principals Coordination Committee, which included representatives of the U.S. Department of Defense, HHS, DHS, U.S. Department of Justice, OMB, and the Executive Office of the President.

²⁵ *National Defense Authorization Act for Fiscal Year 1996*, Pub. L. No. 104-106 (1996) Div. E, *Clinger-Cohen Act*; and DHS 102-01, *Acquisition Management Directive, Revision 3, Instruction Appendix B*, July 28, 2015



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family separations as they occurred.²⁶ The separations were indicated in both systems through flags that alerted agents and officers that a detainee was part of a separated family. For example, when Border Patrol separated a family unit in e3, a flag appeared in the shared database, EID. At the same time, this indicator was transmitted to ICE ERO’s system where it provided a yellow banner alert in an alien’s file. The banner alerted ICE officers that an individual in custody was separated from his or her family, as shown in figure 8.

Figure 8: Family Separation Banner in EARM

The screenshot shows a user interface for 'Person Details'. It includes fields for Person ID, Sex (F), DOB, Current Age, COB (MEXIC), and COC (MEXIC). Other fields include Subject ID, Processing Disposition, Case #, Case Category (1A), and Docket. Status information includes Final Order of Removal (No), Time in Custody (1 days), Final Order Date (N/A), Depart / Cleared Status (ACTIVE), Proceed With Removal (N/A), and Days Final Order in Effect (N/A). A prominent yellow banner at the bottom contains an exclamation mark icon and the text: 'This alien is identified as a member of a Separated Family Unit'.

Source: Screenshot from ICE documentation

While the system flag increased awareness of family separations, it did not provide any supporting details or give ICE officers the ability to update or remove the flag if detainees were reunified with family members. For example, a senior ERO official in the field noted that a detainee previously deported with his family was apprehended a second time for attempting to illegally re-enter the country alone. The banner on his case file remained from the previous family separation. As a result, ICE officers had to conduct additional research to confirm whether the detainee was currently part of a separated family unit and thus eligible for reunification through HHS. The senior ERO official was unaware of how a banner might be removed, or whether that was permitted.

DHS and HHS Did Not Address Data Sharing Challenges

DHS did not begin discussing with HHS its approach for sharing information on family separations until April 2018 when a working group meeting was convened among policy stakeholders from various Federal agencies.²⁷ On April 13, 2018, DHS and HHS signed a Memorandum of Agreement on consultation and information sharing practices between the two departments, including an agreement to share documentation to assist HHS ORR with UAC placement decisions. However, DHS and HHS staff disagreed on what information, such

²⁶ CBP may still separate a family if a determination is made that the parent is unfit or presents a danger to the child.

²⁷ Participants in the April 2018 working group meetings included U.S. Department of Defense, U.S. Department of Justice, HHS, and the Executive Office of the President.



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as criminal history, should be shared on parents of children needing placement with ORR. DHS and HHS made only limited progress in finding an automated approach to sharing separation data after the policy ended. In July 2018, after Zero Tolerance ended, HHS added more fields to annotate in juvenile referral requests on its UAC Portal that a child had been separated from his or her parents. The system change included the addition of a checkbox showing a child separated from a parent as illustrated in figure 9. HHS also added a field to the juvenile referral request allowing Border Patrol personnel to include the separated parent’s alien number.

Figure 9: Separation Checkbox Added to UAC Portal

The screenshot shows a form titled "Add/Edit UAC" with the following fields and options:

- First Name:
- Last Name:
- Middle Name:
- DOB:
- Country of Birth:
- Health Concerns?: No Yes
- Foot Guide?: No Yes
- Related to Other UAC(s)?: No Yes
- Status:
- AKA:
- Gender:
- A Number:
- Immigration Status at Referral:
- Criminal Charges?: No Yes
- Separated From Parents / Legal Guardian**: No Yes
- Reviewed by ORR

Source: Screenshot from CBP Documentation

Despite these system enhancements, efforts to fully automate data exchange between DHS and HHS were unsuccessful. In October 2018, Border Patrol IT staff attempted to work with HHS to implement a direct exchange of separation data from e3 to the UAC Portal; however, HHS system maintenance prevented the update. As of February 2019, e3 still did not automatically notify HHS of family separations, and HHS staff had to select the checkbox manually in its system based on Border Patrol’s emailed notes. ICE ERO also continued to input information manually to the UAC Portal and use text fields to add detailed information. As recently as March 2019, CBP’s Commissioner stated in congressional testimony that CBP IT systems still needed improvements to track separated children effectively.²⁸

Insufficient Guidance to the Field on Tracking Family Separations

Border Patrol and ICE headquarters did not provide adequate guidance to field personnel to ensure successful implementation of the *Zero Tolerance Policy*. OMB requires that users of Federal IT resources have the skills, knowledge,

²⁸ United States Congress. Senate Judiciary Committee, Hearing on *Oversight of Customs and Border Protection’s Response to the Smuggling of Persons at the Southern Border*, March 6, 2019



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and training needed to be effective.²⁹ However, CBP provided guidance to Border Patrol field personnel after separations had already begun. Specifically, on May 7, 2018, Border Patrol sent a memo and a 14-page presentation to field personnel instructing them on how to document family separations in Border Patrol IT systems. The presentation included steps on how to create, temporarily separate, or delete a family unit in e3. However, no accompanying system-based training was provided. The guidance also was not consistently communicated to staff responsible for carrying out these job duties. Some staff did not receive the guidance until several days after the policy was implemented. Meanwhile, Border Patrol agents made a number of errors within the first few days of *Zero Tolerance Policy* implementation, such as incorrectly entering eight separated children into the system without indicating they were from a family unit.

Border Patrol headquarters also did not distribute procedural guidance and guidelines for achieving 100-percent prosecutions for all illegal migrants until the night before Zero Tolerance began. On May 4, 2018, a Border Patrol Chief at headquarters sent a memo to each sector with estimates on Border Patrol's ability to meet 100-percent prosecutions as the policy intended. The memo listed which sectors should reach 100-percent prosecutions immediately and which ones should slowly ramp up to prosecuting all detainees. The memo instructed sectors to prioritize referring single adults with criminal histories over adults in family units. Lastly, the memo required weekly reporting on detainee prosecution statistics. However, Border Patrol headquarters personnel admitted they did not consistently track reporting metrics from the sectors, and had no way of validating that sectors adhered to the prioritization guidelines.

In addition, Border Patrol did not effectively provide sectors with instruction on which children should be separated from their parents. On June 4, 2018, Border Patrol headquarters instructed Southwest Border sectors to stop separating children 12 years old and younger from their parents because of ORR capacity issues. However, some sectors continued to separate children younger than 12 through the end of Zero Tolerance on June 20, 2018. Following the June 4, 2018 instructions, Border Patrol separated almost 400 additional children 12 years old and younger, 15 of whom were 4 years of age or younger, risking detaining them longer than allowed in temporary holding facilities unsuited for children.

Border Patrol headquarters personnel stated that various factors may have hindered dissemination of family separation guidance. For example, Border Patrol agents did not always have the computer access they needed in the field

²⁹ OMB Circular A-130, *Managing Information as a Strategic Resource*, Section 5(c)(3), July 28, 2016



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to review headquarters guidance. One Border Patrol Chief at headquarters stated that it was common for Border Patrol field personnel to hold different job responsibilities for weeks at a time. As a result, they might not be aware of e3 processing updates because they did not consistently use the system. The same Border Patrol Chief attributed some of the UAC tracking challenges to a lack of a training. This official expressed concern that, despite having 21,000 personnel, Border Patrol lacked a central office at headquarters to provide IT training to the field.

Like Border Patrol, ICE also did not provide adequate communication to prepare field personnel prior to *Zero Tolerance Policy* implementation. ICE personnel had direct responsibility for detaining and removing parents and tracking UAC. Yet many ICE headquarters and field personnel we interviewed stated they first learned through unofficial channels the policy was in place. Most ICE personnel stated they received no direct communication prior to policy implementation, either through ICE's chain of command or through formal Department communication. ICE headquarters confirmed it did not broadcast information on *Zero Tolerance Policy* implementation to the field because it believed the policy would only affect CBP operations. One ICE ERO manager at headquarters said she would have provided prepared messaging on Zero Tolerance if she had been aware beforehand that the policy would be implemented.

DHS Lacked Standard Procedures for Reunifications

Prior to Zero Tolerance implementation, the Department did not establish a plan for how CBP, ICE, and HHS would successfully reunify separated family members. As a result, ICE ERO personnel were not prepared to deal with the myriad of nuanced circumstances surrounding family separations. For example, personnel at one field office complained to ICE and CBP headquarters that they lacked guidance on how to address instances when a parent awaiting deportation did not want to be reunited with his or her child prior to deportation. Personnel at a different ICE field office were unaware of a policy on reuniting a parent with a child already placed with a sponsor. Some ICE personnel put the onus on the parents, stating the plan was for parents to request reunification with their children prior to deportation. Alternatively, if a parent was released from ICE custody into the United States, the parent was expected to contact ORR to coordinate reunification independently.

DHS' process for reunifying migrant families evolved over time. For example, on June 8, 2018, CBP began distributing informational flyers to detained parents on how to reunite with their children. However, as the OIG reported in



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September 2018,³⁰ these flyers were not consistently distributed or properly displayed. Moreover, in mid-June 2018, a week before the *Zero Tolerance Policy* ended, the CBP Commissioner instructed field personnel to update the flyer to provide additional information to parents on how to contact separated family members in ORR custody.

Issues with tracking separated children and reunification procedures prompted the creation of a joint ICE-HHS working group in early June 2018. The working group met to share information among ICE juvenile coordinators and HHS ORR personnel responsible for custody and care of UAC. Although Federal courts ordered family reunifications in late June 2018 for completion in late July, DHS and HHS did not develop a reunification plan to support efforts to meet this timeframe. As of March 2019, the working group still did not have a formal reunification plan in place.

This poor family reunification planning mirrored what occurred during the 2017 El Paso initiative. In a July 2017 draft memo, El Paso Sector management acknowledged concerns from local judges that Border Patrol, ERO, and ORR needed a coordinated reunification plan for rejoining and repatriating families. However, they never developed a plan and children separated under the El Paso initiative could have remained separated from their parents for long periods. One HHS official stated he first became aware of family separations in August 2017 during the El Paso initiative when CBP transferred an infant to ORR. The infant was not reunited with her mother for at least six months.

DHS Could Not Accurately Account for Separated Families or Accomplish Reunifications as Mandated

In light of DHS' IT systems deficiencies, CBP's official system of record³¹ contained incomplete data and too many errors to reach a conclusive or accurate count of all families separated during Zero Tolerance. We tried, but could not confirm the accuracy of Border Patrol's reported estimate that 3,014 children were separated during the policy period. We conducted a review of DHS' data during the Zero Tolerance period and identified 136 children with potential family relationships that were not accurately recorded by CBP, which could result in unrecorded family separations. In a broader analysis of DHS data between October 1, 2017, and February 14, 2019, we identified an additional 1,233 children with potential family relationships not accurately recorded by CBP. DHS also estimated it had completed 2,155 reunifications in

³⁰ *Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy*, OIG-18-84, September 2018

³¹ A system of record is an information system that is the authoritative source for a particular data element in a system containing multiple sources of the same element.



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response to *Ms. L. v. ICE*, although this effort continued for 7 months beyond the July 2018 deadline for reunifying children with their parents. Without a reliable account of all family relationships, we cannot confirm that DHS has identified all family separations, and therefore, we cannot determine whether DHS and HHS have reunified these families.

Inability to Accurately Identify Total Number of Children Separated from Their Families

Border Patrol's official system of record, e3, contained too many incomplete records and errors to enable CBP to reach a conclusive or accurate count of all families separated during Zero Tolerance. From June to July 2018, Border Patrol conducted detailed reviews of the e3 system data in attempts to determine the total number of separations that occurred during the Zero Tolerance period. To separate a family apprehended during the Zero Tolerance policy, as noted earlier, Border Patrol agents would first create a family unit, then delete the family unit. When deleting the family unit number, agents added a "FMPO" or "FMPC" separation code (as described in table 2) to notate a separation due to the policy. However, family separations could not always be identified because agents did not consistently record family units in the system prior to separation, as discussed earlier in this report.

Without accurate system data to track family separations, DHS and HHS were forced to attempt manual counts to confirm the familial status of hundreds of detainees and children. Starting in June 2018, DHS and HHS established a joint operation center staffed with DHS and HHS personnel working together to review data to account for separations. Using this approach, the joint operations center attempted to compare and reconcile all individuals for whom Border Patrol had no records as belonging to families. Specifically, Border Patrol provided to HHS a list of 5,657 adults and children recorded as separated during Zero Tolerance. HHS analysts then reviewed HHS' and CBP's raw data to identify children in ORR custody who should have been identified as members of family units, based on adults with consecutive alien numbers, same last names, and same dates of entry to the United States. HHS personnel told us they also interviewed or reviewed files for all 11,800 children in their custody at that time to further identify family separations.

After DHS and HHS completed their reviews, Border Patrol estimates of separated families increased from 5,657 to 5,855. By July 2018, Border Patrol had added 291 previously unaccounted for adults and children to its original list of 5,657 family separations. Of the 291, 225 were identified by HHS because Border Patrol had not originally recorded these 225 detainees as members of family units (as discussed previously in this report), so there were no deleted family unit numbers to track. Border Patrol also identified 93



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detainees on its initial June 2018 separation list who were either incorrectly classified as members of family units, or who were never actually separated. In some instances, HHS recorded family separations based on its own analysis, but Border Patrol could not confirm the separations due to a lack of information in the e3 system and case notes.

Border Patrol and HHS Discrepancies

In addition to data errors, we found discrepancies between Border Patrol and HHS family separation counts. As of July 2018, Border Patrol's final count of separated children was 3,014, but the tally in August 2018 from HHS and DHS combined was 12 percent lower, at 2,654.³² These numbers did not match for two reasons:

1. Border Patrol's final count of 3,014 children, as of July 2018, included an additional 530 children who had been reunified with their families in CBP facilities and never transferred to HHS.
2. Border Patrol and HHS timeframes for tracking separated children differed. Specifically, while CBP included all family separations that occurred during Zero Tolerance (May 5 to June 20, 2018,) HHS looked for any separated child in ORR custody as of June 26, 2018.

To illustrate, we were able to identify an additional 43 children that Border Patrol separated from before Zero Tolerance (April 19 to May 4, 2018) that were not included in Border Patrols' list provided to HHS. We were also able to identify an additional 26 children from after Zero Tolerance (June 20 to August 30, 2018) that were not included in Border Patrols' list provided to HHS.³³

By looking for any separated child in ORR custody as of June 26, 2018, HHS identified additional potential separations that occurred before and during Zero Tolerance. Table 3 depicts the total number of family separations identified by HHS, but not included in Border Patrol's final count.

³² This is the final count of family separations cited in *Ms. L. v. ICE*, 18-cv-428 (S.D. Cal. August 30, 2018).

³³ Of the total 69 additional children we found separated, 25 children were included on the Ms. L. Class list. However, we could not confirm the total number of children included on the Ms. L. Class list due to missing Alien numbers.



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Table 3: HHS Identified Potential Family Separations Not Included in Border Patrol’s Final Count

| Potential Separations Discovered by HHS | Dates of Potential Separation | Count | Included in the Ms. L. class list |
|--|-------------------------------|------------|-----------------------------------|
| Potential Separations Before Zero Tolerance | July 22, 2013 – May 4, 2018 | 394 | 285 |
| Potential Separations During Zero Tolerance | May 5 – June 20, 2018 | 302 | 129 |
| Total | | 696 | 414 |

Source: OIG-generated from DHS data

The 302 children HHS identified may have been separated by Border Patrol, OFO, or ICE ERO. CBP confirmed the following points regarding the 302 potential separations:

- A 4-year-old child was a Zero Tolerance separation, but was not identified by Border Patrol because of a user processing error. The OIG confirmed the child was included in the *Ms. L.* class list.
- A 1-year-old child was traveling with her mother who was younger than 18. Because the mother was a minor herself, CBP does not consider this a family unit separation. The OIG confirmed this child was ultimately included in the *Ms. L.* class list.
- CBP could not confirm whether a 2-year-old child listed as separated by HHS was a Zero Tolerance separation because Border Patrol did not capture enough information in e3. The OIG confirmed this child was ultimately included in the *Ms. L.* class list.
- CBP could not confirm whether a 3-year-old child listed as separated by HHS was a Zero Tolerance separation because Border Patrol did not capture enough information in e3. The OIG confirmed this child was not included in the *Ms. L.* class list provided during fieldwork.

OIG Analysis Identified Possible Family Separations Undetected by CBP

Due to the number of errors Border Patrol made in recording family separations, we determined that there was a high risk that DHS did not account for all separated children. To confirm this, the OIG’s Data Analytics team conducted an independent analysis of DHS’ apprehension data, disclosing hundreds of possible family relationships that CBP had not recorded in its systems. As previously discussed, Border Patrol reported that 3,014 children were separated from their families during the *Zero Tolerance Policy* period. However, our analysis determined that the number of family



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separations during the policy period may be greater than what DHS reported because it is difficult to account for a family separation without first recording a family relationship. Based on our analysis we found a total 1,369 potential family relationships not recorded by Border Patrol.

**During Zero
Tolerance:
May 5 - June
20, 2018**

To determine whether more than the reported number of migrant family separations took place during Zero Tolerance, we conducted a targeted search of DHS apprehension data, pinpointing all instances from May 5, 2018, to June 20, 2018, when adults and children apprehended together, had common last names,³⁴ and were between 16 to 40 years apart (suggesting possible parent/child relationships). We found **136** children with potential family relationships that were not recorded by Border Patrol during this period.

We broadened the timeframes of our analysis, recognizing that some separations occurred outside of the Zero Tolerance period. The following children were separated from parents referred for prosecution either prior to *Zero Tolerance Policy* implementation or immediately after it ended.

**Expanded
Scope:
October 1,
2017 -
February 14,
2019:**

Using the same approach, we searched for potential separations between October 1, 2017 and February 14, 2019. We found **1,233** minors with potential family relationships uncounted by DHS, including 584 before Zero Tolerance, and 649 after Zero Tolerance — in addition to the 136 minors discovered during Zero Tolerance, whom Border Patrol apprehended, potentially with their family members, but who were not included in DHS' reported numbers of family units or groups.³⁵ Despite these indicators in the data, we found no record in DHS' system that these 1,233 minors were part of family units or groups.

Table 4 reflects the total number of potential family relationships not recorded by CBP before, during, and after *Zero Tolerance Policy*.

³⁴ Of the 3,014 children Border Patrol identified as separated, 99.7 percent were from Latin American countries. Therefore, the audit team used traditional Latin American naming conventions to determine “common last names” among apprehensions, which consists of mother’s maiden name-father’s surname.

³⁵ Without reviewing the official narrative for each of these cases, this data could include false positives or relatives who do not meet the DHS definition of a family unit, which is limited to an adult over 18 who is the legal guardian or parent of a child under 18.



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Table 4: OIG Identified Potential Family Relationships Not Recorded Before, During, and After the Zero Tolerance Policy

| Description of OIG Finding | Dates of Potential Separation | Count |
|---|-------------------------------|--------------|
| Potential Family Relationships Not Recorded by Border Patrol Before Zero Tolerance | Oct. 1, 2017 – May 4, 2018 | 584 |
| Potential Family Relationships Not Recorded by Border Patrol During Zero Tolerance | May 5 – June 20, 2018 | 136 |
| Potential Family Relationships Not Recorded by Border Patrol After Zero Tolerance | June 21, 2018 – Feb. 14, 2019 | 649 |
| Total | | 1,369 |

Source: OIG-generated from DHS data

Methodology for OIG Analysis of Possible Family Relationships

We sent three samples of names to Border Patrol to conduct further analysis:

- In April 2019, we provided a sample list of 25 children found using this methodology; however, we did not receive a response from CBP.
- After the issuance of the draft report for this audit, we provided a new set of 34 children identified using this methodology. In response, CBP confirmed that from this sample, DHS had in fact separated two children not included on Border Patrol's list of Zero Tolerance separations. CBP also confirmed that the remaining 32 children were not separated from both parents. In many of these cases, the children remained with their mother while separated from their father. Because CBP does not consider a child who remains with one parent a family separation, and because these children were recorded as being in a family unit with at least one parent, we refined our methodology to only include children with no family relationship recorded at all. Based on the results of this analysis, we changed our methodology to eliminate instances where a child was put into a family unit with one parent, while potentially being separated from the other parent or another family member.
- Using this refined methodology, we sent a second sample of 39 children to CBP for review. In response, CBP confirmed that from this sample of 39, DHS had separated five children not included in Border Patrol's list of Zero Tolerance separations. One of these five separations included a child separated immediately after Zero Tolerance ended, who had no case notes to indicate a family separation. Working with a CBP analyst, we



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identified another five cases from the sample of 39 that were incorrectly processed. In each of the five cases, a child was not properly recorded as being part of a family unit or group. In these cases, the child stayed with family or siblings and was removed from the country. In the remaining 29 cases, we could not confirm whether the child was traveling with a family member, or whether the family simply did not alert Border Patrol agents that they were traveling together. In some cases, a family may not alert CBP personnel of a family relationship.³⁶ This methodology is reflected in Table 4.

We are concerned that if DHS did not properly record all family information in its IT systems, it may have underestimated and may not be able to determine accurately the number of family separations that occurred from October 2017 to February 2019. OIG's ability to identify almost 1,400 instances of potential family relationships not properly recorded or accounted for by DHS indicates that the Department may not have properly analyzed its own e3 data from the *Zero Tolerance Policy* period. For example, DHS may have missed separations if it only reviewed records identified as deleted family units, rather than reviewing all apprehensions to identify individuals not properly recorded as family units, or individuals misclassified as family groups. As discussed previously in the report, such errors were common. In a follow-up meeting post-fieldwork, a Border Patrol Chief stated that Border Patrol was already reviewing thousands of additional potential separations provided by HHS due to the expansion of the *Ms. L.* case. The Chief stated that Border Patrol was using a process similar to OIG's methodology to find potential separations, then reviewing case notes to confirm these separations.

In addition to our analysis of Border Patrol data, DHS OIG also reviewed OFO's family separation data. OFO reported 74 family separations for all of FY 2018. However, our review of its data from October 2017 to February 2019 revealed additional potential unrecorded family relationships. Similar to our analysis of the Border Patrol data, we matched minors against adults applying for asylum, or who crossed a port of entry without legal documents on the same date, with shared last names and an age difference between 16 and 40 years. Our review disclosed possible cases of minors who had the same last names and apprehension dates as accompanying adults, but who were not listed by OFO as family units.³⁷ It should be noted that OFO does not record family groups;

³⁶ Cases of parental omission are not errors introduced by CBP.

³⁷ The potential OFO cases include individuals applying for asylum or those who did not have documents when entering the United States through a legal port of entry. These potential cases did not include individuals who entered legal ports of entry under other categories such as those who were United States citizens, legal permanent residents, or who had a border-crossing card. The OIG may conduct follow-up work to determine the nature of OFO's potential underreporting.



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so, many of these potential family relations not recorded in SIGMA may be minors traveling with extended family members.

DHS Did Not Meet Court-Mandated Reunification Deadlines

DHS did not fulfill a June 26, 2018 court order to identify and reunify all children in ORR custody by July 26, 2018. In response to the court order, HHS immediately began a concerted data-sharing effort with DHS to reunite children younger than age 5 with their families within 14 days, and children 5 years old and older within 30 days as specified.³⁸ However, hundreds of children could not be successfully reunified with their families by the deadline. More than 300 children remained separated as late as August 2018, 1 month after the court-mandated deadline, because their parents were no longer in the United States. Of the more than 300 separated children, 6 were younger than age 5. Additionally, DHS and HHS could not reunify 17 children because their parents were in Federal, state, or local custody. Table 5 provides data on family reunification efforts as of August 30, 2018.

Table 5: Status of Reunification Efforts, as reported by DHS and HHS as of August 30, 2018

| Description | 5 Years or Younger | 5 to 17 Years Old | Total |
|--|--------------------|-------------------|-------|
| Total Number of Children Possibly Separated from Parents | 103 | 2,551 | 2,654 |
| Children Reunified with a Parent | 61 | 1,876 | 1,937 |
| Children Released to Sponsor or Turned 18 | 20 | 200 | 220 |
| Children Not Reunified Because Parent Is No Longer in the United States. | 6 | 316 | 322 |
| Children Not Reunified Because Parent Is In Other Federal, State, or Local Custody | 2 | 15 | 17 |

Source: OIG-generated from Ms. L. v. ICE court filings

As of February 2019, DHS and HHS attested that 2,155 children were reunified with a parent and 580 children were discharged from ORR care under appropriate circumstances in response to *Ms. L. v. ICE*.³⁹ Five children were not reunified and remained in ORR care; four related parents were no longer in the United States and one was incarcerated. However, we cannot confirm that

³⁸ *Ms. L. v. ICE*, 18-cv-428 (S.D. Cal. June 26, 2018)

³⁹ According to the public reporting as part of *Ms. L. v. ICE* court filings, February 20, 2019. Other appropriate circumstances include discharges to other sponsors (such as in situations where the child's separated parent is not eligible for reunification) or children who turned 18.



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separated children for whom CBP did not properly record a family relationship were reunified with a parent.⁴⁰

DHS' efforts to reconcile detainee records with UAC in HHS custody were largely a manual process. To meet the court-ordered reunification mandates, DHS and HHS established a joint operations center at HHS headquarters. The center was staffed with representatives from both agencies, tasked with conducting manual crosschecks of DHS and HHS data to confirm the total number of separated family members. The joint effort required intensive analysis and manual review of data housed in the e3 system and multiple Microsoft Excel spreadsheets. HHS estimated that this effort entailed 800 hours of analysis and manual review by HHS, Border Patrol, and ICE personnel, as well as contractors, all working together.

The process to reunify children with their families was disjointed, as DHS and HHS transferred children and parents all over the country to different facilities in different cities and states. Specifically, for children age 4 and younger, ICE transferred parents to meet their children in those dispersed locations. Children 5 years and older who had parents in ICE custody travelled to one of several ICE detention centers along the Southwest Border for reunification. DHS identified several ICE detention centers where reunifications would take place for children ages 5 to 17. HHS personnel brought separated children to the adult detention centers where ICE would process and reunify children with their parents.

More concerning, reunifications were coordinated entirely by email instead of using a system of record to share sensitive information on actions taken. To illustrate, HHS sent ICE field officers children's biographical data, such as child's name and date of birth, which constituted personally identifiable information, and also sent alien numbers, which constituted sensitive personally identifiable information, through unsecured means.⁴¹ An ICE field office director in Texas said the emails came as often as every 5 minutes and other ICE officers said that children arrived at the detention centers at all hours of the day and night. Multiple ICE personnel supporting reunifications described the process as chaotic. Once children arrived at detention centers, ICE personnel had to reprocess the families for release. We visited two ICE detention centers, and found that both used ICE systems (e.g., EARM) as well

⁴⁰ The scope of this audit did not include validating information submitted by DHS as part of the *Ms. L. v ICE* litigation. For more information on scope, see Appendix A.

⁴¹ *DHS Handbook for Safeguarding Sensitive PII*, Privacy Policy Directive 047-01-007, Rev. 3 (Dec. 4, 2017): "Sensitive PII (SPII) is Personally Identifiable Information, which if lost, compromised, or disclosed without authorization could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual." *Id.* at 5.



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as Microsoft Excel spreadsheets to record the family reunifications that occurred. This entailed reclassifying UAC and single adults as family units and then producing notices for them to appear in court for immigration hearings. One detention center supervisor said it could take ICE officers hours to reprocess a single family because case information on the migrants was not always readily available or was often in various formats (i.e., email, spreadsheets, hardcopy, or system data).

ICE was sometimes unable to transfer parents in time to meet arriving children because ICE did not always receive adequate notice from HHS that children were arriving. On at least one occasion, after receiving no corresponding email notification, ICE personnel were surprised when a child arrived at a detention center. In some cases, children had to wait hours or even stay overnight at hotels, before their parents arrived at detention centers for reunification. One ICE detention center supervisor said there was limited on-site space for children, and this space was packed with children waiting for their parents to arrive and for ICE to process their reunifications.

Parents Receiving Minimal or No Jail-time Were Denied Immediate Reunification

During the Zero Tolerance period, many adults were only sentenced to time served and quickly returned to CBP custody or were not referred for prosecution at all. Approximately 82 percent of all parents separated from children during Zero Tolerance received minimal or no jail time. This includes more than 15 percent of all adults separated from children during Zero Tolerance who were not referred for prosecution. These circumstances led to many adults returning from court to Border Patrol custody. Because adults in CBP custody are normally referred for prosecution within 48 hours, adults could have court hearings, be sentenced, and return to CBP facilities before their children were transferred to ORR. Despite Border Patrol's awareness of increasing numbers of parents receiving time-served sentences, separations continued.

In light of these circumstances, CBP sought to reunify families at their own facilities instead of transferring the children to HHS. During the Zero Tolerance period, Border Patrol agents reportedly reunified 530 children (of 2,458 total children whose parents received minimal or no jail-time) with their parents at CBP facilities.

Border Patrol was unable to reunify 1,928 children and their parents in instances when the parents received little or no jail time. This occurred because Border Patrol, as required, had already transferred the children to ORR custody before CBP returned their parents from court. In these cases,



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migrant parents became responsible for contacting ORR to locate their children and initiate the reunification process if they were released from DHS custody. When parents remained in detention after their court hearings, the children stayed in ORR custody, including placement at more than 150 locations across the Nation, which made ultimate reunification much more difficult and costly.

DHS Did Not Achieve Zero Tolerance Goals Amid Ineffective IT Tracking and Management of Separated Families

DHS spent thousands of hours and well in excess of \$1 million in overtime costs supporting Zero Tolerance. However, the policy did not achieve its intended goal of deterring the practice of “Catch-and-Release.” Instead, the number of apprehensions continued to rise, and ICE was releasing thousands of detainees into the United States almost immediately. During our site visits, Border Patrol facilities had nearly reached full capacity, resulting in overly crowded conditions. The increase in apprehended families also resulted in children being held in CBP facilities beyond the 72-hour legal limit. As a result, CBP’s limited staff resources and facilities were strained as agents cared for UAC rather than patrolling the border.

Reunification Efforts Strained DHS and HHS Resources While “Catch-and-Release” Continued

DHS and HHS expended significant financial and staff resources to keep pace with the additional work required for execution of the *Zero Tolerance Policy*. Border Patrol reportedly spent more than 28,000 hours and \$1.2 million in overtime to support Zero Tolerance-related activities. ICE personnel at each detention center we visited said they worked day and night to coordinate transportation and detention of apprehended migrants. Some agents slept on-site for days to support reunification efforts. Additionally, a senior ICE officer who supported the DHS and HHS joint operations center stated he worked 7 days a week supporting efforts to identify separations and reunify families.

However, the number of apprehensions of family units continued to rise throughout the Zero Tolerance period. Border Patrol apprehended nearly 400 additional families along the Southwest Border during the 2 months Zero Tolerance was in place, during May and June 2018, as compared with the 2 months prior to the policy’s implementation, from March to April 2018.

The increasing number of apprehensions resulted in ICE’s release of thousands of detainees into the United States almost immediately. This continued throughout Zero Tolerance, even though the policy was intended to end the practice of “Catch-and-Release.” According to CBP data, from May 5, to June 20, 2018, DHS released more than 5,500 detainees from the Rio Grande Valley



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Sector Border Patrol Headquarters to the McAllen, Texas public bus station alone, including almost 3,000 children. Further, during a November 2018 visit to the Rio Grande Valley Sector, we witnessed ICE agents transferring busloads of detainees from CBP facilities to the McAllen, Texas public bus station. Figure 10 shows detainees lined up at a CBP facility.



Figure 10: Detainees at the Paso Del Norte Processing Center in El Paso, TX
Source: DHS OIG photograph

In part, because of the increased apprehensions, Border Patrol facilities reached or exceeded full capacity, resulting in overly crowded conditions, as we observed during our site visits. For example, Border Patrol's Central Processing Center in McAllen, Texas, designed to hold 1,500 people, was 80 percent full during our visit in November 2018. This location is the largest immigration-processing center in the country. Figure 11 shows living conditions for children in the McAllen facility. During our December 2018 visit to the Clint Border Patrol Station in Border Patrol's El Paso Sector, agents showed a sally port⁴² converted into a holding area for male adults and teenagers to alleviate crowded conditions. OIG reported on similar conditions in May and June 2019, disclosing serious overcrowding and prolonged detention of both adults and UAC.⁴³ OIG reported that overcrowding and

⁴² A sally port is a secure entryway for a detention facility.

⁴³ *Management Alert – DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center* (OIG-19-46), May 2019; and *Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley* (OIG-19-51) July 2019



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prolonged detention represent an immediate risk to the health and safety of DHS agents and officers, as well as to those detained.



Figure 11: Living Conditions for Children Detained in McAllen, TX
Source: DHS OIG photograph

The increase in apprehended families also resulted in children remaining in CBP facilities beyond the 72-hour legal limit. By May 10, 2018, only five days after Zero Tolerance implementation, ORR reached 87 percent occupancy. As placement space within ORR's facilities decreased, CBP maintained custody of children for longer periods. On May 29, 2018, CBP's average custody period for children separated from parents exceeded the 72-hour threshold for the first time during Zero Tolerance, and exceeded the limit for 8 of the next 10 days through June 7, 2018. We reviewed records for 212,935 minors from October 1, 2017, to February 14, 2019, and determined that prior to Zero Tolerance, approximately 16 percent of children were held in custody longer than 72 hours. In contrast, during Zero Tolerance, we found 39 percent of separated children were held beyond 72 hours, including 192 children who remained in CBP facilities for more than 6 days — twice the time limit allowed. CBP held six children in custody during Zero Tolerance for 10 days or more.



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The increase in illegal crossings also strained CBP's ability to guard the border. Border Patrol personnel informed us that they diverted agents from guarding the border in order to care for the rapidly increasing number of children within their facilities. Border Patrol personnel said they had to use funds budgeted for other mission areas to provide food and supplies for children and families awaiting placement. CBP personnel expressed concerns regarding the time lost in carrying out their core border patrol duties because of these increased responsibilities.

Conclusion

The *Zero Tolerance Policy* was in place for only 6 weeks. Although intended to reduce the practice of "Catch-and-Release," the policy had the unexpected consequences of overburdening CBP and ICE resources, and over-taxing facilities for detaining migrants at the Southwest Border. These conditions were exacerbated by thousands of children separated from their parents and DHS' inability to reunify families as mandated due to poor data entry, data tracking, information sharing, and IT systems capabilities. According to CBP, these deficiencies alone cost Border Patrol 28,000 hours and an additional \$1.2 million in staff overtime. While the Department made some improvements to its IT systems following the policy implementation, Border Patrol, ICE, and HHS continue to use manual processes to share information about separated children. The Department must take immediate steps to improve planning, automation, and record keeping to minimize potentially adverse effects on migrant detainees and their children, Border Patrol and ICE law enforcement operations, and associated operating costs.

Recommendations

Recommendation 1: We recommend the Chief, United States Border Patrol, institute process improvements and related training needed to improve field personnel abilities to track separated migrant family members.

Recommendation 2: We recommend the Assistant Commissioner, CBP Office of Information and Technology, implement necessary modifications and controls within the ENFORCE 3 system to limit user error and improve data quality.

Recommendation 3: We recommend the Executive Associate Director, ICE Enforcement and Removal Operations, coordinate with the Department of Health and Human Services to outline roles and responsibilities, and create and distribute standard operating procedures for migrant family reunification.



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Recommendation 4: We recommend the DHS Chief Information Officer work with ICE and CBP to ensure system interoperability to improve cross-component information sharing and coordination on border security operations.

Recommendation 5: We recommend the Deputy Under Secretary for Management coordinate with Health and Human Services to standardize processes for collecting and sharing detainee tracking information and communicating those requirements to field personnel.

OIG Analysis of DHS Comments

We obtained written comments on a draft of this report from the Director of the DHS GAO-OIG Liaison Office. The Department concurred with all five of our recommendations. We have included a copy of the comments in their entirety in appendix B. Following is our evaluation and response to the comments the Department provided in response to the draft report.

OIG Response to General Comments:

We appreciate the Department's positive comments regarding our draft report. The Department was pleased to note our acknowledgement that during FY 2018, DHS experienced a 35 percent increase over FY 2017 in the number of families and children apprehended after illegally entering at the Southwest Border, as well as the capacity challenges this created for DHS and HHS. The Department also noted that OIG acknowledged that CBP and ICE had made updates to their IT systems to facilitate tracking and reunification of separated parents and children during FY 2018, and that the modifications had helped improve data quality and enhance user visibility of a subject's status. The Department emphasized that the CBP Office of Information and Technology continues to update the e3 system with enhancements to better support CBP Border Patrol in processing, tracking, and managing events and subjects more efficiently and effectively.

However, the Director also expressed concerns regarding OIG's reported analysis of DHS data systems and our work to confirm the number of children DHS separated. Notably, the Director stated, "The inaccurate numbers of potential separations the OIG identified will create confusion and require significant effort from across the Department to explain these inaccuracies and compliance with Departmental policies and court orders resulting in a significant burden on the agency." Following are our responses to the specific concerns the Director outlined.



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- The Director stated that, “Despite the extensive written technical comments provided to the OIG and many follow-up meetings and conversations held between subject matter experts and the OIG, the draft report included inflated numbers that will lead to misunderstandings and misconceptions.” We disagree with this statement. As is our normal process, OIG and the Department held a formal Exit Conference to discuss findings and provide DHS personnel opportunity to comment and ask questions. We also held an additional meeting with personnel from ICE’s Office of the Principal Legal Advisor to discuss their concerns regarding the inclusion of OIG’s potential missed family relationship data in the draft report, along with our methodology that yielded those numbers. During this meeting, ICE personnel agreed that they were not data experts and had struggled with data issues during the period of the *Zero Tolerance Policy*. OIG offered to hold an additional meeting with ICE data experts to discuss the methodology used, but ICE personnel never contacted the audit team to schedule the meeting.
- The Director stated that in compliance with the *Ms. L. v. ICE* preliminary injunction, HHS and DHS undertook a significant effort to identify children in HHS ORR care who had been separated from parents and to reunify them. While we agree that DHS and HHS conducted significant review effort, as noted in our report, this review did not include a search for all potentially separated children. Specifically, Border Patrol only searched for children separated during Zero Tolerance whose case records contained deleted family units. Border Patrol’s search excluded (1) children who were not recorded as part of a family unit, and (2) children separated before Zero Tolerance. Further, Border Patrol data contained errors and, as a result, not all separated children were properly recorded as being part of a family unit. These data errors resulted in Border Patrol’s missing hundreds of detainees whom DHS separated during Zero Tolerance. HHS later identified these separated detainees and alerted DHS. However, HHS’ search for separated children also was limited to include only minors who remained in ORR care as of June 26, 2018. Children separated from a parent, but who had been released from ORR care prior to that date, were not included in the original *Ms. L.* class list.

It should be understood that we did not attempt to verify the separations accounted for in the *Ms. L.* case. Rather, we attempted to identify family relationships that Border Patrol did not record during the intake process. Failure to record a family relationship during initial intake increases the difficulty in identifying family separations.



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- The Director stated that the DHS, HHS, and Department of Justice numbers had undergone rigorous double and triple checking by relevant agencies. The Director also stated, “these agencies are still engaged in rigorous line-by-line vetting of lists that encompass the additional members of the expanded class as ordered by the *Ms. L.* court on March 8, 2019.” Despite the Director’s assertion that our report inaccurately characterizes the level of certainty with which DHS and HHS identified separated parents and children, the Director also concedes this is a significant effort, which remains ongoing 15 months after Zero Tolerance ended. Because this effort is ongoing, we question how DHS can assert our numbers are not correct, when in fact, DHS and HHS are still working to validate the number of family separations that have occurred since July 2017.
- The Director also expressed concern that the OIG’s data analysis did not include the information from the full range of sources and methods used by DHS, HHS, and the Department of Justice to identify and verify the numbers of separated children. However, the Director does not accurately describe the methodology used by OIG. OIG analysts reviewed DHS’ apprehension data and identified *potentially* missed family relationship data by linking adults and children whom Border Patrol apprehended together, who shared common last names based on Latin American naming conventions, were between 16 and 40 years apart, and were not associated with a family unit or group in the system. In April 2019, we conducted a teleconference with a Border Patrol Chief to discuss our methodology and obtain feedback on our data analysis approach. Following this teleconference, we provided a sample list of 25 children found using our methodology. However, we did not receive a response from CBP. We made a second inquiry the following week, but did not receive a response before the draft report was provided to the Department.

We acknowledge that not all adults and children we identified using this methodology are separated families. Furthermore, our report does not explicitly state, or imply, that these are families. Rather, we state that the data suggest potential family relationships exist that were not recorded by Border Patrol. We also acknowledge that this data could include false positives or relatives who do not meet the DHS definition of a family unit, which is limited to an adult over 18 who is the legal guardian or parent of a child under 18.



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Updates to OIG's Data Analysis

Although we disagreed with the concerns that the Director raised, as just outlined, we nonetheless took steps to reexamine our data methodology and make revisions where appropriate. Specifically, in an abundance of caution to avoid confusion and confirm our data analysis, we changed the language in our report from “potentially separated minors” to instances of “potential family relationships that were not accurately recorded by CBP,” which could result in unrecorded family separations.

Additionally, subsequent to issuing our draft report to Border Patrol for review and comment, we provided the following two updated samples to address DHS' concerns.

- The first sample was a new set of names identified using our original data methodology. This sample included a list of 34 children. In response, CBP confirmed that from this sample, DHS had in fact separated two children not included on Border Patrol's list of Zero Tolerance separations. CBP also confirmed that the remaining 32 children were not separated from both parents; in many of these cases, the children remained with their mother while separated from their father. Because CBP does not consider a child who remains with one parent a family separation, and because these children were recorded as being in a family unit with at least one parent, we refined our methodology to only include children with *no* family relationship recorded at all. Based on the results of this analysis, we changed our methodology to eliminate instances where a child was put into a family unit with one parent, while potentially being separated from the other parent or another family member.
- Using this refined methodology, we sent a second sample of 39 children to CBP for review. In response, CBP confirmed that from this sample of 39, DHS had separated five children not included in Border Patrol's list of Zero Tolerance separations. One of these five separations included a child separated immediately after Zero Tolerance ended, who had no case notes to indicate a family separation. Working with a CBP analyst, we identified another 5 cases from the sample of 39 that were incorrectly processed; in each of the 5 cases a child was not properly recorded as being part of a family unit or group. In these cases, the child stayed with family or siblings and was removed from the country. In the remaining 29 cases, we could not confirm whether the child was traveling with a family member, or whether the family simply did not alert Border Patrol agents that they were traveling together. Based on this finding, we added language to the report to clarify that, in some cases, a family may not



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alert CBP personnel of a family relationship. These cases of parental omission are not errors introduced by CBP.

We use the refined methodology just described in our final report. This refined methodology has resulted in our reducing the number of children potentially traveling with a family member, but not recorded as part of a family unit or group in CBP's systems. We provided DHS with these updated numbers.

Response to Report Recommendations:

In the formal written comments, DHS concurred with all five recommendations.

Recommendation 1: We recommend the Chief, United States Border Patrol, institute process improvements and related training needed to improve field personnel abilities to track separated migrant family members.

Management Comments

DHS concurred and stated that, in April 2019, Border Patrol provided an updated PowerPoint to the field to assist agents in improving their method for tracking family separations. In addition, Border Patrol began a family separation working group comprising multiple levels of Border Patrol employees from the field. The sole function of the working group is to review every family separation and ensure all are within CBP's established parameters. Border Patrol also instructed the field to ensure two levels of supervisors review every separation on a case-by-case basis. DHS further noted that Border Patrol had no problems reuniting families in CBP custody after receiving the Executive Order to do so.

OIG Analysis

We acknowledge the Department's efforts to improve training on tracking separated family members. The updated PowerPoint helps meet the intent of this recommendation; however, we received no documentation on the Department distributing the PowerPoint to the field, or on its instruction to field personnel to ensure two-step level supervisory review for all separations. We also recognize Border Patrol's establishment of a working group as a positive step toward implementing process improvements for tracking separated migrant family members; however, we still require documentation in this regard. We consider this recommendation resolved and open.

Recommendation 2: We recommend the Assistant Commissioner, CBP Office of Information and Technology, implement necessary modifications and controls within the ENFORCE 3 system to limit user error and improve data quality.



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Management Comments

The Department concurred and stated CBP's Office of Information Technology collaborated with Border Patrol to identify enhancements via additional edit check controls within the e3 system, to further limit user error and improve data quality. The Office of Information Technology is in the process of modifying e3 to include additional data entry checks to further enhance the identity and accuracy of family associations. CBP expects to complete these efforts by February 28, 2020.

OIG Analysis

We appreciate CBP's efforts to limit user error and improve CBP's data quality by working with Border Patrol personnel and adding additional data entry checks in the e3 system. We consider these actions positive steps toward addressing this recommendation. We suggest conducting similar work with Office of Field Operations personnel to determine whether similar controls are needed in their SIGMA system. We look forward to receiving status updates, along with documentary evidence, as these controls are implemented. This recommendation is open and resolved.

Recommendation 3: We recommend the Executive Associate Director, ICE Enforcement and Removal Operations, coordinate with the Department of Health and Human Services to outline roles and responsibilities, and create and distribute standard operating procedures for migrant family reunification.

Management Comments

The Department concurred and stated ICE Enforcement and Removal Operations (ERO) will work with the DHS Office of Civil Rights and Civil Liberties, CBP, and HHS to better document the family separation and reunification roles and responsibilities of each agency. It is important to note that this work will ultimately be dependent on how the legal landscape is defined based on the outcome of *Ms. L. v. ICE* and other litigation related to family separations. In the meantime, ERO will continue to seek to improve communication and coordination with HHS on migrant family reunification procedures. The Department did not have a date for when this recommendation would be completed.

OIG Analysis

We recognize that reunification roles and responsibilities might change based on the outcome of *Ms. L. v. ICE*, and support ICE's plan to continue to work to both better document family separation and reunification roles and responsibilities and seek to improve communication and coordination with HHS on procedures for family reunification. We look forward to receiving



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updates, along with documentary evidence, as these plans are completed and implemented. This recommendation is open, but unresolved until the Department provides an estimated date for its completion.

Recommendation 4: We recommend the DHS Chief Information Officer work with ICE and CBP to ensure system interoperability to improve cross component information sharing and coordination on border security operations.

Management Comments

The Department concurred and stated the DHS Management Directorate, through its Office of the Chief Information Officer, will support both ICE and CBP in their efforts regarding governance of data interoperability and information exchanges. Specifically, the DHS Chief Data Officer will work with the Data Governance sections of ICE and CBP to strengthen the Master Reference Data Management processes between the two components. The Department plans to complete these efforts by July 31, 2020.

OIG Analysis

We appreciate the Office of the Chief Information Officer's efforts to work with ICE and CBP to improve integration of their governance of data interoperability and information exchanges. This is a positive step toward addressing this recommendation. We look forward to receiving future status updates, along with documentary evidence, as these efforts are completed. This recommendation is open and resolved.

Recommendation 5: We recommend the Deputy Under Secretary for Management coordinate with Health and Human Services to standardize processes for collecting and sharing detainee tracking information and communicating those requirements to field personnel.

Management Comments

The Department concurred with the recommendation. In accordance with DHS' practice of addressing issues at the lowest organizational level possible, the DHS Deputy Under Secretary for Management will monitor and facilitate work by CBP and others across the Department to ensure that a standard process for collecting and sharing detainee tracking information is developed and adopted by field personnel, and coordinated with HHS, as appropriate. The Director noted several steps already taken by CBP to improve communication with HHS. These steps include changes in both Border Patrol and OFO systems to provide additional information, improve data and communication, and establish a Memorandum of Agreement related to transfer packets for ensuring better placement of children.



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The Director also highlighted how DHS and HHS currently work together to facilitate reunification of separated families. The Director stated that as separation cases are identified, the information is shared between appropriate DHS and HHS personnel to promote an interagency effort for reunification. Both ICE and HHS ensure that separation data are disseminated to field personnel for further processing and coordination. The Director stated that there are also plans in place for ICE's Juvenile and Family Residential Management Unit and the Statistical Tracking Unit to work with the DHS Management Directorate and HHS' ORR staff to improve the current practices.

Finally, the Department discussed CBP Office of Information and Technology's work to develop a Unified Immigration Portal to serve as an integrated solution for ensuring visibility of complete and real-time information across immigration agencies. CBP is working with ICE, U.S. Citizenship and Immigration Services, and ORR on this cross-agency portal. The Department estimates finishing its work on this recommendation by September 30, 2020.

OIG Analysis

We recognize the Department's efforts to coordinate with HHS to improve the process of sharing detainee information between the two agencies. We look forward to learning more and receiving documented evidence on DHS' efforts to standardize processes for increased information sharing with HHS, including the development of the Unified Immigration Portal. This recommendation is open and resolved.



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Appendix A

Objective, Scope, and Methodology

The DHS OIG was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

We conducted this audit to assess the effectiveness of DHS systems to track detainees and support efforts to reunify unaccompanied alien children separated from their families. As part of this audit, we also examined how tracking and managing separated families impacted DHS' ability to accomplish goals of the *Zero Tolerance Policy*. As background for our audit, we researched and reviewed federal laws, executive orders, agency guidelines, policies, and procedures related to detainee tracking and the *Zero Tolerance Policy*. We obtained documents, congressional testimony, raw data, and media articles regarding the policy. Additionally, we reviewed published GAO and DHS OIG reports to identify prior findings and recommendations. We used this information to establish a data collection approach that consisted of interviews with relevant stakeholders, focused information gathering, documentation analysis, and targeted site visits to accomplish our audit objectives.

We obtained more than 250 documents, held more than 40 meetings, participated in teleconferences with CBP and ICE staff at headquarters and in the field, received demonstrations of multiple IT systems, and met with DHS and HHS officials to assess detainee tracking and efforts to reunify UAC with their families. At ICE headquarters, we interviewed representatives of ICE's Office of Enforcement and Removal Operations, Office of the Principal Legal Advisor, and Office of the Chief Information Officer. Within ICE, we met with personnel from the Juvenile and Family Residential Management Unit. We interviewed representatives from CBP's Border Patrol, Office of Field Operations, and Office of Information and Technology. Finally, we interviewed personnel from HHS' Office of Refugee Resettlement.

In November 2018, we visited OFO's Port of Entry in Hidalgo, Texas, to observe detainee processing and IT systems used for data intake, migrant tracking, and transfer of detainees. We visited locations within CBP's Rio Grande Valley Sector, including the McAllen Central Processing Center, to observe CBP's system and processes to record and track data about detainees, UAC transfer to ICE and HHS, and information sharing between OFO, Border Patrol, and ICE. In December, we visited Border Patrol and ICE facilities in El Paso, Clint, and Tornillo, Texas. During site visits, we observed processing procedures in IT systems and the transfer of detainees. We also observed ICE's ability to use



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its IT systems for tracking detainees reunifying UAC with their families. We did not compile or review classified documents to conduct this audit.

We used the work of specialists from the OIG-wide Analytics and Support and Data Audits and Infrastructure Divisions to acquire and analyze CBP data from October 2017 through February 2019, to identify instances of potential family relationships not accurately recorded by CBP in their IT systems during this timeframe, including Zero Tolerance. We also reviewed separation data from before and after Zero Tolerance to identify trends. We obtained complete tables from the production Enforcement Integrated Database (EID) and complete backup file copies of the Border Patrol Enforcement Tracking System (BPETS) and EID-Snapshot (EID-SNAP) operational data stores, which maintain copies of tables from production EID, as well as derived tables produced by CBP and ICE. We assessed the reliability of data by (1) interviewing agency officials knowledgeable about the data, (2) reviewing existing information about the data and the systems that produced them, and (3) performing electronic testing of data used for our analysis. For example, we received demonstrations of how system users record data in McAllen, Texas, and El Paso, Texas, and interviewed knowledgeable DHS officials in DC. We reviewed a Privacy Impact Assessment for EID that describes functionality and the data contained in the system, as well as system documentation obtained from DHS to understand the primary keys and unique identifiers in the system. We confirmed that the totals of DHS-provided table extracts matched the number of records in our copies of operational data stores containing tables from EID. We performed tests on key data elements to ensure there were no duplicate records or unexpected values. We also traced a random sample of apprehension records to underlying case notes to confirm existence. We determined that the data were sufficiently reliable for the purposes of this report.

Lastly, we reviewed internal controls that pertain to the effectiveness of DHS' IT systems in supporting detainee tracking and efforts to reunify children separated from their families. We determined these internal controls were inadequate and required significant improvements. Controls only partially achieved the objectives intended to mitigate risks related to business operations and governance under the *Zero Tolerance Policy*.

We conducted this performance audit between October 2018 and March 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
DHS Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



August 27, 2019

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

FROM: Jim H. Crumpacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office 

SUBJECT: Management Response to Draft Report: "DHS Lacked
Technology Needed to Successfully Account for Separated
Migrant Families" (Project No. 18-117-ITA-CBP, ICE)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

The OIG's draft report acknowledged the ongoing Southwest Border crisis and some improvements made to DHS' information technology (IT) systems to better facilitate the tracking and reunification of separated families. However, the report also included inflated and inaccurate numbers that will lead to misunderstandings and misrepresentations.

Positive Acknowledgements.

The Department is pleased to note the OIG's acknowledgement that (1) each year, hundreds of thousands of people attempt to illegally enter the United States through the southern border with Mexico, and (2) during fiscal year (FY) 2018 DHS experienced a 35 percent *increase* over FY 2017 in the number of families and children apprehended after illegally entering at the Southwest Border. This unprecedented increase created capacity challenges for DHS and those in custody, and impacted the speed with which unaccompanied alien children could be moved to U.S. Department of Health and Human Services (HHS) care.

DHS is continuing to take a "whole of government" approach to confronting this ongoing crisis and fulfilling its humanitarian and security obligations, including surging personnel from across the Department to high traffic areas on the Southwest border, requesting and



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receiving continued support from the Department of Defense, expanding medical services, establishing additional soft-sided holding facilities, and surging rescue response operations. DHS is also continuing its collaboration with international partners to combat human trafficking and the smuggling of illegal goods.

The OIG also acknowledged that both U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) made updates to information technology (IT) systems to better facilitate the tracking and reunification of separated parents and children. For example, during FY 2018, CBP restructured the Enforce 3 (e3) system to include new features for recording any separation of family units, as well as tracking Unaccompanied Alien Children time in custody.

Specifically, e3 was modified to support the identification of members of a family unit as separated from the family unit; support the identification of a reason for family unit separation; support the identification of a new family unit lead if the original family unit lead was separated; support the re-activation of a separated member(s) of a family unit when the member is reunited with associated family unit; support options to search for subjects by family unit/family group¹ identifier; and, prevent subjects from being part of multiple family units/groups at any one time. These modifications increased system controls, improved data quality and enhanced user visibility of subject status.

It is important to also highlight that CBP's Office of Information Technology (OIT) designed, developed, tested and implemented this added complex functionality into e3 in less than four months, while also managing other e3 priority requirements and application support activities, after the U.S. Border Patrol (USBP) identified additional system capabilities needed as a result of the unanticipated system challenges presented by the increased numbers of parents separated from their children at the beginning of the Zero Tolerance Policy.

CBP OIT continues to update the e3 application with enhancements to better support USBP in processing, tracking and managing events and subjects more efficiently and effectively including the modernization of the e3 Processing application, the transfer of the biometrics cache functionality from a workstation to a server, improving cell builder load processing performance, adding an Enforcement and Removal Operations review complete status, and expanding roll call print capability.

¹ The following are USBP definitions of a family unit and family group:

- **Family Unit** — A group of aliens that include only non-US Citizen child(ren) under the age of 18 accompanied by a parent(s) or legal guardian(s).
- **Family Group** — Related detainees (i.e. brother and sister, aunt and nephew) that need to travel together who are non-US Citizens and do not meet the definition of a Family Unit. An underage parent/legal guardian and child are recorded in e3 as a Family Group.



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Inflated and Inaccurate Numbers.

Despite the extensive written technical comments provided to and many follow-up meetings and conversations held between subject matter experts and the audit team, the draft report included inflated numbers that will lead to misunderstandings and misperceptions as to the Department's operational efforts and compliance with court orders. Specifically, the report inaccurately characterizes the level of certainty to which DHS and HHS have identified separated parents and children based on a flawed OIG analysis of DHS data systems in an attempt to try to confirm the number of separated children. Based solely on this data analysis, the draft report includes numbers of "potentially separated minors who were not included in DHS' numbers." The inaccurate numbers of potential separations the OIG identified will create confusion and require significant effort from across the Department to explain these inaccuracies and compliance with Departmental policies and court orders resulting in a significant burden on the agency.

More specifically, compliance with the *Ms. L. v. ICE* preliminary injunction required HHS and DHS to undertake a significant effort to identify children in HHS Office of Refugee Resettlement (ORR) care who had been separated from their parents and reunify them. To facilitate this effort, the HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) led a reunification Incident Management Team within HHS, drawing on ASPR's experience in crisis response and data management and analysis, to assist ORR in identifying and reunifying separated children. DHS coordinated closely with ASPR, HHS, and the U.S. Department of Justice (DOJ) to develop a Tri-Department Plan, submitted to the Court on July 18, 2018, which described the process to reunify separated parents with their children. The multi-agency data teams compared and reconciled data, not only from USBP but also from ICE and ORR including—as the draft report states—information maintained outside the data systems the OIG analyzed. In addition, the process included field personnel interviews of potentially separated parents and children to confirm parentage, assess parental fitness, and reunite the family when deemed appropriate.

Overall, the DHS, HHS, and DOJ numbers have undergone rigorous double and triple line-by-line checking by the relevant agencies. Currently, the three agencies are still engaged in rigorous line-by-line vetting of lists that encompass the additional members of the expanded class as ordered by the *Ms. L.* court on March 8, 2019. This ongoing effort was approved by the court and, takes into account multiple data systems in the three agencies, and a live, line-by-line examination and review of the pertinent facts to determine accuracy and class eligibility of each identified potential class member. Also, the three agencies are completing their review in accordance with the definition of "family unit," which is based on the Immigration and Nationality Act, and pertinent



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portions of the Trafficking Victims Protection Reauthorization Act and the Homeland Security Act.

The OIG's data analysis did not include the information from the full range of sources and methods used by DHS, HHS, and DOJ to identify and verify the numbers of separated children. As we understand it, OIG's methodology for identifying additional potential separations looked only at CBP data to identify when adults and minors were apprehended or arrived at a port of entry without entry documents, had common last names, and when age differences were between 16 to 40 years apart. The degrees of certainty between the multi-agency reunification effort and the OIG's limited analysis are not remotely comparable. The numbers derived using the OIG's methodology are inflated and inaccurate.

The draft report contained five recommendations, with which the Department concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided separately.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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Attachment: Management Response to Recommendations Contained in Project No. 18-117-ITA-CBP, ICE

The OIG recommended that the:

Recommendation 1: Chief, United States Border Patrol, institute process improvements and related training needed to improve field personnel abilities to track separated migrant family members.

Response: Concur. The USBP provided an updated PowerPoint to the field to assist agents in improving their method for tracking family separations in April of 2019. In addition, USBP began a Family separation workgroup comprised of multiple levels of rank of USBP employees from the field. Their sole function was to review every family separation and ensure all are within CBP's established parameters. The field was also instructed to ensure two levels of supervision reviewed every separation on a case by case basis. It is also important to note that when instructed to reunite all families under the Executive Order, USBP had no problems reuniting those family units within its custody.

Supporting and corroborating documentation related to these actions has been provided to OIG under separate cover. We request that OIG consider this recommendation resolved and closed as implemented.

Recommendation 2: Assistant Commissioner, CBP Office of Information and Technology, implement necessary modifications and controls within the Enforce 3 [e3] system to limit user error and improve data quality.

Response: Concur. CBP's Office of Information Technology (OIT) collaborated with USBP to identify enhancements via additional edit check controls within the e3 system to further limit user error and improve data quality. OIT is in the process of modifying e3 to include additional data entry checks to further enhance the identity and accuracy of family associations. Estimated Completion Date (ECD): February 28, 2020

Recommendation 3: Executive Associate Director, Enforcement and Removal Operations, coordinate with the Department of Health and Human Services to outline roles and responsibilities, and create and distribute standard operating procedures for migrant family reunification.

Response: Concur. ICE Enforcement and Removal Operations (ERO) will work with the DHS Office of Civil Rights and Civil Liberties, CBP, and HHS to better document the family separation and reunification roles and responsibilities of each agency. It is important to note, however, that this work will ultimately be dependent on how the legal

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landscape is defined based on the outcome of *Ms. L v. ICE* and other litigation relating to family separations. In the meantime, ICE ERO will continue to seek to improve communication and coordination with HHS on procedures for migrant family reunification. ECD: To Be Determined

Recommendation 4: DHS Chief Information Officer work with ICE and CBP to ensure system interoperability to improve cross component information sharing and coordination on border security operations.

Response: Concur. The DHS Management Directorate, through its Office of the Chief Information Officer, will support both ICE and CBP in their efforts to integrate their governance of data interoperability and information exchanges. Specifically, the DHS Chief Data Officer (who also serves as the DHS Chief Technology Officer) will work with the Data Governance sections of ICE and CBP to strengthen the Master Reference Data Management processes between the two Components. ECD: July 31, 2020

Recommendation 5: Deputy Under Secretary for Management coordinate with Health and Human Services to standardize processes for collecting and sharing detainee tracking information and communicating those requirements to field personnel.

Response: Concur. In accordance with the Department's practice of working issues at the lowest organizational level possible, the DHS Deputy Under Secretary for Management (DUSM) will monitor and facilitate work with and among CBP and others across the Department to ensure that a standard process for collecting and sharing detainee tracking information is developed and adopted by field personnel, and coordinated with HHS, as appropriate.

It is important to note that CBP has already implemented several enhancements that have significantly improved the communication and information sharing with HHS. Examples include:

- USBP has modified the e3 portal to include four additional fields of information, two of which include free text to address any urgent concerns that HHS' ORR should be made aware of to ensure proper placement of Unaccompanied Alien Children.
- A CBP Memorandum of Agreement was drafted and approved in April 2018 that enabled CBP to prepare transfer packets for sharing with ORR staff. This agreement improved the granularity of details shared with ORR from CBP. It also enabled better placement in the most appropriate facility and made it easier for ORR to reunite persons when appropriate.
- Beginning in February 2018, CBP's Office of Field Operations (OFO) has made system enhancements to the Secured Integrated Government Mainframe Access



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platform that enables the sharing of biographical, non-law enforcement information with ORR.

- OFO also, in February of 2018, developed additional functionality in its secondary system, Unified Secondary, to: create a smart system (reducing Officer error in policy application); incorporate future data transfers to/from HHS; and increase data integrity.

CBP, ICE, HHS, and ORR each have dedicated personnel who review data and share information to identify all family separations. Separation data is shared, reviewed, and updated on a continuous basis. The general process is managed through internal data tracking; however, system updates occur anytime new information is discovered. Once cases are identified and shared between DHS and HHS operators, an interagency effort for reunification begins. Separation cases are tracked in order for ICE and ORR to coordinate reunification of family members when deemed appropriate. ICE and HHS ensure that separation data is disseminated to their field level operators for further processing and coordination. Within ICE ERO, the Juvenile and Family Residential Management Unit and the Statistical Tracking Unit will also be working with the DHS Management Directorate and HHS ORR staffs to improve current practice.

Additionally, CBP OIT is moving forward at the direction of the Acting Secretary of Homeland Security, to develop a Unified Immigration Portal (UIP). This integrated solution will enable a view of immigration data among agencies across the immigration enterprise and provide access to complete, real-time information on a common platform. CBP is working with ICE, U.S. Citizenship and Immigration Services, and ORR to accomplish this task. UIP will use a federated approach to the sharing of immigration data or “events.” UIP will use a phased implementation plan that builds upon the great progress made by DHS Components that are already working to identify shared ‘events.’ UIP will enable increased accuracy and transparency across the immigration domain.

ECD: September 30, 2020



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Appendix C
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