

Migrant Family Separation

2017 - 2021



Why were children separated from their families?

The practice of family separation arose from the desire of the Trump administration to discourage the practice of “catch and release” – releasing migrants apprehended at the border while their immigration cases are pending – and the desire **to deter individuals from coming to the United States to seek asylum.** The Trump administration’s proposed solution to this perceived problem was to require criminal prosecution and detention for adults who crossed the border unlawfully, a policy known as “zero tolerance.”

This policy, however, was complicated by pre-existing legal limitations and requirements regarding the treatment and detention of children. The [1997 Flores Settlement Agreement](#) [requires](#) that children be released to a parent, guardian or foster family whenever possible. It also has been interpreted to mean that **children cannot be detained in adult criminal facilities and cannot be held for more than 20 days** in family detention centers. Thus, as parents were arrested at the border and criminally charged, they were [separated](#) from their children who were not allowed to be detained with them.

The Trump administration initially began this policy as a pilot program in El Paso, TX in mid-2017. In May 2018, the U.S. Department of Justice announced that it would formally be implementing the zero-tolerance policy. [Reports](#) have since surfaced acknowledging that the Trump administration [was aware](#) that this policy would separate families and believed that family separation would be an effective deterrent to migrants. **The administration implemented this policy without adequate plans in place to track children and ultimately reunite them with their parents.**

What was the result of zero tolerance policy?

The ultimate result of zero tolerance was **at least 4,368 families being torn apart.** Once these children were separated from their parents, they were classified as “unaccompanied alien children” (UACs) and placed into a [shelter](#) operated by the U.S. Department of Health and Human services, where attempts could be made to release children to a family member, guardian or foster family.

However, the practice of zero tolerance created an influx of children classified as UACs, leading to a lack of space in HHS operated shelters. [Reports](#) found that some children were held at CBP border stations for more than the allowed 72 hours in facilities that lacked bedding, separate sleeping rooms, adequate medical treatment and nutritional resources for children. As a result, a significant number of UACs in HHS custody were placed in provisional shelters at [military bases](#), former [warehouses](#), or [tents](#) located primarily in Texas, where some confined children in [metal-fenced holding areas](#) (sometimes described as “cages”) and supplied large foil sheets as blankets. In addition to the trauma that these children experienced from being taken from their parents, there have been more than [4,500 complaints](#) about sexual abuse of immigrant children held in detention between October 2014 and July 2018.

Although a judge ordered the Trump administration to reunite families that had already been separated within 30 days and prohibited further separations in June 2018, **the administration did not fully comply.** As public pressure grew, President Trump ultimately signed an [executive order](#) directing the Department of Homeland Security to cease the practice – except in cases where the parent could be a risk to the child.

Despite this, the administration continued to separate families in some cases. By July 2019, at least [900 children](#) had been separated from their families, many under the guise of minor traffic violations or suspected, unverified gang involvement. In June 2019, [reports](#) emerged that at a facility near El Paso, roughly 250 infants, children and teens, some of whom were sick, had been locked up for 27 days without adequate food, water or sanitation. Later [reports](#) described filthy and chaotic scenes in detention centers that were overcrowded and lacked access to basic hygiene products at another Texas shelter.

What is happening now?

In March 2020, in response to the COVID-19 pandemic, the Trump administration began barring all undocumented immigrants, including asylum seekers and UACs, from entering the U.S. Additionally, the administration suspended elements of the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) that ensures unaccompanied minors are afforded due process and protected from harm while in the care of DHS, leaving children vulnerable to trafficking and harm.

Throughout 2020, nearly 16,000 UACs were expelled under these rules without being sent to ORR facilities or being screened for persecution and human trafficking. Reports emerged throughout the summer that **ICE was detaining UACs in hotels, away from trained professionals who could care for them**, withholding access to legal representation and secretively expelling children. A federal judge ordered this process halted in November 2020, and though a higher court allowed it to resume in January 2021, the Biden administration did not resume the expulsion of unaccompanied children, though it continues to expel most asylum-seeking families.

Because of this change in policy, the United States began accepting unaccompanied migrant children seeking asylum and protection when President Biden took office. In February and March, the increase in arriving UACs resulted in ORR shelters reaching capacity, causing children to be held far longer than the legal limit of 72 hours in severely overcrowded CBP holding centers, which are not meant to care for children. This prompted the Biden administration to open eleven emergency housing sites with FEMA and the Department of Health and Human Services to get children out of CBP custody faster. As a result, the number of children in the CBP facilities has fallen by at least 88% since its peak in March. Challenges remain processing children quickly through emergency sites and on to licensed facilities, transitional foster care or their family members. The administration has faced difficulty opening new facilities for children in certain circumstances when the governors of Iowa, South Carolina, South Dakota, and Nebraska refused to allow space in their state to be used for housing migrant children.

In October of 2020, it was also reported that the parents of **545 children separated at the border cannot be found**, about 60 of whom were under the age of 5 when separated. The difficult work of reconnecting these families has fallen on volunteers and non-profit organizations, with little backing or assistance from the government. However, on February 2, 2021, President Biden signed an executive order creating a family reunification task force and committed to implementing immigration policies that protect family unity. The task force continues to reunite families when possible and provide support services to the children and families affected by the zero tolerance policy. As of early May, they had successfully reunited four families.

Primary sources used:

<https://www.splcenter.org/news/2020/06/17/family-separation-under-trump-administration-timeline>, <https://immigrationforum.org/article/fact-sheet-unaccompanied-migrant-children-uacs/>; <https://immigrationforum.org/article/explainer-emergency-shelters-and-facilities-housing-unaccompanied-children/>