

From: (b) (6), (b) (7)(C)
To: (b) (7)(E)
Cc: (b) (7)(E) (b) (6), (b) (7)(C)
Subject: Minor Parent information
Date: Thursday, February 18, 2021 11:26:00 AM
Attachments: [FMUA Separation memo 19-36768.pdf](#)

Corridors,

Please forward the following information to your sector POCs for the widest dissemination, including the attached guidance.

BLUF: Families consisting of two parents or legal guardians, in which one is a minor, require specific steps for correctly documenting separations and vetting for possible trafficking.
Message/Action

Please disseminate the following information as widely as possible.

As a reminder, any alien who (1) is under the age of 18, (2) has no lawful status in the United States, and (3) has no parent or legal guardian present in the United States, or no parent or legal guardian is available to provide care and custody, is a UAC. In accordance with the TVPRA, *all* UACs must be transferred to HHS. Therefore, if USBP encounters a family consisting of two parents or legal guardians, and one is a minor, the minor parent is a UAC and *must* be transferred to HHS. The minor parent may not be transferred to ICE custody as a family unit with the adult parent. Under no circumstance shall the adult parent be considered to be the legal guardian of the minor parent.

As articulated in USBP's January 7, 2020 *U.S. Border Patrol Family Separation Guidance*, agents should then consider the facts and circumstances, in consultation with OCC, to determine whether the minor child should remain with his/her adult parent (and be processed as a family unit) or with his/her UAC parent (and be transferred to HHS). When making this determination, agents should consider the totality of the circumstances and what is in the best interest of the child, including factors such as the child's age, the age of the child's minor parent, and any articulable trafficking or other safety concerns. In cases involving very young children (i.e. infants that are still nursing) and their UAC mothers, it will generally be appropriate to transfer the mother and child to HHS.

Families with two parents or legal guardians, where one is a minor, are a family group (FMG) and a family unit (FMU) simultaneously. If the minor child is processed with the adult parent or legal guardian as an FMU, the minor parent or legal guardian will be processed as a UAC independently and the I-213 will need to include all relevant information regarding where family members were transferred. The separation of the UAC from his/her minor child cannot be documented in the e3NextGen family panel, but should be captured in the narrative portion of the I-213 and all notifications made to HHS, ICE/ERO and OCC. If the minor child is to be transferred to HHS with his/her UAC parent, this constitutes a separation of the minor child from his/her adult parent or legal guardian. The parent and child must be linked in the e3NextGen Family Panel and all relevant information captured in the I-213 (FMU# must be created, then separated in the Family Panel), and all notifications made to the ORR, ICE/ERO and OCC. The reason for the separation should be listed as Family Member – Presents danger to the child/Unfit Parent. However, it is critical that *the narrative explain whether the adult*

parent is actually unfit or was separated due to legal requirements of the TVPRA alone. The UAC parent and child will then be linked as a family group (FMG) in the e3NextGen Family Panel and processed for transfer to HHS.

Even though this separation is warranted by the TVPRA requirements, and does not require an independent basis, agents should also carefully consider, and document, whether the separation would *also* be warranted in accordance with CBP's June 2018 *Interim Guidance on Family Separation* and USBP's January 7, 2020 *U.S. Border Patrol Family Separation Guidance*.

If any of the above factors would justify separation, in addition to the TVPRA requirements, these reasons should be carefully documented on the I-213, in the referral to HHS and ICE/ERO, and in an email to OCC and to BP HQ. If none of these factors would support a separation in the absence of the TVPRA requirement, this fact should also be carefully noted on the I-213, in the referral to HHS and ICE/ERO, and in email to OCC and to BP HQ. The I-213, referral, and email notification should also include all relevant details regarding the relationship between the UAC parent and the adult parent, including any relevant information regarding trafficking concerns obtained during Form 93 screening, as noted below. The adult parent separated from the family should then be processed in consultation with ICE/ERO. The adult parent should be provided with a copy of the CBP Form 0852 – *Information for Parents tear sheet*. The case should be immediately sent to USBP HQ at (b) (7)(E) and include any custody decisions made, OCC response/concurrence and any ICE/ERO determinations if relevant.

Special care should be taken to document in the CBP Form 93 the relationship between the UAC parent and the adult parent. Items to annotate in the Human Trafficking portion of the CBP Form 93 include factors such as large discrepancies in age between the minor parent and adult parent, whether the minor parent has been prevented from communicating with their relatives and parents, whether the adult in the relationship forced the minor to travel to the United States, engaged in a forced sexual relationship, or intimidated the minor in any way. If there is any suspicion that the minor parent may have been trafficked by the adult parent, separate the adult from all minors and contact HSI.

Any questions can be directed to Assistant Chief (b) (6), (b) (7)(C) at (b) (7)(C) or via email at (b) (6), (b) (7)(C)

Thank you,

(b) (6), (b) (7)(C)

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