

---

From: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
To: ELC IML SUPERVISORS (b)(7)(E)  
(b)(7)(E)  
Cc: ELC IML WC SOS FOS (b)(7)(E)  
(b)(7)(E)  
Bcc:  
Subject: FW: Updated Headquarters Operational Guidance: June 20, 2018 Executive Order  
Date: Thu Jul 26 2018 11:44:36 EDT  
Attachments: image001.png

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REMINDER

The below guidance was disseminated for immediate implementation on June 20, 2018.

Please ensure ALL adhere to this Operational Guidance.

Thank you

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

Special Operations Supervisor

(b)(7)(E)

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

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From: CHAVEZ, GLORIA I  
Sent: Thursday, June 21, 2018 5:03:34 AM  
To: (b)(6)(b)(7)(C)

Cc: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Subject: Updated Headquarters Operational Guidance: June 20, 2018 Executive Order

PAICs: Please see the below Headquarters operational guidance for immediate dissemination to our field personnel and central processing teams; and for immediate implementation. I need confirmation that you have received and will implement the below guidance immediately.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
(b)(7)(E)

2. (b)(7)(E)  
(b)(7)(E)

3. (b)(7)(E)  
(b)(7)(E)

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)

5. (b)(7)(E)  
(b)(7)(E)

If you have any further questions, please contact our Sector Prosecutions team or Acting ACPA (b)(6)(b)(7)(C) at (b)(6)(b)(7)(C).

Regards,  
Gloria I. Chavez

Chief Patrol Agent

El Centro Sector

U.S. Border Patrol

(b)(6)(b)(7)(C) (office)

From: CHAVEZ, GLORIA I

Sent: Wednesday, June 20, 2018 4:54 PM

To: (b)(6)(b)(7)(C)

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

Cc: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Subject: Zero Tolerance and Executive Order Guidance

ALCON:

Effective immediately the following actions are to be implemented/acted upon:

1. (b)(7)(E)

2. (b)(7)(E)  
(b)(7)(E)

3. (b)(7)(E)  
(b)(7)(E)

Further guidance is forthcoming from HQ. In the interim please ensure that all field commanders and Supervisors are made aware and act accordingly. If you have any further questions, please contact Acting ACPA (b)(6)(b)(7)(C) at (b)(6)(b)(7)(C).

Presidential Executive Order

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

GC

Regards,

Gloria I. Chavez

Chief Patrol Agent

El Centro Sector

U.S. Border Patrol

(b)(6)(b)(7)(C) (office)

From: BOATRRIGHT, ROBERT L (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
To: BBT PAIC DPAIC (b)(7)(E)  
(b)(7)(E)  
Cc: BBT TASKINGS (b)(7)(E)  
(b)(6)(b)(7)(C)(b)(7)(E)  
(b)(6)(b)(7)(C)(OCC) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
Bcc:  
Subject: UPDATED 6/21/2018 - FAMILY SEPARATION GUIDANCE  
Date: Thu Jun 21 2018 08:29:52 EDT  
Attachments: image001.jpg

CONSOLIDATION OF CURRENT GUIDANCE – (No change to DCPA Guidance sent at 5:05 AM 6/21/2018)

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
(b)(7)(E)
2. (b)(7)(E)  
(b)(7)(E)
3. (b)(7)(E)  
(b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)
5. (b)(7)(E)  
(b)(7)(E)

Robert L. Boatright  
Chief Patrol Agent  
Big Bend Sector  
United States Border Patrol

(b) (6), (b) (7)(C) - Office

(b) (7)(C), (b) (6) - iPhone

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

~~This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.~~

From: BOATRIGHT, ROBERT L  
Sent: Wednesday, June 20, 2018 5:36 PM  
To: BBT\_PAIC\_DPAIC (b)(7)(E)  
Cc: BBT TASKINGS (b)(7)(E) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)  
Subject: IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE

PLEASE ACKNOWLEDGE RECEIPT AND IMMEDIATE IMPLEMENTATION TO DC (b) (6), (b) (7)(C) WITHIN 1 HOUR

New Executive Order – June 20, 2018

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

Immediate action plan

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Do not detain an alien family together when there is a concern that detention of an alien child with the child's alien parent would pose a risk to the child's welfare. EO Section 3 (b)

(b) (7)(E)

Additional Guidance

Will change over the next few days

Be Flexible

Err towards family unity

Path Forward – Big Picture

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

Direct questions to Division Chief (b) (6), (b) (7)(C)

More to come as it becomes available.

Robert L. Boatright

Chief Patrol Agent

Big Bend Sector

United States Border Patrol

(b) (6), (b) (7)(C) - Office

(b) (6), (b) (7)(C) - iPhone

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

~~This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.~~



From:

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

To:

DRT OPS DIV

(b)(7)(E)

(b)(7)(E)

Cc:

Bcc:

Subject: FW: Zero Tolerance Prosecutions

Date: Fri May 04 2018 20:00:28 EDT

Attachments:

Here is the guidance we will follow until things are clarified.

(b)(7)(E)

(b)(7)(E)

Thanks

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

From: (b)(6)(b)(7)(C)

Sent: Saturday, May 05, 2018 12:47:53 AM

To: EGS Supervisors

Subject: FW: Zero Tolerance Prosecutions

All,

As we await guidance on some of the language used in the attachment all we can do is apply common sense and our own judgement.

(b)(5)

Until we get further guidance

(b)(5), (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

This isn't

all encompassing so if something weird comes up, call.

(b)(5)

Thanks

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

From: (b)(6)(b)(7)(C)  
Sent: Saturday, May 05, 2018 12:08:06 AM  
To: DRT-PAICS; DRT-DPAICS  
Cc: (b)(6)(b)(7)(C)  
Subject: Zero Tolerance Prosecutions

All,

More information will be forthcoming from Prosecutions, but we will begin 8 USC 1325 prosecutorial referrals for all amenable adults, to include adults that are part of family units, (b)(5), (b)(7)(E)  
Please read the attached CONOP for further details on the efforts.

(b) (7)(E)

1. (b) (7)(E)
2. (b) (7)(E)
3. (b) (7)(E)
4. (b) (7)(E)
5. (b) (7)(E)

(b) (7)(E)

Reporting is still pending, but we will need each station to email the DRT PROS STAFF  
(b)(7)(E) mailbox concerning any adults (b)(7)(E)  
(b)(7)(E)

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

Division Chief  
Del Rio Sector

- (O) (b)(6)(b)(7)(C)
- (C) (b)(6)(b)(7)(C)

From: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
To: BBT PAIC DPAIC (b)(7)(E)  
(b)(7)(E)  
Cc: BBT TASKINGS (b)(7)(E)  
(b)(7)(E)  
(b)(7)(E) (b)(6)(b)(7)(C)  
**(b)(6)(b)(7)(C)**

Bcc:  
Subject: FW: S1 Signed Action Memo Increasing Prosecutions  
Date: Sun May 06 2018 15:56:13 EDT  
Attachments: AG press release Zero tolerance 4.6.18.pdf  
BBT CONOP.docx  
Sector Prosecution Report Final.xlsx  
Southwest Border Prosecutions 05042018.docx  
Zero tolerance memo 4.6.18.pdf

Good afternoon,

Effective immediately, all amenable adults will be referred for prosecution under section 1325(a) of Title 8.

Please see specifics listed within the BBT CONOP for exclusions (b)(7)(E)  
**(b)(7)(E)**

Consistency in reporting and data integrity are crucial for the correct reporting to USBP HQ. Please ensure that the attached spreadsheet is completed daily (Excel spreadsheet). Each station must submit their spreadsheet by COB following PAIC review to BBT Operations.

**(b) (7)(E)**

**(b) (7)(E)**

**(b) (7)(E)**

I know the additional reporting is not fail-proof, however, until a Sharepoint reporting method is established, we will have to continue to report the numbers via daily emails.

As we receive additional information regarding reporting requirements, we will send it to the stations immediately.

Thank you,

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

Division Chief

Big Bend Sector

(b)(6)(b)(7)(C) Office

(b)(6)(b)(7)(C) Cell

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

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From: HASTINGS, BRIAN S  
Sent: Friday, May 04, 2018 4:01:07 PM  
To: BP Field Chiefs; BP Field Deputies  
Cc: PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6)(b)(7)(C) (AJO);  
(b)(6)(b)(7)(C)  
Subject: FW: S1 Signed Action Memo Increasing Prosecutions

SWB Chief's and Deputies,

Please see the attached, approved CONOP to develop a quickly scalable approach to achieve 100% immigration violation prosecution referrals for all amenable adults.

Border Patrol is authorized to implement increased Southwest Border Prosecutions, as outlined in the second attachment, (b)(7)(E)

(b)(5), (b)(6)(b)(7)(C), (b)(7)(E)

In a few moments, we will be sending out a manual spreadsheet to record declinations and purposes for declinations. [REDACTED] (b)(5)

[REDACTED] Accurate data will be critical to show our progress toward 100% prosecutions and to acquire additional assets (AUSAs, Marshall's support, detention space, etc.)

We will be hosting a teleconference call at 6:10 p.m. EST to discuss and answer any questions. The call information will be out in a few minutes.

V/r,  
Brian

## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, April 6, 2018

**Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry**

Attorney General Jeff Sessions today notified all U.S. Attorney's Offices along the Southwest Border of a new "zero-tolerance policy" for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien. The implementation of the Attorney General's zero-tolerance policy comes as the Department of Homeland Security reported a 203 percent increase in illegal border crossings from March 2017 to March 2018, and a 37 percent increase from February 2018 to March 2018—the largest month-to-month increase since 2011.

"The situation at our Southwest Border is unacceptable. Congress has failed to pass effective legislation that serves the national interest—that closes dangerous loopholes and fully funds a wall along our southern border. As a result, a crisis has erupted at our Southwest Border that necessitates an escalated effort to prosecute those who choose to illegally cross our border," said Attorney General Jeff Sessions. "To those who wish to challenge the Trump Administration's commitment to public safety, national security, and the rule of law, I warn you: illegally entering this country will not be rewarded, but will instead be met with the full prosecutorial powers of the Department of Justice. To the Department's prosecutors, I urge you: promoting and enforcing the rule of law is vital to protecting a nation, its borders, and its citizens. You play a critical part in fulfilling these goals, and I thank you for your continued efforts in seeing to it that our laws—and as a result, our nation—are respected."

On April 11, 2017, Attorney General Jeff Sessions announced a renewed commitment to criminal immigration enforcement. As part of that announcement, the Attorney General issued a memorandum to all federal prosecutors and directed them to prioritize the prosecution of certain criminal immigration offenses.

Today's zero-tolerance policy further directs each U.S. Attorney's Office along the Southwest Border (i.e., Southern District of California, District of Arizona, District of New Mexico, Western District of Texas, and the Southern District of Texas) to adopt a policy to prosecute all Department of Homeland Security referrals of section 1325(a) violations, to the extent practicable.

**Attachment(s):**[Download Zero-Tolerance Memorandum](#)**Topic(s):**

Immigration

**Component(s):**[Office of the Attorney General](#)

AIIA Doc. No. 18040635. (Posted 4/6/18)

4/6/2018

Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry | OPA | Department of Justice

**Press Release Number:**

18-417

*Updated April 6, 2018*

AILA Doc. No. 18040635. (Posted 4/6/18)

<https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

2/2

CBP FOIA000264

**Southwest Border Prosecutions**  
**Big Bend Sector**  
**May 6, 2018**

**Objective:**

- Achieve increased level of Border Security in the Big Bend Sector (BBT) area of responsibility (AOR) through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice (DOJ) and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those who choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

BBT, under the direction of the Chief Patrol Agent (CPA), will implement (b)(7)(E)

(b)(7)(E)

- Currently, BBT presents for prosecution all single adults who are amenable to prosecution under 8 U.S.C. § 1325(a). (b)(7)(E)

(b)(7)(E)

- (b)(5), (b)(7)(E)

- BBT has historical success in prosecuting all amenable 8 U.S.C. § 1325(a) cases. (b)(5)

(b)(5)

(b)(5)

- (b)(7)(E) BBT will begin processing all adults who are amenable for prosecution under 8 U.S.C. § 1325(a). This includes adults who are part of family units. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)



**Southwest Border Prosecutions  
Big Bend Sector  
May 6, 2018**

- BBT has notified DOJ and Immigration and Customs Enforcement (ICE) partners of the initiative.
- [REDACTED] (b)(7)(E)
- The CPA will consider DOJ requests for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- The CPA will maintain current operations with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the [REDACTED] (b)(7)(E) module, with reasons for declinations recorded accurately.
- [REDACTED] (b) (7)(E)

**Prosecution Priorities in the following order:**

1. [REDACTED] (b)(7)(E)
2. [REDACTED] (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal's Offices for CBP resources to assist with implementation.
- Report the number of apprehensions in the sector.
- Report the total number of prosecution referrals by sector for each priority throughout sector.
- Report the percentage of referred prosecutions for each priority.
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by SAUSAs from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, will be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease

**Southwest Border Prosecutions**  
**Big Bend Sector**  
**May 6, 2018**

- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

1. [REDACTED] (b)(7)(E)

[REDACTED] (b)(7)(E)

United States Border Patrol  
Weekly Prosecution Report

Sector: (b) (7)(E)	Official Statistics	Apprehensions
		(b)(7)(E)
		(b)(7)(E)

(b)(7)(E)		
	(b)(7)(E)	(b)(7)(E)
(b) (7)(E)		
(b) (7)(E)	2	1%
(b) (7)(E)	5	3%
(b) (7)(E)	8	4%
(b) (7)(E)	4	2%
(b) (7)(E)	1	1%
	20	10%

(b) (7)(E)		Priority 1	Priority 2
(b) (7)(E)			

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United States Border Patrol

Weekly Prosecution Report

(b)(7)(E)		2
(b)(7)(E)	Unofficial Statistics	
(b)(7)(E)		6
(b)(7)(E)		
(b)(7)(E)		5
(b)(7)(E)		3
(b)(7)(E)		
(b)(7)(E)		3
(b)(7)(E)		2
(b)(7)(E)		
Other		
<b>Total</b>		<b>11</b>
		<b>10</b>

(b)(7)(E)		Priority 1	Priority 2
(b)(7)(E)		2	
(b)(7)(E)			5
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			

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United States Border Patrol

(b) (7)(E)	Weekly Prosecution Report	
(b) (7)(E)	Unofficial Statistics	
(b) (7)(E)		4
(b) (7)(E)		
(b) (7)(E)		
Other		
<b>Total</b>	<b>2</b>	<b>9</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

Only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
27	5	19%
14	7	50%
130	10	8%
5	12	240%
4	15	375%
180	49	27%

Priority 3	Priority 4	Priority 5	Total
		3	3

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# United States Border Patrol

Weekly Prosecution Report		
Unofficial Statistics		
4		2
	3	4
		9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	49

Priority 3	Priority 4	Priority 5	Total
			2
			5
			0
			0
8			8
	1		1

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United States Border Patrol

	Weekly Prosecution Report	0
	Unofficial Statistics	0
		4
		0
		0
		0
8	1	0
		20

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report

(b)(7)(E)	official St	(b)(7)(E)
		(b)(7)(E)
		(b)(7)(E)

(b)(7)(E)		
(b)(7)(E)	(b)(7)(E)	(b)(7)(E)
(b)(7)(E)	2	1%
(b)(7)(E)	5	3%
(b)(7)(E)	8	4%
(b)(7)(E)	4	2%
(b)(7)(E)	1	1%
	20	10%

(b)(7)(E)		Priority 1	Priority 2
(b)(7)(E)			

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United States Border Patrol

Weekly Prosecution Report

(b) (7)(E)		2
(b) (7)(E)	Unofficial Statistics	
(b) (7)(E)		6
(b) (7)(E)		
(b) (7)(E)		5
(b) (7)(E)		3
(b)(7)(E)		
(b)(7)(E)		3
(b)(7)(E)		2
(b)(7)(E)		
Other		
<b>Total</b>		<b>11</b>
		<b>10</b>

(b) (7)(E)		Priority 1	Priority 2
(b)(7)(E)			
(b)(7)(E)		2	
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)		1	
(b) (7)(E)			

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United States Border Patrol

(b) (7)(E)	Weekly Prosecution Report		
(b) (7)(E)	Unofficial Statistics		5
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
Other			
<b>Total</b>		<b>3</b>	<b>5</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

Only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
27	5	19%
14	7	50%
130	10	8%
5	12	240%
4	15	375%
180	49	27%

Priority 3	Priority 4	Priority 5	Total
		3	3

~~FF0000FOR OFFICIAL USE ONLY~~

# United States Border Patrol

Weekly Prosecution Report		
Unofficial Statistics		
4		2
	3	4
		9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	11
		49

Priority 3	Priority 4	Priority 5	Total
			0
			2
			0
	8		8
			1
			0

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United States Border Patrol

	<b>Weekly Prosecution Report</b>		<b>0</b>
	Unofficial Statistics		<b>5</b>
			<b>0</b>
		4	<b>4</b>
			<b>0</b>
			<b>0</b>
<b>0</b>	<b>8</b>	<b>4</b>	<b>20</b>

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

~~FF0000FOR OFFICIAL USE ONLY~~

United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

~~FF0000FOR OFFICIAL USE ONLY~~

United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

~~FF0000FOR OFFICIAL USE ONLY~~

United States Border Patrol  
Weekly Prosecution Report

(b) (7)(E)	official	Apprehensions
		(b)(7)(E)

	(b)(7)(E)		
		(b) (7)(E)	(b) (7)(E)
(b)(7)(E)			
(b)(7)(E)		2	1%
(b)(7)(E)		5	3%
(b)(7)(E)		8	4%
(b)(7)(E)		4	2%
(b)(7)(C)		1	1%
		20	10%

(b)(7)(E)		Priority 1	Priority 2
(b)(7)(E)			

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United States Border Patrol

Weekly Prosecution Report

(b) (7)(E)		2
(b) (7)(E)	Unofficial Statistics	
(b) (7)(E)		6
(b) (7)(E)		
(b) (7)(E)		5
(b) (7)(E)		3
(b)(7)(E)		
(b)(7)(E)		3
(b)(7)(E)		2
(b)(7)(E)		
Other		
<b>Total</b>		<b>11</b>
		<b>10</b>

(b) (7)(E)		Priority 1	Priority 2
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b)(7)(E)			5

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United States Border Patrol

Weekly Prosecution Report

(b) (7)(E)			
(b) (7)(E)	Unofficial Statistics	8	
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
Other			
<b>Total</b>		<b>8</b>	<b>5</b>

United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

Only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
27	5	19%
14	7	50%
130	10	8%
5	12	240%
4	15	375%
180	49	27%

Priority 3	Priority 4	Priority 5	Total
		3	3

~~FF0000~~FOR OFFICIAL USE ONLY



United States Border Patrol

Weekly Prosecution Report		
Unofficial Statistics		
4		2
	3	4
		9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	49

Priority 3	Priority 4	Priority 5	Total
4			4
			0
	2		2
			0
			0
			5

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United States Border Patrol

Weekly Prosecution Report		0
Unofficial Statistics		8
		0
1		1
		0
		0
4	3	0
		20

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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Weekly Prosecution Report

(b) (7)(E)	official Statistics	Apprehensions
		(b)(7)(E)

(b)(7)(E)		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
(b) (7)(E)	7	2%
(b) (7)(E)	9	3%
(b) (7)(E)	14	5%
(b) (7)(E)	9	3%
(b) (7)(E)	6	2%
	45	15%

(b) (7)(E)		Priority 1	Priority 2
------------	--	------------	------------

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United States Border Patrol

Weekly Prosecution Report

Unofficial Statistics

(b) (7)(E)		
(b) (7)(E)		2
(b) (7)(E)		
(b) (7)(E)	6	
(b) (7)(E)		
(b) (7)(E)		5
(b) (7)(E)	3	
(b) (7)(E)		
(b) (7)(E)		3
(b) (7)(E)	2	
(b) (7)(E)		
Other		
<b>Total</b>	<b>11</b>	<b>10</b>

(b) (7)(E)		Priority 1	Priority 2
(b) (7)(E)			
(b) (7)(E)			7
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			

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United States Border Patrol

Weekly Prosecution Report

Unofficial Statistics

(b) (7)(E)			
(b)(7)(E)			
(b)(7)(E)			
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
Other			
<b>Total</b>		<b>9</b>	<b>7</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
22	5	23%
21	7	33%
134	10	7%
35	12	34%
43	15	35%
255	49	19%

Priority 3	Priority 4	Priority 5	Total
------------	------------	------------	-------

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United States Border Patrol

Weekly Prosecution Report		3
Unofficial Statistics		2
4		4
	3	9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	49
	11	

Priority 3	Priority 4	Priority 5	Total
			0
			7
	9		9
			0
			0

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United States Border Patrol

Weekly Prosecution Report		9
14	Unofficial Statistics	14
		0
		0
	6	6
		0
		0
14	9	45

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report

(b) (7)(E)	Unofficial Statistics	Apprehensions
		(b) (7)(E)

(b) (7)(E)		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
(b) (7)(E)	7	2%
(b) (7)(E)	9	3%
(b) (7)(E)	14	5%
(b) (7)(E)	9	3%
(b) (7)(E)	6	2%
	45	15%

(b) (7)(E)		Priority 1	Priority 2
------------	--	------------	------------

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United States Border Patrol

Weekly Prosecution Report		
Unofficial Statistics		
(b)(7)(E)		2
(b)(7)(E)		
(b)(7)(E)	6	
(b)(7)(E)		
(b)(7)(E)		5
(b)(7)(E)	3	
(b)(7)(E)		
(b)(7)(E)		3
(b)(7)(E)	2	
(b)(7)(E)		
Other		
<b>Total</b>	<b>11</b>	<b>10</b>

	Priority 1	Priority 2
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)	6	
(b) (7)(E)		

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United States Border Patrol

Weekly Prosecution Report

(b) (7)(E)			
(b) (7)(E)	Unofficial Statistics	9	
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
Other			
<b>Total</b>		<b>15</b>	<b>0</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

s only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
22	5	23%
21	7	33%
134	10	7%
35	12	34%
43	15	35%
255	49	19%

Priority 3	Priority 4	Priority 5	Total
------------	------------	------------	-------

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United States Border Patrol

Weekly Prosecution Report		3
Unofficial Statistics		2
4		4
	3	9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	49

Priority 3	Priority 4	Priority 5	Total
		7	7
			0
			0
			6
14			14

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United States Border Patrol

	Weekly Prosecution Report				0
	Unofficial Statistics				9
					0
					0
					0
		9			9
					0
14		0	16		45

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report

(b) (7)(E)	Unofficial Statistics	Apprehensions
		(b)(7)(E)

(b) (7)(E)		
	(b)(7)(E)	(b)(7)(E)
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)		
(b) (7)(E)		
	7	2%
	9	3%
	14	5%
	9	3%
	6	2%
	45	15%

(b) (7)(E)		Priority 1	Priority 2
------------	--	------------	------------

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United States Border Patrol

Weekly Prosecution Report

Unofficial Statistics

(b) (7)(E)		
(b) (7)(E)		2
(b) (7)(E)		
(b) (7)(E)		6
(b) (7)(E)		
(b) (7)(E)		5
(b) (7)(E)		3
(b) (7)(E)		
(b) (7)(E)		3
(b) (7)(E)		2
(b) (7)(E)		
Other		
<b>Total</b>	<b>11</b>	<b>10</b>

(b) (7)(E)		Priority 1	Priority 2
(b) (7)(E)		6	
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			
(b) (7)(E)			

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United States Border Patrol

(b) (7)(E)	Weekly Prosecution Report	9
(b) (7)(E)	Unofficial Statistics	
(b)(7)(E)		
(b)(7)(E)		
(b)(7)(E)	7	
(b)(7)(E)		
Other		
<b>Total</b>	<b>13</b>	<b>9</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

s only		
(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
22	5	23%
21	7	33%
134	10	7%
35	12	34%
43	15	35%
255	49	19%

Priority 3	Priority 4	Priority 5	Total
------------	------------	------------	-------

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United States Border Patrol

Weekly Prosecution Report		3
Unofficial Statistics		2
4		4
	3	9
	8	8
		5
3		6
	7	7
		3
		2
		0
		0
7	10	49

Priority 3	Priority 4	Priority 5	Total
			6
			0
			0
9			9
			0

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United States Border Patrol

	Weekly Prosecution Report	9
	Unofficial Statistics	0
	14	14
		0
		7
		0
		0
9	14	45
	0	

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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# United States Border Patrol Weekly Prosecution Report

(b) (7)(E)	Unofficial	Statistics	Apprehensions
		(b)(7)(E)	(b)(7)(E)
		(b)(7)(E)	(b)(7)(E)

(b) (7)(E)		
	USBP Non-referred Cases	Percentage Non-Referred
(b) (7)(E)	27	2%
(b) (7)(E)	42	3%
(b) (7)(E)	66	4%
(b) (7)(E)	39	3%
(b) (7)(E)	21	1%
	195	13%

(b) (7)(E)		Priority 1	Priority 2
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United States Border Patrol

Weekly Prosecution Report			
Unofficial Statistics			
(b) (7)(E)		0	0
(b) (7)(E)		0	12
(b) (7)(E)		0	0
(b) (7)(E)		36	0
(b) (7)(E)		0	0
(b) (7)(E)		0	30
(b) (7)(E)		18	0
(b) (7)(E)		0	0
(b) (7)(E)		0	18
(b) (7)(E)		12	0
(b) (7)(E)		0	0
Other		0	0
<b>Total</b>		<b>66</b>	<b>60</b>

		Priority 1	Priority 2
(b) (7)(E)		8	0
(b) (7)(E)		2	12
(b) (7)(E)		0	0
(b) (7)(E)		6	0
(b) (7)(E)		1	0

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United States Border Patrol

(b) (7)(E)	Weekly Prosecution Report	9	14
(b) (7)(E)	Unofficial Statistics	9	0
(b) (7)(E)		8	5
(b) (7)(E)		0	4
(b) (7)(E)		7	0
(b) (7)(E)		0	0
Other		0	0
<b>Total</b>		<b>50</b>	<b>35</b>

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United States Border Patrol  
 Weekly Prosecution Report  
 Unofficial Statistics

Total
1500

(b) (7)(E)	(b) (7)(E)	(b) (7)(E)
147	30	20%
105	42	40%
792	60	8%
120	72	60%
141	90	64%
1305	294	23%

Priority 3	Priority 4	Priority 5	Total
------------	------------	------------	-------

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United States Border Patrol

	Weekly Prosecution Report	18
0	Unofficial Statistics	12
0	0	24
24	0	54
0	18	48
0	0	30
0	0	36
18	0	42
0	42	18
0	0	12
0	0	0
0	0	0
42	60	294

Priority 3	Priority 4	Priority 5	Total
4	0	7	19
0	0	0	14
0	11	0	11
9	8	0	23
22	0	0	23

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United States Border Patrol

	Weekly Prosecution Report	
0	0	24
14	0	23
0	14	27
0	0	4
0	1	18
0	0	9
0	0	0
49	35	195

Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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United States Border Patrol  
Weekly Prosecution Report  
Unofficial Statistics

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**Southwest Border Prosecutions**  
**May 3, 2018**

**Objective:**

- Achieve increased level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

The southwest border sectors, under the direction of their Chief Patrol Agents (CPAs), will implement (b) (7)(E)

- (b) (7)(E) (b)(5)
- Sectors will provide localized, phased plans (b)(7)(E) while recognizing that our partners will need time to adjust resources to achieve shared DHS and DOJ goals.
- CPAs will expand and maintain this prosecution initiative (b) (7)(E)
- CPAs will consider DOJ request for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- CPAs will maintain current operations in other (b)(7)(E) with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the (b)(7)(E) module, with reasons for declinations recorded accurately.
- (b) (7)(E)

**Prosecution Priorities in the following order:**

1. (b)(7)(E)
2. (b)(7)(E)

**Southwest Border Prosecutions**  
May 3, 2018

3. [REDACTED] (b)(7)(E)
4. [REDACTED] (b)(7)(E)
5. [REDACTED] (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal offices for CBP resources to assist with implementation.
- Report the number of apprehensions in targeted and non-targeted (b)(7)(E) by sector.
- Report the total number of prosecution referrals by sector for each priority in targeted and non-targeted (b)(7)(E) by sector.
- Report the percentage of referred prosecutions for each priority in targeted and non-targeted (b)(7)(E).
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by Special Assistant United States Attorneys (SAUSAs) from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, should be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease
- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

(b)(7)(E)

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**Southwest Border Prosecutions**  
**May 3, 2018**

(b) (7)(E)

*Authored by:* Associate Chief (b)(6)(b)(7)(C) and Assistant Chiefs (b)(6)(b)(7)(C) and (b)(6)(b)(7)(C)  
*Approved by:* LEOD Deputy Chief Richard Hudson



Office of the Attorney General  
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to be "J. Sessions", with the date "4/6/18" written below it.

SUBJECT:

Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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From: (b) (6), (b) (7)(C)  
To: (b) (6), (b) (7)(C)  
Cc:  
Bcc:  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)  
\*\*\*\*\*  
Date: Tue Jul 10 2018 09:39:48 EDT  
Attachments:

---

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

Patrol Agent In Charge (b)(7)(E)

phone: (b)(6)(b)(7)(C) | mobile: (b)(6)(b)(7)(C)

address: (b)(6)(b)(7)(C)

email: (b)(6)(b)(7)(C)

From: (b)(6)(b)(7)(C)  
Sent: Monday, July 9, 2018 4:23 PM  
To: (b)(6)(b)(7)(C)  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

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

Patrol Agent In Charge (b)(7)(E)

phone: (b)(6)(b)(7)(C) | mobile: (b)(6)(b)(7)(C)

address: (b)(6)(b)(7)(C)

email: (b)(6)(b)(7)(C)

From: (b) (6), (b) (7)(C)

Sent: Wednesday, June 20, 2018 8:28 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

Updated Guidance below.

Please keep in mind that there will likely be several more updates coming. Your flexibility and resilience is greatly appreciated. Thank you.

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

From: HASTINGS, BRIAN S

Sent: Thursday, June 21, 2018 4:09:29 AM

To: BP Field Chiefs; BP Field Deputies

Cc: MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6)(b)(7)(C)

HUFFMAN, BENJAMINE C; (b)(6)(b)(7)(C) (AJO); (b)(6)(b)(7)(C)

(b)(6)(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6)(b)(7)(C) (OCC); (b)(6)(b)(7)(C) (OCC); (b)(6)(b)(7)(C)

Subject: RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

Chief, Deputies,

Updated Operational Guidance 2:

Amending number 3 below, until further implementation guidance is received. (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
Brian

From: HASTINGS, BRIAN S

Sent: Wednesday, June 20, 2018 9:54 PM

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
(b)(7)(E)

Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP)

(b)(6)(b)(7)(C) PROVOST, CARLA (USBP) (b)(6)(b)(7)(C)

(b)(6)(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6)(b)(7)(C) HUDSON, RICHARD M

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

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

(b)(6)(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6)(b)(7)(C)

(b)(6)(b)(7)(C) (b)(6)(b)(7)(C) (AJO)

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

(b)(6)(b)(7)(C) (b)(6)(b)(7)(C) HOOVER, CRINLEY S

(b)(6)(b)(7)(C) SINGLETON, RUYNARD R (b)(6)(b)(7)(C)

(b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)

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

Subject: June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E)



2. (b) (7)(E) [Redacted]

3. (b) (7)(E) [Redacted]

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E) [Redacted]

5. (b) (7)(E) [Redacted]

V/r,  
Brian

---

From: HUDSON, RICHARD M (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
To: (b)(6)(b)(7)(C)  
Cc:  
Bcc:  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)  
\*\*\*\*\*  
Date: Mon Jul 02 2018 10:39:45 EDT  
Attachments:

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FYSA. Current guidance on zero tolerance prosecutions. Changes expected.

VR

Rich

Richard M. Hudson

Acting Chief

Law Enforcement Operations Directorate

U.S. Border Patrol Headquarters

(b)(6)(b)(7)(C) office

(b)(6)(b)(7)(C) cellular

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From: HASTINGS, BRIAN S  
Sent: Wednesday, June 20, 2018 10:09 PM  
To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
(b)(7)(E)  
Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP)  
(b)(6)(b)(7)(C) PROVOST, CARLA (USBP) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6)(b)(7)(C) HUDSON, RICHARD M

(b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HUFFMAN,  
BENJAMINE C (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (AJO) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HOOVER, CRINLEY S (b)(6)(b)(7)(C) SINGLETON,  
RUYNARD R (b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Subject: RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

Chief, Deputies,

Updated Operational Guidance 2:

Amending number 3 below, until further implementation guidance is received, (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
Brian

From: HASTINGS, BRIAN S

Sent: Wednesday, June 20, 2018 9:54 PM

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
(b)(7)(E)

Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP)  
(b)(6)(b)(7)(C) PROVOST, CARLA (USBP) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6)(b)(7)(C) HUDSON, RICHARD M  
(b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (AJO)  
(b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HOOVER, CRINLEY S

Subject: June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E) [Redacted]
2. (b) (7)(E) [Redacted]
3. (b) (7)(E) [Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E) [Redacted]
5. (b) (7)(E) [Redacted]

V/r,

Brian

---

From:

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

To:

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

Cc:

CHAVEZ, GLORIA I (b)(6)(b)(7)(C)

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

Bcc:

Subject:

FW: Updated Headquarters Operational Guidance: June 20, 2018 Executive Order

Date:

Fri Jun 22 2018 18:59:46 EDT

Attachments:

---

Team,

As it pertains to bullet number 2 below:

(b) (7)(E)

If you have any questions please contact AACPA (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C).

Thank you for all of your hard work!

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

From: CHAVEZ, GLORIA I  
Sent: Wednesday, June 20, 2018 9:04 PM

To: [REDACTED] (b)(6)(b)(7)(C)  
Cc: [REDACTED] (b)(6)(b)(7)(C)

**(b)(6)(b)(7)(C)**

Subject: Updated Headquarters Operational Guidance: June 20, 2018 Executive Order

PAICs: Please see the below Headquarters operational guidance for immediate dissemination to our field personnel and central processing teams; and for immediate implementation. I need confirmation that you have received and will implement the below guidance immediately.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E) [REDACTED]

2. (b) (7)(E) [REDACTED]

3. (b) (7)(E) [REDACTED]

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E) [REDACTED]

5. (b) (7)(E)

If you have any further questions, please contact our Sector Prosecutions team or Acting ACPA (b)(6)(b)(7)(C) at (b)(6)(b)(7)(C).

Regards,

Gloria I. Chavez

Chief Patrol Agent

El Centro Sector

U.S. Border Patrol

(b)(6)(b)(7)(C) (office)

From: CHAVEZ, GLORIA I

Sent: Wednesday, June 20, 2018 4:54 PM

To: (b)(6)(b)(7)(C)

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

Cc: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Subject: Zero Tolerance and Executive Order Guidance

ALCON:


Effective immediately the following actions are to be implemented/acted upon:

1. (b) (7)(E)

2. (b) (7)(E)



3. (b) (7)(E)



Further guidance is forthcoming from HQ. In the interim please ensure that all field commanders and Supervisors are made aware and act accordingly. If you have any further questions, please contact Acting ACPA (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C).

Presidential Executive Order

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

GC

Regards,

Gloria I. Chavez

Chief Patrol Agent

El Centro Sector

U.S. Border Patrol

(b)(6)(b)(7)(C) (office)

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)





(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

---

From: Owen, Todd C (AC OFO) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

To: WAGNER, JOHN P (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HOWE, RANDY  
(b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
: HOFFMAN, TODD A (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HIGGERSON,  
DAVID P (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) MANCHA,  
HECTOR (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
FLORES, PETE ROMERO (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Cc:  
Bcc:  
Subject: FW: S1 Signed Action Memo Increasing Prosecutions  
Date: Mon May 07 2018 08:43:48 EDT  
Attachments: 18-2408 S1 Signed Action Memo Increasing Prosecutions 05.04.18.pdf  
Southwest Border Prosecutions 05042018.docx

---

SWB DFOs,

For your awareness, direction to the Border Patrol to increase prosecutions. As this develops, (b)(5)  
(b)(5) We will need to monitor  
any such developments.

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection

From: FLANAGAN, PATRICK S  
Sent: Friday, May 04, 2018 4:59 PM  
To: PROVOST, CARLA (USBP) (b)(6)(b)(7)(C) LUCK, SCOTT A (USBP)  
(b)(6)(b)(7)(C)

Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP)  
(b)(6)(b)(7)(C) Owen, Todd C (AC OFO) (b)(6)(b)(7)(C)



**Homeland  
Security**

APR 23 2018

**DECISION**

MEMORANDUM FOR THE SECRETARY

FROM:

Kevin K. McAleenan  
Commissioner  
U.S. Customs and Border Protection

L. Francis Cissna  
Director  
U.S. Citizenship and Immigration Services

Thomas D. Homan  
Acting Director  
U.S. Immigration and Customs Enforcement

SUBJECT:

**Increasing Prosecutions of Immigration Violations**

**Purpose:** This memo seeks your decision on increasing immigration violation prosecution referrals.

**Summary:** Illegal migration toward the Southwest Border (SWB) continues to rise. The two categories with the largest increases are: (1) Single Adults, now averaging over 1,000 aliens either apprehended between the ports of entry or found inadmissible at the ports of entry per day over the last 21 days, and (2) family units (FMUA), averaging over 450 for the same period. More starkly, inadmissible FMUAs encountered at and between the ports of entry during the period of April 18–19, 2018, reached the highest level since 2016—at almost 700 per day.

Family groups are one of the most challenging populations to the integrity of the immigration enforcement system both because of the strictures placed by the Flores Settlement Agreement, but also because of the costly and challenging nature of operationally addressing their particular needs and requirements. Without statutory changes and additional policy and operational intervention, U.S. Customs and Border Protection (CBP) anticipates the number of apprehensions and inadmissible aliens will continue to rise in April and May. Accordingly, the Department of Homeland Security (DHS) continues to diligently pursue numerous pathways to address this flow consistent with our laws, in coordination with federal interagency, departmental, and foreign partners.



**Background:** Recent presidential direction and guidance from the Attorney General (AG) instruct the U.S. Government to increase the consequences for dangerous illegal crossings. On April 6, 2018, the President signed a Presidential Memorandum titled Ending Catch and Release at the Border of the United States and Directing Other Enhancements to Immigration Enforcement. This memorandum directed Cabinet departments to apply all available resources and tools toward enhancing immigration enforcement and ending catch and release practices.

Additionally, on April 6, 2018, the AG released a memorandum directed to all federal prosecutors titled Zero-Tolerance for Offenses Under 8 U.S.C. §1325(a).<sup>1</sup> In the memorandum, the AG directed each U.S. Attorney's Office (USAO) along the SWB – to the extent practicable, and in consultation with DHS – to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under §1325(a). The AG additionally directs each USAO on the SWB to work with DHS to develop guidelines to prosecute offenses under §1325(a).

In response to ongoing challenges with the flow of illegal crossings between ports of entry, and in accordance with the President's direction and AG guidance, DHS and CBP are working with the USAOs across the SWB to identify current prosecution thresholds and capacity to receive additional caseload. This will serve as a benchmark to help inform any future Department of Justice (DOJ) resource requirements. Fully realizing the zero-tolerance goals outlined in the AG's memorandum will require DOJ, the USAOs, and the U.S. Marshals Service to adjust policy thresholds and increase capacity across the southwest border. CBP and U.S. Immigration and Customs Enforcement will also have to apply additional resources toward enhanced referrals for prosecution.

The Immigration and Nationality Act (INA) authorizes the detention of certain aliens who entered the United States unlawfully until they can be removed from the United States.<sup>2</sup> Inadmissible aliens are subject to removal, and aliens who illegally cross into the United States may be subject to criminal penalties as well as removal.<sup>3</sup> The Secretary of Homeland Security

---

<sup>1</sup> 8 U.S.C. § 1325(a) provides that prosecution in the following situations: (a) Improper time or place; avoidance of examination or inspection; misrepresentation and concealment of facts. Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

<sup>2</sup> See, e.g., 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (providing that certain aliens subject to "expedited removal" procedures under Section 1225 "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."); 8 U.S.C. § 1225(b)(2)(A) (providing that aliens who have not been determined to be clearly and beyond a doubt entitled to admission shall be detained for 8 U.S.C. § 1229a proceedings); 8 U.S.C. § 1226(a) (establishing that, subject to certain exceptions, an alien may be arrested and detained "[o]n a warrant issued by the Attorney General . . . pending a decision on whether the alien is to be removed from the United States."); 8 U.S.C. § 1226(c) (authorizing the detention of certain criminal aliens); 8 U.S.C. § 1231(a)(2) (requiring the Attorney General to detain aliens "[d]uring the removal period" as they are removed from the United States following appropriate proceedings).

<sup>3</sup> See, e.g., 8 U.S.C. §§ 1325, 1326.

has broad legal authorities to carry out her responsibility to enforce the immigration laws.<sup>4</sup> DHS could also permissibly direct the separation of parents or legal guardians and minors held in immigration detention so that the parent or legal guardian can be prosecuted pursuant to these authorities.<sup>5</sup>

DHS has several options for how to pursue this increased prosecution, “Zero-Tolerance” initiative:

a.

(b)(7)(E)

b.

(b)(7)(E)

c.

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

<sup>4</sup> See 6 U.S.C. § 202 (conveying broad authority to the Secretary of Homeland Security to secure the borders and carry out immigration enforcement functions); 8 U.S.C. § 1103(a)(3) (laying out broad regulatory authority for the Secretary of Homeland Security under the INA).

<sup>5</sup> For full legal analysis of this initiative, please see Attachment.

~~FOR OFFICIAL USE ONLY~~

(b) (7)(E)

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(b) (7)(E)

A large black rectangular redaction box covering the majority of the page's content.

Accordingly, we request your decision on whether to pursue increased prosecution of amenable persons crossing the United States border illegally, and your guidance on the preferred option.

~~FOR OFFICIAL USE ONLY~~

**Recommendation:** We recommend Option 3 as the most effective method to achieve operational objectives and the Administration's goal to end "catch and release." This initiative would pursue prosecution of (b)(7)(E) who cross our border illegally, including those (b)(7)(E) between ports of entry in coordination with DOJ.

**Option 1:**

Approve/date \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**Option 2:**

Approve/date \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**Option 3:**

Approve/date (b)(6);(b)(7)(C) 5/4/18 \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**Southwest Border Prosecutions**  
**Big Bend Sector**  
**May 6, 2018**

**Objective:**

- Achieve increased level of Border Security in the Big Bend Sector (BBT) area of responsibility (AOR) through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice (DOJ) and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those who choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

BBT, under the direction of the Chief Patrol Agent (CPA), (b) (7)(E)

- Currently, BBT presents for prosecution all single adults who are amenable to prosecution under 8 U.S.C. § 1325(a). (b)(7)(E)

(b)(7)(E)

- (b)(5), (b)(7)(E)

- BBT has historical success in prosecuting all amenable 8 U.S.C. § 1325(a) cases. (b)(5)

(b)(5)

(b)(5)

- (b)(7)(E) BBT will begin processing all adults who are amenable for prosecution under 8 U.S.C. § 1325(a). This includes adults who are part of family units. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

**Southwest Border Prosecutions  
Big Bend Sector  
May 6, 2018**

- BBT has notified DOJ and Immigration and Customs Enforcement (ICE) partners of the initiative.
- (b)(5), (b)(7)(E)
- The CPA will consider DOJ requests for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- The CPA will maintain current operations with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the (b)(7)(E) module, with reasons for declinations recorded accurately.
- (b)(7)(E)

**Prosecution Priorities in the following order:**

1. (b)(7)(E)
2. (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal's Offices for CBP resources to assist with implementation.
- Report the number of apprehensions in the sector.
- Report the total number of prosecution referrals by sector for each priority throughout sector.
- Report the percentage of referred prosecutions for each priority.
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by SAUSAs from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, will be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease

**Southwest Border Prosecutions**  
**Big Bend Sector**  
**May 6, 2018**

- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

1. [REDACTED] (b)(7)(E)

[REDACTED] (b)(7)(E)

From:

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

To:

LRT STATION COMMAND GML

(b)(7)(E)

LRT SECTOR STAFF GML

(b)(7)(E)

(b)(7)(E)

Cc:

LRT-Pross-Management

(b)(7)(E)

LRT-CPU MANAGMENT

(b)(7)(E)

(b)(7)(E)

Bcc:

Subject:

RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)

\*\*\*\*\*

Date:

Tue Jun 26 2018 07:55:01 EDT

Attachments:

ALCON,

Please review the below Executive Order drafted June 20, 2018, and continue to operate under this guidance until any updates or modifications are received.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E)

2. (b) (7)(E)

3. (b) (7)(E)

(b) (7)(E)

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)



(b) (7)(E)

5. (b) (7)(E)

Respectfully,

(b)(6)(b)(7)(C) MEP

Acting Assistant Chief Patrol Agent

Laredo Sector

Office: (b)(6)(b)(7)(C)

GOV Cell: (b)(6)(b)(7)(C)

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

From: (b)(6)(b)(7)(C)

Sent: Thursday, June 21, 2018 6:39 AM

To: LRT STATION COMMAND GML (b)(7)(E) LRT SECTOR

STAFF GML (b)(7)(E)

Cc: LRT-Pross-Management (b)(7)(E) LRT-CPU MANAGMENT

(b)(7)(E)

Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

FYSA

Initial EO operational guidance and update.

Respectfully,

(b)(6)(b)(7)(C)  
Acting Assistant Chief Patrol Agent

Laredo Sector

GOV Cell: (b)(6)(b)(7)(C)

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

Sent from a mobile device

---

From: (b)(6)(b)(7)(C)  
Sent: Thursday, June 21, 2018 6:17:20 AM  
To: (b)(6)(b)(7)(C)  
Cc: (b)(6)(b)(7)(C)  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

Update

Thank you,

(b)(6)(b)(7)(C)  
Special Operations Supervisor  
Combine Enforcement Unit  
USBP Laredo Sector  
Office: (b)(6)(b)(7)(C)  
Gov: (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

---

From: (b)(6)(b)(7)(C)  
Sent: Thursday, June 21, 2018 12:28:26 AM  
To: (b)(7)(E)  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

FYSA

Thank you,

(b)(6)(b)(7)(C)  
(a) Deputy Chief Patrol Agent  
Laredo Sector Border Patrol  
(b)(6)(b)(7)(C)

---

From: HASTINGS, BRIAN S  
Sent: Wednesday, June 20, 2018 8:09:29 PM  
To: BP Field Chiefs; BP Field Deputies  
Cc: MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6)(b)(7)(C)  
HUFFMAN, BENJAMINE C; (b)(6)(b)(7)(C) (AJO); (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6)(b)(7)(C)  
(OCC); (b)(6)(b)(7)(C) (OCC); (b)(6)(b)(7)(C)

Subject: RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

Chief, Deputies,

Updated Operational Guidance 2:

Amending number 3 below, until further implementation guidance is received, (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
Brian

From: HASTINGS, BRIAN S  
 Sent: Wednesday, June 20, 2018 9:54 PM  
 To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
 (b)(7)(E)  
 Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP)  
 (b)(6)(b)(7)(C) PROVOST, CARLA (USBP) (b)(6)(b)(7)(C)  
 (b)(6)(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6)(b)(7)(C) HUDSON, RICHARD M  
 (b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
 (b)(6)(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6)(b)(7)(C)  
 (b)(6)(b)(7)(C) (AJO)  
 (b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
 (b)(6)(b)(7)(C) SINGLETON, RUYNARD R HOOVER, CRINLEY S  
 (b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)  
 (b)(6)(b)(7)(C)

Subject: June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E)  
[Redacted]
2. (b) (7)(E)  
[Redacted]
3. (b) (7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)  
[Redacted]
5. (b) (7)(E)  
[Redacted]

V/r,  
Brian

---

From:

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

To:

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

Cc:

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

Bcc:

Subject:

FW: Zero Tolerance Prosecutions

Date:

Fri May 04 2018 19:38:29 EDT

Attachments:

image001.jpg

Southwest Border Prosecutions 05042018.docx

---

Gentlemen,

With this new guidance, (b)(5), (b)(7)(E)

[Redacted]

(b)(5), (b)(7)(E)

[Redacted]

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

Assistant Chief Patrol Agent

Del Rio Sector

(b)(6)(b)(7)(C) Office

(b)(6)(b)(7)(C) G-cell

From: (b)(6)(b)(7)(C)  
Sent: Friday, May 04, 2018 6:08 PM  
To: DRT-PAICS (b)(7)(E) DRT-DPAICS (b)(7)(E)  
(b)(7)(E)  
Cc: (b)(6)(b)(7)(C)  
Subject: Zero Tolerance Prosecutions

All,

More information will be forthcoming from Prosecutions, but we will begin 8 USC 1325 prosecutorial referrals for all amenable adults, to include adults that are part of family units, (b)(7)(E)  
Please read the attached CONOP for further details on the efforts.

(b) (7)(E)

1. (b) (7)(E)
2. (b) (7)(E)
3. (b) (7)(E)
4. (b) (7)(E)
5. (b) (7)(E)

(b) (7)(E)

Reporting is still pending, but we will need each station to email the DRT PROS STAFF  
(b)(7)(E) mailbox concerning any adults (b)(7)(E)  
(b)(7)(E)

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

Division Chief  
Del Rio Sector

(O) (b)(6)(b)(7)(C)  
(C) (b)(6)(b)(7)(C)

**Southwest Border Prosecutions**  
**May 3, 2018**

**Objective:**

- Achieve increased level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

The southwest border sectors, under the direction of their Chief Patrol Agents (CPAs), will implement [REDACTED] (b)(7)(E)

- [REDACTED] (b)(7)(E) [REDACTED] (b)(5) [REDACTED] (b)(5)
- Sectors will provide localized, phased plans to [REDACTED] (b)(7)(E) [REDACTED] (b)(7)(E) while recognizing that our partners will need time to adjust resources to achieve shared DHS and DOJ goals.
- CPAs will expand and maintain this prosecution initiative [REDACTED] (b)(7)(E)
- CPAs will consider DOJ request for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- CPAs will maintain current operations in other [REDACTED] (b)(7)(E) with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the [REDACTED] (b)(7)(E) module, with reasons for declinations recorded accurately.
- [REDACTED] (b)(7)(E)

**Prosecution Priorities in the following order:**

1. [REDACTED] (b)(7)(E)
2. [REDACTED] (b)(7)(E)



**Southwest Border Prosecutions**  
May 3, 2018

3. [REDACTED] (b)(7)(E)
4. [REDACTED] (b)(7)(E)
5. [REDACTED] (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal offices for CBP resources to assist with implementation.
- Report the number of apprehensions in targeted and non-targeted (b)(7)(E) by sector.
- Report the total number of prosecution referrals by sector for each priority in targeted and non-targeted (b)(7)(E) by sector.
- Report the percentage of referred prosecutions for each priority in targeted and non-targeted (b)(7)(E)
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by Special Assistant United States Attorneys (SAUSAs) from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, should be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease
- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

(b)(7)(E)

~~FOR OFFICIAL USE ONLY~~  
~~PRE-DECISIONAL//DELIBERATIVE~~

**Southwest Border Prosecutions**  
**May 3, 2018**

(b) (7)(E)

*Authored by:* Associate Chief (b)(6)(b)(7)(C) and Assistant Chiefs (b)(6)(b)(7)(C) and (b)(6)(b)(7)(C)  
*Approved by:* LEOD Deputy Chief Richard Hudson

---

From: VILLAREAL, ROY D (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)  
To: (b)(6)(b)(7)(C)  
Cc:  
Bcc:  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)  
\*\*\*\*\*  
Date: Wed Jun 27 2018 14:17:57 EDT  
Attachments:

---

Roy Villareal  
Deputy Chief Patrol Agent  
San Diego Sector  
(b)(6)(b)(7)(C)

---

From: VILLAREAL, ROY D  
Sent: Thursday, June 21, 2018 4:35:14 AM  
To: SDC PAIC APAIC; SDC PROS SUPS  
Cc: SCOTT, RODNEY S  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

Please take note of the amended guidance.

Roy Villareal  
Deputy Chief Patrol Agent  
San Diego Sector  
(b)(6)(b)(7)(C)

---

From: HASTINGS, BRIAN S  
Sent: Thursday, June 21, 2018 4:09:29 AM  
To: BP Field Chiefs; BP Field Deputies  
Cc: MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6)(b)(7)(C)  
HUFFMAN, BENJAMINE C; (b)(6)(b)(7)(C) (AJO); (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6)(b)(7)(C)  
(OCC); (b)(6)(b)(7)(C) (OCC); (b)(6)(b)(7)(C)  
Subject: RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

Chief, Deputies,

Updated Operational Guidance 2:

Amending number 3 below, until further implementation guidance is received, (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
Brian

From: HASTINGS, BRIAN S  
Sent: Wednesday, June 20, 2018 9:54 PM  
To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E) gov>  
Cc: MCALEENAN, KEVIN K (b)(6)(b)(7)(C) VITIELLO, RONALD D (USBP) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) PROVOST, CARLA (USBP) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6)(b)(7)(C) HUDSON, RICHARD M  
(b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6)(b)(7)(C) (AJO)  
(b)(6)(b)(7)(C) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (b)(6)(b)(7)(C) HOOVER, CRINLEY S  
(b)(6)(b)(7)(C) SINGLETON, RUYNARD R (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C) (OCC) (b)(6)(b)(7)(C)  
(b)(6)(b)(7)(C)

Subject: June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b) (7)(E)  
[Redacted]
2. (b) (7)(E)  
[Redacted]
3. (b) (7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)  
[Redacted]
5. (b) (7)(E)  
[Redacted]

V/r,  
Brian



**Homeland  
Security**

APR 23 2018

**DECISION**

MEMORANDUM FOR THE SECRETARY

FROM:

Kevin K. McAleenan  
Commissioner  
U.S. Customs and Border Protection

L. Francis Cissna  
Director  
U.S. Citizenship and Immigration Services

Thomas D. Homan  
Acting Director  
U.S. Immigration and Customs Enforcement

SUBJECT:

**Increasing Prosecutions of Immigration Violations**

**Purpose:** This memo seeks your decision on increasing immigration violation prosecution referrals.

**Summary:** Illegal migration toward the Southwest Border (SWB) continues to rise. The two categories with the largest increases are: (1) Single Adults, now averaging over 1,000 aliens either apprehended between the ports of entry or found inadmissible at the ports of entry per day over the last 21 days, and (2) family units (FMUA), averaging over 450 for the same period. More starkly, inadmissible FMUAs encountered at and between the ports of entry during the period of April 18–19, 2018, reached the highest level since 2016—at almost 700 per day.

Family groups are one of the most challenging populations to the integrity of the immigration enforcement system both because of the strictures placed by the Flores Settlement Agreement, but also because of the costly and challenging nature of operationally addressing their particular needs and requirements. Without statutory changes and additional policy and operational intervention, U.S. Customs and Border Protection (CBP) anticipates the number of apprehensions and inadmissible aliens will continue to rise in April and May. Accordingly, the Department of Homeland Security (DHS) continues to diligently pursue numerous pathways to address this flow consistent with our laws, in coordination with federal interagency, departmental, and foreign partners.

**Background:** Recent presidential direction and guidance from the Attorney General (AG) instruct the U.S. Government to increase the consequences for dangerous illegal crossings. On April 6, 2018, the President signed a Presidential Memorandum titled Ending Catch and Release at the Border of the United States and Directing Other Enhancements to Immigration Enforcement. This memorandum directed Cabinet departments to apply all available resources and tools toward enhancing immigration enforcement and ending catch and release practices.

Additionally, on April 6, 2018, the AG released a memorandum directed to all federal prosecutors titled Zero-Tolerance for Offenses Under 8 U.S.C. §1325(a).<sup>1</sup> In the memorandum, the AG directed each U.S. Attorney's Office (USAO) along the SWB – to the extent practicable, and in consultation with DHS – to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under §1325(a). The AG additionally directs each USAO on the SWB to work with DHS to develop guidelines to prosecute offenses under §1325(a).

In response to ongoing challenges with the flow of illegal crossings between ports of entry, and in accordance with the President's direction and AG guidance, DHS and CBP are working with the USAOs across the SWB to identify current prosecution thresholds and capacity to receive additional caseload. This will serve as a benchmark to help inform any future Department of Justice (DOJ) resource requirements. Fully realizing the zero-tolerance goals outlined in the AG's memorandum will require DOJ, the USAOs, and the U.S. Marshals Service to adjust policy thresholds and increase capacity across the southwest border. CBP and U.S. Immigration and Customs Enforcement will also have to apply additional resources toward enhanced referrals for prosecution.

The Immigration and Nationality Act (INA) authorizes the detention of certain aliens who entered the United States unlawfully until they can be removed from the United States.<sup>2</sup> Inadmissible aliens are subject to removal, and aliens who illegally cross into the United States may be subject to criminal penalties as well as removal.<sup>3</sup> The Secretary of Homeland Security

---

<sup>1</sup> 8 U.S.C. § 1325(a) provides that prosecution in the following situations: (a) Improper time or place; avoidance of examination or inspection; misrepresentation and concealment of facts. Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

<sup>2</sup> See, e.g., 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (providing that certain aliens subject to "expedited removal" procedures under Section 1225 "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."); 8 U.S.C. § 1225(b)(2)(A) (providing that aliens who have not been determined to be clearly and beyond a doubt entitled to admission shall be detained for 8 U.S.C. § 1229a proceedings); 8 U.S.C. § 1226(a) (establishing that, subject to certain exceptions, an alien may be arrested and detained "[o]n a warrant issued by the Attorney General . . . pending a decision on whether the alien is to be removed from the United States."); 8 U.S.C. § 1226(c) (authorizing the detention of certain criminal aliens); 8 U.S.C. § 1231(a)(2) (requiring the Attorney General to detain aliens "[d]uring the removal period" as they are removed from the United States following appropriate proceedings).

<sup>3</sup> See, e.g., 8 U.S.C. §§ 1325, 1326.

has broad legal authorities to carry out her responsibility to enforce the immigration laws.<sup>4</sup> DHS could also permissibly direct the separation of parents or legal guardians and minors held in immigration detention so that the parent or legal guardian can be prosecuted pursuant to these authorities.<sup>5</sup>

DHS has several options for how to pursue this increased prosecution, “Zero-Tolerance” initiative:

a.

(b)(7)(E)

b.

(b)(7)(E)

c.

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

<sup>4</sup> See 6 U.S.C. § 202 (conveying broad authority to the Secretary of Homeland Security to secure the borders and carry out immigration enforcement functions); 8 U.S.C. § 1103(a)(3) (laying out broad regulatory authority for the Secretary of Homeland Security under the INA).

<sup>5</sup> For full legal analysis of this initiative, please see Attachment.



~~FOR OFFICIAL USE ONLY~~

(b) (7)(E)

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(b) (7)(E)

A large black rectangular redaction box covering the majority of the page's content.

Accordingly, we request your decision on whether to pursue increased prosecution of amenable persons crossing the United States border illegally, and your guidance on the preferred option.

~~FOR OFFICIAL USE ONLY~~

**Recommendation:** We recommend Option 3 as the most effective method to achieve operational objectives and the Administration's goal to end "catch and release." This initiative would pursue prosecution of (b)(7)(E) who cross our border illegally, including those (b)(7)(E) between ports of entry in coordination with DOJ.

**Option 1:**

Approve/date \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**Option 2:**

Approve/date \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**Option 3:**

Approve/date (b)(6);(b)(7)(C) 5/4/18 \_\_\_\_\_ Disapprove/date \_\_\_\_\_

Modify/date \_\_\_\_\_ Needs discussion/date \_\_\_\_\_

**From:** (b) (6), (b) (7)  
**To:** [BP Field Chiefs; BP Field Deputies](#)  
**Cc:** [PROVOST, CARLA \(USBP\); LUCK, SCOTT A \(USBP\); HUDSON, RICHARD M;](#) (b)(6);(b)(7)(C) [HUFFMAN, BENJAMINE C;](#) (b)(6);(b)(7)(C)  
**Subject:** FW: S1 Signed Action Memo Increasing Prosecutions  
**Date:** Friday, May 4, 2018 6:01:09 PM  
**Attachments:** [Southwest Border Prosecutions 05042018.docx](#)

---

SWB Chief's and Deputies,

Please see the attached, approved CONOP to develop a quickly scalable approach to achieve 100% immigration violation prosecution referrals for **all amenable adults**.

Border Patrol is authorized to implement increased Southwest Border Prosecutions, as outlined in the second attachment, (b)(7)(E)

(b)(6);(b)(7)(C);(b)(7)(E)

In a few moments, we will be sending out a manual spreadsheet to record declinations and purposes for declinations. (b)(5)

Accurate data will be critical to show our progress toward 100% prosecutions and to acquire additional assets (AUSAs, Marshall's support, detention space, etc.)

We will be hosting a teleconference call at 6:10 p.m. EST to discuss and answer any questions. The call information will be out in a few minutes.

V/r,  
(b)(6);(b)(7)(C)

**Southwest Border Prosecutions**  
**May 3, 2018**

**Objective:**

- Achieve increased level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

The southwest border sectors, under the direction of their Chief Patrol Agents (CPAs), will implement (b) (7)(E)

- (b) (7)(E) (b)(5)
- Sectors will provide localized, phased plans to (b) (6) while recognizing that our partners will need time to adjust resources to achieve shared DHS and DOJ goals.
- CPAs will expand and maintain this prosecution initiative (b) (7)(E)
- CPAs will consider DOJ request for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- CPAs will maintain current operations in other (b)(7)(E) with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the (b)(7)(E) module, with reasons for declinations recorded accurately.
- (b) (7)(E)

**Prosecution Priorities in the following order:**

1. (b)(7)(E)
2. (b)(7)(E)

**Southwest Border Prosecutions**  
May 3, 2018

- 3. [REDACTED] (b)(7)(E)
- 4. [REDACTED] (b)(7)(E)
- 5. [REDACTED] (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal offices for CBP resources to assist with implementation.
- Report the number of apprehensions in targeted and non-targeted (b)(7)(E) by sector.
- Report the total number of prosecution referrals by sector for each priority in targeted and non-targeted (b)(7)(E) by sector.
- Report the percentage of referred prosecutions for each priority in targeted and non-targeted (b)(7)(E)
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by Special Assistant United States Attorneys (SAUSAs) from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, should be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease
- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

(b)(7)(E)

~~FOR OFFICIAL USE ONLY~~  
~~PRE-DECISIONAL//DELIBERATIVE~~

**Southwest Border Prosecutions**  
**May 3, 2018**

(b) (7)(E)

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 4:06 AM  
**To:** SBT Supervisors  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

Additional guidance. Ensure compliance.

Thank you,

(b)(6);(b)(7)(C)  
Patrol Agent in Charge  
(b)(7)(E) / Big Bend Sector  
(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) mobile

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 4:04:56 AM  
**To:** BBT\_PAIC\_DPAIC; BBT TASKINGS; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

All,  
Please see updated guidance below for immediate implementation. (b)(7)(E) Contact DC (b)(6);(b)(7)(C) if you have any questions. Thank you.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S;

SINGLETON, RUYNARD R; (b)(6);(b)(7)(C)(OCC); (b)(6);(b)(7)(C)(OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received. (b)(7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:54 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) MITIELLO, RONALD D (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6); (b)(7)(C); HUDSON, RICHARD M (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HOOVER, CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R (b)(6);(b)(7)(C)  
(OCC) (b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.



June 20, 2018 Executive Order – Updated Operational Guidance:

1. [REDACTED] (b)(7)(E)
2. [REDACTED] (b)(7)(E)
3. [REDACTED] (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)
5. [REDACTED] (b)(7)(E)

V/r,  
[REDACTED] (b)(6)(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** BBT PAIC DPAIC; BBT TASKINGS; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*  
**Date:** Thursday, June 21, 2018 5:04:57 AM

---

All,  
Please see updated guidance below for immediate implementation. (b)(7)(E)  
(b)(7)(E) Contact DC (b)(6);(b)(7)(C) if you have any questions. Thank you.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b)(7)(E)

(b)(7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received, understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:54 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HOOVER,  
CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
(OCC) (b)(6);(b)(7)(C)

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
[Redacted]
2. (b)(7)(E)  
[Redacted]
3. (b)(7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)  
[Redacted]
5. (b)(7)(E)  
[Redacted]

V/r,

01000000

**From:** [BOATRIGHT, ROBERT L](#)  
**To:** [BBT PAIC DPAIC](#)  
**Cc:** [BBT TASKINGS](#); (b)(6);(b)(7)(C) (OCC)  
**Subject:** UPDATED 6/21/2018 - FAMILY SEPARATION GUIDANCE  
**Date:** Thursday, June 21, 2018 7:29:54 AM

---

**CONSOLIDATION OF CURRENT GUIDANCE** – (No change to DCPA Guidance sent at 5:05 AM 6/21/2018)

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
[Redacted]
2. (b)(7)(E)  
[Redacted]
3. (b)(7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)  
[Redacted]
5. (b)(7)(E)  
[Redacted]

**Robert L. Boatright**  
Chief Patrol Agent  
Big Bend Sector

United States Border Patrol

(b)(6);(b)(7)(C) - Office

(b)(6);(b)(7)(C) - iPhone

(b)(6);(b)(7)(C)



~~This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.~~

---

**From:** BOATRIGHT, ROBERT L

**Sent:** Wednesday, June 20, 2018 5:36 PM

**To:** BBT\_PAIC\_DPAIC (b)(7)(E)

**Cc:** BBT TASKINGS (b)(7)(E) | (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) (OCC)

(b)(6);(b)(7)(C)

**Subject:** IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE

**PLEASE ACKNOWLEDGE RECEIPT AND IMMEDIATE IMPLEMENTATION TO DC (b)(6);(b)(7)(C)  
WITHIN 1 HOUR**

**New Executive Order – June 20, 2018**

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

**Immediate action plan**

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Do not detain an alien family together when there is a concern that detention of an alien child with the child's alien parent would pose a risk to the child's welfare. EO Section 3 (b)

(b)(7)(E)

**Additional Guidance**

Will change over the next few days

Be Flexible

Err towards family unity

**Path Forward – Big Picture**

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

Direct questions to Division Chief (b)(6);(b)(7)(C)

More to come as it becomes available.

***Robert L. Boatright***

*Chief Patrol Agent*

*Big Bend Sector*

*United States Border Patrol*

(b)(6);(b)(7)(C) - Office

(b)(6);(b)(7)(C) - iPhone

(b)(6);(b)(7)(C)



~~*This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.*~~

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 6:34 AM  
**To:** SBT Supervisors  
**Subject:** FW: UPDATED 6/21/2018 - FAMILY SEPARATION GUIDANCE

FYSA

Thank you,

(b)(6);(b)(7)(C)

Patrol Agent in Charge

(b)(7)(E) / Big Bend Sector

(b)(6);(b)(7)(C) Office

(b)(6);(b)(7)(C) Mobile

---

**From:** BOATRIGHT, ROBERT L  
**Sent:** Thursday, June 21, 2018 6:30 AM  
**To:** BBT\_PAIC\_DPAIC (b)(7)(E)  
**Cc:** BBT TASKINGS (b)(7)(E) (b)(6);(b)(7)(C) (OCC)  
(b)(6);(b)(7)(C)  
**Subject:** UPDATED 6/21/2018 - FAMILY SEPARATION GUIDANCE

**CONSOLIDATION OF CURRENT GUIDANCE** – (No change to DCPA Guidance sent at 5:05 AM 6/21/2018)

June 20, 2018 Executive Order – Updated Operational Guidance:

1.

(b)(7)(E)



(b)(7)(E)

[Redacted]

2.

(b)(7)(E)

[Redacted]

[Redacted]

3.

(b)(7)(E)

[Redacted]

[Redacted]

[Redacted]

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)

[Redacted]

[Redacted]

[Redacted]

5.

(b)(7)(E)

[Redacted]

[Redacted]

**Robert L. Boatright**  
Chief Patrol Agent  
Big Bend Sector  
United States Border Patrol  
(b)(6);(b)(7)(C) - Office  
(b)(6);(b)(7)(C) - iPhone  
(b)(6);(b)(7)(C)



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**From:** BOATRIGT, ROBERT L  
**Sent:** Wednesday, June 20, 2018 5:36 PM  
**To:** BBT\_PAIC\_DPAIC (b)(7)(E); (b)(6);(b)(7)(C) (OCC)  
**Cc:** BBT\_TASKINGS (b)(7)(E); (b)(6);(b)(7)(C)

**Subject:** IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE

**PLEASE ACKNOWLEDGE RECEIPT AND IMMEDIATE IMPLEMENTATION TO DC (b)(6);(b)(7)(C) WITHIN 1 HOUR**

**New Executive Order – June 20, 2018**

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

**Immediate action plan**

(b)(7)(E)  
(b)(7)(E)  
(b)(7)(E)

Do not detain an alien family together when there is a concern that detention of an alien child with the child’s alien parent would pose a risk to the child’s welfare. EO Section 3 (b)

(b)(7)(E)

**Additional Guidance**

Will change over the next few days

Be Flexible  
Err towards family unity

**Path Forward – Big Picture**

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

Direct questions to Division Chief (b)(6)(b)(7)(C).

More to come as it becomes available.

**Robert L. Boatright**

Chief Patrol Agent

Big Bend Sector

United States Border Patrol

(b)(6);(b)(7)(C) - Office

(b)(6);(b)(7)(C) – iPhone

(b)(6);(b)(7)(C)



~~This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.~~

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:17 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** HUDSON, RICHARD M  
**Sent:** Monday, August 6, 2018 7:02 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) USBP  
LEOD Associate Chiefs (b)(7)(E)  
**Subject:** Re: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b)(5)

This is now part of a court ordered stay.

(b)(5)

(b)(5)

I anticipate future permutations of this situation as the legal process continues to play out.

Appreciate your patience and flexibility.

VR

Rich

Richard M. Hudson  
Acting Chief

Law Enforcement Operations Directorate

U.S. Border Patrol Headquarters

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

----- Original message -----

From: "HUDSON, RICHARD M" (b)(6);(b)(7)(C)

Date: 8/6/18 20:30 (GMT-05:00)

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

Cc: "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C) "PROVOST, CARLA (USBP)"

(b)(6);(b)(7)(C) "HUFFMAN, BENJAMINE C"

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(OCC)"

(b)(6);(b)(7)(C)

USBP LEOD Associate Chiefs (b)(7)(E)

Subject: Re: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5)

(b) (5)

Please be prepared for late night direction and potential direction change.

VR

Rich

Richard M. Hudson

Acting Chief

Law Enforcement Operations Directorate

U.S. Border Patrol Headquarters

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

----- Original message -----

From: "HUDSON, RICHARD M" (b)(6);(b)(7)(C)

Date: 8/2/18 07:42 (GMT-05:00)

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

Cc: "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C) "PROVOST, CARLA (USBP)"

(b)(6);(b)(7)(C) "HUFFMAN, BENJAMINE C"

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(OCC)"

(b)(6);(b)(7)(C)

USBP LEOD Associate Chiefs

(b)(7)(E)

Subject: RE: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (6), (b) (7)(C), (b) (7)(E)

Again, please confirm receipt of this email to the (b)(6);(b)(7)(C) and I.

Thank you in advance for your patience and understanding.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

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From: HUDSON, RICHARD M

Sent: Tuesday, July 31, 2018 9:44 PM

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

Cc: LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) CARLA PROVOST (USBP) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

Subject: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION  
Importance: High

Chiefs,

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

Please ensure this guidance is provided to all processing centers and stations that would be impacted by this guidance.

Please confirm receipt via a return e-mail to me, (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C).

If you have any issues with (b)(5), (b)(7)(E), please elevate immediately to HQ for intervention.

If you have any questions, please let me know and we will work with OCC to get you an answer if we cannot provide one immediately.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
United States Border Patrol Headquarters  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) Cellular  
(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 8:24 AM  
**To:**

(b)(6);(b)(7)(C)

**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

All,  
I've compiled two different emails here on guidance regarding the EO from yesterday. The first one had the string below and the second one is an amendment which I pasted immediately below.

(b)(6);(b)(7)(C)

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 5:16 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

Please disseminate

(b)(6);(b)(7)(C)  
Chief Patrol Agent  
Detroit Sector  
U.S. Border Patrol  
Serving Michigan, Ohio, Illinois, and Indiana  
(b)(6);(b)(7)(C)



**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 20, 2018 9:54 PM

**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)

(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A

(USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HOOVER, CRINLEY S

(b)(6);(b)(7)(C) SINGLETON, RUYNARD R (b)(6);(b)(7)(C) (OCC)

(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)
5. (b)(7)(E)

V/r,

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: changes to 1325 prosecution materials  
**Date:** Monday, May 07, 2018 7:26:44 PM

This is the latest guidance. (b) (7)(E)

1. (b)(7)(E)
2. (b)(7)(E)

Any questions, let us know.

(b)(6);(b)(7)(C)  
*Special Operations Supervisor*  
*Interagency Coordination*  
(b)(6);(b)(7)(C) *Office*  
*Cell*

---

**From:** (b)(6);(b)(7)(C) (USACAS) [mailto:(b)(6);(b)(7)(C)]  
**Sent:** Friday, May 4, 2018 4:10 PM  
**To:** (b)(6);(b)(7)(C)

**Cc:** USACAS-DEPUTY-CHIEFS-MCS (b)(7)(E)  
**Subject:** changes to 1325 prosecution materials

Hello, everyone –

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

If you have any questions, please feel free to call me or another member of the MCS management team.

Thanks,

(b)(6);(b)(7)(C)

AUSA (b)(6);(b)(7)(C)

Principal Deputy Chief, Major Crimes Section

United States Attorney's Office

Southern District of California

Office: (b)(6);(b)(7)(C)

Cell: (b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)  
**Date:** Wednesday, June 27, 2018 4:05:39 PM  
**Attachments:** [Interim Guidance on Preliminary Injunction.pdf](#)

---

PAICs,

The attached memorandum is for immediate implementation.

Please provide an email to Acting DCPA (b)(6);(b)(7)(C) that you have read, understand and have disseminated the guidance to your agents for immediate implementation

Any questions please contact Acting DCPA (b)(6);(b)(7)(C)

Thank you,

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 27, 2018 3:51 PM  
**To:** BP Field Chiefs (b)(7)(E); BP Field Deputies (b)(7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C) HUDSON, RICHARD M

(b)(6);(b)(7)(C)

**Subject:** Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)

Chiefs, Deputies,

Please see the attached guidance memo from Commissioner McAleenan to Chief Provost and AC Owen regarding the *Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)*.

This memo and guidance is for immediate implementation.

Please provide an email that you have read, understand and disseminated the guidance to your agents for immediate implementation.

If you have any questions or concerns, please give me a call.

V/r,

(b)(6);(b)(7)(C)

O: (b)(6);(b)(7)(C)

C: (b)(6);(b)(7)(C)



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

° (b)(7)(E)

° (b)(7)(E)

- [REDACTED] (b)(7)(E)
- [REDACTED] (b)(7)(E)
- [REDACTED] (b)(7)(E)
- [REDACTED] (b)(7)(E)
- [REDACTED] (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Family Separation Lawsuit: Preliminary Injunction & Class Certification Granted by US District Court in San Diego  
**Date:** Wednesday, June 27, 2018 12:49:40 PM  
**Attachments:** [familysep\\_preliminijunct.pdf](#)  
[familysep\\_class\\_certification.pdf](#)

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**From:** (b)(6);(b)(7)(C) (OCC)  
**Sent:** Wednesday, June 27, 2018 9:38:00 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Family Separation Lawsuit: Preliminary Injunction & Class Certification Granted by US District Court in San Diego

FYI

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**From:** (b)(6);(b)(7)(C) (OCC)  
**Sent:** Tuesday, June 26, 2018 9:12:05 PM  
**To:** FLORES, PETE ROMERO; SCOTT, RODNEY S; CHAVEZ, GLORIA I  
**Cc:** (b)(6);(b)(7)(C) VILLAREAL, ROY D; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC);  
(b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
(OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
(OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC);  
(b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)

**Subject:** Family Separation Lawsuit: Preliminary Injunction & Class Certification Granted by US District Court in San Diego

Good evening. A few hours ago U.S. District Court Judge Sabraw in San Diego issued the attached two orders affecting CBP operations nationwide. (b) (5)  
[Redacted] We'll be in touch tomorrow but wanted you to be aware as the media has already started reporting on the attached court orders. Cheers.///



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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,  
Petitioners-Plaintiffs,  
v.  
U.S Immigration and Customs  
Enforcement (“ICE”); et al.,  
Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER GRANTING PLAINTIFFS’  
MOTION FOR CLASSWIDE  
PRELIMINARY INJUNCTION**

Eleven weeks ago, Plaintiffs leveled the serious accusation that our Government was engaged in a widespread practice of separating migrant families, and placing minor children who were separated from their parents in government facilities for “unaccompanied minors.” According to Plaintiffs, the practice was applied indiscriminately, and separated even those families with small children and infants—many of whom were seeking asylum. Plaintiffs noted reports that the practice would become national policy. Recent events confirm these allegations. Extraordinary relief is requested, and is warranted under the circumstances.

On May 7, 2018, the Attorney General of the United States announced a “zero tolerance policy,” under which all adults entering the United States illegally would be subject to criminal prosecution, and if accompanied by a minor child, the child would be

1 separated from the parent.<sup>1</sup> Over the ensuing weeks, hundreds of migrant children were  
2 separated from their parents, sparking international condemnation of the practice. Six days  
3 ago on June 20, 2018, the President of the United States signed an Executive Order (“EO”)  
4 to address the situation and to require preservation of the “family unit” by keeping migrant  
5 families together during criminal and immigration proceedings to the extent permitted by  
6 law, while also maintaining “rigorous[]” enforcement of immigration laws. *See* Executive  
7 Order, *Affording Congress an Opportunity to Address Family Separation* § 1, 2018 WL  
8 3046068 (June 20, 2018). The EO did not address reunification of the burgeoning  
9 population of over 2,000 children separated from their parents. Public outrage remained  
10 at a fever pitch. Three days ago on Saturday, June 23, 2018, the Department of Homeland  
11 Security (“DHS”) issued a “Fact Sheet” outlining the government’s efforts to “ensure that  
12 those adults who are subject to removal are reunited with their children for the purposes of  
13 removal.”<sup>2</sup>

14 Plaintiffs assert the EO does not eliminate the need for the requested injunction, and  
15 the Fact Sheet does not address the circumstances of this case. Defendants disagree with  
16 those assertions, but there is no genuine dispute that the Government was not prepared to  
17 accommodate the mass influx of separated children. Measures were not in place to provide  
18 for communication between governmental agencies responsible for detaining parents and  
19 those responsible for housing children, or to provide for ready communication between  
20 separated parents and children. There was no reunification plan in place, and families have  
21 been separated for months. Some parents were deported at separate times and from  
22

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23  
24 <sup>1</sup> *See* U.S. Att’y. Gen., *Attorney General Sessions Delivers Remarks Discussing the*  
25 *Immigration Enforcement Actions of the Trump Administration* (May 7, 2018),  
26 [https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)  
27 [discussing-immigration-enforcement-actions.](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)

28 <sup>2</sup> *See* U.S. Dep’t of Homeland Sec., *Fact Sheet: Federal Regulations Protecting the*  
29 *Confidentiality of Asylum Applicants* (June 23, 2018),  
30 [https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-](https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification)  
31 [reunification.](https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification)

1 different locations than their children. Migrant families that lawfully entered the United  
2 States at a port of entry seeking asylum were separated. And families that were separated  
3 due to entering the United States illegally between ports of entry have not been reunited  
4 following the parent's completion of criminal proceedings and return to immigration  
5 detention.

6 This Court previously entered an order finding Plaintiffs had stated a legally  
7 cognizable claim for violation of their substantive due process rights to family integrity  
8 under the Fifth Amendment to the United States Constitution based on their allegations the  
9 Government had separated Plaintiffs from their minor children while Plaintiffs were held  
10 in immigration detention and without a showing that they were unfit parents or otherwise  
11 presented a danger to their children. *See Ms. L. v. U.S. Immigration & Customs Enf't*, 302  
12 F. Supp. 3d 1149, 2018 WL 2725736, at \*7-12 (S.D. Cal. June 6, 2018). A class action  
13 has been certified to include similarly situated migrant parents. Plaintiffs now request  
14 classwide injunctive relief to prohibit separation of class members from their children in  
15 the future absent a finding the parent is unfit or presents a danger to the child, and to require  
16 reunification of these families once the parent is returned to immigration custody unless  
17 the parent is determined to be unfit or presents a danger to the child.

18 Plaintiffs have demonstrated a likelihood of success on the merits, irreparable harm,  
19 and that the balance of equities and the public interest weigh in their favor, thus warranting  
20 issuance of a preliminary injunction. This Order does not implicate the Government's  
21 discretionary authority to enforce immigration or other criminal laws, including its  
22 decisions to release or detain class members. Rather, the Order addresses only the  
23 circumstances under which the Government may separate class members from their  
24 children, as well as the reunification of class members who are returned to immigration  
25 custody upon completion of any criminal proceedings.

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**I.****BACKGROUND**

This case started with the filing of a Complaint by Ms. L., a Catholic citizen of the Democratic Republic of the Congo fleeing persecution from her home country because of her religious beliefs. The specific facts of Ms. L.’s case are set out in the Complaint and this Court’s June 6, 2018 Order on Defendants’ motion to dismiss. *See Ms. L.*, 2018 WL 2725736, at \*1-3. In brief, Ms. L. and her then-six-year-old daughter S.S., lawfully presented themselves at the San Ysidro Port of Entry seeking asylum based on religious persecution. They were initially detained together, but after a few days S.S. was “forcibly separated” from her mother. When S.S. was taken away from her mother, “she was screaming and crying, pleading with guards not to take her away from her mother.” (Am. Compl. ¶ 43.) Immigration officials claimed they had concerns whether Ms. L. was S.S.’s mother, despite Ms. L.’s protestations to the contrary and S.S.’s behavior. So Ms. L. was placed in immigration custody and scheduled for expedited removal, thus rendering S.S. an “unaccompanied minor” under the Trafficking Victims Protection and Reauthorization Act (“TVPRA”), Pub. L. No. 110-457 (Dec. 23, 2008), and subjecting her to the “care and custody” of the Office of Refugee Resettlement (“ORR”).<sup>3</sup> S.S. was placed in a facility in

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<sup>3</sup> The TVPRA provides that “the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of” HHS and its sub-agency, ORR. 8 U.S.C. § 1232(b)(1). An “unaccompanied alien child” (“UAC”) is a child under 18 years of age with no lawful immigration status in the United States who has neither a parent nor legal guardian in the United States nor a parent nor legal guardian in the United States “available” to care for them. 6 U.S.C § 279(g)(2). According to the TVPRA, a UAC “may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child’s physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” 8 U.S.C. § 1232(c)(3)(A).

1 Chicago over a thousand miles away from her mother. Immigration officials later  
2 determined Ms. L. had a credible fear of persecution and placed her in removal  
3 proceedings, where she could pursue her asylum claim. During this period, Ms. L. was  
4 able to speak with her daughter only “approximately 6 times by phone, never by video.”  
5 (Am. Compl. ¶ 45.) Each time they spoke, S.S. “was crying and scared.” (*Id.* ¶ 43.) Ms.  
6 L. was “terrified that she would never see her daughter again.” (*Id.* ¶ 45.) After the present  
7 lawsuit was filed, Ms. L. was released from ICE detention into the community. The Court  
8 ordered the Government to take a DNA saliva sample (or swab), which confirmed that Ms.  
9 L. was the mother of S.S. Four days later, Ms. L. and S.S. were reunited after being  
10 separated for nearly five months.

11 In an Amended Complaint filed on March 9, 2018, this case was expanded to include  
12 another Plaintiff, Ms. C. She is a citizen of Brazil, and unlike Ms. L., she did not present  
13 at a port of entry. Instead, she and her 14-year-old son J. crossed into the United States  
14 “between ports of entry,” after which they were apprehended by U.S. Border Patrol. Ms.  
15 C. explained to the agent that she and her son were seeking asylum, but the Government,  
16 as was its right under federal law, charged Ms. C. with entering the country illegally and  
17 placed her in criminal custody. This rendered J. an “unaccompanied minor” and he, like  
18 S.S., was transferred to the custody of ORR, where he, too, was housed in a facility in  
19 Chicago several hundred miles away from his mother. Ms. C. was thereafter convicted of  
20 misdemeanor illegal entry and served 25 days in criminal custody. After completing that  
21 sentence, Ms. C. was transferred to immigration detention for removal proceedings and  
22 consideration of her asylum claim, as she too had passed a credible fear screening. Despite  
23 being returned to immigration custody, Ms. C. was not reunited with J. During the five  
24 months she was detained, Ms. C. did not see her son, and they spoke on the phone only “a  
25 handful of times[.]” (*Id.* ¶ 58.) Ms. C. was “desperate” to be reunited with her son, worried  
26 about him constantly and did not know when she would be able to see him. (*Id.*) J. had a  
27 difficult time emotionally during the period of separation from his mother. (*Id.* ¶ 59.) Ms.  
28 C. was eventually released from immigration detention on bond, and only recently reunited

1 with J. Their separation lasted more than eight months despite the lack of any allegations  
2 or evidence that Ms. C. was unfit or otherwise presented a danger to her son.<sup>4</sup>

3 Ms. L. and Ms. C. are not the only migrant parents who have been separated from  
4 their children at the border. Hundreds of others, who have both lawfully presented at ports  
5 of entry (like Ms. L.) and unlawfully crossed into the country (like Ms. C.), have also been  
6 separated. Because this practice is affecting large numbers of people, Plaintiffs sought  
7 certification of a class consisting of similarly situated individuals. The Court certified that  
8 class with minor modifications,<sup>5</sup> and now turns to the important question of whether  
9 Plaintiffs are entitled to a classwide preliminary injunction that (1) halts the separation of  
10 class members from their children absent a determination that the parent is unfit or presents  
11 a danger to the child, and (2) reunites class members who are returned to immigration  
12 custody upon completion of any criminal proceedings absent a determination that the  
13 parent is unfit or presents a danger to the child.

14 Since the present motion was filed, several important developments occurred, as  
15 previously noted. First, on May 7, 2018, the Government announced its zero tolerance  
16 policy for all adult persons crossing the border illegally, which resulted in the separation  
17 of hundreds of children who had crossed with their parents. This is what happened with  
18 Ms. C., though she crossed prior to the public announcement of the zero tolerance policy.  
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21 <sup>4</sup> As stated in the Court's Order on Defendants' motion to dismiss, Plaintiffs do not  
22 challenge Ms. C.'s initial separation from J. as a result of the criminal charge filed against  
23 her. Plaintiffs' only complaint with regard to Ms. C. concerns the Government's failure to  
reunite her with J. after she was returned to immigration custody.

24 <sup>5</sup> The class is defined to include: "All adult parents who enter the United States at or  
25 between designated ports of entry who (1) have been, are, or will be detained in  
26 immigration custody by the [DHS], and (2) have a minor child who is or will be separated  
27 from them by DHS and detained in ORR custody, ORR foster care, or DHS custody absent  
28 a determination that the parent is unfit or presents a danger to the child." (*See* Order  
Granting in Part Mot. for Class Cert. at 17.) The class does not include parents with  
criminal history or communicable disease, or those apprehended in the interior of the  
country or subject to the EO. (*See id.* at 4 n.5.)

1 She is not alone. There are hundreds of similarly situated parents, and there are more than  
2 2,000 children that have now been separated from their parents.

3 When a parent is charged with a criminal offense, the law ordinarily requires  
4 separation of the family. This separation generally occurs regardless of whether the parent  
5 is charged with a state or federal offense. The repercussions on the children, however, can  
6 vary greatly depending on status. For citizens, there is an established system of social  
7 service agencies ready to provide for the care and well-being of the children, if necessary,  
8 including child protective services and the foster care system. This is in addition to any  
9 family members that may be available to provide shelter for these minor children.  
10 Grandparents and siblings are frequently called upon. Non-citizens may not have this kind  
11 of support system, such as other family members who can provide shelter for their children  
12 in the event the parent is detained at the border. This results in immigrant children going  
13 into the custody of the federal government, which is presently not well equipped to handle  
14 that important task.

15 For children placed in federal custody, there are two options. One of those options  
16 is ORR, but it was established to address a different problem, namely minor children who  
17 were apprehended at the border without their parents, *i.e.*, true “unaccompanied alien  
18 children.” It was not initially designed to address the problem of migrant children detained  
19 with their parents at the border and who were thereafter separated from their parents. The  
20 second option is family detention facilities, but the options there are limited. Indeed, at the  
21 time of oral argument on this motion, Government counsel represented to the Court that  
22 the “total capacity in [family] residential centers” was “less than 2,700.” (Rep. Tr. at 9,  
23 May 9, 2018, ECF No. 70.) For male heads of households, *i.e.*, fathers traveling with their  
24 children, there was only one facility with “86 beds.” (*Id.* at 43.)

25 The recently issued EO confirms the government is inundated by the influx of  
26 children essentially orphaned as a result of family separation. The EO now directs “[h]eads  
27 of executive departments and agencies” to make available “any facilities ... appropriate”  
28 for the housing and care of alien families. EO § 3(d). The EO also calls upon the *military*

1 by directing the Secretary of Defense to make available “any existing” facility and to  
2 “construct such facilities[,]” if necessary, *id.* § 3(c), which is an extraordinary measure.  
3 Meanwhile, “tent cities” and other make-shift facilities are springing up. That was the  
4 situation into which Plaintiffs, and hundreds of other families that were separated at the  
5 border in the past several months, were placed.

6 This situation has reached a crisis level. The news media is saturated with stories of  
7 immigrant families being separated at the border. People are protesting. Elected officials  
8 are weighing in. Congress is threatening action. Seventeen states have now filed a  
9 complaint against the Federal Government challenging the family separation practice. *See*  
10 *State of Washington v. United States*, Case No. 18cv0939, United States District Court for  
11 the Western District of Washington. And the President has taken action.

12 Specifically, on June 20, 2018, the President signed the EO referenced above. The  
13 EO states it is the Administration’s policy “to maintain family unity, including by detaining  
14 alien families together where appropriate and consistent with law and available resources.”  
15 *Id.* § 1.<sup>6</sup> In furtherance of that policy, the EO indicates that parents and children who are  
16 apprehended together at the border will be detained together “during the pendency of any  
17 criminal improper entry or immigration proceedings” to the extent permitted by law. *Id.* §  
18 3. The language of the EO is not absolute, however, as it states that family unity shall be  
19 maintained “where appropriate and consistent with law and available resources[,]” *id.* § 1,  
20 and “to the extent permitted by law and subject to the availability of appropriations[.]” *Id.*  
21 § 3. The EO also indicates rigorous enforcement of illegal border crossers will continue.  
22 *Id.* § 1 (“It is the policy of this Administration to rigorously enforce our immigration  
23 laws.”). And finally, although the Order speaks to a policy of “maintain[ing] family unity,”  
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26 <sup>6</sup> The Order defines “alien family” as “any person not a citizen or national of the United  
27 States who has not been admitted into, or is not authorized to enter or remain in, the United  
28 States, who entered this country with an alien child or alien children at or between  
designated ports of entry and who was detained[.]” *Id.* § 2(a)(i).



1 it is silent on the issue of reuniting families that have already been separated or will be  
2 separated in the future.” *Id.*

3 In light of these recent developments, and in particular the EO, the Court held a  
4 telephonic status conference with counsel on June 22, 2018. During that conference, the  
5 Court inquired about communication between ORR and DHS, and ORR and the  
6 Department of Justice (“DOJ”), including the Bureau of Prisons (“BOP”), as it relates to  
7 these separated families. Reunification procedures were also discussed, specifically  
8 whether there was any affirmative reunification procedure for parents and children after  
9 parents were returned to immigration detention following completion of criminal  
10 proceedings. Government counsel explained the communication procedures that were in  
11 place, and represented, consistent with her earlier representation to the Court, that there  
12 was no procedure in place for the reunification of these families.<sup>7</sup>

13 The day after the status conference, Saturday, June 23, DHS issued the Fact Sheet  
14 referenced above. This document focuses on several issues addressed during the status  
15 conference, *e.g.*, processes for enhanced communication between separated parents and  
16 children, but only “for the purposes of removal.” It also addresses coordination between  
17 and among three agencies, CBP, ICE, and HHS agency ORR, but again for the purpose of  
18 removal. The Fact Sheet does not address reunification for other purposes, such as  
19 immigration or asylum proceedings, which can take months. It also does not mention other  
20 vital agencies frequently involved during criminal proceedings: DOJ and BOP.

21 At the conclusion of the recent status conference, the Court requested supplemental  
22 briefing from the parties. Those briefs have now been submitted. After thoroughly  
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25 <sup>7</sup> The Court: “Is there currently any affirmative reunification process that the government  
26 has in place once parent and child are separated? Government counsel: I would say ...  
27 when a parent is released from criminal custody and taken into ICE custody is the practice  
28 to reunite them in family detention[?] And at that [previous hearing] I said no, that that  
was not the practice. I think my answer on that narrow question would be the same.” (Rep.  
Tr. at 29-30, June 22, 2018, ECF No. 77.)

1 considering all of the parties' briefs and the record in this case, and after hearing argument  
2 from counsel on these important issues, the Court grants Plaintiffs' motion for a classwide  
3 preliminary injunction.

4 **II.**  
5 **DISCUSSION**

6 Plaintiffs seek classwide preliminary relief that (1) enjoins Defendants' practice of  
7 separating class members from their children absent a determination that the parent is unfit  
8 or presents a danger to their child, and (2) orders the government to reunite class members  
9 with their children when the parent is returned to immigration custody after their criminal  
10 proceedings conclude, absent a determination that the parent is unfit or presents a danger  
11 to the child. Injunctive relief is "an extraordinary remedy that may only be awarded upon  
12 a clear showing that the plaintiff is entitled to such relief." *Winter v. Natural Res. Def.*  
13 *Council, Inc.*, 555 U.S. 7, 22 (2008). To meet that showing, Plaintiffs must demonstrate  
14 "[they are] likely to succeed on the merits, that [they are] likely to suffer irreparable harm  
15 in the absence of preliminary relief, that the balance of equities tips in [their] favor, and  
16 that an injunction is in the public interest." *Am. Trucking Ass'ns v. City of Los Angeles*,  
17 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20).<sup>8</sup>

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20 <sup>8</sup> The Ninth Circuit applies separate standards for injunctions depending on whether they  
21 are prohibitory, *i.e.*, whether they prevent future conduct, or mandatory, *i.e.*, "they go  
22 beyond 'maintaining the status quo[.]'" *Hernandez v. Sessions*, 872 F.3d 976, 997 (9th  
23 Cir. 2017). The standard set out above applies to prohibitory injunctions, which is what  
24 Plaintiffs seek here. To the extent Plaintiffs are also requesting mandatory relief, that  
25 request is "subject to a higher standard than prohibitory injunctions," namely that relief  
26 will issue only "when 'extreme or very serious damage will result' that is not capable of  
27 compensation in damages," and the merits of the case are not 'doubtful.'" *Id.* at 999  
28 (quoting *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879  
(9th Cir. 2009)). The Ninth Circuit recognizes that application of these different standards  
"is controversial[.]" and that other Circuits have questioned this approach. *Id.* at 997-98.  
This Court need not, and does not, address that discrepancy here. Suffice it to say that to  
the extent some portion of Plaintiffs' requested relief is subject to a standard higher than

1 Before turning to these factors, the Court addresses directly Defendants’ argument  
2 that an injunction is not necessary here in light of the EO and the recently released Fact  
3 Sheet. Although these documents reflect some attempts by the Government to address  
4 some of the issues in this case, neither obviates the need for injunctive relief here. As  
5 indicated throughout this Order, the EO is subject to various qualifications. For instance,  
6 Plaintiffs correctly assert the EO allows the government to separate a migrant parent from  
7 his or her child “where there is a *concern* that detention of an alien child with the child’s  
8 alien parent would pose a risk to the child’s welfare.” EO § 3(b) (emphasis added).  
9 Objective standards are necessary, not subjective ones, particularly in light of the history  
10 of this case. Furthermore, the Fact Sheet focuses on reunification “at time of removal[,]”  
11 U.S. Dep’t of Homeland Sec., *supra*, note 2, stating that the parent slated for removal will  
12 be matched up with their child at a location in Texas and then removed. It says nothing  
13 about reunification during the intervening time between return from criminal proceedings  
14 to ICE detention or the time in ICE detention prior to actual removal, which can take  
15 months. Indeed, it is undisputed “ICE has no plans or procedures in place to reunify the  
16 parent with the child other than arranging for them to be deported together after the parent’s  
17 immigration case is concluded.” (Pls.’ Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex.  
18 31 ¶ 11.) Thus, neither of these directives eliminates the need for an injunction in this case.  
19 With this finding, the Court now turns to the *Winter* factors.

#### 20 **A. Likelihood of Success**

21 “The first factor under *Winter* is the most important—likely success on the merits.”  
22 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). While Plaintiffs carry the burden  
23 of demonstrating likelihood of success, they are not required to prove their case in full at  
24 the preliminary injunction stage but only such portions that enable them to obtain the  
25 injunctive relief they seek. *See Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).

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28 the traditional standard for injunctive relief, Plaintiffs have met their burden for the reasons  
set out below.

1 Here, the only claim currently at issue is Plaintiffs' due process claim.<sup>9</sup> Specifically,  
2 Plaintiffs contend the Government's practice of separating class members from their  
3 children, and failing to reunite those parents who have been separated, without a  
4 determination that the parent is unfit or presents a danger to the child violates the parents'  
5 substantive due process rights to family integrity under the Fifth Amendment to the United  
6 States Constitution. To prevail on this claim, Plaintiffs must show that the Government  
7 practice "shocks the conscience." In the Order on Defendants' motion to dismiss, the Court  
8 found Plaintiffs had set forth sufficient facts to support that claim. *Ms. L.*, 2018 WL  
9 2725736, at \*7-12. The evidence submitted since that time supports that finding, and  
10 demonstrates Plaintiffs are likely to succeed on this claim.

11 As explained in the Court's Order on Defendants' motion to dismiss, the "shocks the  
12 conscience" standard is not subject to a rigid list of established elements. *See County of*  
13 *Sacramento v. Lewis*, 523 U.S. 833, 850 (1998) (stating "[r]ules of due process are not ...  
14 subject to mechanical application in unfamiliar territory.") On the contrary, "an  
15 investigation into substantive due process involves an appraisal of the totality of the  
16 circumstances rather than a formalistic examination of fixed elements[.]" *Armstrong v.*  
17 *Squadrito*, 152 F.3d 564, 570 (7th Cir. 1998).

18 Here, each Plaintiff presents different circumstances, but both were subjected to the  
19 same government practice of family separation without a determination that the parent was  
20 unfit or presented a danger to the child. *Ms. L.* was separated from her child without a  
21 determination she was unfit or presented a danger to her child, and *Ms. C.* was not reunited  
22 with her child despite the absence of any finding that she was unfit or presented a danger  
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25 <sup>9</sup> In their supplemental brief, Defendants assert Plaintiffs are raising new claims based on  
26 events that transpired after the Complaints were filed, *e.g.*, the announcement of the zero  
27 tolerance policy and the EO. The Court disagrees. Plaintiffs' claims are not based on these  
28 events, but are based on the practice of separating class members from their children. The  
subsequent events are relevant to Plaintiffs' claim, but they have not changed the claim  
itself, which remains focused on the practice of separation.

1 to her child. Outside of the context of this case, namely an international border, Plaintiffs  
2 would have a high likelihood of success on a claim premised on such a practice. *See D.B.*  
3 *v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) (citing cases finding due process violation  
4 where state action interfered with rights of fit parents); *Heartland Academy Community*  
5 *Church v. Waddle*, 595 F.3d 798, 808-811 (8th Cir. 2010) (finding removal of children  
6 from religious school absent evidence the students were “at immediate risk of child abuse  
7 or neglect” was violation of clearly established constitutional right); *Brokaw v. Mercer*  
8 *County*, 235 F.3d 1000, 1019 (7th Cir. 2000) (citing *Croft v. Westmoreland County*  
9 *Children and Youth Services*, 103 F.3d 1123, 1126 (3d Cir. 1997) (“courts have recognized  
10 that a state has no interest in protecting children from their parents unless it has some  
11 definite and articulable evidence giving rise to a reasonable suspicion that a child has been  
12 abused or is in imminent danger of abuse.”))

13 The context of this case is different. The Executive Branch, which is tasked with  
14 enforcement of the country’s criminal and immigration laws, is acting within its powers to  
15 detain individuals lawfully entering the United States and to apprehend individuals illegally  
16 entering the country. However, as the Court explained in its Order on Defendants’ motion  
17 to dismiss, the right to family integrity still applies here. The context of the family  
18 separation practice at issue here, namely an international border, does not render the  
19 practice constitutional, nor does it shield the practice from judicial review.

20 On the contrary, the context and circumstances in which this practice of family  
21 separation were being implemented support a finding that Plaintiffs have a likelihood of  
22 success on their due process claim. First, although parents and children may lawfully be  
23 separated when the parent is placed in criminal custody, the same general rule does not  
24 apply when a parent and child present together lawfully at a port of entry seeking asylum.  
25 In that situation, the parent has committed no crime, and absent a finding the parent is unfit  
26 or presents a danger to the child, it is unclear why separation of Ms. L. or similarly situated  
27 class members would be necessary. Here, many of the family separations have been the  
28 result of the Executive Branch’s zero tolerance policy, but the record also reflects that the

1 practice of family separation was occurring before the zero tolerance policy was  
2 announced, and that practice has resulted in the casual, if not deliberate, separation of  
3 families that lawfully present at the port of entry, not just those who cross into the country  
4 illegally. Ms. L. is an example of this family separation practice expanding beyond its  
5 lawful reach, and she is not alone. (*See, e.g.*, Pls.’ Reply Br. in Supp. of Mot. for Class  
6 Cert., Exs. 22-23, 25-26) (declarations from parents attesting to separation at border after  
7 lawfully presenting at port of entry and requesting asylum); Pls.’ Supp. Mem. in Supp. of  
8 Classwide Prelim. Inj., Ex. 32 ¶¶ 9, 10b, 11a (listing parents who were separated from  
9 children after presenting at ports of entry)).

10 As set out in the Court’s prior Order, asylum seekers like Ms. L. and many other  
11 class members may be fleeing persecution and are entitled to careful consideration by  
12 government officials. Particularly so if they have a credible fear of persecution. We are a  
13 country of laws, and of compassion. We have plainly stated our intent to treat refugees  
14 with an ordered process, and benevolence, by codifying principles of asylum. *See, e.g.*,  
15 The Refugee Act, PL 96-212, 94 Stat. 102 (1980). The Government’s treatment of Ms. L.  
16 and other similarly situated class members does not meet this standard, and it is unlikely  
17 to pass constitutional muster.

18 Second, the practice of separating these families was implemented without any  
19 effective system or procedure for (1) tracking the children after they were separated from  
20 their parents, (2) enabling communication between the parents and their children after  
21 separation, and (3) reuniting the parents and children after the parents are returned to  
22 immigration custody following completion of their criminal sentence. This is a startling  
23 reality. The government readily keeps track of personal property of detainees in criminal  
24 and immigration proceedings. Money, important documents, and automobiles, to name a  
25 few, are routinely catalogued, stored, tracked and produced upon a detainees’ release, at  
26 all levels—state and federal, citizen and alien. Yet, the government has no system in place  
27 to keep track of, provide effective communication with, and promptly produce alien  
28 children. The unfortunate reality is that under the present system migrant children are not

1 accounted for with the same efficiency and accuracy as *property*. Certainly, that cannot  
2 satisfy the requirements of due process. *See Santosky v. Kramer*, 455 U.S. 745, 758-59  
3 (1982) (quoting *Lassiter v. Dept. of Soc. Services of Durham County, N.C.*, 452 U.S. 18,  
4 (1981)) (stating it is “‘plain beyond the need for multiple citation’ that a natural parent’s  
5 ‘desire for and right to the companionship, care, custody, and management of his or her  
6 children’ is an interest far more precious than any property right.”) (internal quotation  
7 marks omitted).

8 The lack of effective methods for communication between parents and children who  
9 have been separated has also had a profoundly negative effect on the parents’ criminal and  
10 immigration proceedings, as well as the childrens’ immigration proceedings. *See United*  
11 *States v. Dominguez-Portillo*, No:EP-17-MJ-4409-MAT, 2018 WL 315759, at \*1-2 (W.D.  
12 Tex. Jan. 5, 2018) (explaining that criminally charged defendants “had not received any  
13 paperwork or information concerning the whereabouts or well-being of” their children). In  
14 effect, these parents have been left “in a vacuum, without knowledge of the well-being and  
15 location of their children, to say nothing of the immigration proceedings in which those  
16 minor children find themselves.” *Id.* at \*14. This situation may result in a number of  
17 different scenarios, all of which are negative – some profoundly so. For example, “[i]f  
18 parent and child are asserting or intending to assert an asylum claim, that child may be  
19 navigating those legal waters without the benefit of communication with and assistance  
20 from her parent; that defendant, too, must make a decision on his criminal case with total  
21 uncertainty about this issue.” *Id.* Furthermore, “ a defendant facing certain deportation  
22 would be unlikely to know whether he might be deported before, simultaneous to, or after  
23 their child, or whether they would have the opportunity to even discuss their  
24 deportations[.]” *Id.* Indeed, some parents have already been deported without their  
25 children, who remain in government facilities in the United States.<sup>10</sup>

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28 <sup>10</sup> *See, e.g.,* Pls.’ Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 32 ¶ 16k, Ex. 36 ¶ 7a;  
Nelson Renteria, *El Salvador demands U.S. return child taken from deported father*,

1           The absence of established procedures for dealing with families that have been  
2 separated at the border, and the effects of that void on the families involved, is borne out  
3 in the cases of Plaintiffs here. Ms. L. was separated from her child when immigration  
4 officials claimed they could not verify she was S.S.’s mother, and detained her for  
5 expedited removal proceedings. That rendered S.S. “unaccompanied” under the TVPRA  
6 and subject to immediate transfer to ORR, which accepted responsibility for S.S. There  
7 was no further communication between the agencies, ICE and ORR. The filing of the  
8 present lawsuit prompted release and reunification of Ms. L. and her daughter, a process  
9 that took close to five months and court involvement. Ms. C. completed her criminal  
10 sentence in 25 days, but it took nearly eight months to be reunited with her son. She, too,  
11 had to file suit to regain custody of her son from ORR.

12           These situations confirm what the Government has already stated: it is not  
13 affirmatively reuniting parents like Plaintiffs and their fellow class members for purposes  
14 other than removal. Outside of deportation, the onus is on the parents, who, for the most  
15 part, are themselves in either criminal or immigration proceedings, to contact ORR or  
16 otherwise search for their children and make application for reunification under the  
17 TVPRA. However, this reunification procedure was not designed to deal with the present  
18 circumstances. (*See* Pls.’ Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 33 ¶¶ 6-9.)  
19 Rather, “ORR’s reunification process was designed to address the situation of children who  
20 come to the border or are apprehended outside the company of a parent or legal guardian.”  
21 (*Id.* ¶ 6.) Placing the burden on the parents to find and request reunification with their  
22 children under the circumstances presented here is backwards. When children are  
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24 \_\_\_\_\_  
25  
26 REUTERS (June 21, 2018, 4:03 PM), [https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-](https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-idUSKBN1JH3ER)  
27 [idUSKBN1JH3ER](https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-idUSKBN1JH3ER); Miriam Jordan, *‘I Can’t Go Without My Son’: A Deported Mother’s*  
28 *Plea*, N.Y. TIMES (June 17, 2018), [https://www.nytimes.com/2018/06/17/us/immigration-](https://www.nytimes.com/2018/06/17/us/immigration-deported-parents.html)  
[deported-parents.html](https://www.nytimes.com/2018/06/17/us/immigration-deported-parents.html).



1 separated from their parents under these circumstances, the Government has an affirmative  
2 obligation to track and promptly reunify these family members.

3 This practice of separating class members from their minor children, and failing to  
4 reunify class members with those children, without any showing the parent is unfit or  
5 presents a danger to the child is sufficient to find Plaintiffs have a likelihood of success on  
6 their due process claim. When combined with the manner in which that practice is being  
7 implemented, *e.g.*, the lack of any effective procedures or protocols for notifying the  
8 parents about their childrens' whereabouts or ensuring communication between the parents  
9 and children, and the use of the children as tools in the parents' criminal and immigration  
10 proceedings, (*see* Pls.' Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 29 ¶¶ 8, 14), a  
11 finding of likelihood of success is assured. A practice of this sort implemented in this way  
12 is likely to be "so egregious, so outrageous, that it may fairly be said to shock the  
13 contemporary conscience," *Lewis*, 523 U.S. at 847 n.8, interferes with rights "'implicit in  
14 the concept of ordered liberty[,]" *Rochin v. Cal.*, 342 U.S. 165, 169 (1952) (quoting *Palko*  
15 *v. State of Conn.*, 302 U.S. 319, 325 (1937)), and is so "'brutal' and 'offensive' that it  
16 [does] not comport with traditional ideas of fair play and decency." *Breithaupt v. Abram*,  
17 352 U.S. 432, 435 (1957).

18 For all of these reasons, the Court finds there is a likelihood of success on Plaintiffs'  
19 due process claim.

## 20 **B. Irreparable Injury**

21 Turning to the next factor, Plaintiffs must show they are "'likely to suffer irreparable  
22 harm in the absence of preliminary relief.'" *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th  
23 Cir. 2017) (quoting *Winter*, 555 U.S. at 20). "It is well established that the deprivation of  
24 constitutional rights unquestionably constitutes irreparable injury." *Id.* (quoting  
25 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (internal quotation marks  
26 omitted). As explained, Plaintiffs have demonstrated the likelihood of a deprivation of  
27 their constitutional rights, and thus they have satisfied this factor.

28

1 The injury in this case, however, deserves special mention. That injury is the  
2 separation of a parent from his or her child, which the Ninth Circuit has repeatedly found  
3 constitutes irreparable harm. *See Leiva–Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir.  
4 2011); *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (identifying “separated  
5 families” as an irreparable harm).

6 Furthermore, the record in this case reflects that the separations at issue have been  
7 agonizing for the parents who have endured them. One of those parents, Mr. U., an asylum  
8 seeker from Kyrgyzstan, submitted a declaration in this case in which he stated that after  
9 he was told he was going to be separated from his son he “felt as though [he] was having  
10 a heart attack.” (Reply in Supp. of Mot. for Class Cert., Ex. 21 ¶ 4.) Another asylum-  
11 seeking parent from El Salvador who was separated from her two sons writes,

12 The separation from my sons has been incredibly hard, because I have never  
13 been away from them before. I do not want my children to think that I  
14 abandoned them. [My children] are so attached to me. [One of my children]  
15 used to sleep in bed with me every night while [my other child] slept in his  
16 own bed in the same room.... It hurts me to think how anxious and distressed  
17 they must be without me.

18 (Reply in Supp. of Mot. for Class Cert., Ex. 24 ¶ 9.) And another asylum-seeking parent  
19 from Honduras described having to place her crying 18-month old son in a car seat in a  
20 government vehicle, not being able to comfort him, and her crying as the officers “took  
21 [her] son away.” (Reply in Supp. of Mot. for Class Cert., Ex. 25 ¶ 7.) There has even been  
22 a report that one father committed suicide in custody after being separated from his wife  
23 and three-year-old child. *See Molly Hennessy-Fiske, Honduran Migrant Who Was*  
24 *Separated From Family is Found Dead in Texas Jail in an Apparent Suicide*, L.A. TIMES  
25 (June 9, 2018, 5:35 PM), [http://www.latimes.com/nation/la-na-border-patrol-suicide-](http://www.latimes.com/nation/la-na-border-patrol-suicide-20180609-story.html)

26 The parents, however, are not the only ones suffering from the separations. One of  
27 the *amici* in this case, Children’s Defense Fund, states,  
28

1 there is ample evidence that separating children from their mothers or fathers  
2 leads to serious, negative consequences to children’s health and development.  
3 Forced separation disrupts the parent-child relationship and puts children at  
4 increased risk for both physical and mental illness.... And the psychological  
5 distress, anxiety, and depression associated with separation from a parent  
6 would follow the children well after the immediate period of separation—  
7 even after eventual reunification with a parent or other family.

8 (ECF No. 17-11 at 3.) Other evidence before the Court reflects that “separating children  
9 from parents is a highly destabilizing, traumatic experience that has long term  
10 consequences on child well-being, safety, and development.” (ECF No. 17-13 at 2.) That  
11 evidence reflects:

12 Separation from family leaves children more vulnerable to exploitation and  
13 abuse, no matter what the care setting. In addition, traumatic separation from  
14 parents creates toxic stress in children and adolescents that can profoundly  
15 impact their development. Strong scientific evidence shows that toxic stress  
16 disrupts the development of brain architecture and other organ systems, and  
17 increases the risk for stress-related disease and cognitive impairment well into  
18 adult years. Studies have shown that children who experience such traumatic  
19 events can suffer from symptoms of anxiety and post-traumatic stress  
20 disorder, have poorer behavioral and educational outcomes, and experience  
21 higher rates of poverty and food insecurity.

22 (ECF No. 17-13 at 2.) And Martin Guggenheim, the Fiorello LaGuardia Professor of  
23 Clinical Law at New York University School of Law and Founding Member of the Center  
24 for Family Representation, states:

25 Children are at risk of suffering great emotional harm when they are removed  
26 from their loved ones. And children who have traveled from afar and made  
27 their way to this country to seek asylum are especially at risk of suffering  
28 irreversible psychological harm when wrested from the custody of the parent  
or caregiver with whom they traveled to the United States.

(Mem. in Supp. of Classwide Prelim. Inj., Ex. 17 ¶ 16.) All of this evidence, combined  
with the constitutional violation alleged here, conclusively shows that Plaintiffs and the

1 class members are likely to suffer irreparable injury if a preliminary injunction does not  
2 issue.

### 3 **C. Balance of Equities**

4 Turning to the next factor, “[t]o obtain a preliminary injunction, a plaintiff must also  
5 demonstrate that ‘the balance of equities tips in his favor.’” *Hernandez*, 872 F.3d at 995  
6 (quoting *Winter*, 555 U.S. at 20). As with irreparable injury, when a plaintiff establishes  
7 “a likelihood that Defendants’ policy violates the U.S. Constitution, Plaintiffs have also  
8 established that both the public interest and the balance of the equities favor a preliminary  
9 injunction.” *Arizona Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014).

10 Plaintiffs here assert the balance of equities weighs in favor of an injunction in this  
11 case. Specifically, Plaintiffs argue Defendants would not suffer any hardship if the  
12 preliminary injunction is issued because the Government “cannot suffer harm from an  
13 injunction that merely ends an unlawful practice[.]” *Rodriguez v. Robbins*, 715 F.3d 1127,  
14 1145 (9th Cir. 2013); *see also Arizona Dream Act Coalition*, 757 F.3d at 1069 (quoting  
15 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)) (stating balance of equities favors  
16 “prevent[ing] the violation of a party’s constitutional rights.”). When the absence of harm  
17 to the Government is weighed against the harms to Plaintiffs set out above, Plaintiffs argue  
18 this factor weighs in their favor. The Court agrees.

19 The primary harm Defendants assert here is the possibility that an injunction would  
20 have a negative impact on their ability to enforce the criminal and immigration laws.  
21 However, the injunction here—preventing the separation of parents from their children and  
22 ordering the reunification of parents and children that have been separated—would do  
23 nothing of the sort. The Government would remain free to enforce its criminal and  
24 immigration laws, and to exercise its discretion in matters of release and detention  
25 consistent with law. *See* EO §§ 1, 3(a) & (e) (discussing *Flores v. Sessions*, CV 85-4544);  
26 *see also Comm. of Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439-40 (9th Cir. 1986)  
27 (stating “prudential considerations preclude[] interference with the Attorney General’s  
28 [exercise of] discretion” in selecting the detention facilities where aliens are to be

1 detained). It would just have to do so in a way that preserves the class members’  
2 constitutional rights to family association and integrity. *See Rodriguez*, 715 F.3d at 1146  
3 (“While ICE is entitled to carry out its duty to enforce the mandates of Congress, it must  
4 do so in a manner consistent with our constitutional values.”) Thus, this factor also weighs  
5 in favor of issuing the injunction.

#### 6 **D. Public Interest**

7 The final factor for consideration is the public interest. *See Hernandez*, 872 F.3d at  
8 996 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)) (“When, as  
9 here, ‘the impact of an injunction reaches beyond the parties, carrying with it a potential  
10 for public consequences, the public interest will be relevant to whether the district court  
11 grants the preliminary injunction.”) To obtain the requested relief, “Plaintiffs must  
12 demonstrate that the public interest favors granting the injunction ‘in light of [its] likely  
13 consequences,’ i.e., ‘consequences [that are not] too remote, insubstantial, or speculative  
14 and [are] supported by evidence.’” *Id.* (quoting *Stormans*, 586 F.3d at 1139). “Generally,  
15 public interest concerns are implicated when a constitutional right has been violated,  
16 because all citizens have a stake in upholding the Constitution.” *Id.* (quoting *Preminger*  
17 *v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005)).

18 This case involves two important public interests: the interest in enforcing the  
19 country’s criminal and immigration laws and the constitutional liberty interest “of parents  
20 in the care, custody, and control of their children[,]” which “is perhaps the oldest of the  
21 fundamental liberty interests recognized by” the Supreme Court. *Troxel v. Granville*, 530  
22 U.S. 57, 65 (2000). Both of these interests are valid and important, and both can be served  
23 by the issuance of an injunction in this case.

24 As stated, the public’s interest in enforcing the criminal and immigration laws of this  
25 country would be unaffected by issuance of the requested injunction. The Executive  
26 Branch is free to prosecute illegal border crossers and institute immigration proceedings  
27 against aliens, and would remain free to do so if an injunction were issued. Plaintiffs do  
28 not seek to enjoin the Executive Branch from carrying out its duties in that regard.

1 What Plaintiffs do seek by way of the requested injunction is to uphold their rights  
2 to family integrity and association while their immigration proceedings are underway. This  
3 right, specifically, the relationship between parent and child, is “constitutionally  
4 protected,” *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978), and “well established.”  
5 *Rosenbaum v. Washoe Cty.*, 663 F.3d 1071, 1079 (9th Cir. 2011). The public interest in  
6 upholding and protecting that right in the circumstances presented here would be served  
7 by issuance of the requested injunction. *See Arizona Dream Act Coalition*, 757 F.3d at  
8 1069 (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (“[I]t is  
9 clear that it would not be equitable or in the public’s interest to allow the state ... to violate  
10 the requirements of federal law, especially when there are no adequate remedies  
11 available.”)) Accordingly, this factor, too, weighs in favor of issuing the injunction.

### 12 III.

### 13 CONCLUSION

14 The unfolding events—the zero tolerance policy, EO and DHS Fact Sheet—serve to  
15 corroborate Plaintiffs’ allegations. The facts set forth before the Court portray reactive  
16 governance—responses to address a chaotic circumstance of the Government’s own  
17 making. They belie measured and ordered governance, which is central to the concept of  
18 due process enshrined in our Constitution. This is particularly so in the treatment of  
19 migrants, many of whom are asylum seekers and small children. The extraordinary remedy  
20 of classwide preliminary injunction is warranted based on the evidence before the Court.  
21 For the reasons set out above, the Court hereby GRANTS Plaintiffs’ motion for classwide  
22 preliminary injunction, and finds and orders as follows:

- 23 (1) Defendants, and their officers, agents, servants, employees, attorneys, and all those  
24 who are in active concert or participation with them, are preliminarily enjoined from  
25 detaining Class Members in DHS custody without and apart from their minor  
26 children, absent a determination that the parent is unfit or presents a danger to the  
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1 child, unless the parent affirmatively, knowingly, and voluntarily declines to be  
2 reunited with the child in DHS custody.<sup>11</sup>

3 (2) If Defendants choose to release Class Members from DHS custody, Defendants, and  
4 their officers, agents, servants, employees and attorneys, and all those who are in  
5 active concert or participation with them, are preliminary enjoined from continuing  
6 to detain the minor children of the Class Members and must release the minor child  
7 to the custody of the Class Member, unless there is a determination that the parent  
8 is unfit or presents a danger to the child, or the parent affirmatively, knowingly, and  
9 voluntarily declines to be reunited with the child.

10 (3) Unless there is a determination that the parent is unfit or presents a danger to the  
11 child, or the parent affirmatively, knowingly, and voluntarily declines to be reunited  
12 with the child:

13 (a) Defendants must reunify all Class Members with their minor children who are  
14 under the age of five (5) within fourteen (14) days of the entry of this Order; and

15 (b) Defendants must reunify all Class Members with their minor children age five  
16 (5) and over within thirty (30) days of the entry of this Order.

17 (4) Defendants must immediately take all steps necessary to facilitate regular  
18 communication between Class Members and their children who remain in ORR  
19 custody, ORR foster care, or DHS custody. Within ten (10) days, Defendants must  
20 provide parents telephonic contact with their children if the parent is not already in  
21 contact with his or her child.

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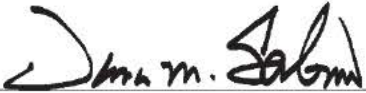
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25 <sup>11</sup> “Fitness” is an important factor in determining whether to separate parent from child. In  
26 the context of this case, and enforcement of criminal and immigration laws at the border,  
27 “fitness” could include a class member’s mental health, or potential criminal involvement  
28 in matters other than “improper entry” under 8 U.S.C. § 1325(a), (*see* EO § 1), among other  
matters. Fitness factors ordinarily would be objective and clinical, and would allow for the  
proper exercise of discretion by government officials.

- 1 (5) Defendants must immediately take all steps necessary to facilitate regular  
2 communication between and among all executive agencies responsible for the  
3 custody, detention or shelter of Class Members and the custody and care of their  
4 children, including at least ICE, CBP, BOP, and ORR, regarding the location and  
5 well-being of the Class Members' children.
- 6 (6) Defendants, and their officers, agents, servants, employees, attorneys, and all those  
7 who are in active concert or participation with them, are preliminarily enjoined from  
8 removing any Class Members without their child, unless the Class Member  
9 affirmatively, knowingly, and voluntarily declines to be reunited with the child prior  
10 to the Class Member's deportation, or there is a determination that the parent is unfit  
11 or presents a danger to the child.
- 12 (7) This Court retains jurisdiction to entertain such further proceedings and to enter such  
13 further orders as may be necessary or appropriate to implement and enforce the  
14 provisions of this Order and Preliminary Injunction.

15 A status conference will be held on **July 6, 2018**, at **12:00 noon**, to discuss all  
16 necessary matters. A notice of teleconference information sheet will be provided in a  
17 separate order.

18 **IT IS SO ORDERED.**

19 Dated: June 26, 2018

20   
21 Hon. Dana M. Sabraw  
22 United States District Judge  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,  
Petitioners-Plaintiffs,  
v.  
U.S Immigration and Customs  
Enforcement (“ICE”); et al.,  
Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER GRANTING IN PART  
PLAINTIFFS’ MOTION FOR CLASS  
CERTIFICATION**

Pending before the Court is Plaintiffs’ motion for class certification. Plaintiffs, on behalf of themselves and putative class members, allege the Government has a widespread practice or policy of separating migrant families, and placing the children in facilities for “unaccompanied minors.” Recent developments validate Plaintiffs’ allegations. Plaintiffs seek to certify a class of similarly situated individuals for whom injunctive relief can be entered prohibiting separation of migrant parents from their minor children without first determining they are unfit parents or otherwise present a risk of danger to their children, as well as an injunction requiring reunification of migrant parents who are returned to immigration custody upon completion of any criminal proceedings, absent a determination that the parent is unfit or presents a danger to the child.

1 On June 6, 2018, the Court entered an order finding Plaintiffs had stated a claim for  
2 violation of their substantive due process rights to family integrity under the Fifth  
3 Amendment to the United States Constitution based on claims that the Government had  
4 separated them from their minor children while Plaintiffs were held in immigration  
5 detention without a showing that they were unfit parents or otherwise presented a danger  
6 to their children. *Ms. L. v. U.S. Immigration & Customs Enf't*, 302 F. Supp. 3d 1149, 2018  
7 WL 2725736, at \*9-12 (S.D. Cal. June 6, 2018). Since the issuance of that Order, the  
8 practice of family separation has intensified and become a matter of intense national  
9 debate.

10 The Attorney General of the United States announced a “zero tolerance” policy.<sup>1</sup>  
11 Under that policy, all adults entering the United States illegally would be subject to  
12 criminal prosecution, and if accompanied by a minor child, the child would be separated  
13 from the parent. Over the ensuing weeks, hundreds of migrant children were separated  
14 from their parents, further stoking the flames of nationwide protest. On June 20, 2018, the  
15 President of the United States signed an Executive Order (“EO”) to “maintain family unity”  
16 by keeping migrant families together during criminal and immigration proceedings to the  
17 extent permitted by law, while maintaining “rigorous[.]” enforcement of immigration laws.  
18 *See* Executive Order, *Affording Congress an Opportunity to Address Family Separation* §  
19 1, 2018 WL 3046068 (June 20, 2018). On Saturday, June 23, 2018, the Department of  
20 Homeland Security (“DHS”) issued a “Fact Sheet” outlining the Government’s efforts to  
21 “ensure that those adults who are subject to removal are reunited with their children for the  
22 purposes of removal.”<sup>2</sup>

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25 <sup>1</sup> *See* U.S. Att’y Gen., *Attorney General Sessions Delivers Remarks Discussing the*  
26 *Immigration Enforcement Actions of the Trump Administration* (May 7, 2018),  
27 [https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)  
28 [discussing-immigration-enforcement-actions](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions).

<sup>2</sup> *See* U.S. Dep’t of Homeland Sec., *Fact Sheet: Federal Regulations Protecting the*  
*Confidentiality of Asylum Applicants* (June 23, 2018),

1 Following issuance of the EO, a status conference was held on June 22, 2018, at  
2 which time Lee Gelernt and Bardis Vakili appeared for Plaintiffs, and Sarah Fabian and  
3 Samuel Bettwy appeared for Defendants. After hearing from counsel and considering the  
4 parties' supplemental briefing, Plaintiffs' motion for class certification is granted in part  
5 for the reasons set forth below.

6 **I.**  
7 **DISCUSSION<sup>3</sup>**

8 Plaintiff Ms. L. and her minor child S.S. arrived lawfully at one of our nation's ports  
9 of entry seeking asylum. Ms. L. and her child were detained together for several days, and  
10 later "forcibly separated" by immigration officials without a determination that Ms. L. was  
11 unfit or presented a danger to her child. S.S., then six years old, was placed in a government  
12 facility for "unaccompanied minors" over a thousand miles away from Ms. L. Ms. L. and  
13 S.S. were separated for nearly five months.

14 Plaintiff Ms. C. and her minor child J. entered the United States illegally between  
15 ports of entry. Upon apprehension by a Border Patrol agent, Ms. C. made a claim for  
16 asylum. She was arrested, charged with misdemeanor illegal entry under 8 U.S.C. §  
17 1325(a) ("criminal improper entry" under EO § 1), and served 25 days in custody. After  
18 serving her criminal sentence, Ms. C. was returned to immigration detention to contest  
19 removal and pursue her asylum claim. Ms. C.'s minor son was also placed in a government  
20 facility for "unaccompanied minors," hundreds of miles away from his mother.  
21 Undisputed news reports reflect the two were reunited earlier this month, after being  
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25 <https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification>.

26 <sup>3</sup> The factual background set out herein is abbreviated. A full discussion of the facts  
27 relevant to this lawsuit is set out in the Order granting Plaintiffs' motion for classwide  
28 preliminary injunction filed concurrently herewith and Order granting in part and denying  
in part Defendants' motion to dismiss. *Ms. L.*, 2018 WL 2725736, at \*1-3.

1 separated for over eight months.<sup>4</sup> Plaintiffs allege Defendants failed to reunite Ms. C. and  
2 her son during this period of time even though Ms. C.’s fitness as a parent was never  
3 questioned by government officials. Plaintiffs do not challenge the initial separation of  
4 Ms. C. from her child, as the separation resulted from prosecution for illegal entry and  
5 placement in criminal custody.<sup>5</sup> Rather, Ms. C. challenges the Government’s failure to  
6 reunify her with her son after she completed her 25-day criminal sentence and was returned  
7 to immigration detention.

8 Ms. L.’s claim is based on the initial separation from her child while in immigration  
9 detention; Ms. C.’s claim is based on the failure to reunite her with her child after serving  
10 her criminal sentence and being returned to immigration detention. Both claims focus on  
11 government conduct separating parents from minor children while the parent is detained  
12 pending immigration proceedings without a showing the parent is unfit or presents a danger  
13 to the child. Plaintiffs allege separation from their children under these circumstances  
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16 <sup>4</sup> See Tom Llamas et al., *Brazilian Mother Reunites with 14-year-old son 8 Months After*  
17 *Separation at U.S. Border*, ABC NEWS (June 5, 2018, 6:50 PM),  
18 [https://abcnews.go.com/US/brazilian-mother-reunites-14-year-son-months-](https://abcnews.go.com/US/brazilian-mother-reunites-14-year-son-months-separation/story?id=55666724)  
19 [separation/story?id=55666724](https://abcnews.go.com/US/brazilian-mother-reunites-14-year-son-months-separation/story?id=55666724).

20 <sup>5</sup> In their Supplemental Briefing, Plaintiffs point out that when a parent is prosecuted for  
21 illegal entry, separation is not required. “If the parent is being prosecuted but is nonetheless  
22 being held in a DHS facility, then there is no need to separate the family, because DHS can  
23 house families.” (Pls.’ Suppl. Br. at 8.) The EO in fact provides for “family unity” by  
24 directing DHS “to maintain custody of alien families during the pendency of any criminal  
25 improper entry or immigration proceedings[,]” to the extent permitted by law. EO § 3.  
26 This is a new development. Plaintiffs argue the confusion is the result of the “government’s  
27 shifting practice regarding the detention of parents facing criminal prosecution.” (Pls.’  
28 Suppl. Br. at 8.) For purposes of defining the class, however, the Court will carve out  
parents who fall within the EO. EO § 2(a) (defining “Alien family”). The EO provides for  
“family unity” and detaining “family units” together, *id.* §§ 1, 3, so further relief may be  
unnecessary. The EO also employs its own standard for determining detention of alien  
families. *Id.* § 3(b). To avoid potential conflict with the standard employed by the EO and  
that used by the Court, the class definition will not include such individuals. (*See* Defs.’  
Suppl. Br. at 3.) The Court reserves on other issues that might arise given these recent  
developments.

1 violates their right to family integrity under the Due Process Clause of the Fifth  
2 Amendment to the United States Constitution. In the Complaint, Plaintiffs alleged that  
3 hundreds of other migrant families had been subjected to the same treatment and that this  
4 had become a widespread practice of the current Administration. They cited numerous  
5 reports that the Government would soon adopt a formal national policy of separating  
6 migrant families and placing the children in government facilities for “unaccompanied  
7 minors.” The Government initially denied it had such a practice or policy, but has since  
8 distanced itself from that position in light of recent developments—including the zero  
9 tolerance policy which touted family separation.

10 Plaintiffs, on behalf of themselves and putative class members, request certification  
11 of the following class:

12 All adult parents nationwide who (1) are or will be detained in immigration  
13 custody by the Department of Homeland Security, and (2) have a minor child  
14 who is or will be separated from them by DHS and detained in ORR custody,  
15 absent a demonstration in a hearing that the parent is unfit or presents a danger  
to the child.

16 (Am. Compl. ¶ 65; Mem. in Supp. of Mot. at 1.) Plaintiffs argue this proposed class meets  
17 the requirements of Federal Rule of Civil Procedure 23(a) and (b)(2). Defendants dispute  
18 these requirements are met. The only claim currently at issue and subject to certification  
19 is Plaintiffs’ due process claim.<sup>6</sup> Plaintiffs’ pending motion for classwide preliminary  
20 injunction is addressed in a separate order.

#### 21 **A. Legal Standard**

22 “The class action is ‘an exception to the usual rule that litigation is conducted by and  
23 on behalf of the individual named parties only.’” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S.

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26 <sup>6</sup> The Court expresses no opinion on whether Plaintiffs are entitled to certification on any  
27 other claim that may be asserted in Plaintiffs’ Second Amended Complaint. At the hearing  
28 on June 22, 2018, Plaintiffs’ counsel indicated an amended pleading would be forthcoming,  
but requested the Court to rule on the presently pending motions.

1 338, 348 (2011) (quoting *Califano v. Yamasaki*, 442 U.S. 682, 700-01 (1979)). To qualify  
2 for the exception to individual litigation, the party seeking class certification must provide  
3 facts sufficient to satisfy the requirements of Federal Rule of Civil Procedure 23(a) and (b).  
4 *Doninger v. Pacific Northwest Bell, Inc.*, 564 F.2d 1304, 1308-09 (9th Cir. 1977). “The  
5 Rule ‘does not set forth a mere pleading standard.’” *Comcast Corp. v. Behrend*, 569 U.S.  
6 27, 33 (2013) (quoting *Dukes*, 564 U.S. at 350). “Rather, a party must not only ‘be prepared  
7 to provide that there are *in fact* sufficiently numerous parties, common questions of law or  
8 fact,’ typicality of claims or defenses, and adequacy of representation, as required by Rule  
9 23(a). The party must also satisfy through evidentiary proof at least one of the provisions  
10 of Rule 23(b)[.]” *Id.* (quoting *Dukes*, 564 U.S. at 350) (internal citation omitted).

11 Federal Rule of Civil Procedure 23(a) sets out four requirements for class  
12 certification—numerosity, commonality, typicality, and adequacy of representation. A  
13 showing that these requirements are met, however, does not warrant class certification.  
14 The plaintiff also must show that one of the requirements of Rule 23(b) is met. Here,  
15 Plaintiffs assert they meet the requirements of Rule 23(b)(2).

16 Rule 23(b)(2) allows class treatment when “the party opposing the class has acted or  
17 refused to act on grounds that apply generally to the class, so that final injunctive relief or  
18 corresponding declaratory relief is appropriate respecting the class as a whole[.]” Fed. R.  
19 Civ. P. 23(b)(2). Because the relief requested in a (b)(2) class is prophylactic, enures to  
20 the benefit of each class member, and is based on accused conduct that applies uniformly  
21 to the class, notice to absent class members and an opportunity to opt out of the class is not  
22 required. *See Dukes*, 564 U.S. at 361-62 (noting relief sought in a (b)(2) class “perforce  
23 affect[s] the entire class at once” and thus, the class is “mandatory” with no opportunity to  
24 opt out).

25 The district court must conduct a rigorous analysis to determine whether the  
26 prerequisites of Rule 23 have been met. *Gen. Tel. Co. v. Falcon*, 457 U.S. 147, 161 (1982).  
27 It is a well-recognized precept that “the class determination generally involves  
28 considerations that are ‘enmeshed in the factual and legal issues comprising the plaintiff’s

1 cause of action.” *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 469 (1978) (quoting  
2 *Mercantile Nat’l Bank v. Langdeau*, 371 U.S. 555, 558 (1963)). However, “[a]lthough  
3 some inquiry into the substance of a case may be necessary to ascertain satisfaction of the  
4 commonality and typicality requirements of Rule 23(a), it is improper to advance a decision  
5 on the merits to the class certification stage.” *Moore v. Hughes Helicopters, Inc.*, 708 F.2d  
6 475, 480 (9th Cir. 1983) (citation omitted); *see also Nelson v. United States Steel Corp.*,  
7 709 F.2d 675, 680 (11th Cir. 1983) (plaintiff’s burden “entails more than the simple  
8 assertion of [commonality and typicality] but less than a prima facie showing of liability”)  
9 (citation omitted). Rather, the court’s review of the merits should be limited to those  
10 aspects relevant to making the certification decision on an informed basis. *See* Fed. R. Civ.  
11 P. 23 advisory committee notes. If a court is not fully satisfied that the requirements of  
12 Rule 23(a) and (b) have been met, certification should be refused. *Falcon*, 457 U.S. at 161.

### 13 **B. Rule 23(a)**

14 Rule 23(a) and its prerequisites for class certification—numerosity, commonality,  
15 typicality, and adequacy of representation—are addressed in turn.

#### 16 1. Numerosity

17 Rule 23(a)(1) requires the class to be “so numerous that joinder of all members is  
18 impracticable.” Fed. R. Civ. P. 23(a)(1); *Staton v. Boeing Co.*, 327 F.3d 938, 953 (9th Cir.  
19 2003). The plaintiff need not state the exact number of potential class members; nor is a  
20 specific minimum number required. *Arnold v. United Artists Theatre Circuit, Inc.*, 158  
21 F.R.D. 439, 448 (N.D. Cal. 1994). Rather, whether joinder is impracticable depends on  
22 the facts and circumstances of each case. *Id.*

23 Here, Plaintiffs asserted in their motion that there were as many as 700 families that  
24 fell within the proposed class. In support of this assertion, Plaintiffs presented declarations  
25 from a number of attorneys that provide legal services to immigrant families in border  
26 States. (*See* Mem. in Supp. of Mot., Exs. 13-15.) Those attorneys declared they had seen  
27 hundreds of situations of children separated from their parents after being apprehended by  
28 DHS officials. (*See id.*, Ex. 13 ¶ 4; Ex. 14 ¶¶ 3-5; Ex. 15 ¶ 2.) One of those attorneys also

1 stated separations were occurring even when there was no “substantiated reason to suspect  
2 that the adult and child are not in fact related, or reason to suspect that the child is in  
3 imminent physical danger from the adult[.]” (*Id.*, Ex. 14 ¶ 6;) (*see also id.*, Ex. 15 ¶ 3)  
4 (stating “parents have been forcibly separated from their children and placed in detention  
5 for extended periods of time without any information regarding their whereabouts, safety,  
6 or wellbeing.”). This evidence is sufficient to show the numerosity requirement is met  
7 here. Accordingly, Plaintiffs have satisfied the first requirement of Rule 23(a).<sup>7</sup>

## 8 2. Commonality

9 The second element of Rule 23(a) requires the existence of “questions of law or fact  
10 common to the class[.]” Fed. R. Civ. P. 23(a)(2). This element has “‘been construed  
11 permissively,’ and ‘[a]ll questions of fact and law need not be common to satisfy the rule.’”  
12 *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 981 (9th Cir. 2011) (quoting *Hanlon v.*  
13 *Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998)). “However, it is insufficient to  
14 merely allege any common question[.]” *Id.* Instead, the plaintiff must allege the existence  
15 of a “common contention” that is of “such a nature that it is capable of classwide  
16 resolution[.]” *Dukes*, 564 U.S. at 350. As summarized by the Supreme Court:

17 What matters to class certification ... is not the raising of common  
18 ‘questions’—even in droves—but, rather the capacity of a classwide  
19 proceeding to generate common answers apt to drive the resolution of the  
20 litigation. Dissimilarities within the proposed class are what have the  
21 potential to impede the generation of commons answers.

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22 <sup>7</sup> Notably, Defendants do not challenge whether the numerosity requirement is met, and at  
23 the May 4, 2018 hearing on this motion, they did not dispute Plaintiffs’ approximation of  
24 the number of families that had been separated. Since the hearing, DHS has stated that  
25 “1,995 minors were separated from their ‘alleged adult guardians’ at the southern border  
26 in just over a month long period.” *See* Brian Naylor, *DHS: Nearly 2,000 Children*  
27 *Separated from Adults at Border in 6 Weeks*, NPR (June 16, 2018, 7:01 AM),  
28 <https://www.npr.org/2018/06/16/620451012/dhs-nearly-2-000-children-separated-from-adults-at-border-in-six-weeks>. On June 23, 2018, DHS indicated in its Fact Sheet that as of June 20 it had 2,053 separated minors in HHS funded facilities. U.S. Dep’t of Homeland Sec., *supra* note 2.



1 *Id.* (quoting Richard A. Nagareda, Class Certification in the Age of Aggregate Proof, 84  
2 N.Y.U. L. Rev. 97, 132 (2009)).

3 In this case, Plaintiffs assert there are a number of questions common to the class.  
4 First, they assert they are alleging the same legal claim, namely whether Defendants'  
5 practice of separating putative class members from their minor children and continued  
6 separation without a hearing and determination that they are unfit parents or present a  
7 danger to their children violates their right to family integrity under the Due Process  
8 Clause. Second, Plaintiffs contend the facts underlying their claims are the same: each  
9 was detained with their child by government actors, who then separated them from their  
10 children, or failed to reunite them, without a showing they were unfit or presented a danger  
11 to the child. Third, Plaintiffs assert they suffered the same injury, namely separation from  
12 their children in violation of their constitutional rights. Fourth, Plaintiffs contend they are  
13 challenging the same government practice regarding separation of parents and children or  
14 the refusal to reunite parents and children absent a showing the parent is unfit or presents  
15 a danger to the child. Finally, Plaintiffs claim they are seeking the same relief: a  
16 declaration that the conduct at issue is unlawful, and injunctions (1) preventing the  
17 separation of such parents and children without a showing the parent is unfit or presents a  
18 danger to the child, and (2) requiring reunification of the families already separated absent  
19 similar findings.

20 Defendants argue these questions cannot be answered on a classwide basis because  
21 the circumstances surrounding each separation of parent and child are different. In support  
22 of this argument, Defendants point to the circumstances giving rise to the separations of  
23 Plaintiffs and their children in this case, which are indisputably different. Ms. L. was  
24 separated from her daughter because the Government allegedly could not confirm  
25 parentage (though a DNA test taken several months after Ms. L. was separated from her  
26 child confirmed the relationship), while Ms. C. was separated from her son when she was  
27 apprehended near the border, charged with illegal entry, and placed in custody pending  
28 resolution of her criminal case.

1 In addition, at oral argument Government counsel set forth another scenario that  
2 could result in family separation, namely parents with criminal history that prevents them  
3 from being released into the community along with their child or housed together in a  
4 detention center with other families.<sup>8</sup> Obviously, these parents would be situated  
5 differently from Ms. L. and Ms. C., neither of whom presented this situation. Unlike with  
6 Ms. L. and Ms. C., the Government would have a legitimate interest in continuing detention  
7 of individuals who posed a flight risk or danger to the community or others in a family  
8 detention facility because of that person’s criminal history. A parent with some kind of  
9 communicable disease could also raise legitimate safety concerns.

10 Plaintiffs concede a parent with a communicable disease might be separately  
11 detained, but disagree that criminal history can serve as a generalized exception to the  
12 Government’s new policy of “family unity.” Criminal history comes in all gradations,  
13 from minor misdemeanors to violent felony offenses. Some types of criminal history  
14 would clearly justify separate detention of the parent, while other criminal history might  
15 not—and the exercise of governmental discretion to separately detain that individual might  
16 be challenged. Whether separate detention of such parents violates substantive due process  
17 could raise individualized inquiries.

18 In addition, Plaintiffs’ proposed class definition could include migrant families  
19 apprehended in the interior of the country. The number of such families is presently  
20 unknown and not part of the record before the Court. This group could include families  
21 present in the country for quite some time, with established family roots and connections.  
22 These parents also might have both citizen and alien children. The application of  
23

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24  
25 <sup>8</sup> At oral argument on May 4, 2018, Government counsel pointed out that one of the  
26 declarations submitted by a putative class member involved a “mother who had a  
27 significant criminal history, so ICE [Immigration and Customs Enforcement] was unable  
28 to place her in the family residential center because ... [such] centers are a very open  
setting. There is [sic] sort of pods. Families are housed together.... There is free  
movement. It is not a dententive setting.” (ECF No. 70, at 21-22.)

1 substantive due process to this potential group has not been briefed, and presents issues  
2 that Plaintiffs have indicated they are prepared to address at a later time.

3 The focus of the present litigation has always been on migrant families entering the  
4 United States at or between designated ports of entry. Most of these families are seeking  
5 asylum but not all. (*See* Am. Compl. ¶ 4) (“[A]most all of these individuals have fled  
6 persecution and are seeking asylum in the United States.”). Thus, although Plaintiffs’  
7 proposed class does not exclude parents with criminal history or communicable disease, or  
8 those in the interior of the country, the Court finds it appropriate to carve them out of the  
9 proposed class. *See Wang v. Chinese Daily News, Inc.*, 737 F.3d 538, 546 (9th Cir. 2013)  
10 (stating Federal Rule of Civil Procedure 23 “provides district courts with broad authority  
11 at various stages in the litigation ... to redefine ... classes as appropriate.”) (citation  
12 omitted). Accordingly, the Court excepts from the class definition—without prejudice to  
13 redefining the class on a more fulsome record—parents with criminal history or  
14 communicable disease, or those apprehended in the interior of the country.<sup>9</sup>

15 As discussed, the focus of this litigation is on the Government’s practice of  
16 separating migrant parents and children without any showing the parent is unfit or presents  
17 a danger to the child, and the continued separation of migrant families without any showing  
18 the parent is unfit or presents a danger to the child even after the parents have completed  
19 their criminal proceedings and are returned to immigration detention. Those circumstances  
20

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21  
22 <sup>9</sup> At oral argument on May 4, 2018, Government counsel also argued that lack of “bed  
23 space” could cause family separation. At that time, the “total capacity in residential centers  
24 [was] less than 2,700[.]” according to counsel. (ECF No. 70, at 9.) And there was only  
25 one such center for migrant fathers and children, which has “84 or 86 beds.” (*Id.* at 43-  
26 44.) Recent events, however, have overtaken that argument. The Government is actively  
27 constructing or converting facilities, even military facilities, to manage the growing  
28 population of migrant families. The EO directs federal agencies to marshal resources to  
support family custody. *See* EO § 3(c) (“The Secretary of Defense shall take all legally  
available measure to provide to the Secretary [of Homeland Security], upon request, any  
existing facilities available for the housing and care of alien families, and shall construct  
such facilities if necessary and consistent with law.”).

1 are present in the cases of Ms. L. and Ms. C. Ms. L. lawfully arrived at a port of entry and  
2 was separated from her daughter for nearly five months without any showing she was unfit  
3 or presented a danger to her, and Ms. C.’s separation from her son continued even after she  
4 was returned to immigration custody and despite any showing she was unfit or presented a  
5 danger to him. The circumstances of Plaintiffs and their children in this case and the  
6 situations described in the declarations submitted in support of this motion are evidence  
7 there is a common practice at issue here, namely separating migrant parents and children  
8 and failing to reunite them without a showing the parent is unfit or presents a danger to the  
9 child. (See Mem. in Supp. of Mot., Exs. 12-15; Reply in Supp. of Mot., Exs. 21-26) (five  
10 declarations of parents arriving at designated point of entry, and one declaration of a parent  
11 apprehended between ports of entry). Whether that practice violates substantive due  
12 process is a question common to the class, and the answer to that question is “apt to drive  
13 the resolution of the litigation.” *Dukes*, 564 U.S. at 350 (quoting *Nagareda*, *supra*, at 132).

14 “[C]ommonality only requires a single significant question of law or fact[.]” *Mazza*  
15 *v. Am. Honda Motor Co., Inc.*, 666 F.3d 581, 589 (9th Cir. 2012) (citing *Dukes*, 564 U.S.  
16 at 359), and that is particularly so where a suit “challenges a system-wide practice or policy  
17 that affects all of the putative class members.” *Armstrong v. Davis*, 275 F.3d 849, 868 (9th  
18 Cir. 2001). The Ninth Circuit’s decision in *Parsons v. Ryan*, 754 F.3d 657 (9th Cir. 2014),  
19 is instructive. In that case, the court was faced with a commonality question similar to the  
20 one presented here. That case involved a claim that certain policies and practices of the  
21 Arizona Department of Corrections (“ADC”) violated the Eighth Amendment’s  
22 proscription against cruel and unusual punishment. *Id.* at 662-63. The defendants in  
23 *Parsons*, similar to Defendants here, argued the commonality requirement was not met  
24 because the plaintiffs’ claims were simply “‘a collection of individual constitutional  
25 violations,’ each of which hinges on ‘the particular facts and circumstances of each case.’”  
26 *Id.* at 675 (quoting Defs.’ Reply Br. at 9-10). The Ninth Circuit disagreed. It found the  
27 defendants’ argument “rest[ed] upon a misunderstanding of the plaintiffs’ allegations.” *Id.*  
28 at 676. Contrary to the defendants’ interpretation of the claim, the court stated, “The

1 Complaint does not allege that the care provided on any particular occasion to any  
2 particular inmate (or group of inmates) was insufficient, but rather that ADC policies and  
3 practices of statewide and systemic application expose all inmates in ADC custody to a  
4 substantial risk of serious harm.” *Id.* (internal citation omitted). The court then went on to  
5 state:

6       These policies and practices are the “glue” that holds together the putative  
7 class ...; either each of the policies and practices is unlawful as to every  
8 inmate or it is not. That inquiry does not require us to determine the effect of  
9 those policies and practices upon any individual class member (or class  
members) or to undertake any other kind of individualized determination.

10 *Id.* at 678.

11       Here, as in *Parsons*, Plaintiffs’ claims do not rest on the individual circumstances of  
12 each separation of parent and child. Rather, Plaintiffs are challenging the Government’s  
13 practice of separating migrant parents and children and keeping them separate without a  
14 showing the parent is unfit or presents a danger to the child. Under these circumstances,  
15 the reasoning of *Parsons* applies here, and that reasoning compels the same conclusion,  
16 namely that the commonality requirement is met.

17       3.    Typicality

18       The next requirement of Rule 23(a) is typicality, which focuses on the relationship  
19 of facts and issues between the class and its representatives. “[R]epresentative claims are  
20 ‘typical’ if they are reasonably co-extensive with those of absent class members; they need  
21 not be substantially identical.” *Hanlon*, 150 F.3d at 1020. “The test of typicality is whether  
22 other members have the same or similar injury, whether the action is based on conduct  
23 which is not unique to the named plaintiffs, and whether other class members have been  
24 injured by the same course of conduct.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508  
25 (9th Cir. 1992) (citation and internal quotation marks omitted). The typicality requirement  
26 will occasionally merge with the commonality requirement, *Parsons*, 754 F.3d at 687,  
27 because “[b]oth serve as guideposts for determining whether under the particular  
28 circumstances maintenance of a class action is economical and whether the named

1 plaintiff's claim and the class claims are so interrelated that the interests of the class  
2 members will be fairly and adequately protected in their absence." *Dukes*, 564 U.S. at 349  
3 n.5.

4 Here, Plaintiffs rely on the arguments raised on commonality to support a showing  
5 of typicality, and Defendants rely on the arguments raised in response thereto to show the  
6 typicality requirement is also not met. For the reasons set out above, however, the Court  
7 finds Plaintiffs' claims are typical of the claims of absent class members.

8 Both Plaintiffs were separated or remained separated from their children without any  
9 showing they were unfit or presented a danger to their child. By definition, each member  
10 of the proposed class will have been subject to this same practice. Furthermore, Plaintiffs'  
11 claims are the same as those raised by absent class members, namely the Government's  
12 practice of separating parents and children under the circumstances set out above violates  
13 their right to due process. Finally, the injuries suffered by the named Plaintiffs are the  
14 same as those suffered by members of the proposed class: separation from their children.  
15 *See Parsons*, 754 F.3d at 685 (finding typicality requirement met where named plaintiffs  
16 "allege 'the same or [a] similar injury' as the rest of the putative class; they allege that this  
17 injury is a result of a course of conduct that is not unique to any of them; and they allege  
18 that the injury follows from the course of conduct at the center of the class claims.").  
19 Certainly, the claims of the named Plaintiffs and the claims of class members "are so  
20 interrelated that the interests of the class members will be fairly and adequately protected  
21 in their absence." *Dukes*, 564 U.S. at 349 n.5. The typicality requirement is therefore met.

#### 22 4. Adequacy of Representation

23 The final requirement of Rule 23(a) is adequacy. Rule 23(a)(4) requires a showing  
24 that "the representative parties will fairly and adequately protect the interests of the class."  
25 Fed. R. Civ. P. 23(a)(4). This requirement is grounded in constitutional due process  
26 concerns; "absent class members must be afforded adequate representation before entry of  
27 a judgment which binds them." *Hanlon*, 150 F.3d at 1020 (citing *Hansberry v. Lee*, 311  
28 U.S. 32, 42-43 (1940)). In reviewing this issue, courts must resolve two questions: "(1) do

1 the named plaintiffs and their counsel have any conflicts of interest with other class  
2 members and (2) will the named plaintiffs and their counsel prosecute the action vigorously  
3 on behalf of the class?” *Id.* (citing *Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507,  
4 512 (9th Cir. 1978)). The named plaintiffs and their counsel must have sufficient “zeal and  
5 competence” to protect the interests of the rest of the class. *Fendler v. Westgate-California*  
6 *Corp.*, 527 F.2d 1168, 1170 (9th Cir. 1975).

7 As to the named Plaintiffs, Defendants argue they are not adequate representatives  
8 of the proposed class because both Plaintiffs’ claims are moot and the Court lacks venue  
9 over Ms. C.’s claims. For the reasons set out in the Court’s Order on Defendants’ motion  
10 to dismiss, the Court rejects these arguments as a basis for finding Plaintiffs to be  
11 inadequate representatives. Rather, Plaintiffs have shown they do not have any conflicts  
12 of interest with other class members and that they will protect the interests of the class.  
13 Accordingly, Plaintiffs are adequate representatives for the class.

14 Plaintiffs have also demonstrated their counsel are adequate. There is no conflict  
15 between Plaintiffs’ counsel and the members of the proposed class, and counsel have  
16 demonstrated they will prosecute the case vigorously on behalf of the class. Accordingly,  
17 the requirement of Rule 23(a)(4) is met.

### 18 **C. Rule 23(b)**

19 Having satisfied the requirements of Rule 23(a), the next issue is whether Plaintiffs  
20 have shown that at least one of the requirements of Rule 23(b) is met. *Amchem Products,*  
21 *Inc. v. Windsor*, 521 U.S. 591, 614-15 (1997). Here, Plaintiffs assert they have met the  
22 prerequisites of certification for a class under Rule 23(b)(2).

23 Under Rule 23(b)(2), class certification may be appropriate where a defendant acted  
24 or refused to act in a manner applicable to the class generally, rendering injunctive and  
25 declaratory relief appropriate to the class as a whole. Fed. R. Civ. P. 23(b)(2). The parties  
26 agree:

27 The key to the (b)(2) class is “the indivisible nature of the injunctive or  
28 declaratory remedy warranted—the notion that the conduct is such that it can

1 be enjoined or declared unlawful only as to all of the class members or as to  
2 none of them.” [citation omitted] In other words, Rule 23(b)(2) applies only  
3 when a single injunction or declaratory judgment would provide relief to each  
4 member of the class. It does not authorize class certification when each  
5 individual class member would be entitled to a *different* injunction or  
6 declaratory judgment against the defendant.

6 *Dukes*, 564 U.S. at 360.

7 Plaintiffs here argue this case is particularly suited for certification under Rule  
8 23(b)(2) because they are presenting a civil rights challenge to a practice that applies to all  
9 members of the proposed class, and that practice can be declared lawful or unlawful as to  
10 the class as a whole. *See Walters v. Reno*, 145 F.3d 1032, 1046-47 (9th Cir. 1998) (stating  
11 Rule 23(b)(2) “was adopted in order to permit the prosecution of civil rights actions[,]” and  
12 is satisfied “if class members complain of a pattern or practice that is generally applicable  
13 to the class as a whole.”); *see also Parsons*, 754 F.3d at 686 (same).

14 Defendants assert individual inquiries would be necessary to determine who falls  
15 within the class definition, which precludes certification under Rule 23(b)(2). Defendants  
16 point out the proposed class only includes the time period ““while a parent is in immigration  
17 custody, and not the period of separation while the parent is in jail for criminal  
18 conviction.”” (Opp’n to Mot. at 14) (quoting ECF No. 35-1, at 11.) Defendants argue the  
19 problem with Plaintiffs’ proposed class definition is found in the case of Ms. C.: “It is  
20 unclear at what point Ms. C. would become a member of Plaintiffs’ proposed class—  
21 whether at the point she was referred for prosecution by CBP [Customs and Border  
22 Protection], or later when she was released from criminal custody and detained by ICE in  
23 an immigration detention facility.” (*Id.*)

24 However, the problem posed, namely, when someone becomes a member of the  
25 class, is easily resolved. As Plaintiffs explain, a person becomes a member of the class  
26 when they are held in immigration detention without their children. (Reply Br. at 7.)  
27 Defendants are correct that this determination may involve some individualized inquiries,  
28



1 but those inquiries do not detract from the “indivisible” nature of the claim alleged and the  
2 relief sought in this case. *Dukes*, 564 U.S. at 360.

3 Contrary to Defendants’ argument, Plaintiffs have demonstrated that certification  
4 under Rule 23(b)(2) is appropriate here. As stated above, the crux of this case is the  
5 Government’s practice of separating migrant parents from their minor children and  
6 continuing to separate them without any showing the parent is unfit or presents a danger to  
7 the child. Based on the record before the Court, the Government has “acted ... in a manner  
8 applicable to the class generally, rendering injunctive and declaratory relief appropriate to  
9 the class as a whole[.]” Fed. R. Civ. P. 23(b)(2). A determination regarding whether the  
10 practice of family separation and failure to reunify such families violates due process and  
11 warrants injunctive relief would apply to each class member and drive resolution of the  
12 litigation. Accordingly, Rule 23(b)(2) is satisfied.

## 13 II.

### 14 CONCLUSION AND ORDER

15 For these reasons, Plaintiffs’ motion for class certification is granted in part as to  
16 Plaintiffs’ substantive due process claim. Specifically, the Court certifies the following  
17 class under Federal Rule of Civil Procedure 23(b)(2), with the exceptions noted above and  
18 as modified:

19 All adult parents who enter the United States at or between designated ports  
20 of entry who (1) have been, are, or will be detained in immigration custody  
21 by the DHS, and (2) have a minor child who is or will be separated from them  
22 by DHS and detained in ORR custody, ORR foster care, or DHS custody,  
23 absent a determination that the parent is unfit or presents a danger to the  
24 child.<sup>10</sup>

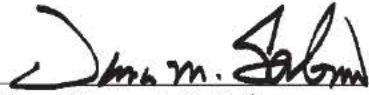
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25  
26  
27 <sup>10</sup> As discussed in text, *infra*, the class does not include migrant parents with criminal  
28 history or communicable disease, or those who are in the interior of the United States or  
subject to the EO.

1 Plaintiffs are appointed as Class Representatives, and Counsel from the ACLU  
2 Immigrants' Rights Project and the ACLU of San Diego and Imperial Counties are  
3 appointed as counsel for this Class pursuant to Federal Rule of Civil Procedure 23(g).

4 **IT IS SO ORDERED.**

5 Dated: June 26, 2018

6   
7 Hon. Dana M. Sabraw  
8 United States District Judge  
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(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 5:20 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

All,

See below for guidance on prosecutions involving family units.

(b)(6);(b)(7)(C)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 10:17:07 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

(b)(6);(b)(7)(C)  
Acting Deputy Chief Patrol Agent  
Swanton Sector Border Patrol  
Office: (b)(6);(b)(7)(C)  
Cell: (b)(6);(b)(7)(C)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 11:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)(AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)(OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b)(7)(E)

(b)(7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
(b)(6);(b)(7)(C)

From: (b)(6);(b)(7)(C)  
 Sent: Wednesday, June 20, 2018 9:54 PM  
 To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
 Cc: MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)  
 (b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A  
 (USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)  
 (b)(6);(b)(7)(C)  
 (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C  
 (b)(6);(b)(7)(C)  
 (AJO) (b)(6);(b)(7)(C)  
 (b)(6);(b)(7)(C) HOOVER, CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R  
 (b)(6);(b)(7)(C) FALK, SCOTT K (OCC) (b)(6);(b)(7)(C) (OCC)  
 (b)(6);(b)(7)(C)

Subject: June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)

(b) (7)(E)

5.

(b)(7)(E)

V/r,

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance  
**Date:** Thursday, June 21, 2018 12:03:14 AM

---

(b)(6);(b)(7)(C)  
Assistant Chief Patrol Agent  
USBP El Paso Sector  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) iPhone

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 8:36:34 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

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**From:** CLEM, CHRIS T  
**Sent:** Wednesday, June 20, 2018 10:01:27 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** HULL, AARON A  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

Please see below.

Almost identical to our guidance with a few added tasks to reunify.

Ensure it's sent to the field for implementation.

EPT LEOD please acknowledge receipt.

Thanks

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 8:53:46 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
[Redacted]
2. (b)(7)(E)  
[Redacted]
3. (b)(7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)  
[Redacted]
5. (b)(7)(E)  
[Redacted]

V/r,  
[Redacted]

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance and Executive Order Guidance  
**Date:** Tuesday, August 28, 2018 3:47:11 PM

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 6:00 PM  
**To:** ELC IML WC SOS FOS (b)(7)(E)  
**Subject:** FW: Zero Tolerance and Executive Order Guidance

---

**From:** CHAVEZ, GLORIA I  
**Sent:** Wednesday, June 20, 2018 7:54:15 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance and Executive Order Guidance

**ALCON:**

Effective immediately the following actions are to be implemented/acted upon:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)

Further guidance is forthcoming from HQ. In the interim please ensure that all field commanders and Supervisors are made aware and act accordingly. If you have any further questions, please contact Acting ACPA (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)

Presidential Executive Order



<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

GC

Regards,  
Gloria I. Chavez  
Chief Patrol Agent  
El Centro Sector  
U.S. Border Patrol  
**(b)(6);(b)(7)(C)**(office)

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Initiative  
**Date:** Tuesday, August 28, 2018 3:47:13 PM  
**Attachments:** [ELC CONOP -Prosecutions \(V02\).docx](#)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, May 10, 2018 7:22 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Initiative

(b)(7)(E)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, May 10, 2018 7:30:51 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance Prosecution Initiative

Attached is the approved ELC ConOp for the Attorney General / SecDHS-directed Zero Tolerance Initiative. *This is not a new plan*, but I wanted to make sure that you all have a copy of the actual conop. As discussed several times, the goal is 100% prosecutions.

(b)(7)(E)

- (b)(7)(E)
  1. (b)(7)(E)
  2. (b)(7)(E)
  3. (b)(7)(E)
  4. (b)(7)(E)
  5. (b)(7)(E)
- (b) (5), (b) (7)(E)

■ [REDACTED] (b) (5), (b) (7)(E)  
[REDACTED]  
[REDACTED]

[REDACTED] (b) (5), (b) (7)(E)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] (b)(7)(E)  
[REDACTED]

Thanks,

[REDACTED] (b)(6);(b)(7)(C)

Executive Summary: Increase level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

Situation:

In accordance with Attorney General Jeff Sessions' "Zero Tolerance" memo and direction given by USBP HQ, El Centro Sector Border Patrol will begin a phased, aggressive prosecutorial effort. All adult individuals illegally entering the United States will be presented to the Office of the United States Attorney for prosecution under 8 USC 1325.

Mission: (b) (7)(E) , in agreement with the AUSA, ELC will increase the number of cases presented to the AUSA for prosecution. (b) (7)(E) to achieve the DHS/DOJ goal of 100% of cases being presented for prosecution.

Execution:

- Management / Supervisor Intent:
  1. Purpose: USBP HQ delivered a directive to all southwest border sectors to immediately increase prosecutions of individuals based on the capabilities of the local AUSA office and the federal courts. The goal of this directive is to create a phased approach where the AUSA and federal courts can accept 100% of all cases presented.
  2. End State: Guidance from the CPA has been delivered to all stations within the El Centro Sector directing the prosecution of all adults amenable to the 8 USC 1325 charge. ELC will initiate a phased approach resulting in 100% of all individuals amenable to prosecution will be presented for prosecution.

General Concept: (b) (7)(E)

ELC will also increase the number of cases presented to the AUSA outside of these priorities through a phased approach (b) (7)(E)

- Reporting Requirements: The following weekly reporting requirements have been identified:
  - Report requests from US Attorney or US Marshal offices for CBP resources to assist with implementation
  - Report the total number of prosecution referrals by sector
  - Report the percentage of referred prosecutions for each priority
  - Report the percentage of declinations for each priority
  - Report the total number of non-referred for prosecution by priority sub-categorized by reason

**From:** (b)(6);(b)(7)(C)  
**To:** El Paso Sector ILU; (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals  
**Date:** Friday, April 27, 2018 7:04:59 PM  
**Attachments:** [Zero tolerance memo 4.6.18.pdf](#)  
[AG press release Zero tolerance 4.6.18.pdf](#)

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FYI

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 6:00 PM  
**To:** EPT-LEOD (b)(7)(E) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** HULL, AARON A (b)(6);(b)(7)(C) CLEM, CHRIS T (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

Please see instructions below. We should already be doing this.

(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 12:50:01 AM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C) PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) SELF, JEFFREY D; (b)(6);(b)(7)(C) VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; (b)(6);(b)(7)(C) HUDSON, RICHARD M; (b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)  
(b)(7)(E) This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b) (7)(E)  
(b)(7)(E) As such, we anticipate there will be declinations based on a multitude of reasons. Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

**(b)(6);(b)(7)(C)**

(Acting) Deputy Chief

Law Enforcement Operations Directorate - Ops

U.S Border Patrol

1300 Pennsylvania Ave, N.W.

Washington, DC 20229

**(b)(6);(b)(7)(C)** office

**(b)(6);(b)(7)(C)** cellular



Office of the Attorney General  
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

SUBJECT:

Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, April 6, 2018

**Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry**

Attorney General Jeff Sessions today notified all U.S. Attorney's Offices along the Southwest Border of a new "zero-tolerance policy" for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien. The implementation of the Attorney General's zero-tolerance policy comes as the Department of Homeland Security reported a 203 percent increase in illegal border crossings from March 2017 to March 2018, and a 37 percent increase from February 2018 to March 2018—the largest month-to-month increase since 2011.

"The situation at our Southwest Border is unacceptable. Congress has failed to pass effective legislation that serves the national interest—that closes dangerous loopholes and fully funds a wall along our southern border. As a result, a crisis has erupted at our Southwest Border that necessitates an escalated effort to prosecute those who choose to illegally cross our border," said Attorney General Jeff Sessions. "To those who wish to challenge the Trump Administration's commitment to public safety, national security, and the rule of law, I warn you: illegally entering this country will not be rewarded, but will instead be met with the full prosecutorial powers of the Department of Justice. To the Department's prosecutors, I urge you: promoting and enforcing the rule of law is vital to protecting a nation, its borders, and its citizens. You play a critical part in fulfilling these goals, and I thank you for your continued efforts in seeing to it that our laws—and as a result, our nation—are respected."

On April 11, 2017, Attorney General Jeff Sessions announced a renewed commitment to criminal immigration enforcement. As part of that announcement, the Attorney General issued a memorandum to all federal prosecutors and directed them to prioritize the prosecution of certain criminal immigration offenses.

Today's zero-tolerance policy further directs each U.S. Attorney's Office along the Southwest Border (i.e., Southern District of California, District of Arizona, District of New Mexico, Western District of Texas, and the Southern District of Texas) to adopt a policy to prosecute all Department of Homeland Security referrals of section 1325(a) violations, to the extent practicable.

**Attachment(s):**[Download Zero-Tolerance Memorandum](#)**Topic(s):**

Immigration

**Component(s):**[Office of the Attorney General](#)



4/6/2018

Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry | OPA | Department of Justice

**Press Release Number:**

18-417

*Updated April 6, 2018*

**AILA Doc. No. 18040635. (Posted 4/6/18)**

<https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

CBP FOIA 000092

2/2

**From:** (b)(6);(b)(7)(C)  
**To:** [ELC IML SUPERVISORS](#)  
**Cc:** [ELC IML WC SOS FOS](#); (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals  
**Date:** Saturday, April 28, 2018 6:35:32 PM  
**Attachments:** [Zero tolerance memo 4.6.18.pdf](#)  
[AG press release Zero tolerance 4.6.18.pdf](#)

---

All,

Per the (A)PAIC, a little more specific direction regarding the attached and the below directive.

(b)(7)(E)

(b)(7)(E)

This will more than likely continue to evolve as the process moves along so be ready for changes as we go forward.

Remember, ambiguity is the rule. We will adjust and keep moving forward.

I am available for questions or concerns.

Thanks

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:51:01 PM  
**To:** ELC IML WC SOS FOS; ELC IML SUPERVISORS  
**Subject:** FW: Zero Tolerance Prosecution Referrals

All.

Read attachments and message. (b)(7)(E)

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:27:05 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

PAICs,

Please see the info below regarding zero tolerance prosecutions.

The Prosecutions department will track all prosecutions as required below.

Thanks,  
(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
Acting Division Chief  
USBP El Centro Sector  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 8:05:56 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

FYA please. Note the tracking piece.

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 4:50 PM  
**To:** SCOTT, RODNEY S (b)(6);(b)(7)(C) CHAVEZ, GLORIA I  
(b)(6);(b)(7)(C) PORVAZNIK, ANTHONY J  
(b)(6);(b)(7)(C) KARISCH, RODOLFO  
(b)(6);(b)(7)(C) HULL, AARON A (b)(6);(b)(7)(C) BOATRIGHT,  
ROBERT L (b)(6);(b)(7)(C) CHAVEZ, FELIX (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) PADILLA, MANUEL JR  
(b)(6);(b)(7)(C) ORTIZ, RAUL L (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) SELF, JEFFREY D (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) VILLAREAL, ROY D (b)(6);(b)(7)(C)  
**Cc:** OPS EAST SECTOR (b)(7)(E) OPS WEST SECTORS  
(b)(7)(E) OPSCENTRALSECTORS (b)(7)(E)  
(b)(6);(b)(7)(C) HUDSON, RICHARD M  
(b)(6);(b)(7)(C) USBP  
HQ Adjutants (b)(7)(E) LUCK, SCOTT A (USBP)  
(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C)

**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)

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(b)(7)(E)

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Regards,

(b)(6);(b)(7)(C)

(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular



Office of the Attorney General  
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, followed by the date "4/6/18".

SUBJECT:

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On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

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## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

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**Attachment(s):**[Download Zero-Tolerance Memorandum](#)**Topic(s):**

Immigration

**Component(s):**[Office of the Attorney General](#)

4/6/2018

Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry | OPA | Department of Justice

**Press Release Number:**

18-417

*Updated April 6, 2018*

**AILA Doc. No. 18040635. (Posted 4/6/18)**

<https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

CBP FOIA 000098

2/2

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 28, 2018 2:19 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)  
**Attachments:** Interim Guidance on Preliminary Injunction.pdf

All,

(b)(7)(E)

(b)(7)(E)

With that being said, due to the current political environment and all of the issues being raised around the separation of families, if a family group is going to be separated, the reason needs to be clearly identified/justified and sent to me, (b)(6);(b)(7)(C);(b)(7)(E) I am sure there will be questions on any family unit that is separated, and I want to make sure we have the information when the questions start.

The duty Division Chief is always available for calls after hours also.

Thanks

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
Division Chief  
Swanton Sector  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) Cell

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 27, 2018 4:46 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)



(b)(6);(b)(7)(C)

**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)

PAICs,

Please read the email below and attachment above, which discusses the *interim guidance on preliminary injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)*. Forward this guidance to all agents at your station and respond back to me ASAP once this has been completed.

Thanks,

(b)(6);(b)(7)(C)

Acting Deputy Chief Patrol Agent  
Swanton Sector  
Ph: (b)(6);(b)(7)(C)

~~CONFIDENTIALITY NOTICE: This e-mail, including any attachment, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Parts of this document may contain sensitive security information that is controlled under the provisions of 49 CFR 1520. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.~~

~~WARNING: Parts of this document or any attachments may be designated: FOR OFFICIAL USE ONLY/LAW ENFORCEMENT SENSITIVE (FOUO/LES) It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information. This information shall not be distributed beyond the original.~~

**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 27, 2018 3:51 PM

**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

**Cc:** PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A (USBP)

(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C) HUDSON,  
RICHARD M (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (AJO)

(b)(6);(b)(7)(C)

**Subject:** Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)

Chiefs, Deputies,

Please see the attached guidance memo from Commissioner McAleenan to Chief Provost and AC Owen regarding the *Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)*.

This memo and guidance is for immediate implementation.

Please provide an email that you have read, understand and disseminated the guidance to your agents for immediate implementation.

If you have any questions or concerns, please give me a call.

V/r,

(b)(6);(b)(7)(C)

O: (b)(6);(b)(7)(C)

C: (b)(6);(b)(7)(C)



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

(b)(7)(E)

(b)(7)(E)

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C) (RGV)  
**Sent:** Wednesday, June 27, 2018 4:08 PM  
**To:** RGVHQ-Programs Div; (b)(6);(b)(7)(C) RGV CPC PAIC; RGV CPC WC-SBPA;  
(b)(6);(b)(7)(C)  
**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)  
**Attachments:** @

All,  
Please see below and attached. Please ensure immediate implementation of this guidance.

In short- no 1325 referrals of FMUA in anything but circumstances outlined in this guidance.

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

DC-RGV

(b)(6);(b)(7)(C)

---

From: ORTIZ, RAUL L

Sent: Wednesday, June 27, 2018 1:59:50 PM

To: (b)(6);(b)(7)(C) (RGV); (b)(6);(b)(7)(C) (RGV XO); (b)(6);(b)(7)(C) (CAG)

Subject: FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)

Raul L. Ortiz

Deputy Chief Patrol Agent

Rio Grande Valley Sector

Office: (b)(6);(b)(7)(C)

Mobile: (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

~~CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or otherwise protected~~



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

° (b)(7)(E)

° (b)(7)(E)

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:13 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)  
**Attachments:** Interim Guidance on Preliminary Injunction.pdf

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 27, 2018 1:51 PM  
**To:** BP Field Chiefs (b)(7)(E); BP Field Deputies (b)(7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b)(6);(b)(7)(C); LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C); HUDSON, RICHARD M (b)(6);(b)(7)(C); HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C); (b)(6);(b)(7)(C); (b)(6);(b)(7)(C); (b)(6);(b)(7)(C); (b)(6);(b)(7)(C); (b)(6);(b)(7)(C); (b)(6);(b)(7)(C) (AJO)  
**Subject:** Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)

Chiefs, Deputies,

Please see the attached guidance memo from Commissioner McAleenan to Chief Provost and AC Owen regarding the *Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)*.

This memo and guidance is for immediate implementation.

Please provide an email that you have read, understand and disseminated the guidance to your agents for immediate implementation.

If you have any questions or concerns, please give me a call.

V/r,  
(b)(6);(b)(7)(C)  
O: (b)(6);(b)(7)(C)  
C: (b)(6);(b)(7)(C)



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

(b)(7)(E)

(b)(7)(E)

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:26 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Executive Order Operational Guidance

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 10:00 AM  
**To:** (b)(6);(b)(7)(C)

**Subject:** Executive Order Operational Guidance

PAICs, please acknowledge receipt and immediate compliance with the below guidance.

June 20, 2018 Executive Order – Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)

[Redacted]

5. (b)(7)(E)

6. PAICs will immediately inform Havre Sector staff of any juvenile and/or family unit apprehensions.

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 7:03 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

FYI...

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 5:33 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

(b)(6);(b)(7)(C), update for distribution -- the situation is fluid and may require multiple updates.

(b)(6);(b)(7)(C)  
Acting Deputy Chief Patrol Agent  
Buffalo Sector  
U.S. Border Patrol  
Office: (b)(6);(b)(7)(C)  
Mobile: (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 11:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b) (7)(E)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:54 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)  
(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A  
(USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C  
(b)(6);(b)(7)(C)  
(AJO) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HOOVER, CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) (OCC)  
(b)(6);(b)(7)(C)

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)

5.

(b)(7)(E)

V/r,

(b)(6);(b)(7)(C)



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:13 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:09 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)  
(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A  
(USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HOOVER, CRINLEY S  
(b)(6);(b)(7)(C) SINGLETON, RUYNARD R (b)(6);(b)(7)(C) (OCC)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*(UPDATED)\*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b)(7)(E)  
[Redacted]

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 20, 2018 9:54 PM

**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)

(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A

(USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C

(b)(6);(b)(7)(C)

(AJO) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HOOVER, CRINLEY S (b)(6);(b)(7)(C);(b)(7)(E) SINGLETON, RUYNARD R

(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) (OCC)

(b)(6);(b)(7)(C)

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)
5. (b)(7)(E)

V/r,  
(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:26 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

(b)(6);(b)(7)(C)

Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 7:58 PM  
**To:** HUDSON, RICHARD M (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance

Havre Sector has received, understand and will comply.

(b)(6);(b)(7)(C)

(A) Chief Patrol Agent  
Havre Sector  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

Sent from iPhone

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:53:46 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (AJO); (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; FALK, (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. [REDACTED] (b)(7)(E)
2. [REDACTED] (b)(7)(E)
3. [REDACTED] (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)
5. [REDACTED] (b)(7)(E)

V/r,  
[REDACTED]

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:15 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: S1 Signed Action Memo Increasing Prosecutions  
**Attachments:** Southwest Border Prosecutions 05042018.docx

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 4, 2018 4:01 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A (USBP)  
(b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (AJO)  
(b)(6);(b)(7)(C)

**Subject:** FW: S1 Signed Action Memo Increasing Prosecutions

SWB Chief's and Deputies,

Please see the attached, approved CONOP to develop a quickly scalable approach to achieve 100% immigration violation prosecution referrals for all amenable adults.

Border Patrol is authorized to implement increased Southwest Border Prosecutions, as outlined in the second attachment, (b)(7)(E)

(b) (5), (b) (6), (b) (7)(C), (b) (7)(E)

(b) (5), (b) (7)(E)

We will be hosting a teleconference call at 6:10 p.m. EST to discuss and answer any questions. The call information will be out in a few minutes.

V/r,  
(b)(6);(b)(7)(C)

**Southwest Border Prosecutions**  
**May 3, 2018**

**Objective:**

- Achieve increased level of Border Security along the southwest border through consistent application of all legal authorities via consequence delivery.

**Key Messages:** This effort is not new. Each day, those that violate our immigration laws are referred for prosecution. In order to ensure the sovereignty of our Nation and secure our borders, the Department of Justice and the Department of Homeland Security are maximizing their capabilities to deliver the appropriate consequences to violators. In order to break the cycle of those who seek to enter unlawfully, all amenable adults who violate 8 U.S.C. § 1325(a) will be referred for prosecution. This includes those adults who are accompanying children. We will not exempt adults who engage in this criminal activity, including those choose to put their children in harm's way by crossing the border between the ports of entry.

**Execution:**

The southwest border sectors, under the direction of their Chief Patrol Agents (CPAs), will implement (b) (7)(E)

- (b) (7)(E) (b)(5)
- Sectors will provide localized, phased plans to (b) (6) while recognizing that our partners will need time to adjust resources to achieve shared DHS and DOJ goals.
- CPAs will expand and maintain this prosecution initiative (b) (7)(E)
- CPAs will consider DOJ request for Sector resources to support increased prosecutions on a case-by-case basis, in coordination with Headquarters LEOD. All requests for Chief Counsel resources will be referred to the Office of Chief Counsel.
- CPAs will maintain current operations in other (b)(7)(E) with respect to enforcement activities and prosecutions.
- All aliens referred for prosecution within each sector will be entered into the (b)(7)(E) module, with reasons for declinations recorded accurately.
- (b) (7)(E)

**Prosecution Priorities in the following order:**

1. (b)(7)(E)
2. (b)(7)(E)

**Southwest Border Prosecutions**  
**May 3, 2018**

- 3. [REDACTED] (b)(7)(E)
- 4. [REDACTED] (b)(7)(E)
- 5. [REDACTED] (b)(7)(E)

**Reporting Requirements: (weekly statistics)**

- Report requests from U.S. Attorney or U.S. Marshal offices for CBP resources to assist with implementation.
- Report the number of apprehensions in targeted and non-targeted (b)(7)(E) by sector.
- Report the total number of prosecution referrals by sector for each priority in targeted and non-targeted (b)(7)(E) by sector.
- Report the percentage of referred prosecutions for each priority in targeted and non-targeted (b)(7)(E)
- Report the percentage of declinations for each priority sub-categorized by reason.
- Report the total number of non-referred (for prosecution) by priority sub-categorized by reason.
- Any requests for reporting of prosecutions by Special Assistant United States Attorneys (SAUSAs) from the Office of Chief Counsel, or reporting on Chief Counsel SAUSA resources, should be referred to the Office of Chief Counsel.

**Metrics:**

- Total number of prosecutions – increase or decrease
- Total number of apprehensions in relation to increase/decrease of prosecutions
- Demographic shift of aliens entering illegally
  - Number of OTMs entering illegally
  - Number of family units entering illegally
- Increase/decrease in presentations at the ports of entry

**Execution Timeline:**

(b) (7)(E)

[REDACTED]

~~FOR OFFICIAL USE ONLY~~  
~~PRE-DECISIONAL//DELIBERATIVE~~

**Southwest Border Prosecutions**  
**May 3, 2018**

(b) (7)(E)



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:17 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, August 2, 2018 5:43 AM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** (b)(6);(b)(7)(C) (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C); HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) USBP  
LEOD Associate Chiefs (b)(7)(E)  
**Subject:** RE: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (6), (b) (7)(C), (b) (7)(E)

Again, please confirm receipt of this email to (b)(6);(b)(7)(C) and I.

Thank you in advance for your patience and understanding.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

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**From:** HUDSON, RICHARD M  
**Sent:** Tuesday, July 31, 2018 9:44 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) CARLA PROVOST (USBP) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION  
**Importance:** High

Chiefs,

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b) (5), (b) (7)(E)

Please ensure this guidance is provided to all processing centers and stations that would be impacted by this guidance.

Please confirm receipt via a return e-mail to me, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C).

If you have any issues with (b)(5), (b)(7)(E), please elevate immediately to HQ for intervention.

If you have any questions, please let me know and we will work with OCC to get you an answer if we cannot provide one immediately.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
United States Border Patrol Headquarters

(b)(6);(b)(7)(C) Office

(b)(6);(b)(7)(C) Cellular

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:17 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

(b)(6);(b)(7)(C)

Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** HUDSON, RICHARD M  
**Sent:** Monday, August 6, 2018 6:30 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C),  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) USBP  
LEOD Associate Chiefs (b)(7)(E)  
**Subject:** Re: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5)

(b) (5)

Please be prepared for late night direction and potential direction change.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

----- Original message -----

From: "HUDSON, RICHARD M" (b)(6);(b)(7)(C)

Date: 8/2/18 07:42 (GMT-05:00)

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

Cc: "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C), "PROVOST, CARLA (USBP)"

(b)(6);(b)(7)(C), "HUFFMAN, BENJAMINE C"

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)

USBP LEOD Associate Chiefs (b)(7)(E)

Subject: RE: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (6), (b) (7)(C), (b) (7)(E)

Again, please confirm receipt of this email to (b)(6);(b)(7)(C) and I.

Thank you in advance for your patience and understanding.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular

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~~distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.~~

From: HUDSON, RICHARD M

Sent: Tuesday, July 31, 2018 9:44 PM

To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)

Cc: LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) CARLA PROVOST (USBP) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) ; HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

Subject: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION

Importance: High

Chiefs,

(b) (7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

Please ensure this guidance is provided to all processing centers and stations that would be impacted by this guidance.

Please confirm receipt via a return e-mail to me, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C)

If you have any issues with (b)(5), (b)(7)(E) please elevate immediately to HQ for intervention.

If you have any questions, please let me know and we will work with OCC to get you an answer if we cannot provide one immediately.

VR

Rich

Richard M. Hudson

Acting Chief

Law Enforcement Operations Directorate

United States Border Patrol Headquarters

(b)(6);(b)(7)(C) Office

(b)(6);(b)(7)(C) Cellular

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, August 28, 2018 1:18 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

(b)(6);(b)(7)(C)  
Acting Chief Patrol Agent  
Havre Sector Headquarters  
U.S. Border Patrol  
Office (b)(6);(b)(7)(C)  
Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, August 8, 2018 4:59 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
**Cc:** (b)(6);(b)(7)(C) (USBP) (b)(6);(b)(7)(C); PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) USBP  
LEOD Associate Chiefs (b)(7)(E)  
**Subject:** RE: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b)(5)

(b)(5)

(b)(5)

(b)(5), (b)(7)(E)

Thanks again for your leadership and your flexibility.

VR

Rich

Richard M. Hudson



Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C)office  
(b)(6);(b)(7)(C)cellular

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---

**From:** HUDSON, RICHARD M  
**Sent:** Monday, August 6, 2018 9:02 PM  
**To:** BP Field Chiefs (b)(7)(E); BP Field Deputies (b)(7)(E)  
**Cc:** LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C); PROVOST, CARLA (USBP)  
(b)(6);(b)(7)(C); HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) USBP  
LEOD Associate Chiefs (b)(7)(E)  
**Subject:** Re: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b)(5)

This is now part of a court ordered stay.

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

I anticipate future permutations of this situation as the legal process continues to play out.

Appreciate your patience and flexibility.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C)office  
(b)(6);(b)(7)(C)cellular  
(b)(6);(b)(7)(C)

----- Original message -----

From: "HUDSON, RICHARD M" (b)(6);(b)(7)(C)  
Date: 8/6/18 20:30 (GMT-05:00)  
To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
Cc: "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C) "PROVOST, CARLA (USBP)"  
(b)(6);(b)(7)(C) "HUFFMAN, BENJAMINE C"  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) "KOLLER, JULIE (OCC)" (b)(6);(b)(7)(C)  
USBP LEOD Associate Chiefs (b)(7)(E)  
Subject: Re: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5)

(b) (5)

Please be prepared for late night direction and potential direction change.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular  
(b)(6);(b)(7)(C)

----- Original message -----

From: "HUDSON, RICHARD M" (b)(6);(b)(7)(C)  
Date: 8/2/18 07:42 (GMT-05:00)  
To: BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(7)(E)  
Cc: "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C) "PROVOST, CARLA (USBP)"  
(b)(6);(b)(7)(C) "HUFFMAN, BENJAMINE C"  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
USBP LEOD Associate Chiefs (b)(7)(E)  
Subject: RE: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION - UPDATED GUIDANCE

Chiefs,

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (6), (b) (7)(C), (b) (7)(E)

Again, please confirm receipt of this email to (b)(6);(b)(7)(C) and I.

Thank you in advance for your patience and understanding.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
U.S. Border Patrol Headquarters  
(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

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**From:** HUDSON, RICHARD M

**Sent:** Tuesday, July 31, 2018 9:44 PM

**To:** BP Field Chiefs (b)(7)(E); BP Field Deputies (b)(7)(E)

**Cc:** LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) CARLA PROVOST (USBP) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**Subject:** Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION

**Importance:** High

Chiefs,

(b)(5)

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

Please ensure this guidance is provided to all processing centers and stations that would be impacted by this guidance.

Please confirm receipt via a return e-mail to me, (b)(6);(b)(7)(C), (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C).

If you have any issues (b)(5), (b)(7)(E), please elevate immediately to HQ for intervention.

If you have any questions, please let me know and we will work with OCC to get you an answer if we cannot provide one immediately.

VR

Rich

Richard M. Hudson  
Acting Chief  
Law Enforcement Operations Directorate  
United States Border Patrol Headquarters  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) Cellular  
(b)(6);(b)(7)(C)

-

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C) (RGV)  
**Sent:** Tuesday, July 31, 2018 10:10 PM  
**To:** RGV CPC PAIC; RGV CPC WC-SBPA; RGV OPS; RGV OPS SOSs  
**Cc:** (b)(6);(b)(7)(C) (CAG); (b)(6);(b)(7)(C)  
**Subject:** FW: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION

Please see below for immediate action. Let's ensure we track any of these we have, as well.

Any questions, please ask!

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

DC-RGV

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, July 31, 2018 8:02:54 PM  
**To:** (b)(6);(b)(7)(C) (RGV); (b)(6);(b)(7)(C)  
**Cc:** PADILLA, MANUEL JR  
**Subject:** Fwd: Temporary Delay in Removal of Mexican Parents and Children - IMMEDIATE ACTION / FIELD NOTIFICATION

For action.

Sent from my iPhone

Begin forwarded message:

**From:** "HUDSON, RICHARD M" (b)(6);(b)(7)(C)  
**Date:** July 31, 2018 at 8:43:40 PM CDT  
**To:** BP Field Chiefs (b)(7)(E), BP Field Deputies (b)(7)(E)  
**Cc:** "LUCK, SCOTT A (USBP)" (b)(6);(b)(7)(C) "PROVOST, CARLA (USBP)"  
(b)(6);(b)(7)(C) "HUFFMAN, BENJAMINE C" (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 12:32 AM  
**To:** ELC-IDO SUPERVISORS  
**Subject:** FW: Updated Headquarters Operational Guidance: June 20, 2018 Executive Order

For immediate dissemination and muster discussion

---

**From:** CHAVEZ, GLORIA I  
**Sent:** Thursday, June 21, 2018 5:03:34 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Updated Headquarters Operational Guidance: June 20, 2018 Executive Order

**PAICs:** Please see the below Headquarters operational guidance for immediate dissemination to our field personnel and central processing teams; and for immediate implementation. I need confirmation that you have received and will implement the below guidance immediately.

**June 20, 2018 Executive Order – Updated Operational Guidance:**

1. (b)(7)(E)

2. (b)(7)(E)

3. (b)(7)(E)

4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)

(b)(7)(E)

5. (b)(7)(E)

If you have any further questions, please contact our Sector Prosecutions team or Acting ACPA (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C)

Regards,  
Gloria I. Chavez  
Chief Patrol Agent  
El Centro Sector  
U.S. Border Patrol  
(b)(6);(b)(7)(C)(office)

---

**From:** CHAVEZ, GLORIA I

**Sent:** Wednesday, June 20, 2018 4:54 PM

**To:** (b)(6);(b)(7)(C)

**Cc:** (b)(6);(b)(7)(C)

**Subject:** Zero Tolerance and Executive Order Guidance

**ALCON:**

Effective immediately the following actions are to be implemented/acted upon:

1. (b)(7)(E)

2. All efforts will be made to keep Family Units together. (b)(7)(E)

3. (b)(7)(E)

Further guidance is forthcoming from HQ. In the interim please ensure that all field commanders and Supervisors are made aware and act accordingly. If you have any further questions, please contact Acting ACPA (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C)

Presidential Executive Order

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

GC

Regards,  
Gloria I. Chavez  
Chief Patrol Agent  
El Centro Sector  
U.S. Border Patrol  
(b)(6);(b)(7)(C)(office)



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 9:03 PM  
**To:** RGV CPC PAIC; (b)(6);(b)(7)(C)  
RGV PROSECUTIONS WEST; RGV PROSECUTIONS NORTH; RGV PROSECUTIONS EAST;  
RGVHQ-Programs Div; RGV OPS; RGV PAICs; PADILLA, MANUEL JR; ORTIZ, RAUL L  
**Subject:** FW: Zero Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

Good evening,

(b) (7)(E)

This guidance supersedes all local arrangements between our Sector's Prosecution Units and the US Attorney's Office. This guidance is not new (reference April 6, 2018 memorandum from AG Sessions to Federal Prosecutors) to the US Attorney's Office, (b) (7)(E)

It is fully anticipated there will be declinations based on a multitude of reasons.

The Prosecutions Offices will track each referral and reason for declination for reporting purposes as (b) (5)

Please feel free to contact me or any of the Prosecutions SOS's if you have questions. Thank you,

(b)(6);(b)(7)(C)

Assistant Chief Patrol Agent  
Rio Grande Valley Sector

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) mobile

**From:** (b)(6);(b)(7)(C)  
**Cc:** (b)(7)(E)  
**Subject:** FW: Prosecution UPDATE: IMMEDIATE Implementation  
**Date:** Friday, June 8, 2018 2:29:00 PM  
**Attachments:** [Notification of Separation.pdf](#)

---

Fysa only.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, June 8, 2018 2:16 PM  
**To:** (b)(7)(E) (b)(6);(b)(7)(C) (DGL)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** BBT TASKINGS (b)(7)(E) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** FW: Prosecution UPDATE: IMMEDIATE Implementation

ALCON,

The CBP Transportation, Escort, Detention, and Search (TEDS) policy states in part that “CBP will maintain family unity to the greatest extent operationally feasible, absent a legal requirement or an articulable safety or security concern that requires separation.” USBP complies with this policy and strives to maintain the family unity of aliens while in our custody however, there are numerous situations that would require the separation of family units such as prosecution of the parent or legal guardian.

USBP will ensure all family units affected by separation are provided with meaningful information and contact numbers that will assist with reunification with their family when they leave USBP custody. Effective immediately, all sectors shall begin dispersing the attached separation notice to all family members that resulted in a separation.

Thank you,

(b)(6);(b)(7)(C)  
**Division Chief**  
**Big Bend Sector**  
(b)(6);(b)(7)(C) **Office**  
(b)(6);(b)(7)(C) **Cell**  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 07, 2018 8:32 PM

To: BBT\_PAIC\_DPAIC (b)(7)(E) (b)(6);(b)(7)(C) (DGL)  
(b)(6);(b)(7)(C)

Cc: BBT TASKINGS (b)(7)(E) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) BBT-BIC (b)(7)(E)

Subject: Prosecution UPDATE: IMMEDIATE Implementation

ALCON,

Please pass this information to your supervisory personnel for immediate implementation.

(b)(7)(E) (b)(7)(E)  
(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Please acknowledge receipt.

(b)(6);(b)(7)(C)

Division Chief

Big Bend Sector

(b)(6);(b)(7)(C) Office

(b)(6);(b)(7)(C) Cell

(b)(6);(b)(7)(C)



# Policies and Procedures Involving Detained Parents and Legal Guardians

U.S. Immigration and Customs Enforcement's (ICE) current policy and procedures address considerations when detaining and removing parents and legal guardians of minor children. These policies were first set out in the August 23, 2013 directive entitled *Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities*, which has been replaced by the August 29, 2017 Directive entitled *Detention and Removal of Alien Parents or Legal Guardians*.

Current policies and procedures governing the intake, detention, and removal of parents and legal guardians in a number of ways, including:

**PLACEMENT:** Making appropriate initial placement and transfer decisions for detained alien parents and legal guardians who are identified as parties in ongoing family court or child welfare proceedings.

**FACILITATING PARTICIPATION IN FAMILY OR STATE COURT PROCEEDINGS:** Arranging for transportation to family court or child welfare hearings if the location is within a reasonable distance and when doing so would not be unduly burdensome or present security and/or public safety concerns. If transport is impracticable, identifying alternative means for parents to participate in hearings, such as through video or teleconference technologies.

**PARENT-CHILD VISITATION:** In addition to following relevant ICE Detention Standards on visitation, facilitating parent-child visitation where required by a family or dependency court or a child welfare authority.

**COORDINATING CARE OR TRAVEL OF CHILD:** Accommodating detainees' efforts to make care arrangements for minor children in the U.S. Obtaining travel documents for detainees' minor children to accompany them to the country of removal, or to reunite in country of removal.

## ICE Detention Standards

ALL VERSIONS OF ICE DETENTION STANDARDS REQUIRE:

**PHONE ACCESS:** Detainees are allowed to make direct or free phone calls to immediate family or others in personal or family emergencies or who otherwise demonstrate a compelling need (to be interpreted liberally).

**VISITATION FOR MINORS:** Family members, including minor children, are allowed to visit relatives in detention. Where there is no provision for visits by minors at a facility, ICE will arrange for a visit with children, stepchildren, and foster children.

**REQUESTS FOR TRANSFER:** ICE will consider a request for transfer, when possible, to a facility that allows such visitation. If the transfer is not approved, or until an approved transfer can be effected, ICE will continue to accommodate monthly visits.

**VISITATION HOURS:** Each facility is required to set a visitation schedule based on detainee demand that should allow for 30 minutes minimum, and more generous limits when possible, especially for family members traveling significant distances. Visitation hours on weekends and holidays are required, and some facilities may allow visits by family members outside of normal visiting hours.



## Did You Know?

The Performance Based National Detention Standards (Revised December 2016) state that facilities should try to facilitate contact visitation when possible, and should allow detainees to see their minor children as soon as possible after admission. Generous time allotments for visitation with minor children are recommended.

## Additional Resources

**CALL CENTER:** The Detention Reporting and Information Line (DRIL) is a toll-free service that provides a direct channel for detainees and stakeholders to communicate with ERO to answer questions and resolve concerns, including separation from a child. To reach the DRIL, call: 1-888-351-4024

**LOCATING A PARENT:** The Online Detainee Locator System (ODLS) is a public system available on the internet that allows family members, legal representatives, and members of the public, to locate persons who are in ICE detention. To use ODLS, visit: <https://www.ice.gov/locators>.

**WEBSITE:** For additional information on ICE Detention Standards visit: <https://www.ice.gov/factsheets/facilities-pbnds>.

**EMAIL:** For more information on this topic, please submit inquiries to [Parental.Interests@ice.dhs.gov](mailto:Parental.Interests@ice.dhs.gov)

CBP FOIA 000143



# Las Normas y Procedimientos que Involucran a los Padres que están Detenidos y a los Tutores Legales

Las normas y procedimientos actuales del Servicio de Inmigración y Control de Aduanas de Estados Unidos, (ICE, por sus siglas en inglés) se dirigen a las consideraciones que se toman cuando son detenidos o extraídos los padres y tutores legales de los hijos menores. Estas normas fueron establecidas el 23 de agosto del 2013 en la directiva titulada Como Facilitar los Intereses de los Padres durante el Curso de Actividades Civiles de Ejecución de Inmigración, el cual fue remplazado el 29 de agosto del 2017 con la Directiva titulada La Detención y Expulsión de Padres y Tutores Legales Extranjeros.

Las normas y procedimientos que rigen la aprehensión, detención y la expulsión de los padres y tutores legales de varias maneras, al incluir:

**EMPLAZAMIENTO:** Hacer el emplazamiento inicial y las decisiones de traslado para los padres y tutores legales extranjeros que están detenidos que han sido identificados como participantes en un caso jurídico familiar o en procedimientos de bienestar de menores.

**FACILITAR LA PARTICIPACIÓN EN LOS PROCEDIMIENTOS JURÍDICOS FAMILIARES O ESTATALES:** Hacer arreglos de transporte al juzgado familiar o a las audiencias de bienestar de menores si la ubicación está a una distancia razonable y al hacerlo no fuera excesivamente gravoso o que presentara problemas de seguridad y/o de seguridad pública. Si el transporte es impráctico identificar medios alternativos para que los padres puedan participar en las audiencias, tales como el uso de video o las tecnologías de teleconferencia.

**VISITAS ENTRE PADRE E HIJO:** Además de seguir las Normas de Detención de ICE sobre las visitas, facilitar las visitas de padre e hijo donde se requerido por un juzgado familiar o el juzgado de protección de menores o por la autoridad del bienestar de menores.

**COORDINACIÓN DEL CUIDADO O VIAJE DEL MENOR:** Asistir al detenido en los esfuerzos para hacer arreglos de cuidado para hijos menores que están en los Estados Unidos. Obtener documentos de viaje para los hijos menores de los detenidos para que los acompañen al país de expulsión o para que sean reunidos en el país de expulsión.

## Normas de Detención de ICE

**TODAS LAS VERSIONES DE DETENCIÓN DE ICE REQUIEREN:**

**ACCESO A UN TELÉFONO:** Los detenidos tienen permiso de hacer llamadas directas o gratuitas a familia inmediata u a otros en casos de emergencia personal o familiar o que puedan demostrar una necesidad convincente (se puede interpretar liberalmente).

**VISITAS PARA MENORES:** Los familiares, incluyendo hijos menores, tienen permiso de visitar a sus familiares que están detenidos. Cuando no hay disposición de visita en alguna instalación, ICE organizará una visita con hijos, hijastros y niños de crianza.

**SOLICITUD DE TRASLADO:** ICE tomará en consideración una solicitud de traslado cuando sea posible a una instalación que permita dichas visitas. Si el traslado no es aprobado o hasta que el traslado aprobado se pueda efectuar, ICE continuará la facilitación de visitas mensuales.

**HORARIO DE VISITAS:** Cada instalación está obligada a imponer un horario de visitas basado en la demanda de los detenidos, se deberá permitir un mínimo de 30 minutos y límites más generosos cuando sea posible, especialmente para los familiares que viajan grandes distancias. El horario de visitas los fines de semana y los días festivos son obligatorios y algunas instalaciones pueden permitir las visitas de familia fuera del horario de vistas normal.

**¿Sabía Usted?**

Los Estándares Basados en el Rendimiento de Detención Nacionales (Actualizado en diciembre del 2016) establecen que las instalaciones deben tratar de facilitar vistas con contacto cuando sea posible, y deben permitir que los detenidos vean a sus hijos menores tan pronto como sea posible después de su ingreso. Se recomienda asignación de horarios de visita generosos para los hijos menores.

## Recursos Adicionales

**CENTRO DE LLAMADAS:** La Línea de Reportes de Detención e Información (DRIL, por sus siglas en inglés) es un servicio gratuito que proporciona una vía directa para que los detenidos y las partes interesadas puedan comunicarse con ERO (Oficina de Detención y Deportación, por sus siglas en inglés) para contestar preguntas y resolver preocupaciones, incluyendo la separación de un niño. Para ponerse en contacto con DRIL, llame al: 1-888-351-4024.

**COMO LOCALIZAR A UN PADRE:** El Sistema de Localización de Detenidos en Línea (ODLS) es un sistema público disponible en Internet que permite a familiares, representantes legales y miembros del público, localizar a personas que están detenidas por ICE. Para usar ODLS, navegue al: <https://www.ice.gov/localize>.

**SITIO DE WEB:** Para información adicional sobre los Estándares de Detención de ICE navegue al: <https://www.ice.gov/factsheet/facilities-standards>.

**CORREO ELECTRÓNICO:** Para más información sobre este tema, por favor envíe sus preguntas a [ParentalInterest@ice.dhs.gov](mailto:ParentalInterest@ice.dhs.gov).  
CBP FOIA 000144

**From:** (b)(6);(b)(7)(C)  
**To:** [LRW SUPERVISORS GML](#)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*  
**Date:** Tuesday, June 26, 2018 7:13:06 AM

---

For compliance

(b)(6);(b)(7)(C)

Deputy Patrol Agent in Charge  
Laredo West Station

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, June 26, 2018 6:55 AM  
**To:** LRT STATION COMMAND GML (b)(7)(E) LRT SECTOR STAFF GML (b)(7)(E)  
**Cc:** LRT-Pross-Management (b)(7)(E) LRT-CPU MANAGMENT (b)(7)(E)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED)\*\*\*\*\*

ALCON,

Please review the below Executive Order drafted June 20, 2018, and continue to operate under this guidance until any updates or modifications are received.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(5), (b)(7)(E)
4. (b)(5), (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in

CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)

5.

(b)(7)(E)

Respectfully,

(b)(6);(b)(7)(C), MEP  
Acting Assistant Chief Patrol Agent  
Laredo Sector  
Office: (b)(6);(b)(7)(C)  
GOV Cell: (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

---

From: (b)(6);(b)(7)(C)  
Sent: Thursday, June 21, 2018 6:39 AM  
To: LRT STATION COMMAND GML (b)(7)(E) LRT SECTOR STAFF  
GML (b)(7)(E)  
Cc: LRT-Pross-Management (b)(7)(E) LRT-CPU MANAGMENT <(b)(7)(E)>  
Subject: FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\*  
(UPDATED)\*\*\*\*\*

FYSA

Initial EO operational guidance and update.

Respectfully,

(b)(6);(b)(7)(C)  
Acting Assistant Chief Patrol Agent  
Laredo Sector  
GOV Cell: (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

Sent from a mobile device

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 6:17:20 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\***(UPDATED)**\*\*\*\*\*

Update

Thank you,

(b)(6);(b)(7)(C)  
Special Operations Supervisor  
Combine Enforcement Unit  
USBP Laredo Sector  
Office: (b)(6);(b)(7)(C)  
Gov: (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 21, 2018 12:28:26 AM  
**To:** (b)(7)(E)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\***(UPDATED)**\*\*\*\*\*

FYSA

Thank you,

(b)(6);(b)(7)(C)  
(a) Deputy Chief Patrol Agent  
Laredo Sector Border Patrol  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 8:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\***(UPDATED)**\*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**



- Amending number 3 below, until further implementation guidance is received, (b)(7)(E)

[REDACTED]

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received , understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 20, 2018 9:54 PM

**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies

(b)(7)(E)

**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP)

(b)(6);(b)(7)(C) ; PROVOST, CARLA (USBP) (b)(6);(b)(7)(C)

LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) ; HUDSON, RICHARD M

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) (AJO) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) HOOVER,

CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R

(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)

(OCC) (b)(6);(b)(7)(C)

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
[REDACTED]  
[REDACTED]  
[REDACTED]

- (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b) (7)(E)
5. (b)(7)(E)

V/r.  
(b)(6),(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** [LRW WATCHCOMMANDER GML](#); [LRW SUPERVISORS GML](#)  
**Subject:** (b)(5)  
**Date:** Thursday, June 21, 2018 8:09:19 AM  
**Importance:** High

---

FYI,

(b)(6);(b)(7)(C)  
Acting Deputy Patrol Agent in Charge  
U.S. Border Patrol  
Laredo West Station  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) Cell

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 5:48 PM  
**To:** LRT STATION COMMAND GML (b)(7)(E)  
**Cc:** LRT SECTOR STAFF GML (b)(7)(E); LRT-Pross-Management (b)(7)(E)  
(b)(6);(b)(7)(C) LRT-CPU MANAGMENT (b)(7)(E)  
**Subject:** (b)(5)  
**Importance:** High

ALCON,

Please review the (b)(5) below related to the current Zero Tolerance Initiative as it applies to FMUAs

Respectfully,

(b)(6);(b)(7)(C), MEP  
Acting Assistant Chief Patrol Agent  
Laredo Sector  
Office: (b)(6);(b)(7)(C)  
GOV Cell: (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 5:44 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** (b)(5)

(b)(5)

(b)(6);(b)(7)(C)

ACTT-Director  
U.S. Border Patrol- Laredo Sector  
O: (b)(6);(b)(7)(C)  
M: (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 20, 2018 11:35:37 PM

**To:** (b)(6);(b)(7)(C)

**Subject:** (b)(5)

(b)(5)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Wednesday, June 20, 2018 11:32:08 PM

**To:** (b)(6);(b)(7)(C)

**Subject:** Notes

(b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(2)



**U.S. Customs and  
Border Protection**

JUL 02 2018

MEMORANDUM FOR: All Border Patrol Agents

FROM:

(b)(6);(b)(7)(C)

Chief Patrol Agent  
Grand Forks Sector

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No.18-428 (C.D. Cal. June 26, 2018)

Please see the memorandum from Kevin K. McAleenan, Commissioner, Customs and Border Protection, dated June 27, 2018, concerning a nationwide preliminary injunction enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security custody, from their children in certain circumstances. The attached interim guidance provides initial direction on compliance with that court order.

Questions may be directed to Division Chief (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C).

Attachment



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

(b)(7)(E)

(b)(7)(E)

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners



FYSA

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 7:19:13 PM  
**To:** BBT\_PAIC\_DPAIC  
**Cc:** BBT TASKINGS; (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

ALCON,

Please see below and attached. (b)(7)(E)

(b)(6);(b)(7)(C) Please ensure that all referrals and declinations are documented along with the reason.

Thank you,

(b)(6);(b)(7)(C)  
Division Chief  
Big Bend Sector  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) cell

---

**From:** BOATRRIGHT, ROBERT L  
**Sent:** Friday, April 27, 2018 6:52:02 PM  
**To:** (b)(6);(b)(7)(C) BBT TASKINGS  
**Subject:** FW: Zero Tolerance Prosecution Referrals

Action item. Needs distribution now and we should have candidates stacked for Monday.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:50:01 PM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C); PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) SELF, JEFFREY D; (b)(6);(b)(7)(C) VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPS CENTRAL SECTORS; (b)(6);(b)(7)(C); HUDSON, RICHARD M; (b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)

This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b) (7)(E)

(b) (5)

As such, . Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

**(b)(6);(b)(7)(C)**

(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C)office  
cellular

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** [APT BP PAIC DPAIC WC](#)  
**Subject:** RE: Zero Tolerance Prosecution Referrals  
**Date:** Saturday, April 28, 2018 7:52:39 AM

---

(b)(7)(E)

We will deal with certain exceptions, but those will be dealt with on a case by case basis.

Thank you,

(b)(6);(b)(7)(C)  
Patrol Agent In Charge  
(b)(7)(E)  
Big Bend Sector  
O: (b)(6);(b)(7)(C)  
C: [REDACTED]

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:05:12 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** [APT BP PAIC DPAIC WC](#)  
**Subject:** RE: Zero Tolerance Prosecution Referrals

Ma'am,

(b)(5)

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

(b)(6);(b)(7)(C)  
[Watch Commander](#)  
(b)(7)(E)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) [Office](#)  
[Cell](#)  
[Fax](#)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Friday, April 27, 2018 7:31 PM

**To:** (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) APT\_BP\_SBPA (b)(7)(E)

**Subject:** FW: Zero Tolerance Prosecution Referrals

All,

For compliance. Document as directed.

Thank you,

Thank you,

(b)(6);(b)(7)(C)

Patrol Agent In Charge

(b)(7)(E)

Big Bend Sector

O: (b)(6);(b)(7)(C)

C: (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Saturday, April 28, 2018 1:19:13 AM

**To:** BBT\_PAIC\_DPAIC

**Cc:** BBT\_TASKINGS; (b)(6);(b)(7)(C)

**Subject:** FW: Zero Tolerance Prosecution Referrals

ALCON,

Please see below and attached. (b)(7)(E)

(b)(6);(b)(7)(C) Please ensure that all referrals and declinations are documented along with the reason.

Thank you,

(b)(6);(b)(7)(C)

Division Chief

Big Bend Sector

(b)(6);(b)(7)(C)  
cell

---

**From:** BOATRRIGHT, ROBERT L

**Sent:** Friday, April 27, 2018 6:52:02 PM  
**To:** (b)(6);(b)(7)(C) BBT TASKINGS  
**Subject:** FW: Zero Tolerance Prosecution Referrals

Action item. Needs distribution now and we should have candidates stacked for Monday.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:50:01 PM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRIGT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C); PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C) SELF, JEFFREY D; (b)(6);(b)(7)(C) VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; (b)(6);(b)(7)(C) HUDSON, RICHARD M; (b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)  
This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)  
Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
cellular

**From:** (b)(6);(b)(7)(C)  
**Cc:** [BBT\\_BP\\_INTEL\\_MGT](#)  
**Subject:** FW: Prosecution UPDATE: IMMEDIATE Implementation  
**Date:** Thursday, June 7, 2018 8:32:53 PM

---

FYSA only.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 07, 2018 8:31:41 PM  
**To:** BBT PAIC DPAIC; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** BBT TASKINGS; (b)(6);(b)(7)(C) BBT-BIC  
**Subject:** Prosecution UPDATE: IMMEDIATE Implementation

ALCON,

Please pass this information to your supervisory personnel for immediate implementation.

(b)(7)(E)  
(b)(7)(E)

(b)(7)(E)  
(b)(7)(E)

(b)(7)(E)  
(b)(7)(E).

(b)(7)(E)  
(b)(7)(E)

Please acknowledge receipt.

(b)(6);(b)(7)(C)  
**Division Chief**  
**Big Bend Sector**  
(b)(6);(b)(7)(C) **Office**  
**Cell**  
(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE  
**Date:** Tuesday, September 4, 2018 2:47:39 PM

---

Thank you,

(b)(6);(b)(7)(C)  
Assistant Chief Patrol Agent  
Big Bend Sector  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 8:57 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE

Hello gents,

Please read the Path Forward bullet below.

(b)(5)  
(b)(5)  
(b)(5)  
(b)(5)

---

**From:** BOATRRIGHT, ROBERT L  
**Sent:** Wednesday, June 20, 2018 4:35:35 PM  
**To:** BBT\_PAIC\_DPAIC  
**Cc:** BBT\_TASKINGS; (b)(6);(b)(7)(C) (OCC)  
**Subject:** IMMEDIATE ACTION REQUIRED - FAMILY SEPARATION GUIDANCE

**PLEASE ACKNOWLEDGE RECEIPT AND IMMEDIATE IMPLEMENTATION TO DC (b)(6);(b)(7)(C)  
WITHIN 1 HOUR**

**New Executive Order – June 20, 2018**

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

**Immediate action plan**

(b)(7)(E)  
(b)(7)(E)  
(b)(7)(E)  
(b)(7)(E)

Do not detain an alien family together when there is a concern that detention of an alien child with the child's alien parent would pose a risk to the child's welfare. EO Section 3 (b)

(b)(7)(E)

**Additional Guidance**

Will change over the next few days  
Be Flexible  
Err towards family unity

**Path Forward – Big Picture**

(b) (5), (b) (7)(E)  
(b) (5), (b) (7)(E)  
(b) (5), (b) (7)(E)

Direct questions to Division Chief (b)(6);(b)(7)(C)

More to come as it becomes available.

**Robert L. Boatright**

Chief Patrol Agent  
Big Bend Sector  
United States Border Patrol

(b)(6);(b)(7)(C) - Office  
(b)(6);(b)(7)(C) - iPhone  
(b)(6);(b)(7)(C)





~~*This message contains information intended only for the addressee named above. If you believe you have received this email in error, please notify the sender immediately.*~~

**From:** (b)(6);(b)(7)(C)  
**To:** BBT PAIC DPAIC; BBT TASKINGS; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** FW: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*  
**Date:** Thursday, June 21, 2018 5:04:58 AM

---

All,  
Please see updated guidance below for immediate implementation. (b)(7)(E)  
(b)(7)(E) Contact DC (b)(6);(b)(7)(C) if you have any questions. Thank you.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:09:29 PM  
**To:** BP Field Chiefs; BP Field Deputies  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); HUDSON, RICHARD M; (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C; (b)(6) AJO; (b)(6);(b)(7)(C) HOOVER, CRINLEY S; SINGLETON, RUYNARD R; (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
**Subject:** RE: June 20, 2018 Executive Order – Updated Operational Guidance \*\*\*\*\* (UPDATED) \*\*\*\*\*

Chief, Deputies,

**Updated Operational Guidance 2:**

- Amending number 3 below, until further implementation guidance is received, (b)(7)(E)

(b)(6);(b)(7)(C)

For immediate update to the troops please. I apologize for the multiple emails. Please call if you have any questions. I respectfully request verification that you have received, understand and will implement immediately.

Please send verification to Deputy Division Chief Hudson and I please.

V/r,  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 20, 2018 9:54 PM  
**To:** BP Field Chiefs (b)(7)(E) BP Field Deputies (b)(6);(b)(7)(C)  
**Cc:** MCALEENAN, KEVIN K (b)(6);(b)(7)(C) VITIELLO, RONALD D (USBP) (b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C) LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C) HUDSON, RICHARD M (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) HUFFMAN, BENJAMINE C (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) (AJO) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) HOOVER,  
CRINLEY S (b)(6);(b)(7)(C) SINGLETON, RUYNARD R  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C) >

**Subject:** June 20, 2018 Executive Order – Updated Operational Guidance

Chiefs, Deputies,

Please see the below guidance for immediate dissemination and implementation.

Please reply to Deputy Division Chief Richard Hudson and I that you have received and understand.

Please feel free to call if you have any questions.

June 20, 2018 Executive Order – Updated Operational Guidance:

1. (b)(7)(E)  
[Redacted]
2. (b)(7)(E)  
[Redacted]
3. (b)(7)(E)  
[Redacted]
4. Take all appropriate, immediate measures to reunify separated children who remain in CBP custody with adult family members referred for prosecution when the adult is expected to return to CBP custody within a reasonable time period, after prosecution/conviction. (b)(7)(E)  
[Redacted]
5. (b)(7)(E)  
[Redacted]

V/r,

01000000

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 04, 2018 9:04 PM  
**To:** ELC IML WC SOS FOS; ELC-CAX-MANAGEMENT; ELC-IDO WC  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance Prosecution Initiative

**Importance:** High

Disregard my previous email regarding (b)(7)(E) This is the new guidance.

(b)(7)(E) the El Centro Sector will begin the “Zero Tolerance” effort as directed by Attorney General Sessions and U.S. Border Patrol Headquarters. (b)(7)(E)

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. (b)(7)(E)
5. (b)(7)(E)

(b)(7)(E)

Please be prepared for updated information and guidance throughout the weekend.

Any questions or concerns, please let us know.

(b)(6);(b)(7)(C)  
*Special Operations Supervisor*  
*Interagency Coordination*  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) Cell

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, May 07, 2018 12:09 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance

To all,

We started prosecutorial referrals for **all** amenable adults, to include adults that are part of family units.

(b)(7)(E)

(b)(7)(E)

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. (b)(7)(E)
5. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Thank you

(b)(6);(b)(7)(C)

Special Operations Supervisor  
Del Rio Sector Asset Forfeiture Office

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) mobile

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:41 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

WC's,

(b)(7)(E)

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:27:05 PM  
**To:** (b)(6);(b)(7)(C)  
**CC:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

PAICs,

Please see the info below regarding zero tolerance prosecutions.

The Prosecutions department will track all prosecutions as required below.

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
Acting Division Chief  
USBP El Centro Sector  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 8:05:56 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

FYA please. (b)(7)(E)

(b)(6);(b)(7)(C)

From: (b)(6);(b)(7)(C)

Sent: Friday, April 27, 2018 4:50 PM

To: SCOTT, RODNEY S (b)(6);(b)(7)(C); CHAVEZ, GLORIA I (b)(6);(b)(7)(C)  
PORVAZNIK, ANTHONY J (b)(6);(b)(7)(C) KARISCH, RODOLFO

(b)(6);(b)(7)(C) HULL, AARON A (b)(6);(b)(7)(C) BOATRIGHT, ROBERT L

(b)(6);(b)(7)(C) CHAVEZ, FELIX (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) PADILLA, MANUEL JR (b)(6);(b)(7)(C) ORTIZ, RAUL L

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

SELF, JEFFREY D (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) VILLAREAL, ROY D (b)(6);(b)(7)(C)

Cc: OPS EAST SECTOR (b)(7)(E) OPS WEST SECTORS (b)(7)(E)

OPSCENTRALSECTORS (b)(7)(E) (b)(6);(b)(7)(C)

HUDSON, RICHARD M (b)(6);(b)(7)(C)

USBP HQ Adjutants (b)(7)(E); LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C)

PROVOST, CARLA (USBP) (b)(6);(b)(7)(C)

Subject: Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b)(7)(E)

This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)

Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)

(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 04, 2018 5:53 PM  
**To:** ELC IML WC SOS FOS; ELC-CAX-MANAGEMENT; ELC-IDO WC  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** \*\*\*Prosecution Initiative\*\*\*

On April 6, 2018, Attorney General Sessions issued a mandate to the U.S. Department of Justice to prosecute "all offenses referred for prosecution under section 1325(a)." (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Please ensure timely notification of all pending prosecutions is made to the Prosecutions Department.

Any questions or concerns, please let us know.

(b)(6);(b)(7)(C)

*Special Operations Supervisor*

*Interagency Coordination*

(b)(6);(b)(7)(C) *Office*

(b)(6);(b)(7)(C) *Cell*

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** RE: Warning Order  
**Date:** Friday, May 4, 2018 5:27:30 PM

---

Thank you (b)(6);(b)(7)(C), that completes the request as (b)(6);(b)(7)(C) was already looped in. Thank you and your team.

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 4, 2018 5:25 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** RE: Warning Order  
**Importance:** High

Sir,

The following have been notified via telephone:

AUSA (b)(6);(b)(7)(C)  
Texas US Marshal Service  
New Mexico Marshal Service

Thanks,

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 4, 2018 5:22 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** RE: Warning Order

Looping in (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C). Thanks

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Friday, May 4, 2018 5:22 PM

**To:** (b)(6);(b)(7)(C)

**Subject:** FW: Warning Order

**Importance:** High

FYI, as discussed with you over the phone.

Thank you,

(b)(6);(b)(7)(C)

Cell (b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Friday, May 04, 2018 5:08 PM

**To:** EPT-LEOD (b)(7)(E) EPT-PAIC (b)(7)(E)

**Subject:** Warning Order

**Importance:** High

All,

Good afternoon. Additional guidance will follow as soon as I can read through the emails and put something together for you. (b)(7)(E), we will begin prosecuting all adults, regardless of family status. (b)(7)(E)

(b)(6);(b)(7)(C)

Office: (b)(6);(b)(7)(C)

Cellular: (b)(6);(b)(7)(C)

Facsimilie: (b)(6);(b)(7)(C)

HSDN (SIPR): (b)(6);(b)(7)(C)

Address: (b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**To:** [ELC IML SUPERVISORS](#)  
**Cc:** [ELC IML WC SOS FOS;](#) (b)(6);(b)(7)(C)  
**Subject:** RE: Zero Tolerance Prosecution Referrals  
**Date:** Saturday, April 28, 2018 9:05:37 PM

---

All,

Stand down for now. More direction is being sent down the chain of command. We will go back to business as usual until we are told otherwise.

Thanks

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 6:35:14 PM  
**To:** ELC IML SUPERVISORS  
**Cc:** ELC IML WC SOS FOS; (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

All,

Per the (A)PAIC, a little more specific direction regarding the attached and the below directive.

(b)(7)(E)

(b)(7)(E)

This will more than likely continue to evolve as the process moves along so be ready for changes as we go forward.

Remember, ambiguity is the rule. We will adjust and keep moving forward.

I am available for questions or concerns.

Thanks

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Saturday, April 28, 2018 2:51:01 PM  
**To:** ELC IML WC SOS FOS; ELC IML SUPERVISORS  
**Subject:** FW: Zero Tolerance Prosecution Referrals

All.

Read attachments and message. (b)(7)(E)

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 2:27:05 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

PAICs,

Please see the info below regarding zero tolerance prosecutions.

The Prosecutions department will track all prosecutions as required below.

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
Acting Division Chief  
USBP El Centro Sector  
(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 8:05:56 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: Zero Tolerance Prosecution Referrals

FYA please. Note the tracking piece.

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 4:50 PM  
**To:** SCOTT, RODNEY S (b)(6);(b)(7)(C) CHAVEZ, GLORIA I  
(b)(6);(b)(7)(C) PORVAZNIK, ANTHONY J  
(b)(6);(b)(7)(C) KARISCH, RODOLFO  
(b)(6);(b)(7)(C); HULL, AARON A (b)(6);(b)(7)(C) BOATRIGHT,

ROBERT L (b)(6);(b)(7)(C) CHAVEZ, FELIX (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) PADILLA, MANUEL JR  
(b)(6);(b)(7)(C) ORTIZ, RAUL L (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
SELF, JEFFREY D (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
VILLAREAL, ROY D (b)(6);(b)(7)(C)  
Cc: OPS EAST SECTOR (b)(7)(E) OPS WEST SECTORS  
(b)(7)(E) OPSCENTRALSECTORS (b)(7)(E)  
(b)(6);(b)(7)(C) HUDSON, RICHARD M  
(b)(6);(b)(7)(C) USBP  
HQ Adjutants (b)(7)(E) LUCK, SCOTT A (USBP)  
(b)(6);(b)(7)(C) PROVOST, CARLA (USBP) (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)  
(b)(7)(E) This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)  
(b)(5), (b)(7)(E)  
(b)(5), (b)(7)(E) Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C) (RGV)  
**Sent:** Wednesday, June 20, 2018 11:51 PM  
**To:** RGV PAICs; RGV CPC PAIC; RGV OPS; (b)(6);(b)(7)(C); RGVHQ-Programs Div  
**Cc:** PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C) (OCC)  
**Subject:** RE: Executive Order guidance

All,  
As mentioned, changes abound.

(b)(7)(E)

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

DC-RGV

(b)(6);(b)(7)(C)

---

**From:** (b)(6);(b)(7)(C) (RGV)  
**Sent:** Wednesday, June 20, 2018 6:14:40 PM  
**To:** RGV PAICs; RGV CPC PAIC; RGV OPS; (b)(6);(b)(7)(C); RGVHQ-Programs Div  
**Cc:** PADILLA, MANUEL JR; RAUL L ORTIZ (b)(6);(b)(7)(C) (OCC)  
**Subject:** Executive Order guidance

All,  
Good evening. This afternoon, President Trump signed an Executive Order (EO) entitled "Affording Congress an Opportunity to Address Family Separation."

As a result, we will immediately move toward compliance in how we process family units, among others.

Processing guidelines are as follows:

· (b)(7)(E)

· (b)(7)(E)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 04, 2018 8:39 PM  
**To:** (b)(6);(b)(7)(C); DRT-PAICS; DRT-DPAICS  
**Cc:** DRT-DIMT; (b)(6);(b)(7)(C)  
**Subject:** RE: UPDATE RE: Zero Tolerance Prosecutions

Just received confirmation. (b)(7)(E)

V/R,

(b)(6);(b)(7)(C)

Division Chief of Operational Programs  
Del Rio Sector

(b)(6);(b)(7)(C) (O)  
(b)(6);(b)(7)(C) (C)

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 04, 2018 7:28:06 PM  
**To:** (b)(6);(b)(7)(C) DRT-PAICS; DRT-DPAICS  
**Cc:** DRT-DIMT; (b)(6);(b)(7)(C)  
**Subject:** UPDATE RE: Zero Tolerance Prosecutions

Attached is the spreadsheet stations are required to track all apprehensions and dispositions. (b)(7)(E)

Spreadsheet must be submitted to DRT-DIMT (b)(7)(E) NLT 5:00 am daily with a cc to OO (b)(6), (b)(7)(C) (do not submit to DRT PROS STAFF). First report is due on Sunday May 6, 2018, total numbers reported will be for Saturday May 5, 2018 (24 hours).

DIMT will review for data integrity and work with each station on any discrepancies.

Any questions please feel free to reach out to OO (b)(6);(b)(7)(C) or myself.

(b)(6);(b)(7)(C)  
Assistant Chief Patrol Agent  
Del Rio Sector  
(b)(6);(b)(7)(C) Office  
(b)(6);(b)(7)(C) G-cell





**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 04, 2018 6:08 PM  
**To:** DRT-PAICS (b)(7)(E); DRT-DPAICS (b)(7)(E)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance Prosecutions

All,

More information will be forthcoming from Prosecutions, but we will begin 8 USC 1325 prosecutorial referrals for all amenable adults, to include adults that are part of family units, (b) (5). Please read the attached CONOP for further details on the efforts.

- 1. (b)(7)(E)
- 2. (b)(7)(E)
- 3. (b)(7)(E)
- 4. (b)(7)(E)
- 5. (b)(7)(E)

(b)(7)(E)

Reporting is still pending, but we will need each station to email the DRT PROS STAFF (b)(7)(E) mailbox concerning any adults (b)(7)(E).

(b)(6);(b)(7)(C)  
Division Chief  
Del Rio Sector

(O) (b)(6);(b)(7)(C)  
(C) (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C) (TUS)  
**Sent:** Friday, June 01, 2018 5:06 PM  
**To:** (b)(6);(b)(7)(C) (TUS)  
**Subject:** FW: Prosecution Initiative - TCA - UPDATE  
**Attachments:** 2018 TCA Prosecution Initiative FINAL.DOC

**Importance:** High

**\*\*UPDATE to the instruction sent May 8, 2018.\*\***

When a FMUA separation occurs for the purposes of Prosecution, please ensure the below language is added to the very beginning of the narrative of the I-213. This will assist ICE/ERO efforts of reunification prior to repatriation of these individuals.

(BOLD and in CAPS)

(b) (7)(E)

Please let me know if you have any questions.

(b)(6);(b)(7)(C)  
**Assistant Chief Patrol Agent**  
**Law Enforcement Operational Programs**  
**Prosecutions/Asset Forfeiture/Detention**  
**2430 South Swan Road**  
**Tucson, AZ 85711**  
(b)(6);(b)(7)(C) **Direct ext.**  
(b)(6);(b)(7)(C) **Gov iPhone**

---

**From:** (b)(6);(b)(7)(C) (TUS)  
**Sent:** Tuesday, May 8, 2018 4:25 PM  
**To:** TCA-PAICS (b)(7)(E); TCA-DPAICS (b)(7)(E) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) TCA-OPS (b)(7)(E) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
TCC-SOS (b)(7)(E) (b)(6);(b)(7)(C) (OCC)  
(b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
(OCC) (b)(6);(b)(7)(C)

**Subject:** Prosecution Initiative - TCA  
**Importance:** High

Good afternoon,

As you are all aware, Attorney General Jeff Sessions issued a memorandum referencing Zero Tolerance for immigration violations. The Secretary of Homeland Security has also has given direction to pursue a prosecution initiative to achieve an end state of 100% prosecution in the southwest border sectors.

(b)(7)(E)

(b)(7)(E) r:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)
4. (b)(7)(E)
5. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

Additionally, when this separation occurs, you must add language to the narrative of the I-213 to indicate that the *individual was accompanied by the child/parent (include name and A#) at the time of entry, and the parent will be referred for criminal prosecution. Notify local FOJC to confirm status of UAC's removal proceedings prior to removal.*

This guidance is effective immediately. If you have any questions, feel free to contact ACPA (b)(6);(b)(7)(C), TCA Prosecutions Unit, and the Tucson Coordination Center.

Thank you.

(b)(6);(b)(7)(C)  
Assistant Chief Patrol Agent  
Law Enforcement Operational Programs  
Prosecutions/Asset Forfeiture/Detention  
2430 South Swan Road  
Tucson, AZ 85711  
(b)(6);(b)(7)(C) Direct ext.  
(b)(6);(b)(7)(C) Gov iPhone

**Tucson Sector  
Prosecution Initiative  
Concept of Operation  
May 4, 2018**

**Con Op Number:**  
**Report Date:**  
**Author:**  
**Last Updated:**

**Situation:**

Tucson Sector (TCA) consists of nine (9) border patrol stations covering 262 linear border miles and a total of 90,000 square miles of Southern Arizona. TCA continues to experience unacceptable levels of cross border criminal activity. Thus far in Fiscal Year 18 (FY18), TCA has documented a 23% increase in apprehensions above that of FY17 (32,077 Vs. 25,988). TCA has also documented a 49% increase in other than Mexican (OTM) apprehensions in FY18 (12,714 Vs. 8,557). The total number of Family Unit Aliens (FMUA) apprehended in TCA has increased 69% in the same time frame (2,495 Vs. 1,480). These individuals were processed administratively and turned over to Enforcement and Removal Operations (ERO) for resolution through their administrative removal process.

When TCA implemented Operation Streamline (OSL) (now known as the Criminal Consequence Initiative (CCI)) in 2009, TCA referred all persons amenable to prosecution under 8 USC 1325. In 2016, the Federal District Court (FDC), in collaboration with the United States Attorney's Office (USAO), imposed a limitation of 75 defendants on the CCI docket, citing resource limitations.

Exemptions to the TCA referral for prosecution procedure have been humanitarian in (b) (7)(E)

It should be noted that intelligence indicates the FMUA exemption is being exploited in order to avoid prosecution and circumvent immigration laws.

Historical statistics demonstrate that recidivism rates for those prosecuted under OSL/CCI decreased from FY09 through FY17 (16.9% Vs. 6.7%). This validates that criminal prosecution for 8 USC 1325 under CCI serves as a deterrent and is an impactful consequence for those seeking to illegally enter the United States.

**Mission:**

TCA will partner with the USAO, Office of Chief Counsel (CBP OCC), United States Marshalls Service (USMS) and the FDC to increase our prosecutions in a phased approach. Through a consistent application of all legal authorities, via consequence delivery, TCA will achieve an end state of 100% prosecution of all aliens amenable to prosecution under 8 USC 1325.

**Tucson Sector  
Prosecution Initiative  
Concept of Operation  
May 4, 2018**

**Execution:**

**Commander's Intent:**

**Purpose:** TCA will adjust current prosecutorial priorities, in a phased approach, to achieve 100% prosecution of all aliens amenable to prosecution under 8 USC 1325.

**End State:** TCA has achieved 100% prosecution of all aliens amenable to prosecution under 8 USC 1325.

**Objectives:**

- Implement a phased approach to achieve 100% prosecutorial referrals.
- Implement prosecutorial priorities for immediate inclusion into the prosecutorial initiative.
- Increase prosecutorial referrals, while maintaining operational enforcement gains throughout the TCA's AOR.

**General Concept of Operation:**

In order to continue progress in securing the border, TCA will adjust current prosecutorial priorities, in a phased approach, based on current USAO, CBP OCC, USMC and FDC limitations, as outlined in the Southwest Border Prosecutions guidance document.

As part of the initial phase, (b) (7)(E)

TCA will evaluate each FMUA case independently to determine the best course of action. If TCA determines that the adult/parent will be referred for prosecution, the child's classification will be converted to an Unaccompanied Alien Child (UAC). The UAC will then be referred to Enforcement and Removal Operations (ERO) for placement into the custody of Office of Refugee Resettlement (ORR).

(b) (7)(E)

**Tucson Sector  
Prosecution Initiative  
Concept of Operation  
May 4, 2018**

Under this initiative, candidates for prosecution under 8 USC 1325 will be prioritized and referred in the following order:

(b) (7)(E)  
[Redacted]

It should be noted, in 2015 the FDC elected to use the Evo A. Deconcini Courthouse in Tucson, Arizona as the venue to hold naturalization ceremonies. Historically, these ceremonies were held at various venues of local significance in the greater Tucson, Arizona area. Additionally, these ceremonies were only scheduled every other Friday. Recently, the frequency has increased and for the next several months the naturalization ceremonies are scheduled on three Fridays out of each month. (b) (7)(E)

[Redacted]

Based on the forgoing, (b) (7)(E)  
[Redacted]

Through the use of a standardized reporting process, TCA Sector prosecutions will ensure that all reporting requirements are met. TCA Prosecutions will collect, consolidate and distribute a weekly report to Sector command staff and USBP headquarters.

(b)(6);(b)(7)(C)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, June 27, 2018 2:24 PM  
**To:** (b)(7)(E)  
**Subject:** FW: Commissioner Message: Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)  
**Attachments:** Interim Guidance on Preliminary Injunction.pdf

All,

Please see the attached memorandum from Commissioner McAleenan entitled *Interim Guidance on Preliminary Injunction in Ms. L. v. ICE, No. 18-428 (C.D. Cal. June 26, 2018)*. This guidance provides initial direction on compliance on the recent court order governing separating families and legal guardians, who are detained in DHS custody, from their children in certain circumstances. Immediate implementation is required.

Respectfully,

(b)(6);(b)(7)(C)  
Patrol Agent in Charge  
(b)(7)(E)  
**Office:** (b)(6);(b)(7)(C)  
**Cell:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)



U.S. Customs and  
Border Protection

Commissioner

June 27, 2018

MEMORANDUM FOR: Carla L. Provost  
Chief  
U.S. Border Patrol

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations

FROM: Kevin K. McAleenan  
Commissioner

(b)(6);(b)(7)(C)

SUBJECT: Interim Guidance on Preliminary Injunction in  
*Ms. L. v. ICE*, No. 18-428 (C.D. Cal. June 26, 2018)

On June 26, 2018, the court granted plaintiffs' request for a nationwide preliminary injunction, enjoining the government from separating parents and legal guardians, who are detained in Department of Homeland Security (DHS) custody, from their children in certain circumstances. This interim guidance provides initial direction on compliance with that court order.

(b)(7)(E)

(b)(7)(E)



- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Any questions about how to comply with the court order should be raised through the appropriate chain of command for contact with local Office of Chief Counsel. This guidance will be updated as needed and appropriate.

cc: All Executive Assistant Commissioners and Assistant Commissioners

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:20 PM  
**To:** (b)(7)(E)  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

Gentlemen,

(b)(7)(E)

(b)(6);(b)(7)(C)

Please look up the contacts/procedures for (b)(7)(E) and send them out so everyone is aware. Also, please create an excel document on the sup drive where we can track declinations. At the very least we'll need the following:

Alien name, DOB, COC, file number, app location, date of entry, district contacted, AUSA declining. If there is anything else you feel is needed, please add.

Let me know if there are questions. Thx

(b)(6);(b)(7)(C)

C: (b)(6);(b)(7)(C)  
O: (b)(6);(b)(7)(C)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 6:09:13 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals

(b)(6);(b)(7)(C)

Division Chief  
(b)(7)(E)  
U.S. Border Patrol  
(b)(6);(b)(7)(C) (Office)  
(b)(6);(b)(7)(C) (Mobile)

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:03:07 PM  
**To:** (b)(6);(b)(7)(C)

Cc: (b)(6);(b)(7)(C); PORVAZNIK, ANTHONY J  
Subject: (Action) Zero Tolerance Prosecution Referrals

For Action

---

From: (b)(6);(b)(7)(C)  
Sent: Saturday, April 28, 2018 12:50:01 AM  
To: SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A;  
BOATRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C) PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C); SELF, JEFFREY D;  
(b)(6);(b)(7)(C) VILLAREAL, ROY D  
Cc: OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; (b)(6);(b)(7)(C) HUDSON, RICHARD M;  
(b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
Subject: Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b)(7)(E)

This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E) Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, April 30, 2018 2:00 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C) (OCC); (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals

PAIC's

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E), (b) (7)(C)

I received this information via phone call and like I said, some written instruction is coming. So, please be prepared for the possibility that something is different than what I just wrote or there are other caveats. If the instructions are different, (b)(5), (b)(7)(E)

If you have any questions, please call.

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:03 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C) PORVAZNIK, ANTHONY J  
(b)(6);(b)(7)(C)  
**Subject:** (Action) Zero Tolerance Prosecution Referrals

For Action

**From:** [REDACTED]  
**Sent:** Saturday, April 28, 2018 12:50:01 AM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C); PADILLA, MANUEL JR; ORTIZ, RAUL I; (b)(6);(b)(7)(C); (b)(6);(b)(7)(C) SELF, JEFFREY D; (b)(6);(b)(7)(C) VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; [REDACTED]; HUDSON, RICHARD M; (b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)  
[REDACTED] This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)  
(b)(5), (b)(7)(E) Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 10:44 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero-Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

Gents,

Read below and forward to your respective supervisors,

(b) (7)(E)

As such, we anticipate there will be declinations based on a multitude of reasons. We will need to track these referrals. An excel spreadsheet has been created and has been placed in the share supervisor folder (b) (7)(E). This spreadsheet needs to be fill out for all referrals amenable to zero-tolerance. The zero-tolerance policy is to supersede any existing policies or arrangements between the Sector Prosecution Unit and the US Attorney's Office.

Things to remember:

- (b)(7)(E)
- (b)(7)(E)
- (b)(7)(E)

Further guidance expected to be forthcoming early next week.

(b)(6);(b)(7)(C)  
**Watch Commander**  
**U.S. Border Patrol**  
**Yuma Sector,** (b)(7)(E)  
**Office:** (b)(6);(b)(7)(C)  
**Email:** (b)(6);(b)(7)(C)



(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, August 31, 2018 7:15 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** Zero tolerance email within the specified date range (forwarded)  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, April 30, 2018 3:16 AM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** Zero-Tolerance Prosecution Referrals

Good Morning Gents,

Please read below email reference the Zero-Tolerance Prosecution Referrals.

(b)(6);(b)(7)(C)  
(A) Watch Commander  
Office of Border Patrol - (b)(7)(E)  
Office: (b)(6);(b)(7)(C)  
Cell: (b)(6);(b)(7)(C)  
Email: (b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 10:44 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** Zero-Tolerance Prosecution Referrals

Gents,

Read below and forward to your respective supervisors,

(b) (7)(E)  
(b) (5) . We will need to track these referrals. An excel spreadsheet has been created and has been placed in the share supervisor folder (b) (7)(E)  
(b) (7)(E) This spreadsheet needs to be fill out for all referrals amenable to zero-tolerance. The zero-tolerance policy is to supersede any existing policies or arrangements between the Sector Prosecution Unit and the US Attorney's Office.

Things to remember:

- (b)(7)(E)

- [REDACTED] (b)(7)(E)
- [REDACTED] (b)(7)(E)

Further guidance expected to be forthcoming early next week.

**(b)(6);(b)(7)(C)**  
**Watch Commander**  
**U.S. Border Patrol**  
**Yuma Sector, [REDACTED] (b)(7)(E)**  
**Office: [REDACTED] (b)(6);(b)(7)(C)**  
**Email: [REDACTED] (b)(6);(b)(7)(C)**







Office of the Attorney General  
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

SUBJECT:

Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, April 6, 2018

**Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry**

Attorney General Jeff Sessions today notified all U.S. Attorney's Offices along the Southwest Border of a new "zero-tolerance policy" for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien. The implementation of the Attorney General's zero-tolerance policy comes as the Department of Homeland Security reported a 203 percent increase in illegal border crossings from March 2017 to March 2018, and a 37 percent increase from February 2018 to March 2018—the largest month-to-month increase since 2011.

"The situation at our Southwest Border is unacceptable. Congress has failed to pass effective legislation that serves the national interest—that closes dangerous loopholes and fully funds a wall along our southern border. As a result, a crisis has erupted at our Southwest Border that necessitates an escalated effort to prosecute those who choose to illegally cross our border," said Attorney General Jeff Sessions. "To those who wish to challenge the Trump Administration's commitment to public safety, national security, and the rule of law, I warn you: illegally entering this country will not be rewarded, but will instead be met with the full prosecutorial powers of the Department of Justice. To the Department's prosecutors, I urge you: promoting and enforcing the rule of law is vital to protecting a nation, its borders, and its citizens. You play a critical part in fulfilling these goals, and I thank you for your continued efforts in seeing to it that our laws—and as a result, our nation—are respected."

On [April 11, 2017](#), Attorney General Jeff Sessions announced a renewed commitment to criminal immigration enforcement. As part of that announcement, the Attorney General issued a memorandum to all federal prosecutors and directed them to prioritize the prosecution of certain criminal immigration offenses.

Today's zero-tolerance policy further directs each U.S. Attorney's Office along the Southwest Border (i.e., Southern District of California, District of Arizona, District of New Mexico, Western District of Texas, and the Southern District of Texas) to adopt a policy to prosecute all Department of Homeland Security referrals of section 1325(a) violations, to the extent practicable.

**Attachment(s):**[Download Zero-Tolerance Memorandum](#)**Topic(s):**

Immigration

**Component(s):**[Office of the Attorney General](#)

4/6/2018

Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry | OPA | Department of Justice

**Press Release Number:**

18-417

*Updated April 6, 2018*

**AILA Doc. No. 18040635. (Posted 4/6/18)**

<https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

CBP FOIA 000198

2/2

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, April 30, 2018 2:35 PM  
**To:** WELLTON SUPERVISOR MAILING LIST  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals

(b)(5)  
(b)(6);(b)(7)(C) . Updated written guidance (b)(6);(b)(7)(C) presentments will be forthcoming and may differ, thank you.

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, April 30, 2018 2:00 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C) (OCC) (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals

PAIC's

(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

I received this information via phone call and like I said, some written instruction is coming. So, please be prepared for the possibility that something is different than what I just wrote or there are other caveats. If the instructions are different, (b)(5), (b)(7)(E).

If you have any questions, please call.

Thanks,

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)

**Sent:** Friday, April 27, 2018 5:03 PM

**To:** (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**Cc:** (b)(6);(b)(7)(C) PORVAZNIK, ANTHONY J

(b)(6);(b)(7)(C)

**Subject:** (Action) Zero Tolerance Prosecution Referrals

For Action

---

**From:** (b)(6);(b)(7)(C)

**Sent:** Saturday, April 28, 2018 12:50:01 AM

**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRIGT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C) PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) SELF, JEFFREY D;

(b)(6);(b)(7)(C) VILLAREAL, ROY D

**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; (b)(6);(b)(7)(C) HUDSON, RICHARD M;

(b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)

**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E)

This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E) Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)

(Acting) Deputy Chief

Law Enforcement Operations Directorate - Ops

U.S Border Patrol

1300 Pennsylvania Ave, N.W.

Washington, DC 20229

(b)(6);(b)(7)(C) office

(b)(6);(b)(7)(C) cellular

(b)(7)(E)

**From:** (b)(7)(E)  
**Sent:** Friday, April 27, 2018 5:18 PM  
**To:** WELLTON COMMAND STAFF  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

FYSA gents.

R/S,

(b)(7)(E)

(b)(6);(b)(7)(C)

(A)PAIC

(b)(7)(E)

(b)(6);(b)(7)(C)(d)

(b)(6);(b)(7)(C)(c)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:09:13 PM  
**To:** (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** FW: (Action) Zero Tolerance Prosecution Referrals

(b)(6);(b)(7)(C)

Division Chief  
LE Ops - Yuma Sector  
U.S. Border Patrol  
(b)(6);(b)(7)(C) (Office)  
(b)(6);(b)(7)(C) (Mobile)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:03:07 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C); PORVAZNIK, ANTHONY J  
**Subject:** (Action) Zero Tolerance Prosecution Referrals

For Action

**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 12:50:01 AM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A;  
BOATRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C); PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C);  
(b)(6);(b)(7)(C)  
SELF, JEFFREY D; (b)(6);(b)(7)(C); VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPS CENTRAL SECTORS; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C) USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b) (7)(E) This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b) (7)(E) (b) (5) . Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular

(b)(5), (b)(6);(b)(7)(C)



(b)(5), (b)(6);(b)(7)(C)

(b)(5), (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, April 27, 2018 5:03 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C) PORVAZNIK, ANTHONY J  
**Subject:** (Action) Zero Tolerance Prosecution Referrals  
**Attachments:** Zero tolerance memo 4.6.18.pdf; AG press release Zero tolerance 4.6.18.pdf

For Action

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**From:** (b)(6);(b)(7)(C)  
**Sent:** Saturday, April 28, 2018 12:50:01 AM  
**To:** SCOTT, RODNEY S; CHAVEZ, GLORIA I; PORVAZNIK, ANTHONY J; KARISCH, RODOLFO; HULL, AARON A; BOATRIGHT, ROBERT L; CHAVEZ, FELIX; (b)(6);(b)(7)(C) PADILLA, MANUEL JR; ORTIZ, RAUL L; (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) SELF, JEFFREY D; (b)(6);(b)(7)(C) VILLAREAL, ROY D  
**Cc:** OPS EAST SECTOR; OPS WEST SECTORS; OPSCENTRALSECTORS; (b)(6);(b)(7)(C) HUDSON, RICHARD M; (b)(6);(b)(7)(C); USBP HQ Adjutants; LUCK, SCOTT A (USBP); PROVOST, CARLA (USBP)  
**Subject:** Zero Tolerance Prosecution Referrals

Chiefs and Deputies,

(b)(7)(E)

(b)(7)(E) This guidance supersedes all local arrangements between your Sector Prosecution Unit and the US Attorney's Office.

(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E) Please track these referrals and maintain them on a daily basis. We do not need your office to share these statistics immediately. We do anticipate a message asking you to share your reports tracking referrals near the end of the weekend or beginning of the work week.

Please let us know if there are any questions. Thank you in advance for your staff's diligence referring amenable subjects and tracking this activity.

Regards,

(b)(6);(b)(7)(C)  
(Acting) Deputy Chief  
Law Enforcement Operations Directorate - Ops  
U.S Border Patrol  
1300 Pennsylvania Ave, N.W.  
Washington, DC 20229

(b)(6);(b)(7)(C) office  
(b)(6);(b)(7)(C) cellular



Office of the Attorney General  
Washington, D. C. 20530

APRIL 6, 2018

MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, followed by the date "4/6/18".

SUBJECT:

Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)

On April 11, 2017, I issued a memorandum to all federal prosecutors entitled “Renewed Commitment to Criminal Immigration Enforcement,” in which I directed the prioritization of the prosecution of certain criminal immigration offenses. I further directed each United States Attorney’s Office along the Southwest Border to work with the Department of Homeland Security to develop guidelines for prosecuting offenses under 8 U.S.C. § 1325(a).

Those seeking to further an illegal goal constantly alter their tactics to take advantage of weak points. That means we must effectively respond with smart changes also. The recent increase in aliens illegally crossing our Southwest Border requires an updated approach. Past prosecution initiatives in certain districts—such as Operation Streamline—led to a decrease in illegal activities in those districts. We must continue to execute effective policies to meet new challenges.

Accordingly, I direct each United States Attorney’s Office along the Southwest Border—to the extent practicable, and in consultation with DHS—to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a). This zero-tolerance policy shall supersede any existing policies. If adopting such a policy requires additional resources, each office shall identify and request such additional resources.

You are on the front lines of this battle. I respect you and your team. Your dedication and insight into border reality is invaluable. Keep us informed, and don’t hesitate to give us suggestions for improvement. Remember, our goal is not simply more cases. It is to end the illegality in our immigration system.

This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, April 6, 2018

**Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry**

Attorney General Jeff Sessions today notified all U.S. Attorney's Offices along the Southwest Border of a new "zero-tolerance policy" for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien. The implementation of the Attorney General's zero-tolerance policy comes as the Department of Homeland Security reported a 203 percent increase in illegal border crossings from March 2017 to March 2018, and a 37 percent increase from February 2018 to March 2018—the largest month-to-month increase since 2011.

"The situation at our Southwest Border is unacceptable. Congress has failed to pass effective legislation that serves the national interest—that closes dangerous loopholes and fully funds a wall along our southern border. As a result, a crisis has erupted at our Southwest Border that necessitates an escalated effort to prosecute those who choose to illegally cross our border," said Attorney General Jeff Sessions. "To those who wish to challenge the Trump Administration's commitment to public safety, national security, and the rule of law, I warn you: illegally entering this country will not be rewarded, but will instead be met with the full prosecutorial powers of the Department of Justice. To the Department's prosecutors, I urge you: promoting and enforcing the rule of law is vital to protecting a nation, its borders, and its citizens. You play a critical part in fulfilling these goals, and I thank you for your continued efforts in seeing to it that our laws—and as a result, our nation—are respected."

On April 11, 2017, Attorney General Jeff Sessions announced a renewed commitment to criminal immigration enforcement. As part of that announcement, the Attorney General issued a memorandum to all federal prosecutors and directed them to prioritize the prosecution of certain criminal immigration offenses.

Today's zero-tolerance policy further directs each U.S. Attorney's Office along the Southwest Border (i.e., Southern District of California, District of Arizona, District of New Mexico, Western District of Texas, and the Southern District of Texas) to adopt a policy to prosecute all Department of Homeland Security referrals of section 1325(a) violations, to the extent practicable.

**Attachment(s):**[Download Zero-Tolerance Memorandum](#)**Topic(s):**

Immigration

**Component(s):**[Office of the Attorney General](#)

4/6/2018

Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry | OPA | Department of Justice

**Press Release Number:**

18-417

*Updated April 6, 2018*

**AILA Doc. No. 18040635. (Posted 4/6/18)**

<https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

CBP FOIA 000209

2/2

**From:** (b)(6);(b)(7)(C)  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Draft Guidance Re Executive Order (FAMU)  
**Date:** Wednesday, June 20, 2018 7:34:00 PM

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Below are some quick notes regarding the newest Executive Order. (b) (7)(E)  
[Redacted]  
[Redacted] FAMU are not to be separated.

1. [Redacted] (b)(7)(E)
2. [Redacted] (b)(7)(E)
3. [Redacted] (b)(7)(E)

(b)(6);(b)(7)(C)  
*Special Operations Supervisor*  
*Interagency Coordination*  
*El Centro Sector*  
(b)(6);(b)(7)(C) *Office*  
(b)(6);(b)(7)(C) *Cell*

(b)(6);(b)(7)(C)

**From:** CHAVEZ, GLORIA I  
**Sent:** Wednesday, June 20, 2018 7:54 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** Zero Tolerance and Executive Order Guidance

**ALCON:**

Effective immediately the following actions are to be implemented/acted upon:

1. (b)(7)(E)
2. (b)(7)(E)
3. (b)(7)(E)

Further guidance is forthcoming from HQ. In the interim please ensure that all field commanders and Supervisors are made aware and act accordingly. If you have any further questions, please contact Acting ACPA (b)(6);(b)(7)(C) at (b)(6);(b)(7)(C).

Presidential Executive Order

<https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

GC

Regards,  
Gloria I. Chavez  
Chief Patrol Agent  
El Centro Sector  
U.S. Border Patrol  
(b)(6);(b)(7)(C) (office)



(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)



(b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)