

Question#:	1
Topic:	UAC's Apprehended
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Debbie Wasserman Schultz
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: How many undocumented minors have been apprehended by DHS agents in the interior of the United States (not at the border) and placed into immigration detention with true unaccompanied minors?

Please provide the number of youth total, their ages, date of apprehension, location of apprehension, and number of days held in detention.

Response: Typically, when U.S. Immigration and Customs Enforcement (ICE) encounters a minor in the interior of the country, the agency determines if a parent or legal guardian is available to assume custody and care for the minor. If a parent or legal guardian is not in the United States or is not available to provide care and physical custody, the minor is then considered to be an unaccompanied alien child (UAC) consistent with the Homeland Security Act. According to the *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008*, the U.S. Department of Homeland Security (DHS) and its component agencies, including ICE, must transfer UACs to the care and custody of the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) within 72 hours of determining a minor is a UAC, absent exceptional circumstances. As a result, DHS generally does not detain UACs beyond the time it takes to transfer custody to ORR. This is the case regardless of whether DHS encountered the UAC without a parent or legal guardian or whether a minor is separated from the parent or legal guardian at a later time (which is most often done for safety reasons).

Since DHS does not detain UACs, the Department is unable to answer the questions above in the form in which they were posed.

Question#:	2
Topic:	UAC Policy
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Debbie Wasserman Schultz
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: What is DHS's policy when encountering undocumented children in the interior United States?

How are DHS agents trained to determine whether or not a minor is undocumented?

What is the written policy regarding how DHS agents determine whether or not a minor is undocumented?

How are DHS agents trained to determine whether or not a minor who is undocumented has a parent or legal guardian in the United States?

What is the written policy regarding how DHS agents determine whether or not a minor who is undocumented has a parent or legal guardian in the United States?

How are DHS agents trained to determine whether or not a minor who is undocumented has a parent or legal guardian in the United States who is available to provide care and physical custody?

What is the written policy regarding how DHS agents determine whether or not a minor who is undocumented has a parent or legal guardian in the United States who is available to provide care and physical custody?

Response: Pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, except in the case of exceptional circumstances, UACs must be transferred to the care and custody of HHS ORR within 72 hours of the UAC determination. As such, ICE does not generally have authority to detain UACs except in the case of exceptional circumstances. Additionally, UACs are afforded certain procedural safeguards and certain substantive advantages with respect to asylum eligibility, eligibility for voluntary departure, and detention that are not available to other aliens.

The Juvenile and Family Residential Management Unit (JFRMU) at ICE headquarters is a specialized unit for all matters related to family units and juveniles (including UAC during the brief period they may be in ICE custody). JFRMU creates, implements, and interprets policy related to juvenile and family units. Furthermore, all 24 ICE Enforcement and Removal Operations (ERO) field offices have primary and back-up Field Office Juvenile Coordinators (FOJCs), each of whom receive annual specialized training with respect to the vulnerabilities of children. Depending on UAC-related movement and cases, some field offices may have multiple FOJCs. JFRMU conducts annual and monthly training with the FOJCs, and JFRMU officers

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interact daily with the FOJCs in the field to provide guidance and address new issues as they arise. JFRMU also works with internal and external stakeholders to ensure that legal safeguards for UACs are honored.

In addition, please note that ICE evaluates the articulable facts of every such individual encountered in order to determine whether to detain, arrest, or lodge an immigration detainer against the individual based upon those facts. It has long been, and remains, ICE policy to carefully and expeditiously investigate and analyze the potential U.S. citizenship of individuals encountered by ICE, not only when the individual makes or has made a claim to U.S. citizenship but also when certain indicia of potential U.S. citizenship are present in a case, even if the individual does not affirmatively make a claim to U.S. citizenship.

Question#:	3
Topic:	U.S. Citizens Detained
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Debbie Wasserman Schultz
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: How many U.S. citizens ages 17 and younger have been detained by DHS?

Please provide the number of youth total, their ages, date of apprehension, location of apprehension, and number of days held in detention.

How many U.S. citizens ages 18 and older have been detained by DHS?

Please provide the number of citizens total, as well as their ages, date of apprehension, location of apprehension, and number of days held in detention.

Response: ICE ERO does not statistically track the number of arrests of individuals for administrative immigration violations who are later determined to be U.S. citizens. However, ICE handles potential claims to U.S. citizenship with the utmost care and highest priority. ICE complies with ICE Directive 16001.2, Investigating the Potential U.S. Citizenship of Individuals Encountered by ICE, an established policy for ensuring that the potential U.S. citizenship of individuals encountered by ICE officers, agents, and attorneys is immediately investigated and analyzed. The Immigration and Nationality Act of 1952 and its predecessor statutes set forth the parameters for U.S. citizenship by virtue of birth in the United States, derivation of citizenship for lawful permanent residents with a parent who naturalized, and acquisition of citizenship for individuals born to a U.S. citizen.

As a matter of law, ICE cannot assert its civil immigration enforcement authority to arrest and/or detain a U.S. citizen. While performing their duties, ICE officers, agents, and attorneys may encounter individuals who are not certain of their citizenship status, who claim to be U.S. citizens, or as to whom there are some indicia warranting further examination to determine whether they may be U.S. citizens. ICE evaluates the articulable facts of every such individual encountered in order to determine whether to detain, arrest, or lodge an immigration detainer against the individual based upon those facts. However, these encounters can be complicated by the individual's lack of knowledge of the necessary details regarding the citizenship status of the individual's parents and grandparents and their periods of physical presence in the United States, unwillingness to cooperate on the part of the individual or family members contacted for information, conflicting records, or falsified documentation. Many such inquiries require additional investigation and substantive legal research and analysis due to the complexity of citizenship and nationality law. Moreover, statutory changes made by Congress as well as decisions from the Board of Immigration Appeals or the federal courts of appeals regarding citizenship law can affect the analysis of whether an individual has a viable claim to citizenship, including new case law that might occur after ICE has reviewed a citizenship claim and opted to detain because the individual was not a U.S. citizen. It has long been and remains ICE policy to

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carefully and expeditiously investigate and analyze the potential U.S. citizenship of individuals encountered by ICE not only where the individual makes or has made a claim to U.S. citizenship, but also when certain indicators of potential U.S. citizenship are present in a case even if the individual does not affirmatively claim U.S. citizenship.

Question#:	4
Topic:	Fraudulent Families
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Ro Khanna
Committee:	OVERSIGHT & GOV REFORM (HOUSE)

Question: During the hearing, Secretary McAleenan mentioned a few times a statistic that 15% of families (some 200 total) referred for DNA testing under their DNA testing pilot program because they were suspicious were found to be "fraudulent."

How many of those "fraudulent" families were related in some way other than parent/child?

How many total families could have been referred for DNA testing, but were deemed to be not suspicious under the pilot program (as in, what is the total population of families who crossed in that time frame)?

Response: During the three-day Rapid DNA pilot program, ICE's Homeland Security Investigations (HSI) conducted consensual DNA testing of 109 purported family units. Sixteen family units were identified as fraudulent, that is, not having a parent-child relationship. The family units were identified as fraudulent after the family members claimed a parent-child relationship and the Rapid DNA test concluded there was no parent-child relationship.

While Rapid Scan DNA results may indicate the existence of some familial relationship other than a parent-child relationship, ICE HSI did not track information relating to this during the pilot.

U.S. Customs and Border Protection apprehended approximately 12,251 Family Unit Aliens between Rio Grande Valley Sector and El Paso Sector from May 6 – May 10, 2019. Although this was the number of aliens apprehended during this time frame, they were most likely not interviewed by HSI as those apprehended during the operation dates were probably not even processed due to the number of aliens in CBP custody during that time frame.

Question#:	5
Topic:	Consent to Test
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Ro Khanna
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: What are agency personnel who are administering the DNA testing telling the adult (assumed parent) about whether the test is "optional," as it's supposed to be?

Is it: If you don't take this test, we'll separate you on suspicion of not being family?

Response: Prior to any DNA testing, adult migrants are provided a voluntary consent form that explains testing is voluntary and the individual being tested can withdraw their consent to be tested at any time. These forms are currently available in English, Spanish, and Portugese. If ICE HSI encounters an alien that speaks a language other than those three languages, or claims the inability to read, translation services in the native language of the alien are used to obtain consent. The consent form explains that providing a DNA sample for the purposes of establishing a parental relationship is voluntary, and that consent to participate in the DNA testing may be withdrawn at any time prior to the completion of the DNA collection procedure. Agency personnel administering DNA testing also provide adult migrants with a privacy statement that details ICE's authority and purpose for collecting DNA, as well as the limitations on the sharing of any information consistent with federal laws.

Question#:	6
Topic:	Educational Services
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Mark DeSaulnier
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: Can you confirm that all children in federal custody are being evaluated for and provided educational services, per the requirements of Flores?

If so, walk me through what a typical "school" day looks like for a child in DHS custody. Who's providing the instruction? Are they trained educators?

Response: When a family unit is apprehended by either ICE or U.S. Customs and Border Protection and then transferred to ICE custody, ICE makes a custody decision, based on a variety of case-specific and operational factors, on whether to detain or release the family unit. When the family unit is placed in ICE detention, they are transferred to one of ICE's Family Residential Centers (FRCs). Educational services are provided in ICE FRCs to all children from pre-K through high school and include in-class instruction as well as field trips. An initial aptitude screening is provided within 3 school days of arrival in order to determine appropriate placement, and students are taught by state-certified and bilingual/English as a Second Language (ESL)-certified teachers or in an ESL-certification program. Education is provided in accordance with state standards, and education records are provided to U.S. public schools upon request. While in ICE custody, children are taught curriculum from four main core subjects (math, social studies, language arts, and science), along with an instructional block in physical education based on state requirements and best practices. Instruction includes the use of smart boards, text books, library services, and other traditional methods.

ICE defers to the HHS regarding services for unaccompanied alien children in the custody of HHS.

Question#:	7
Topic:	Oversight
Hearing:	Acting Secretary of Homeland Security Kevin K. McAleenan
Primary:	The Honorable Mark DeSaulnier
Committee:	OVERSIGHT & GOV RFORM (HOUSE)

Question: What does HHS/DHS oversight look like relative to provision of educational services? How are contractors being held accountable for fulfilling the federal government's responsibility under Flores?

Response: As required by ICE detention standards, all children of school age receive educational services by state-certified teachers. The ICE ERO JFRMU contracted inspectors conduct monthly inspections of ICE's three FRCs. In addition, ICE ERO conducts annual subject matter expert (SME) deep-dive visits at each of the FRCs.

ICE ERO's monthly inspection methodology includes document review (e.g., logs and standard operating procedures), inspector observations, interviews with staff, and interviews with residents (including residents that speak indigenous languages). Inspections are conducted every four to six weeks at FRCs. As needed, technical assistance is provided to remedy any issues identified and inspectors follow up to ensure that the issues are resolved.

The annual SME deep-dive inspections at FRCs include education, child/adolescent development, medical/mental health services, and Prison Rape Elimination Act compliance.

Additionally, monthly field data collection forms are based on Family Residential Standards, ICE language access requirements, best practices, the Flores Settlement Agreement, and any other applicable state/federal requirements.

Furthermore, JFRMU onsite compliance officers provide daily oversight of FRC compliance with Family Residential Standards and troubleshoot issues as they arise. Onsite compliance officers work closely with the contracted inspectors to identify emerging issues and ensure that issues identified are resolved in a timely manner.