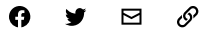


Trump administration misses court deadline to reunite separated children with their parents

The Trump administration missed its first deadline to reunite migrant families.

By [Geneva Sands](#) and [Lauren Pearle](#)

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The latest on the immigration reunion deadline

The government saying only 38 kids out of the 102 will be reunited by today's deadline.

The Trump administration on Tuesday missed its first court-ordered deadline to reunify families separated at the border as it rushes to confirm the identities of parents and match records of the disparate agencies involved.

A San Diego federal judge had ordered the government to reunite all children under five years old by July 10, but as of Wednesday only four reunifications had been confirmed.

Government attorneys and administration officials said of the 102 children under five who had been separated, 38 were expected to be reunified by Tuesday. Late Wednesday evening, an administration official told ABC News that they anticipate that as of early morning on July 12, they will have reunified all children under age 5 who are eligible under the court order for reunification with parents in the United States.

In a hearing on Tuesday, the judge acknowledged that not all 102 of these very young children could be immediately sent back to their parents - because some parents were deported without their children or had possible

criminal backgrounds, for example -- but told the government that they must reunify 59 children.

A federal lawsuit brought by the American Civil Liberties Union (ACLU) in February to reunite an asylum-seeking Congolese mother with her daughter expanded to a class-action lawsuit after the Department of Justice (DOJ) implemented its “zero-tolerance” policy of prosecuting all illegal border crossers.

In June, the judge ruled that children forcibly separated by U.S. authorities at the border would have to be reunited, laying out a timeline for total reunification by July 26, 2018.

“These are firm deadlines and not aspirational goals,” said the judge, Dana Sabraw, at a hearing on Tuesday.



Families separated under President Donald Trump administration's zero tolerance policy return home to Guatemala City, Guatemala, July 10, 2018, after being deported from the United States.

Colleen Long/AP

Children waiting for reunification

The Department of Health and Human Services (HHS) determined that only 75 of the 102 children under five years old are eligible for reunification. Seventeen reunifications were pending DNA test results and there was one 3-year-old child for whom the government said it had no information about the parents.

The government now thinks that the child may have U.S. citizen parents and was placed in the wrong system.

Twenty-seven children are not eligible for immediate reunification, because of parental criminal history, pending criminal custody or other disqualifying factors.

"The court could not have been clearer that business as usual is not acceptable," said Lee Gelernt, deputy director of the ACLU's Immigrants' Rights Project. "The Trump administration must get these children and parents reunited."

The administration has argued that they are working to meet the court deadline and the delays are necessary to ensure the safety and well-being of the children in their care.

"Our process may not be as quick as some would like, but there is no question that it is protecting children," said HHS Chief of Staff for the Office of the Assistant Secretary for Preparedness and Response Chris Meekins. "The last thing we want to happen is that a child is placed in a dangerous situation due to a lack of a thorough review on our part."

HHS is responsible for the care of about 11,800 unaccompanied minors who came into the U.S. illegally, including the roughly 2,000 to 3,000 children that were "made unaccompanied" when they were separated from their parents by U.S. officials.

Parents in custody

Most parents who were separated under the policy were placed into Immigration and Customs Enforcement (ICE) custody. For the past two weeks ICE moved parents to geographic locations near where their children were staying

in shelters -- in order to facilitate the process, according to Executive Associate Director of ICE Enforcement and Removal Operations Matthew Albence.

“Mature parents with children under the age of 5 are being reunited with their children and then released and enrolled into an alternative detention program, meaning that they will be placed on an ankle bracelet and released into the community,” Albence said.

These family reunifications were planned to take place in the lobbies of undisclosed ICE detention facilities and released into the community, according to an administration official.

Meanwhile, the administration's zero-tolerance policy remains in limbo and has been at least temporarily dismantled in practice.

On June 20, after weeks of public outrage over family separation, President Trump signed an executive order aimed at both keeping families together and continuing to prosecute those who cross the border illegally.

Trump signs executive order he says will keep immigrant families together→

Less than a week later, Customs and Border Patrol (CBP) said it had halted referrals for prosecution until they figure out how to keep families together during the prosecution process.

“We need to end the catch and release challenge. A much better system would be to keep families together through their [immigration](#) proceedings. That’s what the Obama administration did in 2014, that’s what the president has asked Congress to help us do now,” CBP Commissioner Kevin McAleenan told ABC News.

The administration’s actions have created what could become dueling court requirements if the zero-tolerance policy continues. On the one hand, the San Diego federal judge ordered families reunified. On the other hand, another California federal judge on Monday upheld a decades-old court agreement, known as the Flores settlement, which requires that children be released from immigration detention after 20 days.



Immigrant families leave a United States Immigration and Customs Enforcement facility after they were reunited, July 11, 2018, in San Antonio.
Eric Gay/AP

How we got here

In early May, the Department of Homeland Security (DHS) began implementing the zero-tolerance policy, and family separations began to skyrocket.

“If you are smuggling a child, then we will prosecute you and that child will be separated from you as required by law,” said Attorney General Jeff Sessions in May when announcing the policy.

Around 2,300 children were separated from their parents in one month between May 5 and June 9 as a result of zero tolerance, according to DHS officials.

For comparison, in more than a year between October 2016 and February 2018, there were only 1,768 cases of family separation by border agents.

However, at the peak of the zero-tolerance policy, only 53 percent of illegal border crossings were being referred by CBP to DOJ for prosecution, according to an administration official.

In order to comply with the court order, HHS had to hand-check all of its case files to determine which children were separated from a parent, concluding that there were “under 3,000” potentially separated children in its custody.

However, last month, HHS Secretary Alex Azar testified to Congress that he “could at the stroke of keystrokes, within seconds, could find any child within our care for any parent.”

Congressional Democrats on Wednesday again called on Judiciary Chairman Sen. Chuck Grassley to hold an oversight committee hearing raising questions about inconsistent statements Azar made about the number of children the agency has in its custody, including the lack of a plan to reunite them with their parents.

This is their third request to Grassley for a committee hearing, contending that the Trump administration's zero-tolerance policy resulted "in the traumatic separation of children from their parents."

Grassley has previously shot down those requests.

"The simplest and easiest way to address this crisis is to repeal the Flores decision so that family units can remain in family residential centers and receive adequate care pending the outcome of their criminal or civil cases," Grassley wrote. "This is an easy, common-sense solution that doesn't require a hearing."

ABC's Mariam Khan contributed to this story.

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