

Question#:	6
Topic:	Separation of Children
Committee:	Appropriations Committee (SENATE)
Primary:	The Honorable Peter Aguilar

<https://www.c-span.org/video/?460206-1/acting-homeland-security-secretary-testifies-2020-budget-request&start=7981>

Peter Aguilar (2:13)

Question: What level of criminality is used to determine when an adult would be separated from a child? (i.e. non-violent/violent or previous incarceration time, etc.) What is the operational guidance ICE uses and when is discretion given to the officer?

Response: Separations occurring in U.S. Immigration and Customs Enforcement (ICE) custody are infrequent and are typically conducted based on concerns for a child's welfare. Such factors could include the adult's criminal or immigration history, observed behaviors or actions that cause ICE to become concerned for the welfare of the child, concern about false parental or familial relationship, or a suspicion of smuggling.

- *Familial Relationship* – If there is reason to question the claimed familial relationship between an adult and child, it is not appropriate to detain adults and children together.
- *Human Trafficking and Smuggling* – If there is reason to suspect the purported parent or legal guardian of human trafficking or smuggling, DHS detains the adult in an appropriate, secure detection facility, separate from the minor. DHS continues to see instances and intelligence reports indicating minors are trafficked by unrelated adults, posing as a "family" in an effort to avoid detention.
- *Safety Risk* – If there is reason to suspect the purported parent or legal guardian poses a safety risk to the child (e.g. suspected child abuse), it is not appropriate to maintain the adult and child together.
- *Criminal Prosecution* – If an adult is referred for criminal prosecution, the adult will be transferred to U.S. Marshall Service custody and any children will be classified as an unaccompanied alien child and transferred to the HHS/ORR custody.

In the unusual event ICE determines that the parent or legal guardian of a family unit poses a threat to the safety and well-being of the child, when custody and parentage cannot be established, or when the parent should remain in detention for other reasons, the parent or legal guardian of the family unit will be transferred to an appropriate adult detention facility. Because that parent or legal guardian would no longer be available to provide care and physical custody, the minor will be considered a UAC and will be transferred into HHS Office of Refugee Resettlement (ORR) custody.

(b)(5)