



DHS formally bans family separations for illicit border crossings

BY RAFAEL BERNAL - 05/28/21 07:06 PM EDT

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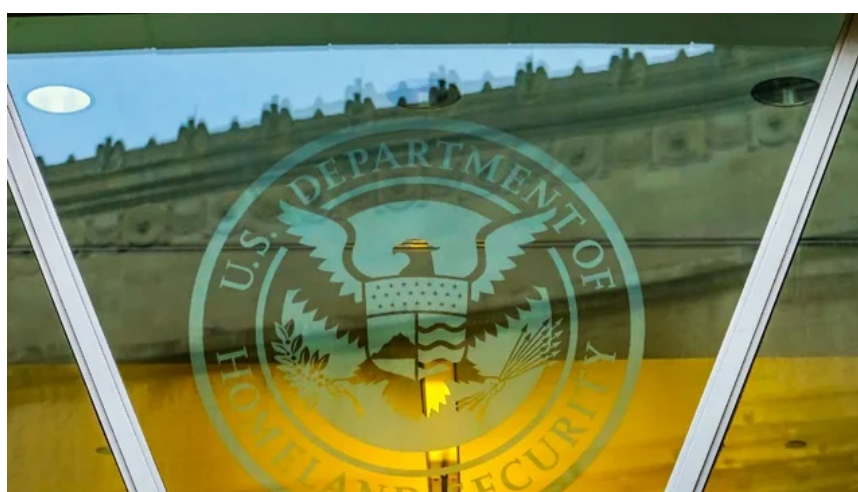
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Homeland Security officials on Friday formally banned separating children from parents who are caught illegally crossing U.S. border, as part of an effort by the Biden administration to revert the effects of former President Trump's "zero tolerance" policy.

Customs and Border Protection (CBP) Acting Commissioner Troy Miller issued a memo to the heads of Border Patrol and CBP's Office of Field Operations prohibiting the separation of children from their parents or guardians for convictions on illegal entry to the United States, and banning the referral of parents for prosecution exclusively on the grounds of illegal entry to the country.

Miller's memo added an exception on national security grounds, allowing CBP and Border Patrol agents to refer illegal entry for prosecution with approval of higher-ranking officials and local counsel.

The guidance in Miller's memo is intended to clarify a 2018 court order that required the Department of Homeland Security (DHS) to stop separating families based on illegal entry charges and to reunite families who were separated under the Trump administration's zero tolerance policy.

The zero tolerance policy was a short-lived effort to prosecute all unauthorized border crossings in the spring of 2018, largely targeted at family units crossing the U.S.-Mexico border.

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Under the policy, adult parents and guardians who were caught crossing the border with their children were prosecuted, resulting in forcible family separations conducted by U.S. border officials.

Common practice before and since the elimination of the policy has been to either not prosecute or not incarcerate individuals for attempting to cross U.S. borders without prior authorization, thereby avoiding the need to separate parents from their children.

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Under Miller's new guidance, parents who are referred for prosecution under national security grounds would still be separated from their children, as is common practice for incarcerated parents or guardians in criminal cases.

Miller's memo follows President Biden's February executive order establishing an inter-agency task force to reunite families separated under the zero tolerance policy.

According to a report by [NBC News this month](#), the families of 391 children separated under the Trump-era policy have yet to be found, out of more than 5,500 families separated between 2017 and 2018.

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