



Judge Orders End to Family Separations; Sets Deadline to Reunite Families

On Tuesday, a federal judge in California ordered the U.S. Border Patrol to stop separating families at the U.S.-Mexico border. The judge also ordered that families who have already been separated must be reunited within 30 days and children under five must be reunited within 14 days. Phone contact must be allowed between parents and their children within 10 days, Fox News reports.



The ruling comes out of a lawsuit filed by the American Civil Liberties Union in February on behalf of a Congolese woman who was separated from her seven-year-old daughter when she came to the United States to seek asylum. The suit has since been expanded to represent a wider class of plaintiffs, according to CNN.

U.S. District Judge Dana Sabraw, a George W. Bush appointee, wrote in her ruling, “Plaintiffs have demonstrated a likelihood of success on the merits, irreparable harm, and that the balance of equities and the public interest weigh in their favor, thus warranting issuance of a preliminary injunction.”

Judge Sabraw was particularly critical of the lack of oversight and execution of the policy to separate families at the border.

“The practice of separating these families was implemented without any effective system or procedure for (1) tracking the children after they were separated from their parents, (2) enabling communication between the parents and their children after separation, and (3) reuniting the parents and children after the parents are returned to immigration custody following completion of their criminal sentence. This is a startling reality,” the judge wrote.

“The government readily keeps track of personal property of detainees in criminal and immigration proceedings. Money, important documents, and automobiles, to name a few, are routinely cataloged, stored, tracked and produced upon a detainees’ release, at all levels — state and federal, citizen and alien,” she continued. “Yet, the government has no system in place to keep track of, provide effective communication with, and promptly produce alien children. The unfortunate reality is that under the present system migrant children are not accounted for with the same efficiency and accuracy as property. Certainly, that cannot satisfy the requirements of due process.”

She adds that her ruling does not infringe upon the government’s “discretionary authority” to continue to prosecute those who cross the border illegally.

“This Order does not implicate the Government’s discretionary authority to enforce immigration or other criminal laws, including its decisions to release or detain class members. Rather, the Order addresses only the circumstances under which the Government may separate class members from their children, as well as the reunification of class members who are returned to immigration custody upon



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completion of any criminal proceedings,” Sabraw explained.

But she contends that the policy of separating families at the border has been an unfair symptom of a failing immigration system for which the government is to blame.

“The facts set forth before the court portray reactive governance responses to address a chaotic circumstance of the government’s own making,” Judge Sabraw wrote. “They belie measured and ordered governance, which is central to the concept of due process enshrined in our Constitution.”

President Trump had already signed an executive order last week designed to end separations at the border, but critics claimed it did not go far enough and did not expeditiously reunite separated families.

Also on Tuesday, 17 U.S. states filed suit against the administration over its policy of separating families who cross the U.S.-Mexico border illegally. They argued that the executive order had too many caveats and denied illegal immigrants due process and their right to seek asylum.

“The administration’s practice of separating families is cruel, plain and simple,” New Jersey Attorney General Gurbir Grewal said in a statement regarding the lawsuit. “Every day, it seems like the administration is issuing new, contradictory policies and relying on new, contradictory justifications. But we can’t forget: the lives of real people hang in the balance.”

But despite the backlash that the Trump administration has received over separating families, the policy is the only option the administration has based on rules that were established long before Trump’s administration. The Ninth Circuit Court of Appeals found that unaccompanied children could not be held in custody under the terms of the Flores Agreement established in 1997, which ruled that unaccompanied minors could not be held in custody beyond 20 days. As such, the federal government had only two options: either release whole families that have crossed the border illegally or separate children from their parents.

Ironically, the Obama administration had been detaining whole families together as a deterrent from coming to the United States, a policy that a federal court ruled to be unconstitutional in 2015, the *New York Times* [reported](#). That same federal judge found that the Obama administration had been holding migrant children in “widespread deplorable conditions” in Border Patrol stations. Judge Gee claimed that the Obama administration “wholly failed” to provide “safe and sanitary” conditions required for children.

And yet, unlike with President Trump, Obama’s policies did not draw comparisons to FDR’s Japanese internment camps and the Holocaust from the mainstream media.





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