

JUNE 4, 2021  
CBP JUVENILE  
COORDINATOR REPORT

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



U.S. Customs and  
Border Protection

June 4, 2021

MEMORANDUM FOR: The Honorable Judge Gee  
District Judge  
U.S. District Court, Central District of California

FROM: Henry A. Moak, Jr.  
Chief Accountability Officer  
U.S. Customs and Border Protection

6/4/2021

X

Signed by: HENRY A MOAK JR

SUBJECT: CBP Juvenile Coordinator June 4, 2021 Interim Report

On May 12, 2021, this Court ordered the U.S. Customs and Border Protection (CBP) Juvenile Coordinator, as well as the Juvenile Coordinators for U.S. Immigration and Customs Enforcement (ICE) and the U.S. Department of Health and Human Services (HHS), to file an interim report by June 4, 2021, to include: “(i) the census of minors in each of the agency’s facilities; (ii) the average length of stay for minors in the agency’s facilities; (iii) the number of minors currently testing positive for COVID-19; and (iv) whether the Juvenile Coordinator has adequate personnel or other capacity to provide detailed monitoring of new or expanded facilities.” More specifically, this Court directed the CBP Juvenile Coordinator to include: “(i) a census of Class Members in CBP custody in the Rio Grande Valley sector, (ii) an update on CBP’s policies and capacity for processing minors in light of COVID-19, Title 42, and the recent influx, (iii) an update as to whether the conditions at the Donna Centralized Processing Center (CPC-DNT) or any other facility that serves as a hub for processing minors are safe and sanitary under FSA Paragraph 12, and (iv) a status update, if any, on the CPC Ursula renovation project and any other CBP construction or renovation projects related to processing Class Members.”

The CBP Juvenile Coordinator submits the following report in response to this Court’s May 12, 2021 Order. This report builds on the information provided in the previous interim reports submitted January 15, 2021, March 5, 2021, and April 9, 2021. Given the nature of the Court’s request, this report provides information about the average time in custody (TIC) and the average number of minors in custody across the southwest border (SWB), as well as more detailed information regarding Rio Grande Valley (RGV) Sector.

### Census of Class Members

In April 2021, there was a 3% increase in CBP encounters overall across the SWB compared to March 2021; however, this increase is attributed to an increase in single adult encounters.<sup>1</sup> As

<sup>1</sup> See, *U.S. CBP Encounters: USBP Title 8 Apprehensions, OFO Title 8 Inadmissible Volumes, and Title 42 Expulsions by FY*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited May 18, 2021).

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depicted in the tables below, CBP encountered fewer noncitizen unaccompanied children (UCs) and family units (FMUs) in April 2021 compared to March 2021.<sup>2</sup>

**Table 1. CBP Encounters in March and April 2021**

|                            | March <sup>3</sup> | April <sup>4</sup> | % Change <sup>5</sup> | FY 20 To Date <sup>6</sup> | FY 21 To Date <sup>7</sup> | % Change |
|----------------------------|--------------------|--------------------|-----------------------|----------------------------|----------------------------|----------|
| <b>CBP Single Adults</b>   | 100,104            | 111,301            | 11.2%                 | 172,191                    | 538,481                    | 212.7%   |
| <b>CBP UCs</b>             | 18,960             | 17,171             | -9.4%                 | 21,045                     | 65,825                     | 212.8%   |
| <b>CBP FMUs</b>            | 54,125             | 50,016             | -7.6%                 | 59,604                     | 144,476                    | 142.4%   |
| <b>CBP AMs<sup>8</sup></b> | 159                | 134                | -15.7%                | 345                        | 831                        | 140.9%   |

**Table 2. USBP RGV Sector Encounters in March and April 2021**

|                          | March <sup>9</sup> | April <sup>10</sup> | % Change | FY 20 To Date <sup>11</sup> | FY 21 To Date <sup>12</sup> | % Change |
|--------------------------|--------------------|---------------------|----------|-----------------------------|-----------------------------|----------|
| <b>RGV Single Adults</b> | 17,173             | 21,216              | 23.5%    | 34,392                      | 107,859                     | 213.6%   |
| <b>RGV UCs</b>           | 9,826              | 9,186               | -6.5%    | 6,561                       | 30,249                      | 361%     |
| <b>RGV FMUs</b>          | 35,680             | 30,437              | -14.7%   | 9,018                       | 83,007                      | 820.5%   |

<sup>2</sup> April 2021 is latest month of CBP encounter statistics publicly available as of the filing date of this report.

<sup>3</sup> See, *U.S. CBP Encounters: USBP Title 8 Apprehensions, OFO Title 8 Inadmissible Volumes, and Title 42 Expulsions by FY*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited May 18, 2021).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See, *Southwest Land Border Encounters (By Component)*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>, (last visited May 18, 2021) (FY 20 To Date includes October 2019 through April 2020).

<sup>7</sup> See, *Southwest Land Border Encounters (By Component)*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>, (last visited May 18, 2021) (FY 21 To Date includes October 2020 through April 2021).

<sup>8</sup> Accompanied Minors (AMs) are inadmissible children who are accompanied by an admissible parent/guardian. These statistics are applicable to CBP's Office of Field Operations (OFO) only.

<sup>9</sup> See, *Southwest Land Border Encounters by Component: FY 2021 YTD USBP Southwest Land Border Encounters*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>, (last visited May 18, 2021).

<sup>10</sup> *Id.*

<sup>11</sup> See, *Southwest Land Border Encounters by Component: USBP FY20 Months(s) v FY21 Month(s) Encounters Percent Change*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component> (last visited May 18, 2021) (FY 20 To Date includes October 2019 through April 2020).

<sup>12</sup> See, *Southwest Land Border Encounters by Component: USBP FY20 Months(s) v FY21 Month(s) Encounters Percent Change*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>, (last visited May 18, 2021) (FY 21 To Date includes October 2020 through April 2021).

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There was a 1.7% decrease in the average daily subjects in U.S. Border Patrol (USBP) custody from March 2021 to April 2021, as depicted in Table 3 below.<sup>13</sup> More specifically, as of 0600 hours EDT on May 19, 2021, there were 1,232 children in USBP custody across the SWB, including 463 in RGV Sector facilities.<sup>14</sup> The data in Table 4 represents a snapshot of class members in RGV Sector during the time this report was compiled.

**Table 3. USBP Average Daily Subjects in Custody<sup>15</sup>**

|                     | March | April |
|---------------------|-------|-------|
| <b>USBP Average</b> | 7,331 | 7,202 |
| <b>RGV Average</b>  | 3,779 | 2,883 |

**Table 4. Class Members in Custody on May 19, 2021 at 0600 hours EDT<sup>16</sup>**

|                                | SWB   | RGV Sector |
|--------------------------------|-------|------------|
| <b>Number of UCs</b>           | 669   | 261        |
| <b>Number of FMUs Children</b> | 563   | 202        |
| <b>TOTAL</b>                   | 1,232 | 463        |

As indicated in Table 5, the average TIC for UCs decreased by 52% between March 2021 and April 2021.<sup>17</sup> Likewise, the average TIC for both UCs and FMUs decreased even more by May 19, providing a more recent snapshot of the average TIC for class members in USBP custody during the time this report was compiled.

**Table 5. Average Time in Custody<sup>18</sup>**

|                   |             | March 2021<br>(Hours) | April 2021<br>(Hours) | May 19<br>(Hours) |
|-------------------|-------------|-----------------------|-----------------------|-------------------|
| <b>USBP</b>       | <b>All</b>  | 111.80                | 69.04                 | 28.34             |
|                   | <b>UCs</b>  | 186.04                | 88.44                 | 26.38             |
|                   | <b>FMUs</b> | 47.40                 | 53.37                 | 30.67             |
| <b>RGV Sector</b> | <b>All</b>  | 114.11                | 66.55                 | 22.52             |
|                   | <b>UCs</b>  | 223.9                 | 103                   | 26.78             |
|                   | <b>FMUs</b> | 46.93                 | 43.70                 | 17.03             |

<sup>13</sup> See, *USBP Average Daily Subjects in Custody by Southwest Border Sector*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics>, (last visited May 27, 2021).

<sup>14</sup> The census of class members in USBP and RGV Sector custody as shown in Table 4 was provided to JCO by USBP for the purposes of this Court Report. This is not official data published on cbp.gov.

<sup>15</sup> See, *USBP Average Daily Subjects in Custody by Southwest Border Sector*, *supra* note 13.

<sup>16</sup> See, *supra* note 14.

<sup>17</sup> The average length of stay for class members in a agency facilities as shown in Table 5 was provided to JCO by USBP for the purposes of this Court Report. This is not official data published on cbp.gov.

<sup>18</sup> *Id.*

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### *Number of Class Members Currently Testing Positive for COVID-19*

CBP conducts health intake interviews, including COVID-19 considerations and temperature checks, on individuals in custody upon entry into CBP facilities. If individuals entering in CBP custody are displaying COVID-19 symptoms or are suspected of having COVID-19, they are taken from the CBP facility to a local health care facility for medical care, COVID-19 testing (if appropriate), and treatment. It is possible that a local health care facility may test an individual for COVID-19 if they are referred from CBP for another health reason. In addition, individuals in CBP custody, including children, may be tested for COVID-19 by ICE, HHS, or state/local partners, as appropriate, upon transfer or release from CBP custody. CBP maintains general visibility on all these efforts, but due to the multiple lines of effort, CBP does not have comprehensive data regarding the number of children who have been in CBP custody who may have tested positive for COVID-19.

### Monitoring Personnel

Established in 2019, the Office of Accountability, Juvenile Coordinator's Office (JCO) provides a centralized oversight mechanism to monitor compliance with the FSA and related CBP policies. JCO reports directly to me, and its primary responsibility is monitoring the Agency's compliance with the FSA. JCO is comprised of six experienced individuals with diverse educational and professional backgrounds in law, business administration, elementary education, auditing, mission support, and law enforcement. Collectively, the team has conducted 161 *Flores* inspections and interviewed 138 children (or parents on their child's behalf).

I am confident in JCO's continued ability to provide detailed monitoring of new and existing facilities across the SWB. In addition to regularly scheduled onsite inspections, JCO engages CBP Headquarters, operators, and mission support personnel across the country to maintain situational awareness, proactively identify areas of concern, and ensure appropriate treatment of all children in CBP custody. For example, JCO personnel join USBP's daily briefing, which includes management from all sectors. Moreover, JCO reviews CBP data regularly to monitor current capacities and times in custody across the SWB through access to both the Office of Field Operations (OFO) and USBP systems of record, allowing it to independently review children's custody logs.

### CBP Status Updates

This section provides relevant updates related to CBP policy and capacity for processing children considering COVID-19, Title 42, and other significant developments. This report does not include the CBP and RGV Sector COVID-19 policies discussed in my previous interim reports.

### *Capacity for Processing Minors*

CBP continues to assist the Centers for Disease Control and Prevention (CDC) in enforcing its Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable

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Communicable Disease Exists (October 13, 2020).<sup>19</sup> As of the filing date of this report, the government may still expel single adults and families in the United States traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be held in OFO ports of entry or USBP stations for immigration processing.

All UCs encountered in the United States are processed under Title 8 authorities and transferred to the custody of HHS, Office of Refugee Resettlement (ORR) or repatriated to a contiguous country in accordance with the Trafficking Victims Protection Reauthorization Act. On or about January 30, 2021, the CDC issued a Notice temporarily excepting from expulsion UCs encountered in the United States. Families continue to be processed in multiple ways depending on various factors as described in my April 9 report.

### *COVID-19 Precautions*

CBP continues to adapt and refine its COVID-19 protocols and guidance based on the most current CDC and other applicable guidance. Consistent with recent CDC guidance, CBP has adjusted its blanket mask requirements for vaccinated CBP personnel, subject to more specific federal, local, operational, or occupational health guidance. In CBP holding facilities and OFO ports of entry, CBP personnel continue to wear facemasks and appropriate personal protective equipment. CBP also continues to provide facemasks for individuals in custody to wear and continues to encourage social distancing to the extent possible.

### Safe and Sanitary Conditions in USBP RGV Sector

Since my last site visit to RGV Sector in April 2021, the number of children in custody has decreased. While CPC-DNT continues to operate at or above the reduced COVID-19 capacity, I understand that it operates in a manner that is consistent with my observations in April 2021. I understand that the facility continues to provide children with regular meals and snacks; access to drinking water, functioning toilets, functioning sinks, emergency medical assistance if needed; and hold rooms that have adequate temperature control and ventilation. There continues to be professional cleaning crews onsite to ensure hold rooms are appropriately cleaned.

I believe most of the concerns raised in my April 9 report regarding social distancing and cleanliness will continue to be alleviated by reducing the numbers of children in custody. To that end, I continue to support the enhanced coordination between CBP and its partner agencies to ensure children are expeditiously transferred out of CBP custody to a more appropriate placement. As a result of this enhanced coordination with our partners, the average TIC of UCs in RGV custody has decreased since my last report. I will continue to engage with RGV Sector and monitor conditions of custody across the SWB. The results of these inspections, as well as my ongoing monitoring activities, will be included in my 2021 annual report.

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<sup>19</sup> See, 85 Fed. Reg. 65806 (October 16, 2020).

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CBP/RGV Renovation and Construction

Construction continues at the Centralized Processing Center-Ursula, and absent any unforeseen delays, will be completed December 2021. RGV anticipates operations will resume in January 2022.

On April 23, 2021, RGV Sector received approval to expand capacity at CPC-DNT by adding another soft-sided structure to the existing facility. This additional structure increased capacity by 625 individuals. The addition was completed on May 25, 2021 and is now operational.