

SEPTEMBER 3, 2021  
CBP JUVENILE  
COORDINATOR REPORT

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



**U.S. Customs and  
Border Protection**

September 2, 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

9/2/2021

X

Signed by: HENRY A MOAK JR

SUBJECT: CBP Juvenile Coordinator September 3, 2021 Interim Report

On August 6, 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 September 3, 2021, to include: (i) the census of minors in each of the agency's facilities; (ii) the average length of stay for minors currently in the agency's facilities and for minors who have been released, with more details as to methodology to assist the Court and the parties in tracking these metrics; (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 CBP construction or renovation projects related to processing Class Members.

The CBP Juvenile Coordinator submits the following report in response to this Court's August 6, 2021 Order. This report builds on the information provided in the previous interim reports submitted January 15, 2021, March 5, 2021, April 9, 2021, June 4, 2021, and July 23, 2021. Given the nature of the Court's request, this report provides information about the average time in custody (TIC) for children and the average number of children in custody across the Southwest Border (SWB), as well as more detailed information regarding the Rio Grande Valley (RGV) U.S. Border Patrol (USBP) Sector.

### Census of Class Members

While the number of children encountered and in CBP custody in August 2021 is not publicly available at the time of filing this report, in general, encounters have continued to increase across the SWB. Average TIC has also increased, due to the increase in encounters and limited transfer

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options out of CBP custody. Throughout the month of August 2021, RGV experienced several large group encounters that consisted mostly of families and unaccompanied noncitizen children (UCs).<sup>1</sup> Large group encounters are especially challenging because they slow down processing and throughput, as well as places additional strains on the limited capacities of CBP, ICE, HHS, and non-governmental organizations (NGOs). This, in turn, may require families and children to be placed further from where they were encountered, which slows down processing and transfer times, and adds additional transportation and other logistical considerations.

The following tables provide information regarding encounters at the SWB CBP-wide as well as encounters specific to USBP SWB and RGV Sector.

**Table 1. CBP Encounters in June and July 2021**

	June 2021 <sup>2</sup>	July 2021 <sup>3</sup>	% Change	FY 20 To Date <sup>4</sup>	FY 21 To Date <sup>5</sup>	% Change
<b>CBP Single Adults</b>	117,692	110,443	-6.2%	259,263	888,454	242.7%
<b>CBP UCs</b>	15,234	18,962	24.5%	26,253	113,791	333.4%
<b>CBP FMUs<sup>6</sup></b>	55,839	82,966	48.6%	64,385	328,121	410%
<b>CBP AMs<sup>7</sup></b>	169	301	78.1%	499	1,456	191.8%

<sup>1</sup> See, e.g., *RGV Agents Encounter Large Group of Migrants*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/local-media-release/rgv-agents-encounter-large-groups-migrants>, (last visited August 31, 2021); *RGV Agents Apprehend Two Large Groups of Migrants*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/local-media-release/rgv-agents-apprehend-two-large-group-migrants-0>, (last visited August 31, 2021); *RGV Border Patrol Agents Arrest Large Group of Migrants*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/local-media-release/rgv-border-patrol-agents-arrest-large-groups-migrants>, (last visited August 31, 2021).

<sup>2</sup> See, *U.S. Border Patrol and Office of Field Operations Encounters FY 2021*, U.S. Department of Homeland Security, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited August 26, 2021).

<sup>3</sup> *Id.*

<sup>4</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 August 26, 2021) (FY 20 To Date includes October 2019 through July 2020).

<sup>5</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 August 26, 2021) (FY 21 To Date includes October 2020 through July 2021).

<sup>6</sup> Family unit represents the number of individuals (either a child under 18 years old, parent/legal guardian) encountered with a family member by CBP.

<sup>7</sup> Accompanied Minors (AMs) are inadmissible children who are accompanied by an admissible parent/legal guardian. These statistics are applicable to CBP's Office of Field Operations (OFO) only.

**Table 2. USBP RGV Sector Encounters in June and July 2021**

	<b>June 2021<sup>8</sup></b>	<b>July 2021<sup>9</sup></b>	<b>% Change</b>	<b>FY 20 To Date<sup>10</sup></b>	<b>FY 21 To Date<sup>11</sup></b>	<b>% Change</b>
<b>RGV Single Adults</b>	23,242	20,803	-10.5%	48,742	175,438	259.9%
<b>RGV UCs</b>	8,404	11,039	31.4%	7,872	56,730	620.7%
<b>RGV FMUs</b>	27,789	48,464	74.4%	10,040	179,880	1,691.6%

Table 3 represents the average daily number of individuals in USBP custody across the SWB and, more specifically, in RGV Sector, for the months of June 2021 and July 2021. Table 4 provides specific information regarding the number of class members in USBP custody across the SWB and in RGV Sector as of August 10, 2021, at 6:00 a.m. Eastern Daylight Time (EDT). The August 10, 2021 date was selected to provide a snapshot of the number of class members in USBP custody during the time this report was compiled and because it coincided with the RGV Sector site visits conducted by the Juvenile Coordinator's Office (JCO).

**Table 3. USBP Average Daily Subjects in Custody<sup>12</sup>**

	<b>June 2021</b>	<b>July 2021</b>
<b>USBP SWB Average</b>	5,009	9,274
<b>RGV Average</b>	1,908	4,099

**Table 4. Class Members in USBP Custody on August 10, 2021 at 6:00 a.m. EDT<sup>13</sup>**

	<b>SWB</b>	<b>RGV Sector</b>
<b>Number of UCs</b>	1,400	810
<b>Number of FMU Children</b>	2,751	1,031
<b>TOTAL</b>	4,151	1,841

<sup>8</sup> See, *Southwest Land Border Encounters by Component: Fiscal Year to Date (FYTD) 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 August 26, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> See, *Fiscal Year to Date (FYTD) 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 August 26, 2021) (FY 20 To Date includes October 2019 through July 2020).

<sup>11</sup> See, *Fiscal Year to Date (FYTD) 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 August 26, 2021) (FY 20 To Date includes October 2020 through July 2021).

<sup>12</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 August 25, 2021).

<sup>13</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 purpose of this report. This is not official data published on cbp.gov.

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Finally, Table 5 depicts the average length of time children were in USBP custody across the SWB and in RGV Sector. This table shows the average TIC for all children, as well as the TIC for UCs and FMU children specifically. Average TIC data is provided for June 2021, July 2021, and for August 10, 2021. The average TIC on August 10, 2021 was provided to depict a more recent snapshot of the average TIC for class members as of the time this report was compiled.

TIC represents the amount of time a child is in CBP custody, beginning at the time of apprehension through transfer from CBP custody. Thus, the average TIC for all children is calculated based on the total number of children in custody and how long each had been in custody as of 6:00 a.m. on a particular day. For example, if a child was arrested at 12:00 a.m. EDT on August 10, 2021, then the child would have a TIC of six hours when TIC was compiled for that day. Likewise, if a child was arrested at 12:00 a.m. EDT on August 9, 2021, and remained in custody on August 10, 2021, that child's TIC would be captured at 30 hours when TIC was pulled on August 10, 2021.

**Table 5. Average USBP Time in Custody<sup>14</sup>**

		<b>June 2021 (Hours)</b>	<b>July 2021 (Hours)</b>	<b>August 10, 2021 (Hours)</b>
<b>USBP SWB</b>	<b>All Children</b>	31	48	63
	<b>UCs</b>	27	40	52
	<b>FMU Children</b>	34	53	69
<b>RGV Sector</b>	<b>All Children</b>	28	47	45
	<b>UCs</b>	26	44	41
	<b>FMU Children</b>	30	49	48

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

As explained in my June 4, 2021 report, CBP conducts health intake interviews, including COVID-19 considerations and temperature checks, on individuals in custody upon entry into CBP facilities. If individuals entering 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 given the multiple lines of effort, does not maintain comprehensive data on the number of children who have been in CBP custody and may have tested positive for COVID-19.

<sup>14</sup> The average length of stay for class members in USBP facilities as shown in Table 5 was provided to JCO by USBP for the purpose of this report. This is not official data published on cbp.gov. The "All" in this table refers to all children under the age of 18; no adults are included in these statistics.

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### Monitoring Personnel

As described in my June 4, 2021 report, JCO is a team comprised of six experienced individuals who report directly to me. JCO's primary responsibility is monitoring the Agency's compliance with the FSA. I am confident in JCO's ability to continue robust monitoring of CBP facilities across the SWB.

### 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 Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists (August 2, 2021).<sup>15</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 of 2008. On July 22, 2021, the CDC published in the Federal Register a Notice "fully excepting UC from the October Order."<sup>16</sup> 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 facemask requirements for vaccinated and unvaccinated CBP personnel, subject to more specific federal, local, operational, or occupational health guidance. In accordance with updated DHS directives and consistent with CDC guidance, in areas with "Substantial or "High" transmission rates, all CBP employees, onsite contractors, and visitors must wear a facemask inside federal buildings. Inside CBP holding areas or when interacting with individuals in custody, CBP continues to require CBP personnel to wear facemasks and/or appropriate personal protective equipment, depending on the type of contact and risk of exposure. CBP also continues to provide facemasks for individuals in custody to wear and continues to encourage social distancing to the extent possible.

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<sup>15</sup> See, 86 Fed. Reg. 42828 (August 5, 2021).

<sup>16</sup> See, 86 Fed. Reg. 38717 (July 22, 2021).



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At the time of filing this report, RGV Sector has a dedicated station for anyone requiring isolation due to illness. Additionally, RGV Sector began facilitating COVID-19 testing by HHS of all UCs at CPC-DNT. UCs who test negative enter CPC-DNT and are processed for transfer to HHS in accordance with existing procedures. UCs who test positive for COVID-19 are isolated in a neighboring soft-sided facility and generally transferred to an ORR facility within 12 hours.

#### Safe and Sanitary Conditions in USBP RGV Sector

In response to the continuously elevated number of apprehensions in RGV Sector this summer, I directed JCO to send a team to RGV Sector to monitor compliance with the FSA and brief me on the situation on the ground. JCO conducted site visits on August 11-13, 2021 at the RGV Sector locations holding the majority of children. At each location, JCO observed operations, inspected the holding areas, and interviewed UCs and families.

CPC-DNT continues to serve as the primary hub for processing UCs and families, and as noted in my July 23 report, a third structure was added to CPC-DNT in May 2021 to increase holding capacity. However, due to the high number of individuals in custody, at the time of JCO's site visits, RGV Sector was also utilizing a temporary outdoor processing site (TOPS) as well as the McAllen Station (MCS) to increase processing capabilities and facilitate the expeditious transfer of UCs and families out of CBP custody. JCO conducted site visits at all three locations. Despite the obvious structural differences in how these locations were set up for processing and custody, JCO observed RGV Sector adapting to the logistical constraints to ensure all three locations met children and families' basic needs.

At the time of the site visit, TOPS was being utilized as a field intake and expedited processing area mostly for families with young children. A food service contract was in place to provide three meals a day, and snacks and bottled water were available throughout the various stages of intake and processing. There were portable toilets with toilet paper and portable sinks with soap. Various supplies for children and babies were available, such as diaper changing stations equipped with diapers, diaper cream, baby wipes, baby bottles, and formula. At the time of the site visit, TOPS had recently expanded its medical footprint, and there were contracted medical personnel and USBP Emergency Medical Technicians onsite. JCO observed when medical personnel identified, during intake, two families with infants with medical conditions and moved them to the front of the line to receive immediate medical attention. Given the operational and logistical constraints of TOPS, mats were not available.

Next, JCO inspected CPC-DNT, which continued to operate in a manner generally consistent with JCO's observations from previous site visits and described in my previous reports. JCO inspected the pods where children were assigned. At the time of the site visit, there was a dedicated pod for children and families who had tested positive for COVID-19; JCO did not inspect this pod. All pods inspected were within the appropriate temperature range with functioning toilets with toilet paper and functioning sinks with soap. Hand dryers were also available and functional. Food service contractors provided three meals each day, and snacks and bottled water were available. JCO observed various supplies available, including mats and Mylar blankets, pre-pasted toothbrushes, baby formula, diapers, diaper cream, baby wipes,

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facemasks, and feminine hygiene products. Shower facilities and laundry services were also available. Contracted medical personnel, caregivers, and cleaning crews were onsite.

Finally, JCO inspected MCS, which on or around July 30, 2021, was reassigned to hold families that were being transported to other sectors to complete processing and/or be transferred out of CBP custody. At the time of the site visit, JCO was informed RGV Sector was transporting approximately 1,000 individuals daily to other sectors because the local NGOs that accepted migrants released from CBP custody did not have sufficient capacity to house them. DHS volunteers were onsite to assist with various tasks, such as distributing meals and restocking supplies.

JCO observed that baby diapers, baby wipes, baby formula, baby bottles, snacks, feminine hygiene products, and bottled water were available. Mats were not available, although Mylar blankets were available. A food service contractor provided three meals a day, and JCO observed lunch being distributed while onsite. Contracted medical personnel were also onsite. Given the recent change in demographics held at MCS, there were some challenges related to how hold rooms and supplies were maintained and replenished. For example, JCO was unable to verify the temperature of the hold rooms because the station did not have a thermometer available. Additionally, all hold rooms had functioning toilets and functioning sinks with soap dispensers; however, JCO observed that the soap dispensers were empty. JCO raised these concerns and other issues identified to management and efforts were immediately taken to restock the supplies. Most of the challenges identified could be mitigated by ensuring consistent processes related to maintaining and restocking hold rooms, which leadership acknowledged. RGV confirmed that after the site visit thermometers were purchased, and soap and mats were available. RGV subsequently updated JCO that as of August 20, 2021, MCS, in general, was no longer being used to hold families, and that families were currently directed to CPC-DNT.

#### CBP/RGV Renovation and Construction

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