

OCTOBER 29, 2021  
CBP JUVENILE  
COORDINATOR REPORT

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



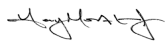
**U.S. Customs and  
Border Protection**

October 29, 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

10/28/2021

X 

Signed by: HENRY A MOAK JR

SUBJECT: CBP Juvenile Coordinator October 29, 2021 Interim Report

On September 17, 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 October 29, 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 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), the temporary outdoor processing site, and 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 September 17, 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, July 23, 2021, and September 3, 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.

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Census of Class Members

Overall encounters decreased 8.5% from August 2021 to September 2021.<sup>1</sup> More specifically, family unit (FMU) encounters, including both adults and children, decreased by 25.7%, and unaccompanied children (UCs) encounters decreased by 23.7%.<sup>2</sup> On average, in September 2021, there were 772 UCs in CBP custody per day, compared to August 2021 when there were an average of 1,435 UCs in custody per day.<sup>3</sup> Despite lower encounters this month compared to previous months, encounters were still 232.9% higher than encounters during the same time period in fiscal year (FY) 2020.<sup>4</sup>

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

**Table 1. CBP Encounters in August and September 2021**

	<b>August 2021<sup>5</sup></b>	<b>September 2021<sup>6</sup></b>	<b>% Change</b>	<b>FY 20<sup>7</sup></b>	<b>FY 21<sup>8</sup></b>	<b>% Change</b>
<b>CBP Single Adults</b>	103,980	113,030	8.0%	353,168	1,105,925	213.1%
<b>CBP UCs/ Single Minors</b>	18,806	14,358	-23.7%	33,239	146,925	342.0%
<b>CBP FMUs<sup>9</sup></b>	86,631	64,388	-25.7%	70,994	479,728	575.7%
<b>CBP AMs<sup>10</sup></b>	423	225	-46.8%	687	2,108	206.8%

<sup>1</sup> See, *U.S. Border Patrol and Office of Field Operations Encounters FY 2021*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited October 27, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> See, *CBP Releases September 2021 Monthly Operational Update*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-september-2021-monthly-operational-update>, (last visited October 27, 2021).

<sup>4</sup> See, *U.S. Border Patrol and Office of Field Operations Encounters FY 2021*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited October 27, 2021).

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

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Family unit represents the number of individuals (either a child under 18 years old, parent/legal guardian) encountered as part of a family unit by CBP. A family unit is defined as a noncitizen child/children accompanied by his/her/their parent(s) or legal guardian(s).

<sup>10</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 August and September 2021**

	August 2021 <sup>11</sup>	September 2021 <sup>12</sup>	% Change	FY 20 <sup>13</sup>	FY 21 <sup>14</sup>	% Change
<b>RGV Single Adults</b>	19,758	20,020	1.3%	68,282	215,450	215.5%
<b>RGV UCs</b>	11,338	8,226	-27.4%	10,258	76,284	643.7%
<b>RGV FMUs</b>	50,082	26,826	-46.4%	11,666	257,343	2,105.9%

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 July 2021, August 2021, and September 2021. Table 4 provides specific information regarding the number of class members in USBP custody across the SWB and in RGV Sector as of October 14, 2021, at 6:00 a.m. Eastern Daylight Time (EDT). The October 14, 2021 date was selected to provide a snapshot of the number of class members in USBP custody during the time this report was compiled.

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

	July 2021	August 2021	September 2021
<b>USBP SWB Average</b>	9,271	9,880	9,918
<b>RGV Average</b>	4,096	4,634	3,660

**Table 4. Class Members in USBP Custody on October 14, 2021 at 6:00 a.m. EDT<sup>16</sup>**

	SWB	RGV Sector
<b>Number of UCs</b>	575	290
<b>Number of FMU Children</b>	1,210	771
<b>TOTAL</b>	1,784	1,061

<sup>11</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 October 27, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</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 October 27, 2021).

<sup>16</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.<sup>17</sup> 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 August 2021, September 2021, and for October 14, 2021. The average TIC on October 14, 2021 was provided to depict a more recent snapshot of the average TIC for class members as of the time this report was compiled.

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

		<b>August 2021 (Hours)</b>	<b>September 2021 (Hours)</b>	<b>October 14, 2021 (Hours)</b>
<b>USBP SWB</b>	<b>All</b>	55.53	54.24	40.39
	<b>UCs</b>	44.04	29.40	22.63
	<b>FMUs</b>	61.03	61.21	48.82
<b>RGV Sector</b>	<b>All</b>	50.40	50.24	42.14
	<b>UCs</b>	45.38	30.51	19.70
	<b>FMUs</b>	53.51	57.63	50.58

*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. Individuals entering CBP custody with identified COVID concerns are taken from the CBP facility to a local health care facility for further assessment, COVID-19 testing, and treatment as appropriate. 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.

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

<sup>17</sup> TIC represents the amount of time a child is in CBP custody, beginning at the time of apprehension through the time of 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. EDT on a particular day. For example, if a child was arrested at 12:00 a.m. EDT on October 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 October 9, 2021, and remained in custody on October 10, 2021, that child's TIC would be captured at 30 hours when TIC was pulled on October 10, 2021.

<sup>18</sup> The average TIC 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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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>19</sup> As of the filing date of this report, the government may still expel single adults and family units 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>20</sup> Family units 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.

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 and

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<sup>19</sup> See, 86 Fed. Reg. 42828 (August 5, 2021).

<sup>20</sup> See, 86 Fed. Reg. 38717 (July 22, 2021).

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corresponding UC family members who may test negative are isolated in a neighboring soft-sided facility and generally transferred to an ORR facility within 12 hours.

#### *Updated Medical Guidance Issued*

CBP continues to work closely with the Independent Monitor/Special Master and Independent Medical Expert and values their feedback. In consultation with, and at the recommendation of, the Independent Medical Expert, USBP issued guidance to across the SWB on October 25, 2021 advising agents to provide relevant medical documentation to ORR upon transfer of UCs. Consistent with the CBP Enhanced Medication Directive, this updated guidance ensures UCs receive continuity of medical care when transferred from USBP to ORR.

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

CPC-DNT continues to serve as the primary hub for processing and holding children and families in RGV Sector, and I understand that CPC-DNT continues to operate in a manner consistent with my and JCO's onsite observations from previous site visits. I understand that CPC-DNT 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. I will continue to engage with RGV Sector and monitor conditions of custody across the SWB.

#### 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.