

APRIL 8, 2022
CBP JUVENILE
COORDINATOR REPORT

1300 Pennsylvania Avenue, NW
Washington, DC 20229



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

April 8, 2022

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

4/7/2022

X A handwritten signature in black ink, appearing to read "Henry A. Moak, Jr.", is written over a horizontal line. To the left of the signature is a small "X" mark.

Signed by: HENRY A MOAK JR

SUBJECT: CBP Juvenile Coordinator April 8, 2022 Interim Report

On February 7, 2022, 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 April 8, 2022, 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 February 7, 2022 Order. This report builds on the information provided in the previous interim reports submitted on January 15, 2021, March 5, 2021, April 9, 2021, June 4, 2021, July 23, 2021, September 3, 2021, October 29, 2021, and January 21, 2022. 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.

CBP Juvenile Coordinator April 8, 2022 Interim Report
Page 2

Census of Class Members

In February 2022, CBP saw a slight uptick in the total number of encounters along the SWB, with most encountered noncitizens expelled under Title 42.¹ Nationwide, there was a 2% increase in the number of unique individuals encountered in February 2022 compared to January 2022; however, most of those encounters were with single adults.² There was a 37% increase in the number of unaccompanied children (UCs), leading to an average of 520 UCs in CBP custody per day in February compared to 295 per day in January.³ Family unit individual (FMUs) encounters decreased by 17% from January to February 2022, which was a 69% decrease from the peak in August 2021.⁴ Only 29% (7,773) of all FMUs were processed for expulsion under Title 42, with the majority (18,809) processed under Title 8.⁵

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 December 2021, January 2022, and February 2022

	December 2021⁶	January 2022⁷	February 2022⁸	% Change⁹
CBP Single Adults	115,321	113,749	126,151	11%
CBP UCs/ Single Minors	11,887	8,760	12,011	37%
CBP FMUs¹⁰	51,744	31,998	26,582	-17%
CBP AMs¹¹	304	238	229	-4%

¹ See, “CBP Releases February 2022 Monthly Operational Update, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-february-2022-monthly-operational-update> (last visited April 4, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See, *U.S. Border Patrol and Office of Field Operations Encounters FY 2022*, U.S. Department of Homeland Security, Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, (last visited April 4, 2022, 2022).

⁷ *Id.*

⁸ *Id.*

⁹ Percent change is from January 2022 to February 2022.

¹⁰ 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 noncitizen parent(s) or legal guardian(s).

¹¹ 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. Comparison of CBP Encounters in October to February FY 21 to FY 22

	FY 21¹²	FY 22¹³	% Change
CBP Single Adults	327,082	579,873	77%
CBP UCs/ Single Minors	29,588	59,368	101%
CBP FMUs	40,341	198,183	391%
CBP AMs	538	1,261	134%

Table 3. USBP RGV Sector Encounters December 2021 to February 2022

	December 2021¹⁴	January 2022¹⁵	February 2022¹⁶	% Change¹⁷
RGV Single Adults	23,688	18,752	20,622	10%
RGV UCs	6,221	4,244	5,743	35%
RGV FMUs	13,940	7,228	7,473	3%

Table 4. Comparison of USBP RGV Sector Encounters in October to February FY 21 to FY22

	FYTD 21¹⁸	FYTD 22¹⁹	% Change
RGV Single Adults	69,468	104,925	51%
RGV UCs	11,235	31,048	176%
RGV FMUs	16,892	65,336	287%

¹² 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 April 4, 2022).

¹³ *Id.*

¹⁴ 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 April 4, 2022).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Percent change refers to January 2022 to February 2022.

¹⁸ See, *Southwest Land Border Encounters by Component: Fiscal Year 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 April 4, 2022).

¹⁹ *Id.*

CBP Juvenile Coordinator April 8, 2022 Interim Report
Page 4

Table 5 represents the average daily number of individuals in USBP custody across the SWB and, more specifically, in RGV Sector, for the months of December 2021 to February 2022.

Table 5. USBP Average Daily Subjects in Custody²⁰

	December 2021	January 2022	February 2022
USBP SWB Average	12,527	8,858	7,493
RGV Average	3,417	1,975	2,376

Table 6 provides specific information regarding the number of class members in USBP custody across the SWB and in RGV Sector as of March 10, 2022, at 6:00 a.m. Eastern Standard Time (EST). The March 10, 2022 date was selected to provide a snapshot of the number of class members in USBP custody during the time this report was compiled.

**Table 6. Class Members in USBP Custody on
March 10, 2022 at 6:00 a.m. EST²¹**

	SWB	RGV Sector
Number of UCs	565	207
Number of FMU Children	1,252	489
TOTAL	1,817	696

Lastly, Table 7 depicts the average length of time children were in USBP custody across the SWB and in RGV Sector.²² 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 October 2021, November 2021, December 2021, January 2022, February 2022, and March 10, 2022. The average TIC on March 10, 2022 was provided to depict a more recent snapshot of the average TIC for class members as of the time this report was compiled.

²⁰ 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 April 4, 2022).

²¹ The census of class members in USBP and RGV Sector custody as shown in Table 6 was provided to JCO by USBP for the purpose of this report. This is not official data published on cbp.gov.

²² TIC represents the amount of time an individual 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. EST on a particular day. For example, if a child was arrested at 12:00 a.m. EST on March 10, 2022, then the child would have a TIC of six hours when TIC was compiled for that day. Likewise, if a child was apprehended at 12:00 a.m. EST on March 9, 2022, and remained in custody on March 10, 2022, that child's TIC would be captured at 30 hours when TIC was pulled on March 10, 2022.

Table 7. Class Members Average USBP Time in Custody²³

		October 2021	November 2021	December 2021	January 2022	February 2022	March 10, 2022
		(Hours)	(Hours)	(Hours)	(Hours)	(Hours)	(Hours)
USBP SWB	All	48.34	52.6	60.14	71.59	52.42	41.67
	UC	27.53	35.63	31.65	22.01	22	20.01
	FMU	56.35	60.16	68.49	81.72	66.01	51.04
RGV Sector	All	43.53	52.27	57.48	53.78	53.55	39.15
	UC	25.26	38.18	32.73	20.09	20.75	18.04
	FMU	51.08	60.65	69.39	67.36	70.7	48.09

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-19 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 arrival, 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 are or have been in CBP custody and may have tested positive for COVID-19.

Monitoring Personnel

As described in my June 4, 2021 report, I have a dedicated team of six individuals who report directly to me and whose primary responsibility is monitoring the Agency's compliance with the FSA. I am confident in the Juvenile Coordinator's Office's (JCO) continued ability to monitor 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

²³ The average TIC for class members in USBP facilities as shown in Table 7 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.

CBP Juvenile Coordinator April 8, 2022 Interim Report
Page 6

Countries Where a Quarantinable Communicable Disease Exists (August 2, 2021).²⁴ As of the filing date of this report, the government may still expel single adults and FMUs 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 March 11, 2022, the CDC published a *Public Health Reassessment and Immediate Termination of Order Suspending the Right to Introduce Certain Persons from Countries Where a Communicable Disease Exists with Respect to Unaccompanied Noncitizen Children*, “conclud[ing] that UC should not be subject to the CDC Orders based on the current public health circumstances.”²⁵ On April 1, 2022, the CDC published a *Public Health Determination and Order Regarding the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*, which terminates the CDC Order issued on August 2, 2021 and all related prior CDC Orders. This termination will be implemented on May 23, 2022, to enable DHS to implement appropriate COVID-19 mitigation protocols, such as scaling up a program to provide COVID-19 vaccinations to migrants, and to enable DHS to prepare for full resumption of processing under traditional Title 8 immigration legal authorities. Until May 23, 2022, CDC expects DHS to continue to apply case-by-case exceptions, based on the totality of each individual’s circumstances, as outlined in the Order. Thus, FMUs continue to be processed in multiple ways depending on various factors as described in my April 9, 2021 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 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 Executive Order 13991 and updated CDC guidelines on masking, beginning on March 4, 2022, CBP revised indoor masking requirements within federal office spaces in low-risk localities. However, the COVID-19 Community Levels do not apply in operational settings, where employees should follow CBP Job Hazard Analysis guidance. Therefore, inside CBP holding areas or when interacting with individuals in custody, CBP personnel are required 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 any

²⁴ See, 86 Fed. Reg. 42828 (August 5, 2021).

²⁵ See, 87 Fed. Reg. 15243 (March 17, 2022).

CBP Juvenile Coordinator April 8, 2022 Interim Report
Page 7

accompanying UC family members (such as siblings) who may test negative are isolated and generally transferred to an ORR facility within 12 hours.

In late March 2022, at limited sites across the SWB (including RGV Sector), CBP started providing a first dose of COVID-19 vaccines to age-appropriate noncitizens found inadmissible under Title 8, who were taken into custody, and who are unable to provide proof of a previous CDC or WHO-approved vaccine. This is subject to operational constraints and provided as medically appropriate. Vaccines are provided through contract vendors at certain CBP sites. UCs are not part of this program; vaccines are only offered to accompanied children as part of a family unit.

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

CPC-Ursula reopened on March 1, 2022. The renovations included the removal of chain-link fencing, installation of appropriate physical security infrastructure, an HVAC system for enhanced climate control, and updated shower and laundry facilities. At the time of filing this report, no juveniles were held at this facility.