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U.S. Border Patrol Apprehensions and Title 42 Expulsions at the Southwest Border: Fact Sheet

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Introduction

In FY2022, U.S. Border Patrol (USBP) apprehended more than 2.2 million foreign nationals (aliens)¹ crossing into the United States illegally between ports of entry, the largest number in its history. The apprehended migrants were either placed into removal proceedings (under Title 8 of the U.S. Code, immigration law) or expelled from the United States (under Title 42 of the U.S. Code, public health).²

Prior to the start of the COVID-19 pandemic in March 2020, all apprehended migrants³ were processed under Title 8 and placed into removal proceedings, where they could apply for asylum or other humanitarian protections. On March 20, 2020, in response to the pandemic, the Centers for Disease Control and Prevention (CDC) invoked authority under Title 42 to limit entry of certain foreign nationals to reduce the risk of the spread of COVID-19, including those intending to apply for asylum and other humanitarian protections. The order directs Department of Homeland Security's (DHS's) Customs and Border Protection (CBP) to expel certain unauthorized migrants at land borders back to the country from which they arrived, or to their country of citizenship.⁴ There have been some changes to implementation protocols and practices along the way.⁵ As of the cover date of this fact sheet, Title 42 is still in effect.⁶ All data shown here was compiled by Congressional Research Service (CRS) staff using information from CBP.⁷ Only encounters with USBP are shown.⁸

USBP Encounters at the Southwest Border

Figure 1 shows the annual number of USBP enforcement encounters from FY2012 to FY2022. An uptick in apprehensions in FY2019 was followed by the onset of the COVID-19 pandemic, which stalled migration levels worldwide, and is reflected in a decline in the number of total encounters. In FY2020, approximately half of all encounters ended in Title 42 expulsions and half were processed into Title 8 removal proceedings. Total USBP encounters rose markedly to nearly 1.7 million encounters in FY2021, the highest number ever recorded at that time.⁹ In FY2021,

¹ *Foreign national (alien)* refers to a person who is not a U.S. citizen or a U.S. national, as defined in 8 U.S.C. §1101(a)(3). The definition includes persons both legally and not legally present in the United States.

² For further information, see CRS Infographic IG10031, *U.S. Border Patrol Encounters at the Southwest Border: Titles 8 & 42*; and CRS Report R46999, *Immigration: Apprehensions and Expulsions at the Southwest Border*.

³ In this fact sheet, *migrant* refers to a person who has temporarily or permanently crossed an international border illegally, is no longer residing in his or her country of origin or habitual residence, and is not recognized as a refugee. Migrants may include asylum seekers. The term migrant is not defined in statute.

⁴ Title 42 is in place at U.S. land borders with Mexico and Canada. In FY2022, more than 95% of enforcement encounters occurred at the Southwest border.

⁵ The August 2021 CDC order superseding prior Title 42 orders explicitly excludes unaccompanied children. Another change was that for a period in 2021, to reduce the amount of time in CBP custody, USBP began releasing many members of family units into the United States during enforcement encounters without placing them into removal proceedings. These migrants were required to report to Immigration and Customs Removal (ICE) within 60 days in order to obtain charging documents. See U.S. Government Accountability Office (GAO), *Southwest Border: Challenges and Efforts Implementing New Processes for Noncitizen Families*, GAO-22-105456, September 2022.

⁶ For more information, see CRS Legal Sidebar LSB10874, *COVID-Related Restrictions on Entry into the United States Under Title 42: Litigation and Legal Considerations*.

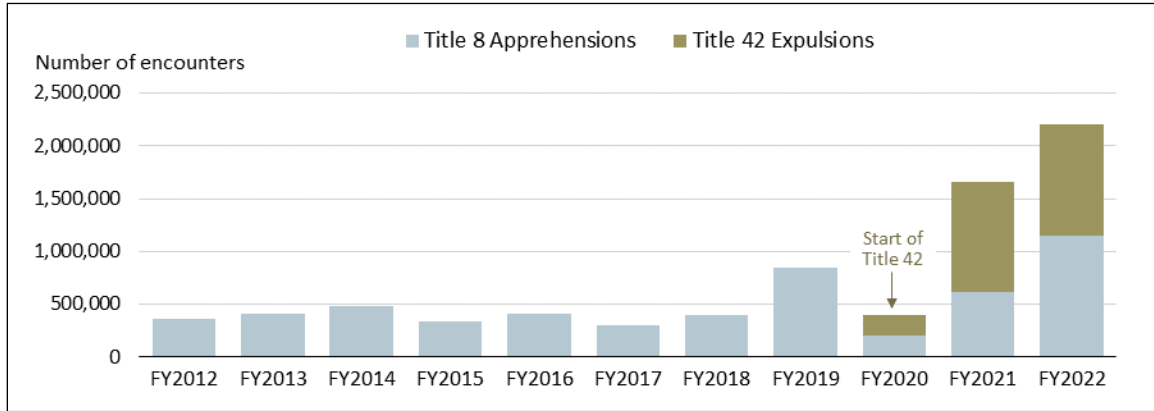
⁷ CBP, Nationwide Encounters: Nationwide, Southwest Land Border and Northern Land Border Encounters, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁸ In FY2022, USBP handled 89% of all encounters at the Southwest border, and CBP's Office of Field Operations (OFO) handled the remaining 11%.

⁹ See USBP, "USBP Southwest Border Sectors, Total Encounters by Fiscal Year, FY1960-FY2022,"

63% of encounters resulted in migrants being expelled and the remaining 37% of migrants were placed into removal proceedings. Encounters increased further in FY2022, to a new record of 2.2 million; 48% of these resulted in expulsions and 52% in removal proceedings.¹⁰

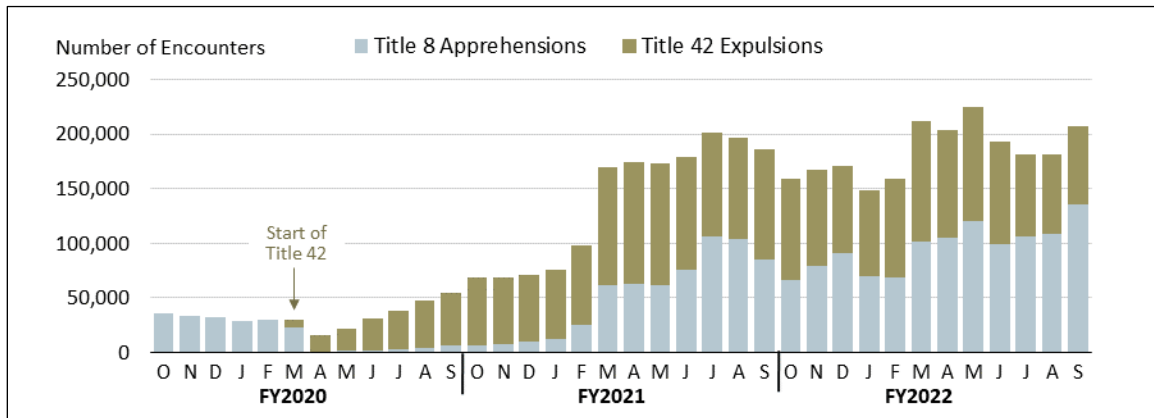
Figure 1. Annual USBP Encounters by Enforcement Policy, FY2012-FY2022



Source: Created by CRS, based on CBP, Nationwide Encounters: Nationwide, Southwest Land Border and Northern Land Border Encounters, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

Monthly border enforcement encounters have varied considerably since the implementation of Title 42 (Figure 2). Early in the pandemic, the number of encounters was relatively low, but it increased through the end of FY2020. Encounters continued to rise in FY2021, and have remained high throughout FY2022. The proportion of encounters that put migrants into Title 8 removal proceedings began to surpass the number ending in Title 42 expulsions in April 2022 and continued through the end of FY2022.

Figure 2. Total Monthly USBP Encounters by Enforcement Policy



Source: Created by CRS, based on CBP, Nationwide Encounters: Nationwide, Southwest Land Border and Northern Land Border Encounters, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

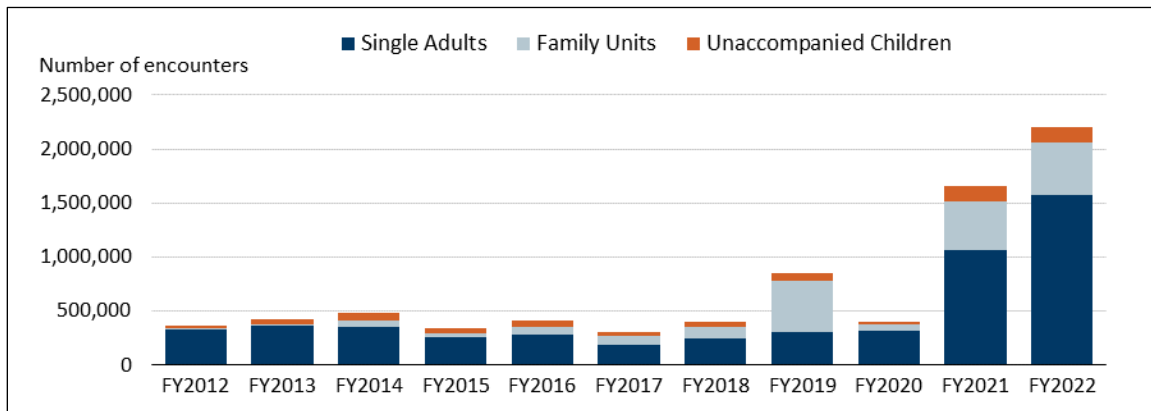
<https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/US59B8~1.PDF>.

¹⁰ Encounter statistics refer to counts of interactions between USBP and migrants, and not counts of unique individuals. People who are expelled under Title 42 and attempt to enter the country a second time or more are counted each time. Unlike those processed under Title 8, where there are legal penalties for being apprehended more than once, Title 42 carries no such penalty, so those expelled may try to enter the United States multiple times.

Encounters by Demographic Category

CBP classifies apprehended migrants into three categories: single adults (a migrant not traveling with a child under age 18), family units (at least one parent or legal guardian and at least one child under age 18), and unaccompanied children (UC). Historically, single adults have comprised the vast majority of migrants encountered by USBP; in FY2012, they made up 90% of all apprehensions (**Figure 3**). However, in FY2019 family units accounted for 56% of all encounters, a slight majority for the first time, while single adults and UC accounted for 35% and 9%, respectively. In FY2020, the demographic composition of migrants returned to the previous trend of being mostly single adults. However, in FY2021 and FY2022 there were still nearly half a million encounters with individuals in family units, which is on par with FY2019 but represented a smaller proportion of overall encounters. In both FY2021 and FY2022, USBP encountered roughly 150,000 UC, almost double the previous record of 76,000 in FY2019.¹¹

Figure 3. Annual USBP Encounters by Demographic Category



Source: Created by CRS, based on CBP, Nationwide Encounters: Nationwide, Southwest Land Border and Northern Land Border Encounters, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

Encounters by Country of Citizenship

USBP has apprehended migrants from over 100 origin countries. One important shift in recent years has been in the composition of the origin countries of encountered migrants. **Figure 4** presents two panels on encounter trends by migrant country of citizenship. The top panel shows three migrant country groups: Mexico, the Northern Triangle Countries (El Salvador, Guatemala, and Honduras), and all other countries combined into a single group termed *historically atypical*.

For most of its history, USBP primarily apprehended migrants from Mexico. There have been some major shifts and fluctuations in the past decade or so, including an increasing share of all encounters that can be attributed to migrants from the three Northern Triangle countries. The number of migrants from those countries first surpassed the number from Mexico in FY2014, and in FY2019 the number from that region had *far* surpassed Mexican migrants.

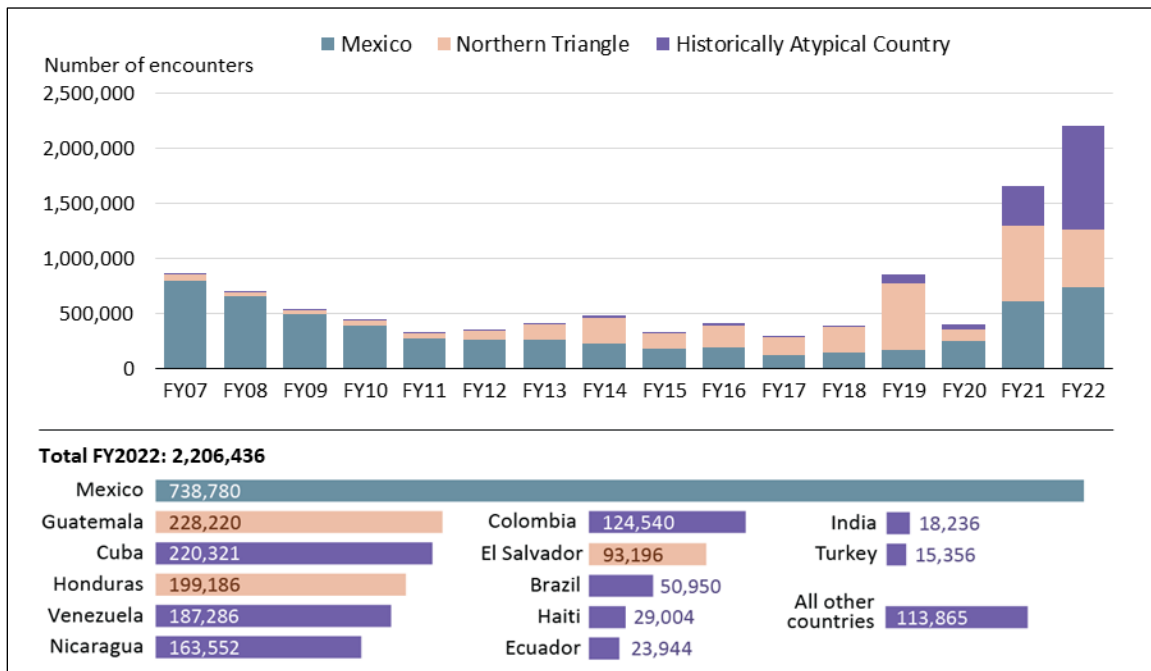
The greatest growth has occurred with the number of migrants encountered from historically atypical countries. In FY2011, there were less than 8,000 encounters with migrants from historically atypical countries, which amounted to 3% of apprehensions. In FY2022, they constituted 40% of total encounters, or nearly 1 million in absolute terms.

¹¹ For more information on UC, see CRS Report R43599, *Unaccompanied Alien Children: An Overview*.

The Mexican government has agreed to accept certain migrants expelled from the United States based on their nationality (currently, Mexican, El Salvadoran, Guatemalan, Honduran, and Venezuelan). Other migrants may be expelled to their home country, but detention and removal by air to their home country often requires additional DHS resources. In addition, DHS cannot easily apply Title 42 to migrants from certain atypical countries, or removal under Title 8, due to strained diplomatic relationships between these countries and the United States.¹²

The bottom panel of **Figure 4** provides more detail on the USBP encounters by country of citizenship for FY2022 and shows statistics for the 13 largest source countries. Among the nationalities of migrants with the largest number of encounters are Cuban, Venezuelan, and Nicaraguan. Together there were more than half a million encounters from these three countries, the vast majority processed through Title 8. DHS is limited in the number of migrants from those countries who it may remove or expel to Mexico or their home countries.¹³

Figure 4. USBP Encounters by Migrant Country of Citizenship



Source: Created by CRS, based on CBP, Nationwide Encounters: Nationwide, Southwest Land Border and Northern Land Border Encounters, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

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¹² See DHS and Office of Inspector General, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, OIG-19-28, March 11, 2019; and DHS, *Privacy Impact Assessment Update for the Enforcement Integrate Database (EID)*, DHS/ICE/PIA-015(i), December 3, 2018.

¹³ As of mid-October, an agreement with Mexico permits DHS to expel Venezuelans to Mexico. For more information, see CRS Insight IN12040, *New Immigration Policies Related to Venezuelan Migrants*.

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