

Increasing Numbers of Unaccompanied Alien Children at the Southwest Border

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In just the first eight months of FY2021, the number of [encounters \(apprehensions or expulsions\) of unaccompanied alien children \(UAC\)](#) at the U.S.-Mexico border with the Department of Homeland Security's (DHS's) U.S. Customs and Border Protection (CBP) [has exceeded the previous fiscal year peak](#) that occurred in FY2019. While the number of UAC encounters declined substantially from FY2019 to FY2020, in large part because of the COVID-19 pandemic, they [have rapidly increased since February 2021](#). March 2021 UAC encounters (18,724) were the highest monthly total on record. Subsequent monthly figures have declined somewhat but [are expected to continue at the current elevated rate](#) for the rest of FY2021.

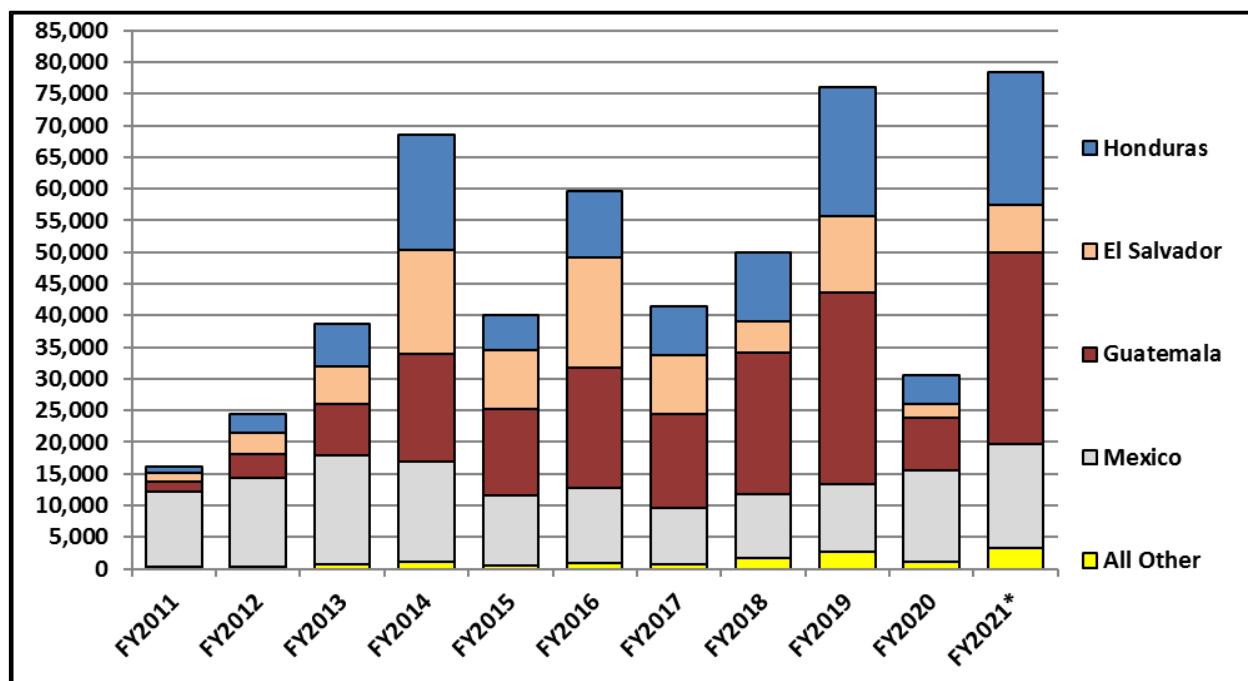
The Department of Health and Human Services (HHS) Centers for Disease Control and Prevention (CDC) continues to exercise an authority under Title 42 of the U.S. Code (public health) that permits DHS to rapidly expel all individuals without a valid visa or who are apprehended between official ports of entry in order to prevent the spread of COVID-19 (expulsions). Expulsions for UAC were [halted by a federal judge](#) in November 2020, and [formally rescinded](#) by the Biden Administration in February 2021. All unaccompanied children are now being apprehended under Title 8 of the U.S. Code (immigration law), as in prior years.

[Unaccompanied alien children](#) are statutorily defined as children who lack lawful immigration status in the United States, are under age 18, and lack a parent or legal guardian in the United States or a parent or legal guardian in the United States who is available to provide care and physical custody. UAC treatment and processing at U.S. borders are governed by [several statutes and a legal settlement](#). These provisions require that arriving unaccompanied children from noncontiguous countries be transferred to the custody of HHS's Office of Refugee Resettlement (ORR) and allowed to [apply for asylum](#) or other forms of immigration relief. In contrast, the law permits CBP to quickly repatriate Mexican and Canadian unaccompanied children who are not trafficking victims or who do not fear persecution in their countries.

[UAC apprehensions](#) have fluctuated substantially in the past decade. They increased from 16,067 in FY2011 to 68,541 in FY2014, a record high at the time. They declined to 39,970 in FY2015, increased to 59,692 in FY2016, declined to 41,435 in FY2017, and increased to 50,036 in FY2018. In FY2019, UAC apprehensions reached a new record high of 76,020. FY2020 saw a decline to 30,557 [encounters](#) (19,618 Title 8 apprehensions and 10,939 Title 42 expulsions, which only occurred in the second half of the fiscal year) because of the COVID-19 pandemic. In the first eight months of FY2021, encounters reached 78,513 (73,871 apprehensions and 4,642 expulsions, which only occurred in the first two months of the fiscal year).

Currently, most apprehended UAC originate from Mexico and the *Northern Triangle* countries of El Salvador, Guatemala, and Mexico (**Figure 1**). In FY2011, Mexican children accounted for 73% of UAC apprehensions, while those from Northern Triangle countries accounted for 25%. By FY2021, these proportions had flipped to 21% and 75%, respectively.

Figure 1. UAC Apprehensions at Southwest Border by Country of Origin, FY2011-FY2021*



Sources: FY2011-FY2013: U.S. Border Patrol, "Juvenile and Adult Apprehensions—Fiscal Year 2013." FY2014-FY2018: Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector FY2018." FY2019-FY2021: Customs and Border Protection, "[Southwest Border Apprehensions by Sector Fiscal Year 2021](#)."

Notes: *FY2021 figures represent eight months or two thirds of the fiscal year, from October 1, 2020, through May 31, 2021. Figures for FY2020 and FY2021 include Title 8 apprehensions and Title 42 expulsions. Figure 1 does not present statistics on UAC deemed inadmissible, because they are unavailable prior to FY2017.

Most UAC encounters have occurred in the [El Paso, Rio Grande, and Tucson border sectors](#). Among those referred to ORR in the first six months of FY2021, 28% have been female and 12% have been under the age of 13.

Several federal agencies handle the apprehension, processing, and repatriation or U.S. placement of UAC. CBP apprehends, processes, and initially detains UAC encountered along U.S. borders. DHS's U.S. Immigration and Customs Enforcement (ICE) transports UAC from CBP custody to ORR custody. ORR shelters and places UAC with sponsors, usually family members, as they await an immigration hearing. Most UAC apply for asylum, and DHS's U.S. Citizenship and Immigration Services [adjudicates initial asylum petitions](#). The Department of Justice's Executive Office of Immigration Review conducts immigration proceedings that allow testimony to be presented. During these proceedings, an immigration judge determines whether a UAC is removable or qualifies for relief that allows him or her to remain in the United States. ICE repatriates UAC who are ordered removed.

Declining UAC apprehensions in FY2020 led [ORR to reduce housing capacity](#) within its network of state-licensed shelters. In addition, because ORR followed CDC public health guidelines that led to a reduction in the number of children housed in its network of state-licensed shelters, it did not have the capacity to house large numbers of children when referrals significantly increased in January 2021. Consequently, many UAC were housed temporarily in CBP facilities (which were not designed to hold

children) for longer than the 72-hour limit mandated by law. CDC has recently directed ORR to relax its guidelines and to accommodate children at full capacity. CDC maintains that [relaxing guidelines at ORR shelters](#), despite potential health risks, is preferable to prolonged stays in CBP facilities.

To move UAC promptly out of CBP custody, ORR has sought to open previously used and new *temporary influx facilities* and *emergency intake sites* to supplement its existing network of state-licensed shelters. Such temporary facilities are typically used for less than a year to accommodate sudden increases in UAC apprehensions. These facilities are [quicker and easier to scale up](#), and considerably larger than conventional ORR-supervised shelters. They are often sited on federally owned or leased properties and typically are not subject to state or local childcare licensing requirements. However, child advocates contend that [extended stays in these facilities can cause lasting emotional trauma for children](#), and that ORR should more quickly place children with their sponsors.

Related [Biden Administration initiatives](#) include [rescinding a biometric and legal status information-sharing agreement](#) between ORR and DHS that some contend discouraged noncitizens and unauthorized persons from sponsoring unaccompanied children, authorizing ORR shelter operators to [pay for some children's transportation costs](#), and restarting [the Central American Minors \(CAM\) program](#) that allows children to apply for asylum without traveling to the United States.

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