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U.S. Border Patrol Encounters at the Southwest Border: Fact Sheet

May 16, 2023

Congressional Research Service

<https://crsreports.congress.gov>

R47556

Introduction

In FY2022, the U.S. Border Patrol (USBP) encountered 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.² In the first six months of FY2023, USBP encountered nearly 1.1 million migrants. These 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 (public health).

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 Department of Health and Human Services (HHS) declared a public health emergency and 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.⁴ The order directed the Department of Homeland Security's (DHS's) Customs and Border Protection (CBP) to immediately expel certain unauthorized migrants at land borders back to the country from which they arrived, or to their country of citizenship, without providing them with the opportunity to apply for asylum.⁵ Title 42 implementation changed in protocol and practice throughout its more than three-year duration.⁶ The March 2020 public health emergency declared by HHS expired on May 11, 2023, which also ended Title 42.⁷ A host of policy changes have been implemented as of that date.⁸

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 All data shown were compiled by Congressional Research Service (CRS) staff using information from Customs and Border Protection (CBP). Only encounters with USBP are shown. See CBP, *Nationwide Encounters: Nationwide Encounters*, at <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

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 Centers for Disease Control and Prevention (CDC), "Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes," 85 *Federal Register* 16559-16567, March 20, 2020. The March 2020 order and a subsequent order in October 2020 were superseded by an August 5, 2021, order: CDC, "Public Health Reassessment and Order Suspending the Right To Introduce Certain Persons From Countries Where a Quarantinable Communicable Disease Exists," 86 *Federal Register* 42828-42841, August 5, 2021.

⁵ Title 42 was in place at U.S. land borders with Mexico and Canada. In FY2022, more than 95% of USBP enforcement encounters occurred at the Southwest border. In the first six months of FY2023, more than 99% of such encounters occurred at the Southwest border.

⁶ For example, the August 2021 CDC order superseding prior Title 42 orders explicitly excluded unaccompanied children from being subject to Title 42. Also, for a period in 2021, to reduce the amount of time in CBP custody, USBP released 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.

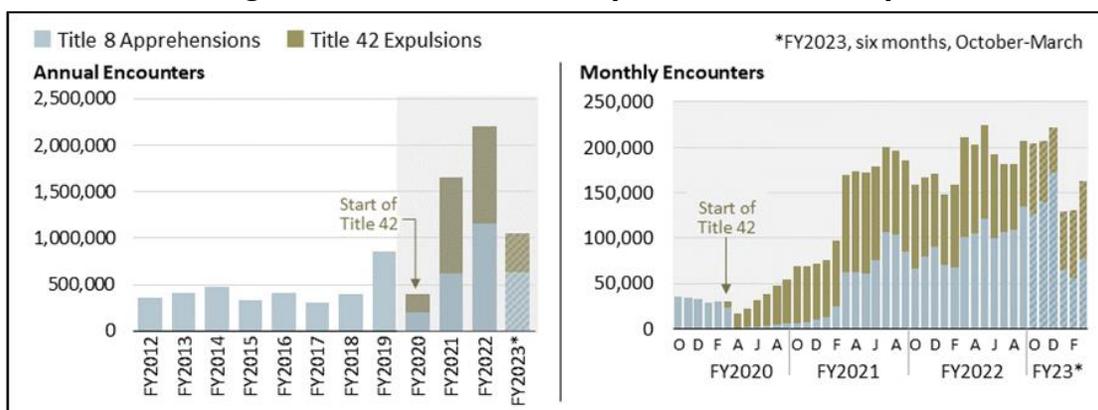
⁷ U.S. Department of Health and Human Services (HHS), "COVID-19 Public Health Emergency (PHE)," press release, March 2, 2023, <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html>.

⁸ Among the policy changes is a final rule issued by DHS and the Department of Justice that created a "rebuttable presumption of ineligibility" for asylum. The rule applies to migrants arriving at the southwest land border or adjacent coastal borders without valid documents after transiting through another country if they did not seek asylum in that third country or avail themselves of certain lawful pathways to enter the United States. See CRS Legal Sidebar LSB10961, *The Biden Administration's Final Rule on Arriving Aliens Seeking Asylum*.

USBP Encounters at the Southwest Border

Figure 1 (left panel) shows the annual number of USBP enforcement encounters from FY2012 through the first six months of FY2023. An uptick in encounters 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, 63% of encounters resulted in expulsions. Encounters increased further in FY2022, to a new record of 2.2 million; 48% of these resulted in expulsions.¹⁰ In the first six months of FY2023, there were nearly 1.1 million encounters, with 40% resulting in expulsions and 60% in removal proceedings.

Figure 1. 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>.

Notes: Statistics from past months are sometimes adjusted when new data are released. Totals reflected in past versions of this figure may be adjusted as necessary to reflect these updates.

Monthly border enforcement encounters generally trended upward during the implementation of Title 42 (**Figure 1**, right panel).¹¹ Early in the pandemic, the number of encounters was relatively low, and the majority were expelled under Title 42. The proportion of overall encounters that put migrants into Title 8 removal proceedings began to surpass the number expelled under Title 42 in April 2022 and continued through December 2022. In January, February, and March 2023, Title 42 expulsions surpassed the number of migrants put into Title 8 removal proceedings.¹²

⁹ See USBP, “USBP Southwest Border Sectors, Total Encounters by Fiscal Year, FY1960-FY2022,” <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 were expelled under Title 42 and attempted to enter the country a second time or more were counted each time. Unlike those processed under Title 8, where there are legal penalties for being apprehended more than once, Title 42 carried no such penalty, so those expelled may have tried to enter the United States multiple times.

¹¹ During the period Title 42 was in effect, recidivism (more than one illegal entry attempt in a year) more than doubled over the period FY2015-FY2021, in large part due to the lack of penalties for those expelled if they attempted entry again. See CBP, CBP Enforcement Statistics Fiscal Year 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

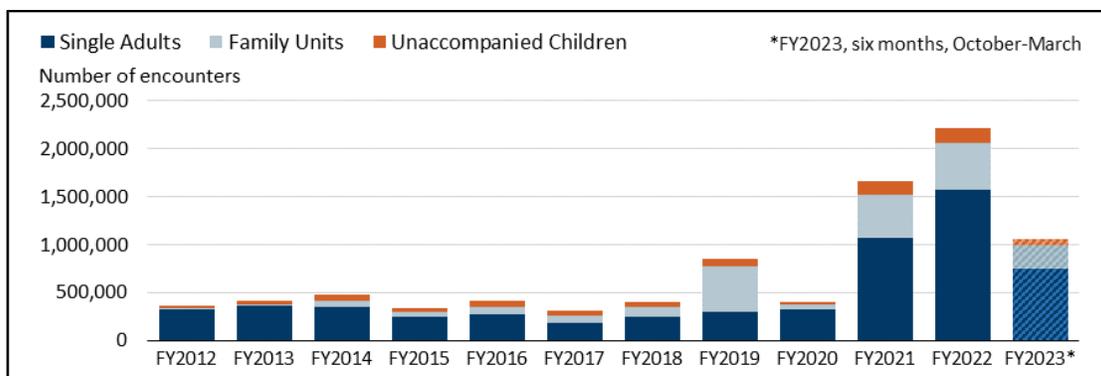
¹² These shifts in trends are, in part, related to new policies put into place that affect encountered migrants from Cuba, Haiti, Nicaragua, and Venezuela. In October 2022, a parole process was initiated for Venezuelans, and a similar (continued...)

Encounters by Demographic Category

CBP classifies encountered 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), 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 encounters (**Figure 2**). 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 encountered migrants returned to the previous trend of being mostly single adults. In FY2021 and FY2022 there were still nearly half a million encounters with individuals in family units, which was on par with FY2019, but constituted a smaller proportion of overall encounters (27% and 22% of all encounters, respectively). In the first six months of FY2023, there were nearly 241,000 encounters with individuals in family units, accounting for 23% of all encounters. In each of FY2021 and FY2022, USBP encountered roughly 150,000 UC (9% and 7% of encounters, respectively), almost double the previous record of 76,000 in FY2019 (9%).¹³ In the first six months of FY2023, USBP encountered nearly 68,000 UC, which was 6% of all encounters during that time.

Figure 2. USBP Encounters by Demographic Category, FY2012-FY2023 YTD



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

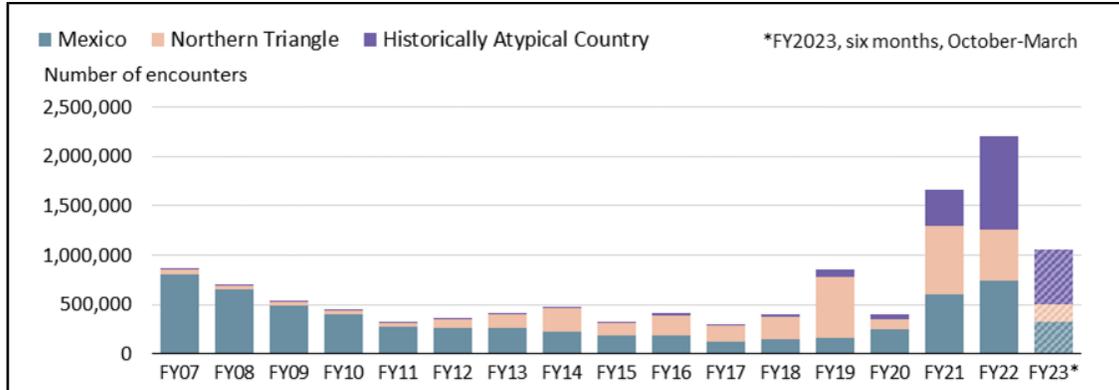
An important shift in recent years has been in the changing composition of encountered migrants' origin countries. **Figure 3** shows encounter trends among three migrant origin country categories: Mexico, the *Northern Triangle* countries (El Salvador, Guatemala, and Honduras), and all other countries combined into a single category, termed *historically atypical*. For most of its history, USBP primarily encountered migrants from Mexico, but in the past decade, a growing share of encounters involved migrants from the Northern Triangle. The aggregate number of migrants from the Northern Triangle first surpassed that of Mexico in FY2014, and in FY2019 the number

process was initiated in January 2023 for nationals from Cuba, Haiti, and Nicaragua. These processes allow certain individuals outside the United States from these four countries to apply for permission to enter the United States temporarily. Others encountered from the four countries were expelled to Mexico under Title 42, by agreement with Mexico. See DHS, "DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes," <https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and>.

¹³ For more information on UC, see CRS Report R43599, *Unaccompanied Alien Children: An Overview*.

far surpassed that of Mexico. However, since then—with the exception of FY2021—the number of encounters of Mexican migrants has exceeded that of Northern Triangle migrants.

Figure 3. USBP Encounters by Migrant Country of Citizenship, FY2007-FY2023 YTD



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>.

The greatest growth in the past five years has been of migrants from historically atypical countries. In FY2011, fewer than 8,000 encountered migrants (3% of all encounters) originated from historically atypical countries. In contrast, by FY2022 the nearly 1 million migrants from historically atypical countries constituted 43% of total encounters. In the first six months of FY2023, migrants from historically atypical countries (557,310) accounted for 53% of total encounters (1,055,320).¹⁴

During the period that Title 42 was in effect, the Mexican government had agreed to accept certain migrants expelled from the United States based on their nationality. DHS sometimes expelled other migrants to their home countries, but detention and removal by air transportation often requires more DHS resources. In addition, DHS could not easily apply Title 42 to migrants from certain atypical countries due to strained diplomatic relationships between these countries and the United States; therefore, they often were processed under Title 8.¹⁵

¹⁴ In FY2022, the largest number of encounters were of migrants from Mexico, comprising 34% (738,780) of the total, followed by Guatemala (10%, 228,220) Cuba (10%, 220,321), Honduras (9%, 199,186), and Venezuela (9%, 187,286). In the first half of FY2023, the top five countries of origin for encountered migrants were Mexico, comprising 31% (325,846) of the total, followed by Cuba (11%, 112,582), Nicaragua (9%, 94,407), Colombia (8%, 88,121), and Guatemala (8%, 82,835).

¹⁵ 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.

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