U.S. Border Patrol Encounters at the Southwest Border: Titles 8 & 42

The U.S. Border Patrol (USBP) is part of the Department of Homeland Security's (DHS's) Customs and Border Protection (CBP). When USBP encounters a migrant entering the United States illegally between ports of entry, they are processed for removal under Title 8 (immigration law) and asked whether they fear persecution or intend to seek asylum. However, at the start of the Coronavirus Disease 2019 (COVID-19) pandemic in March 2020, the Centers for Disease Control and Prevention (CDC) issued an order requiring USBP to use an additional procedure at the border under Title 42 (public health code). This policy prohibits the entry of certain migrants to prevent the introduction of COVID-19 into border facilities and the United States. Individuals subject to the order are not held in congregate areas for processing and not given a credible fear interview to pursue the asylum process. Instead they are swiftly expelled to Mexico or their countries of origin. The focus of this infographic is on the Southwest border; migrants arriving at the Northern border between ports of entry are subject to the same processes but make up a small share of total USBP encounters.

U.S. Border Patrol Encounter

Title 8

Expedited Removal — *No hearing*

- Credible fear **not** shown → Removal
- Credible fear shown → Formal Removal

Formal Removal — *Hearing*

- Detention
- Release into the U.S.
- Migrant Protection Protocols *(MPP)*

Title 42

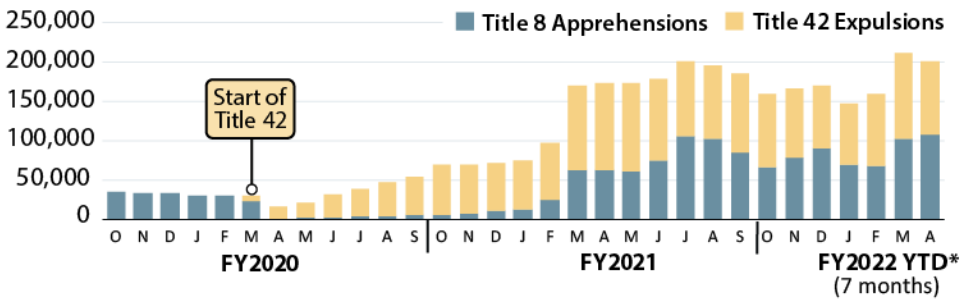
COVID-19 Pandemic

Expulsion

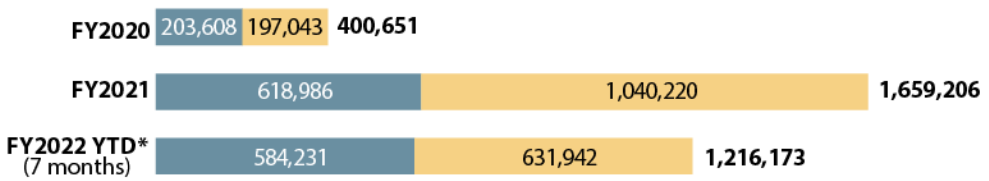
- Exceptions — Unaccompanied children and others on a case-by-case basis → Formal Removal
- Mexico — Expulsion to Mexico
- Country of citizenship — Expulsion to country of citizenship

USBP Encounters at the Southwest Border, Fiscal Year (FY) 2020-FY2022 Year-to-Date (YTD) (7 months)*

Monthly Encounters



Annual Encounters



*FY2022 monthly encounters data may be updated by CBP with each new release of monthly data. FY2022 monthly and annual data reflected in previous versions of this infographic have been adjusted to reflect CBP data updates.

Sources: Centers for Disease Control and Prevention (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; Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions, FY2020-FY2022, https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics. Information as of May 17, 2022. Prepared by Audrey Singer, Specialist in Immigration Policy, and Brion Long, Visual Information Specialist. For more information, see CRS Report R46999, Immigration: Apprehensions and Expulsions at the Southwest Border.

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