

Increasing Numbers of Unaccompanied Alien Children at the Southwest Border

March 25, 2021

In the first five months of FY2021, [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) are [approaching a level](#) close to that for all of FY2020. While the number of UAC encounters declined substantially from FY2019 to FY2020, in large part because of the Coronavirus Disease 2019 (COVID-19) pandemic, they are [expected to rapidly increase](#) in the coming months, a trend that has attracted considerable media attention.

The Department of Health and Human Services' (HHS's) Centers for Disease Control and Protection (CDC) is currently exercising 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). Under the Biden Administration, unaccompanied children have been exempted from this policy and are [no longer being expelled](#) under Title 42. Instead, they are being taken into custody under Title 8 of the U.S. Code (immigration law), as in prior years (apprehensions).

[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 is governed by [several statutes and a legal settlement](#). These provisions require that UAC who arrive at the U.S. border and are not from contiguous 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. Special provisions permit CBP to quickly repatriate Mexican and Canadian unaccompanied children who are not trafficking victims or who do not fear persecution in their home 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, they 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) because of the COVID-19 pandemic. In the first five months of FY2021, encounters reached 29,010 (24,369 apprehensions and 4,641 expulsions).

According to CBP data, almost all UAC apprehended at the Southwest border originate from Mexico and the "Northern Triangle" countries—Honduras, El Salvador, and Guatemala. (**Figure 1.**) In FY2011, Mexican children accounted for 73% of UAC apprehensions, while those from the Northern Triangle countries accounted for 27%. By FY2019, the proportions had flipped, with Mexican nationals

Pocket Constitution



The Declaration of Independence
The Constitution of the United States
The Bill of Rights
Amendments XI–XXVII
Gettysburg Address

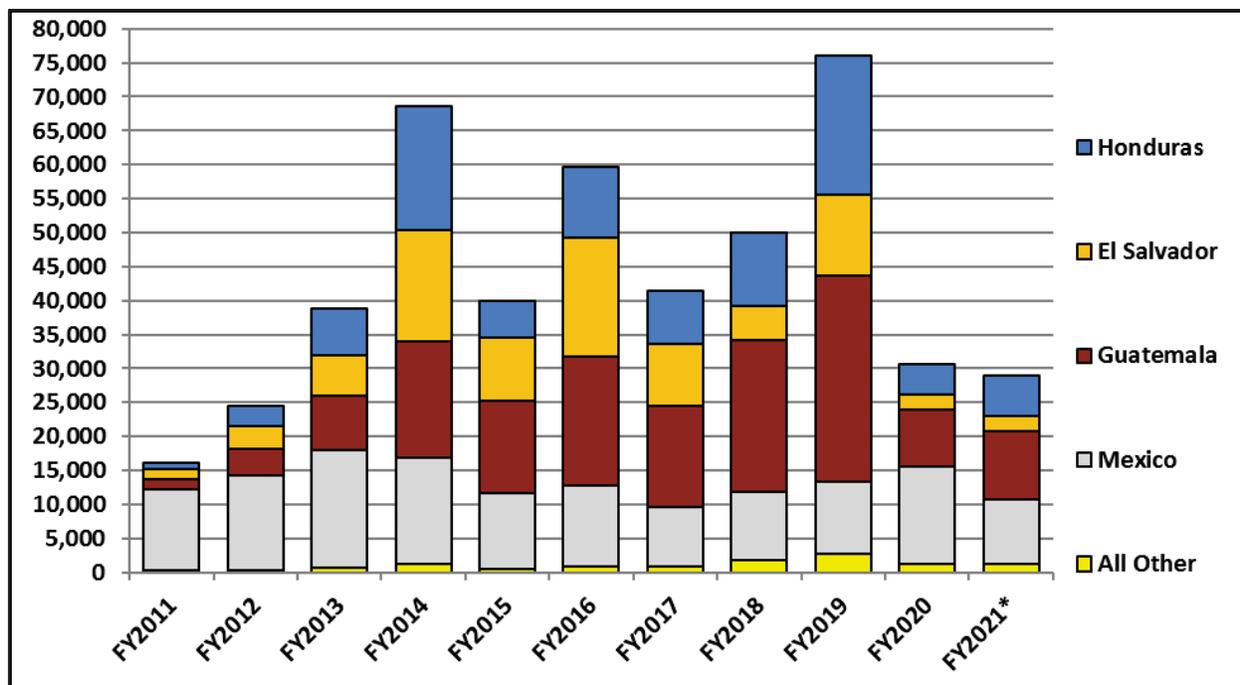


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comprising 14% of all UAC apprehensions, and nationals from the Northern Triangle countries comprising 86%. More recently, the Mexican proportion has increased while that of El Salvador has sharply decreased.

Figure I. 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: U.S. Customs and Border Protection, “U.S. Border Patrol Southwest Border Apprehensions by Sector FY2018.” FY2019-FY2021: U.S. Customs and Border Protection, “Southwest Border Apprehensions by Sector Fiscal Year 2021.”

Notes: *FY2021 figures represent five months, from October 1, 2020, through February 28, 2021. Figures for FY2020 and FY2021 include Title 8 apprehensions and Title 42 expulsions. Figure I 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 since FY2011, 31% have been female and 16% have been under age 13.

Several federal agencies handle the apprehension, processing, and repatriation of UAC. CBP apprehends, processes, and initially detains UAC arrested 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 (USCIS) [adjudicates initial asylum petitions](#). The Department of Justice’s (DOJ’s) Executive Office of Immigration Review (EOIR) 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.

Because ORR was following CDC public health guidelines that limited the number of children housed in its network of state-licensed shelters, the agency was unable to house the surge of unaccompanied children needing care since January 2021. In recent months, many UAC have been staying 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 COVID-19 guidelines at ORR shelters, despite potential health risks, is preferable to prolonged stays in CBP facilities.

The Biden Administration has [expanded federal efforts](#) to move UAC more quickly out of CBP border facilities. ORR has sought to open previously used and new temporary *influx care facilities* to supplement its existing network of state-licensed shelters. Influx facilities are considerably larger than conventional ORR-supervised shelters and typically sited on federally owned or leased properties. As such, they are not subject to state or local childcare licensing requirements. Influx facilities are typically used for less than a year to accommodate sudden increases in UAC apprehensions.

Other 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](#), which allows children to apply for asylum without traveling to the United States.

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