

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

STATE OF LOUISIANA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 6:22-CV-00885-RRS-CBW
)	
CENTERS FOR DISEASE CONTROL)	
& PREVENTION, <i>et al.</i> ,)	
)	
Defendants.)	

DEFENDANTS' MONTHLY REPORT FOR THE MONTH OF JANUARY 2023
PURSUANT TO THE COURT'S PRELIMINARY INJUNCTION

Pursuant to the Court’s May 20, 2022 preliminary injunction order, ECF No. 91, Defendants herein provide, subject to the caveats discussed below, data showing, for the month of January 2023, (1) the number of single adults processed under Title 42 and Title 8 by country, (2) the number of recidivist border crossers for whom the U.S. Customs and Border Protection (“CBP”), Department of Homeland Security (“DHS”), has applied expedited removal, (3) the number of migrants that have applied for a humanitarian exception through the CBP One mobile application and have been granted a Title 42 exception,¹ and (4) any material changes to policy regarding DHS’s application of the Title 42 process.

1. The number of single adults processed under Title 42 and Title 8 by country.

Below is the data for single adult encounters by CBP at the Southwest land border for the period of January 1–31, 2023.

Component	Citizenship	Title 42	Title 8	Total
OFO	ARGENTINA	0	1	1
	ARMENIA	5	95	100
	AUSTRALIA	1	2	3
	AZERBAIJAN	0	1	1
	BELARUS	0	33	33
	BELGIUM	0	3	3
	BELIZE	0	7	7
	BOLIVIA	0	1	1
	BRAZIL	3	1	4
	CAMEROON	0	1	1
	CANADA	3	6	9
	CHILE	0	4	4
	CHINA, PEOPLES REPUBLIC OF	3	17	20
	COLOMBIA	3	60	63
	CUBA	6	143	149

¹ As Defendants explained in their last monthly report, nongovernmental organizations (NGOs) previously scheduled appointments for noncitizens seeking a humanitarian exception from the Title 42 order. *See* ECF No. 174 at 7. Such direct assistance by NGOs ceased on January 25, 2023; noncitizens now make appointments directly through the CBP One mobile application. *See id.* at 6–7.

DOMINICAN REPUBLIC	0	14	14
ECUADOR	8	12	20
EGYPT	0	2	2
EL SALVADOR	2	174	176
ETHIOPIA	1	1	2
GEORGIA	0	1	1
GERMANY	3	4	7
GUATEMALA	13	142	155
GUINEA	1	0	1
HAITI	0	2,004	2,004
HONDURAS	30	726	756
INDIA	0	4	4
IRAN	0	4	4
IRAQ	0	1	1
ISRAEL	0	1	1
ITALY	2	5	7
JAMAICA	0	9	9
JAPAN	0	2	2
JORDAN	0	1	1
KAZAKHSTAN	0	7	7
KYRGYZSTAN	0	20	20
LEBANON	0	2	2
MEXICO	1,419	3,839	5,258
MOLDOVA	0	1	1
MOROCCO	0	1	1
NEPAL	0	1	1
NETHERLANDS	2	1	3
NICARAGUA	1	34	35
NIGER	0	1	1
NIGERIA	0	2	2
PAKISTAN	0	2	2
PANAMA	0	1	1
PERU	1	11	12
PHILIPPINES	0	1	1
PORTUGAL	0	1	1
ROMANIA	0	2	2
RUSSIA	9	1,766	1,775
SAUDI ARABIA	0	2	2
SOMALIA	0	3	3

	SOUTH KOREA	2	0	2
	SPAIN	8	18	26
	SWEDEN	0	3	3
	SWITZERLAND	2	0	2
	TAIWAN - REPUBLIC OF CHINA	1	0	1
	TAJKISTAN	0	7	7
	TUNISIA	0	1	1
	TURKEY	0	2	2
	UKRAINE	0	4	4
	UNITED KINGDOM	3	5	8
	UNKNOWN	2	5	7
	UZBEKISTAN	0	6	6
	VENEZUELA	9	3,911	3,920
	VIETNAM	0	1	1
	OFO Total	1,543	13,143	14,686
USBP	AFGHANISTAN	0	410	410
	ALBANIA	0	28	28
	ALGERIA	0	5	5
	ANGOLA	0	339	339
	ARGENTINA	0	11	11
	ARMENIA	0	18	18
	AZERBAIJAN	0	26	26
	BAHAMAS	0	2	2
	BANGLADESH	0	69	69
	BELARUS	0	13	13
	BELIZE	0	131	131
	BENIN	0	9	9
	BOLIVIA	0	74	74
	BRAZIL	0	434	434
	BURKINA FASO (UPPER VOLTA)	0	43	43
	CAMEROON	0	273	273
	CAPE VERDE, REPUBLIC OF	0	2	2
	CENTRAL AFRICAN REPUBLIC	0	1	1
	CHAD	0	4	4
	CHILE	0	3	3
	CHINA, PEOPLES REPUBLIC OF	1	943	944
	COLOMBIA	686	4,438	5,124
	COSTA RICA	0	27	27
CUBA	1,854	2,364	4,218	

DEMOCRATIC REPUBLIC OF CONGO (ZAIRE)	0	124	124
DOMINICAN REPUBLIC	1	4,366	4,367
ECUADOR	944	2,585	3,529
EGYPT	0	51	51
EL SALVADOR	1,788	286	2,074
EQUATORIAL GUINEA	0	7	7
ERITREA	0	110	110
ETHIOPIA	0	44	44
GAMBIA	0	10	10
GEORGIA	0	420	420
GERMANY	0	1	1
GHANA	1	196	197
GUADELOUPE	1	0	1
GUATEMALA	6,771	514	7,285
GUINEA	0	84	84
GUINEA-BISSAU	0	6	6
GUYANA	0	1	1
HAITI	12	22	34
HONDURAS	5,344	377	5,721
INDIA	0	2,030	2,030
IRAN	0	20	20
IRAQ	0	3	3
IRELAND	0	3	3
ITALY	0	1	1
IVORY COAST	0	6	6
JAMAICA	0	211	211
JAPAN	0	1	1
JORDAN	0	8	8
KAZAKHSTAN	0	64	64
KENYA	0	3	3
KOSOVO	0	18	18
KYRGYZSTAN	0	103	103
LATVIA	0	1	1
LEBANON	0	14	14
LIBERIA	0	1	1
MALAWI	0	1	1
MALI	0	18	18

MAURITANIA	0	278	278
MEXICO	35,381	10,034	45,415
MOLDOVA	0	13	13
MOROCCO	0	9	9
MOZAMBIQUE	0	4	4
NAMIBIA	0	1	1
NEPAL	0	130	130
NICARAGUA	1,692	912	2,604
NIGER	0	1	1
NIGERIA	1	70	71
PAKISTAN	0	47	47
PANAMA	0	27	27
PARAGUAY	0	3	3
PERU	43	2,354	2,397
POLAND	0	1	1
REPUBLIC OF CONGO (BRAZZAVILLE)	0	52	52
REPUBLIC OF SOUTH AFRICA	0	1	1
ROMANIA	0	47	47
RUSSIA	0	410	410
RWANDA	0	5	5
SAUDI ARABIA	0	1	1
SENEGAL	0	212	212
SERBIA	0	2	2
SIERRA LEONE	0	7	7
SOMALIA	0	117	117
SPAIN	0	1	1
SRI LANKA	0	111	111
SUDAN	0	7	7
SYRIA	0	15	15
TAJIKISTAN	0	61	61
TANZANIA	0	1	1
THAILAND	1	1	2
TOGO	0	10	10
TURKEY	0	869	869
TURKMENISTAN	0	2	2
UGANDA	0	1	1
UKRAINE	0	3	3
URUGUAY	0	2	2

	UZBEKISTAN	0	261	261
	VENEZUELA	1,525	141	1,666
	VIETNAM	0	237	237
	YEMEN	0	3	3
	USBP Total	56,046	37,841	93,887
	CBP Total	57,589	50,984	108,573

2. The number of recidivist border crossers for whom DHS has applied expedited removal.

From January 1–31, 2023, U.S. Border Patrol (“USBP”) applied expedited removal, 8 U.S.C. § 1225(b)(1), to 1,319 single adults who attempted to unlawfully enter the United States between a port of entry and who had previously been encountered by USBP and processed under Title 42 or Title 8 at least one time since March 20, 2020.

3. The number of migrants that have been excepted from Title 42 for humanitarian reasons.

From January 1–31, 2023, CBP’s Office of Field Operations processed 21,881 Title 42 humanitarian exceptions for noncitizens who applied through the CBP One mobile application. The below shows the data broken down by port.

- Brownsville, TX: 5,929
- Hidalgo, TX: 4,235
- Laredo, TX: 606
- Eagle Pass, TX: 1,650
- Paso del Norte, El Paso, TX: 2,168
- Nogales, AZ: 800
- Calexico, CA: 668
- San Ysidro, CA: 5,825

4. Any material changes to policy regarding DHS’s application of the Title 42 process.

DHS reports the following developments relating to its application of the Title 42 process.

End of the Public Health Emergency

CDC's August 2021 Title 42 order provides that it "shall remain effective" until "the expiration of the Secretary of HHS' declaration that COVID-19 constitutes a public health emergency." 86 Fed. Reg. at 42,841. On February 9, 2023, the HHS Secretary renewed the declaration of public health emergency until May 11, 2023. *See* Renewal of Determination that a Public Health Emergency Exists (Feb. 9, 2023), <https://perma.cc/M7F7-C4AY>; *see also* 42 U.S.C. § 247d. The Administration has further stated that "at present," its plan is for the public health emergency to end on May 11, 2023. OMB, *Statement of Administration Policy: H.R. 382 and H.J. Res. 7* (Jan. 30, 2023), <https://perma.cc/LPQ4-TC3Y>. Accordingly, absent other relevant developments, the operative Title 42 order will terminate automatically on May 11, 2023, when the public health emergency ends.

USBP Assessment of Resource Demands for Title 8 Processing

Counsel for Defendants recently learned that in December 2022 and January 2023, a number of Mexican single adults were returned to Mexico using voluntary departure under Title 8 rather than being expelled to Mexico under Title 42 and that a small number of Mexican single adults may have been placed in section 1229a removal proceedings under Title 8 rather than being expelled under Title 42. Specifically, from December 6, 2022 to January 20, 2023, U.S. Border Patrol (USBP) conducted an informal assessment to predict the expected resource demands that would occur once Title 42 order was no longer in effect, especially the capacity needed to process individuals who are placed into removal proceedings under Title 8. USBP tested whether exercising its discretion to permit voluntary departure would be a viable mechanism to promptly remove those who do not seek to make a protection claim and thereby reduce the time in CBP custody. *See* 8 U.S.C. § 1229c(a)(1) (DHS may "permit an alien voluntarily to depart the United States at the alien's own expense . . . , in lieu of being subject to [removal] proceedings under section 1229a" of Title 8). Additionally, USBP needed to begin to assess the overall impact on operations. To that end, USBP offered approximately 11,000

Mexican single adults the choice between (i) voluntarily departing the United States or (ii) being placed in removal proceedings under section 1229a. Virtually all of the approximately 11,000 individuals offered the choice decided to voluntarily depart and were immediately returned to Mexico by USBP. The number of Mexican single adults processed with a Notice to Appear during the period of December 6 to January 20 was not significantly different than the number of those noncitizens processed similarly over the preceding 46 days (292 during this period compared to 251 the preceding 46 days).

Because the noncitizens offered voluntary departure under Title 8 otherwise would have been expelled under Title 42, this assessment likely was inconsistent with CDC's August 2021 Title 42 order. Undersigned counsel and Blas Nuñez-Neto, Acting Assistant Secretary for Border and Immigration Policy, who certified the last monthly report, did not become aware of this assessment until recently, after it was already concluded. Defendants regret the error and the delay in reporting this assessment.

Date: February 16, 2023

Respectfully submitted,

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