

Recommendations to End Separation of Asylum-Seeking and Migrant Families

President Biden's February 2, 2021 Executive Order [14011](#) ("Establishment of Interagency Task Force on the Reunification of Families") created an Interagency Task Force on the Reunification of Families (Task Force) and directed it to provide the President "a report containing recommendations to ensure that the Federal Government will not repeat the policies and practices leading to the separation of families at the border." The Trump administration's zero-tolerance policy, along with other Trump administration policies, aimed to separate families, prevent their reunification, and/or return them to dangers so severe that family separations ensue. The Biden administration has not yet ended many of these dangerous policies and practices and, in some cases, continues to embrace, implement, and/or expand such policies. To date, the [needs](#) of the families deliberately separated by the U.S. government – for both accountability and [compensation](#) – have gone unmet.

In December 2021, the Department of Homeland Security (DHS) [sought public comment](#) on ways to minimize the separation of migrant parents or legal guardians and their children entering the United States, consistent with law. The comments below by Human Rights First are informed by its extensive research and monitoring of the treatment of individuals and families seeking protection in the United States. Our research has repeatedly documented U.S. officials, including those from DHS and the Department of Justice (DOJ), using criminal prosecutions to inflict family separation and other penalties on families and other people seeking refugee protection in the United States. In addition, the Trump and Biden administrations have used other policies, intended to deter people from seeking refuge or migrating to the United States, that result in the separation of children from their parents and caregivers.

From its extensive research and reporting over the last six years – some of which is replicated for the Task Force's convenience in the Appendix below – Human Rights First found that:

- Under the Trump administration, Customs and Border Protection (CBP) used stepped up criminal prosecutions and the "zero tolerance" policy to [separate](#) thousands of [children](#) from their parents and caretakers as it referred the adults in nearly all cases for criminal prosecution under the unauthorized entry/re-entry statutes (8 U.S.C § 1325/1326).
- The Trump administration's [third-country transit asylum ban](#) and [other rules](#) that purposefully leave refugees with the inadequate protection of withholding of removal, as well as the [one-year filing deadline ban](#), deny protection to accompanying children and deprive refugees of the ability to reunite with family members stranded abroad.
- Policies that block, return, or expel asylum-seeking and other migrant families to danger in Mexico – [including Remain in Mexico \(RMX\)](#) (officially termed the Migrant Protection Protocols), [Title 42 expulsions](#), and [metering](#) (the policy of reducing or limiting the number of asylum seekers processed) at U.S. ports of entry – drive many family separations. In some cases, CBP separates families, forcing some family members to remain in danger in Mexico while other are permitted to seek asylum in the United States. Family separations also occur as parents or children are kidnapped or disappeared in Mexico and other desperate parents and caretakers are forced to choose between keeping their children with them in a place where their lives are in danger, or sending them across the border to U.S. safety on their own.
- Years-long asylum adjudication [backlogs and delays](#) in the [immigration courts](#) and the U.S. Citizenship and Immigration Services (USCIS) [Asylum Office](#) are also precipitating family separation, leaving refugee parents unable to reunite with their children who may be stranded abroad in danger.

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- The [unnecessary and punitive jailing](#) of asylum seekers in immigration [detention](#) centers cruelly separates parents and caregivers from their [children](#), including the practice of detaining of some adult family members while releasing other family members to continue their cases in the community.
 - DHS's discretionary use of [reinstatement of removal](#) prevents refugees with prior removal orders from seeking asylum, leaving them with only the [inadequate relief](#) of withholding of removal and often permanently separated from family.

The Human Rights First reports excerpted in the Annex below provide numerous examples of family separations that have resulted from these U.S. border, detention, and asylum policies.

Key Recommendations

As Human Rights First has previously recommended, and outlined below, the Biden administration should:

- **End the criminalization of migration**, which separates families, violates due process, and breaches the Refugee Convention, including:
 - issue public guidance that directs DHS to end referrals of parents and other adult caregivers accompanied by children for prosecutions for unauthorized entry/re-entry to limit family separations;
 - issue public guidance that directs DHS to end referrals of asylum seekers – including parents, guardians, and other adults – for prosecutions for unauthorized entry/re-entry, which generally violate Article 31 of the Refugee Convention;
 - issue public guidance that instructs DOJ attorneys not to bring or continue prosecutions for unauthorized entry/re-entry against asylum seekers as well as parents or caregivers who have been separated from their children; and
 - work with Congress to repeal and revise the unauthorized entry/re-entry statutes so that these matters are handled through civil laws, and asylum seekers are not subjected to such prosecutions.
- **End the use of Remain in Mexico, Title 42, metering, and other policies that improperly turn away people seeking life-saving protection in the United States.** Family members returned to these dangers have been kidnapped, disappeared, and in some cases killed in Mexico. The threat of this acute violence often pushes migrant and asylum-seeking families to send children alone to safety in the United States.
- **Formally rescind the Trump-era third-country asylum transit, asylum entry, and public health bans** which can result in family members, including children, being denied protection and prevent asylum seekers from reuniting with family members who may be stranded abroad in danger. In addition, work with Congress to eliminate similar provisions in law, including the one-year filing deadline ban.
- **End DHS policy and practice of detaining parents and caregivers who have been separated from children and other adult family members**, in addition to other steps to end detention that violates human rights law.
- **Do not separate children from accompanying non-parental caregivers** – generally a family member such as a grandparent, aunt, or older sibling. These caretakers may be the person best suited to care for the child during immigration proceedings, or the only person able to provide critical information regarding the child, including past trauma, past mental or physical health needs, or other circumstances, and family contacts.
- **Address backlogs and delays in asylum adjudication in immigration courts and the Asylum Office**, which frequently leave refugees separated from family members for years awaiting a decision on their requests for U.S. protection.

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- **Exercise DHS's discretion to not reinstate prior removal orders** in order to avoid limiting refugees from receiving asylum and being able to reunite with family members stranded abroad, particularly in the wake of the Supreme Court's harmful decision in *Guzman-Chavez*.
 - **Take steps to ensure that the reception and processing of families and other people seeking refuge in the United States is managed, directed, and overseen by officials, agencies and non-profits with humanitarian, child welfare, and refugee protection expertise, rather than by CBP.**

Appendix: Excerpts from Prior Human Rights First Reports Addressing Policies and Practices that Cause Family Separations

I. Imposition of Criminal Penalties Separates Families, Violates Due Process and the Refugee Convention

[“Punishing Refugees and Migrants: The Trump Administration’s Misuse of Criminal Prosecutions”](#) (January 2018)

- CBP is separating children from their parents in order to refer the parents for criminal prosecution. The Trump Administration is regularly separating children from their parents and caretakers for the purpose of prosecuting the adults. Numerous federal criminal defense attorneys reported an increase in family separations and helped desperate parents locate their children—often after going days to weeks not knowing where they were being held. Federal criminal defense attorneys noted a marked shift, including an increase in prosecutions of first-time entrants.
 - After implementing Sessions’ memos, the federal court in Tucson, Arizona went from hearing between 10 and 40 cases a day to regularly hearing 75 per day—an increase fueled by prosecutions of first-time entrants. Attorney General Sessions issued memoranda in April and May, instructing all federal prosecutors to make “immigration offenses higher priorities,” including orders to target “first-time improper entrants.”
 - During court observations of over 700 cases, no CBP agents, DOJ prosecutors, or federal judges showed deference of the prohibition, under **Article 31 of the Refugee Convention**, on penalizing asylum seekers for illegal entry—even though DHS’s Office of Inspector General (OIG) raised a concern about DHS referring asylum seekers for prosecution in a 2015 report.... **Criminal prosecutions thwart access to asylum, sending asylum seekers back to countries where they face persecution, in violation of treaty obligations.**
 - **Experts have emphasized that prosecuting immigration offenses imposes broader social costs by diverting scarce judicial and prosecutorial resources away from prosecutions of more serious crimes, and by separating families and forcing children into foster care.**
- According to the Florence Immigrant and Refugee Rights Project (FIRRP) in southern Arizona, there were at least 100 children held in Phoenix-area shelters in the custody of the U.S. Department of Health and Human Services in late 2017 whom CBP had separated from their parents at the border. In most of those cases, according to FIRRP attorneys, border agents had forcibly separated children from their parents to refer the parents for prosecution on charges of illegal entry or illegal reentry.
- "Cristian," who is albino, as well as his nine-year-old daughter, "Paula," faced severe threats by gangs in Guatemala. In July 2017, Cristian and Paula entered the United States in Arizona where they were apprehended by border agents and separated. Paula was sent to the custody of the Office of Refugee Resettlement. Cristian was prosecuted through Operation Streamline in Tucson and sentenced to 75 days for illegal entry.
- A father, mother, and 15-year-old daughter fled government threats in Venezuela in May 2017 and entered the United States near Presidio, Texas. Upon apprehension, the family handed border patrol agents U.S. forms requesting asylum. Despite their clear indication of an intent to seek asylum, border patrol [separated](#) the girl from her mother and referred her parents for criminal prosecution. They then pled guilty to illegal entry. The daughter was sent to foster care.

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- A mother and her three young children fled El Salvador and crossed into the United States near El Paso, Texas. The mother told border patrol agents that she had received death threats and needed asylum. Although she presented the children's birth certificates, immigration officials took her children from her, and they were placed in federal foster care in New York. Agents detained the mother and subsequently convicted her of illegal entry.
 - Two mothers from El Salvador were separated from their 16- and 13-year-old children. After crossing into the United States via the Rio Grande River, border agents apprehended two mothers and separated them from their children. A federal prosecutor then charged the mothers with illegal entry—providing neither mother with information regarding where their children were sent, or how to contact them. One mother explained to the magistrate judge presiding over her criminal hearing that the only information a border patrol agent would provide was that her son “was going to be taken to where the government puts them.” When she told the judge “I’m worried...not knowing anything about him,” he responded, “I would be very worried as well if it was me.”
 - A Honduran grandmother was separated from her seven-year-old grandson. According to the grandmother, border patrol agents, after apprehending her and her grandson near the southern border, told her “to say goodbye to your grandson because it's going to be days that you won't see him.” They referred her for criminal prosecution for illegal entry. She later explained to the federal judge that while they gave her a paper when she was arrested, she could not understand what it said. The judge responded, “that doesn't sound real helpful.”
 - Two fathers from Honduras were separated from their sons. Two fathers from Honduras were arrested and prosecuted for illegal entry and separated from their 14- and 11-year-old sons. They were given no information regarding their whereabouts or how to find them.¹⁰⁵ One father explained to the judge in federal criminal court proceedings that he had been told by border patrol that his 14-year-old son would be taken “to an institution for children.”

“Zero Tolerance” Cruelty: Separating Families at our Southern Border (June 2018)

- When parents crossing the border are referred for criminal prosecution, they are forcibly separated from their children. Considered “unaccompanied” due to the separation, the children are placed into the custody of the Office of Refugee Resettlement (ORR), within the U.S. Department of Health and Human Services. ORR is then responsible for finding family members or foster families to care for the child. Separated family members often struggle to find each other, with some children or parents deported alone without information on how to reunite with the rest of their family. There is no process in place for the children to communicate with their parents, or for parents to receive information on where their children are being held. Additionally, when children are rendered unaccompanied, their legal cases are severed from their parents', which causes significant problems when their claims are linked or related.
- Mirian, a Honduran asylum seeker fleeing government persecution, presented at a port of entry in Brownsville, Texas with her 18-month-old son asking for protection. She presented several documents verifying their biological relationship, including his birth certificate. Despite this, she was forcibly separated from her son and sent to the Port Isabel Detention Center.
- Ms. G, a Mexican asylum seeker, presented at a port of entry in Nogales, Arizona with her blind six-year-old daughter and her four-year-old son. Ms. G presented documentation demonstrating her relationship to her children but was sent to the Eloy Detention Center while her children were sent into ORR custody.

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- A Honduran mother detained at the T. Don Hutto Residential Center was forcibly separated from her one year and nine-month-old son earlier this year after they requested asylum at a port of entry. She did not learn where her son was being held for two weeks.
 - A father, mother, and their 15-year-old daughter fled government threats in Venezuela in May 2017 and entered the United States near Presidio, Texas. Upon apprehension, the family handed border patrol agents U.S. forms requesting asylum. Despite their clear indication of an intent to seek asylum, border patrol [separated](#) the girl from her mother, placed her in a federal foster care center in El Paso, Texas, and referred her parents for criminal prosecution.
 - A mother and her three young children fled El Salvador and crossed into the U.S. near El Paso, Texas. The mother told border patrol agents that she had received death threats from a gang and needed asylum. Although she presented the children's birth certificates proving her relationship to them, immigration officials took her children away and placed them in federal foster care in New York. Agents then detained the mother and convicted her of illegal entry.

[“Zero-Tolerance Criminal Prosecutions: Punishing Asylum Seekers and Separating Families”](#) (July 2018)

- While U.S. Customs and Border Protection (CBP) was already separating some children from their parents, as Human Rights First detailed in its January 2018 report, separations escalated tremendously in the wake of the zero-tolerance policy. Between May 5 and June 9, 2018, alone, the government separated at least 2,235 families.
- CBP separated children from their parents and the parents were prosecuted for illegal entry and reentry. During June 2018, Human Rights First researchers observed criminal prosecutions of numerous parents who were desperately searching for their children. In one case, CBP agents took an 8-month-old baby from a mother who was then criminally prosecuted for the misdemeanor offense of illegal entry in El Paso.
- Despite the attorney general's assertions that criminal prosecution required the separation of children, leading former prosecutors specifically [explained](#) that “[t]he law does not require the systematic separation of families under these circumstances.”
- Three children, ages 8, 10, and 11, were taken from their mother “Elena” after CBP apprehended the asylum-seeking family. Elena reported that she was not permitted to say goodbye to her children and she was not told where her children were being taken. She was only given a flyer with contact information for a government hotline. Her attorney reported that when Elena met with him to discuss her pending criminal charge of illegal reentry, she was “devastated” and was screaming and crying.
- An 8-month-old boy and 16-year-old girl were taken from their mother “Linda” after the family was apprehended by CBP. Linda was then referred for prosecution for misdemeanor illegal entry. Days after apprehension, she had not received any information on the whereabouts of her child or how to figure out this information. In court, she was crying when the attorney and judge discussed her children and the separation.
- A toddler, less than two-years-old, was taken from his mother “Carmen” after she requested asylum at a U.S. port of entry. She waited two weeks before learning where her son was. She told Human Rights First that, “They put him in a car and he started to cry, but they closed the door and put me in another car. I couldn't go to him.” She was then detained at the T. Don Hutto Residential Center in Texas.
- A three-year-old Honduran boy was taken from his father “Luis” after they were apprehended by Border Patrol. The father was sent into the criminal justice system to be prosecuted for misdemeanor illegal entry. The father carried two copies of his son's birth certificate and both were seized at the time of arrest. Even

though the father was detained at a facility in El Paso, Texas, his son was sent to a shelter in Arizona. For several days the father did not know where his young son had been sent.

- A 16-year-old Central American girl who was seeking asylum in the United States was taken from her father “Carlos” after apprehension. Her father was subsequently prosecuted for misdemeanor illegal entry. He refused to plead guilty until his sister adopted his daughter because he feared that he would be deported separately from his daughter. His case was reset for July 2018.
- A 6-year-old Guatemalan girl was taken from her mother “Paula” after they were apprehended in the United States. Paula was then prosecuted for misdemeanor illegal entry.
- A 12-year-old Honduran girl was separated from her father “Samuel” after they were apprehended at the U.S.-Mexico border. Samuel was then prosecuted for misdemeanor illegal entry. He also has a U.S. citizen child.

II. Use of Title 42, Remain in Mexico, Metering, and Similar Policies Separate Families

[“The Refugee Caravan: Human Rights First’s Observations from the Border”](#) (May 2018)

- While the government denies that it has an official policy of family separation for those arriving at U.S. ports of entry, CBP and ICE have already separated hundreds of parents and children since October 2017, including some caravan members. In family separation cases, children are taken from their parents and put into the custody of the Office of Refugee Resettlement, while their parents are taken into ICE custody and sent to detention facilities. Parents often do not know where their children are, and there is no system for ensuring continued communication between parents and children, or timely resolution of any identity or custody concerns and reunification.
- One asylum seeker who was part of the caravan and who is currently separated from her children, said: “It hurts so much but there are times when the situation makes me despair. I get so depressed not having my children with me and there isn’t a second of peace for me while I don’t have my children by my side. Not a night goes by without me crying, thinking that they aren’t with me and that they need me...If you could feel the pain I feel as a mother maybe you would understand that it isn’t necessary to separate children from their parents because we come fleeing from our countries.”

[“Delivered to Danger: Illegal Remain in Mexico Policy Imperils Asylum Seekers’ Lives and Denies Due Process”](#) (August 2019)

- DHS uses MPP to separate families and has returned unaccompanied children, children with cancer, cerebral palsy, a heart condition, and other serious medical problems, as well as adults with serious medical and mental capacity issues. DHS returned a 27-year-old asylum seeker from Nicaragua with severe injuries she sustained during beatings by members of a paramilitary force, even though the woman required a wheelchair and medical attention while in custody.
- CBP uses MPP to separate families by returning some family members to Mexico leaving them at risk of harm there. Despite the purported end of DHS’s family separation policy following a June 2018 executive order, hundreds more children have been separated from their parents. Adult family members are also separated from minor siblings, nieces, nephews, grandchildren, and other children they care for even when they have legal guardianship. DHS, for example, returned a Guatemalan asylum seeker to Mexico under MPP and separated him from his younger brother over whom he had been granted legal custody after their father’s murder. Under MPP, adult family members have been returned to Mexico while their children are

placed in the shelters run by the Office of Refugee Resettlement (ORR) or processed with other adult family members.

- During an El Paso immigration court MPP hearing observed by Human Rights First on July 8, 19-year-old Fatima said that she had been separated from her five-year-old daughter: “Your Honor, I was separated from my daughter. I need to be with her. I’ve never been [apart] from her.” A victim of rape at 13, Fatima lacked identity documents at the time to register as her daughter’s mother. Fatima’s attorney, Taylor Levy, reported that CBP forced Fatima to accompany her daughter to an airport where she was taken from her mother and flown to an ORR facility for unaccompanied children. Fatima is awaiting the results of a DNA test to prove her relationship with her daughter.
- CBP sent Kimberlyne and her daughter to Mexico separating them from Kimberlyne’s husband and 7-year-old son when the girl fell ill in CBP custody. After days in makeshift CBP detention facilities under the Paso del Norte Bridge and a desert tent camp with limited food and heavily chlorinated water that burned their lips, Kimberlyne’s daughter collapsed. The child was sent to a local hospital with her mother. “When I returned to the camp with my daughter, my husband and son were gone. They’d been released. No one had told me that was happening,” Kimberlyne said. CBP returned Kimberlyne and her daughter to Mexico where a taxi driver kidnapped them outside of a Mexican migration office in Ciudad Juárez.
- CBP in El Paso also separated Blanca from her longtime partner and partner’s son, when they sought asylum after facing violence in Guatemala because of their sexual orientation. Blanca said, “[w]hen we told [Border Patrol] we were a couple, the officers in the green uniforms told us that if we weren’t married, we couldn’t stay together.” She was expelled to Mexico after 20 days in CBP holding cells. “No one ever asked if I was afraid of being in Mexico,” she said. “They just gave me papers to sign. That’s it.” In Juárez, Blanca and other asylum seekers were repeatedly robbed and assaulted.
- CBP separated Rohelia, a 24-year-old asylum seeker and her 15-year-old brother after they crossed the border in mid-April near the El Paso port of entry. Held for two weeks in a CBP tent camp, Rohelia reported that officers falsely told her she would be reunited with her brother but instead pressured her to sign documents acknowledging her return to Mexico under MPP. Rohelia was expelled to Ciudad Juárez around 3 o’clock in the morning in late April by CBP without anywhere to go. Her brother was sent to an ORR facility, and she has not seen him in more than three months.
- CBP separated Joana, an 18-year-old lesbian asylum seeker from Honduras, from her father while in CBP custody and returned her to Mexico without a fear screening. Joana’s father was expelled to Ciudad Juárez. When Joana was returned days later, her father had left the city as he was sick from his time in CBP custody and unable to find shelter. Joana too found herself with nowhere to stay in Ciudad Juárez and without her father to help protect her.

“Orders from Above: Massive Human Rights Abuses Under Trump Administration Return to Mexico Policy”
(October 2019)

- A Honduran asylum seeker and his nine-year-old son were expelled to Matamoros without a fear screening even though the man explained to CBP officers that he and his son had been kidnapped and that he was subsequently tortured by Mexican law enforcement officers in Tamaulipas who burned him with lit cigarettes. The man showed Human Rights First researchers several small circular scars on his stomach that appeared consistent with his account. He said a CBP officer threatened to separate him from his son if he persisted in insisting that he feared return to Mexico.
- In late September, a Honduran asylum seeker was kidnapped while travelling from Monterrey to Nuevo Laredo to attend an MPP hearing at the Laredo tent court with his 16-year-old son. Another asylum-seeking

family brought the boy to the port, where CBP processed him as an unaccompanied child given his father's disappearance. According to attorneys familiar with the case, the man remains missing.

- An 18-year-old young woman who DHS separated from her sister was returned to Nuevo Laredo, where she was reportedly kidnapped and raped.

“Human Rights Fiasco: The Trump Administration’s Dangerous Asylum Returns Continue” (December 2019)

- Human Rights First’s tally of attacks includes at least 138 publicly reported cases of kidnapping or attempted kidnapping of children in the MPP program. The extreme dangers children in MPP face while waiting months in Mexico have pushed some desperate parents to send them alone into the United States at ports of entry.
- A two-year-old boy was kidnapped in September from a house in Ciudad Juárez while his mother was doing chores in another room, according to Tania Guerrero of Catholic Legal Immigration Network’s (CLINIC) Estamos Unidos Project. DHS had sent the family to Mexico under MPP.
- A 12-year-old Salvadoran girl was nearly abducted from her mother in Monterrey after they were sent by DHS to Nuevo Laredo under MPP then dumped by Mexican authorities in Monterrey. Armed men chased the family and grabbed the girl, but her mother managed to wrestle her back and escape.
- Some parents are so terrified for the safety of their children that some have begun to send them alone to ports of entry to be treated as unaccompanied minors and taken to shelters in the United States. Government data reported by CNN indicates that at least 135 children who were returned to Mexico under MPP are now in the care of the U.S. Department of Health and Human Services, the agency charged with the care of unaccompanied minors. Taylor Levy, an immigration attorney representing asylum seekers returned to Ciudad Juárez under MPP, said that since at least July she has been fielding inquiries from parents desperate to protect their children by sending them into the United States alone.

“Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger” (December 2020)

- A Salvadoran asylum seeker told Human Rights First that he decided to send his two young children across the border alone when they became sick from conditions in the camp. His 12-year-old son developed a severe rash all over his body and his 10-year-old daughter showed signs of malnutrition.
- CBP expelled a 12-year-old Guatemalan asylum-seeking child with physical and learning disabilities to Guatemala in August 2020 under the CDC order. According to [Reuters](#) the boy and his mother had been waiting months in Ciudad Juárez for their MPP hearing. After a stranger tried to kidnap the boy, his mother allowed him to present himself to U.S. officials to request asylum, hoping that her son would be safe in the United States and able to reunite with family there.
- A five-year-old Honduran boy was expelled under the CDC order to Mexico after crossing the U.S.- Mexico border in September 2020, according to a report in the [New York Times](#). The boy’s mother, with whom he had been waiting in a migrant shelter in Matamoros to seek asylum, sent him across the border when living conditions in the shelter became unbearable. For days after his expulsion, the woman was not able to reunite with her son, who had been handed over to a Mexican child welfare agency.

“Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger” (April 2021)

- While unaccompanied children were exempted from the [Title 42] policy under both the Trump and Biden administrations in the wake of public outcry and a federal court ruling, its continued use for adults and families has prompted desperate families to send children alone to escape violence, threats, human trafficking, and other dangers. Mexico’s refusal in some border regions to take back families with children younger than seven years old has prevented the illegal expulsion of many families.
- **The Biden administration’s continued use of Title 42 to block and expel asylum seekers is leading to family separations. The number of unaccompanied children crossing at the border has been rapidly rising under the Biden administration driven by its policy of expelling parents and adults to danger, forcing children to attempt to reach safety alone.** Like other policies that indefinitely strand families in extreme danger at the southern border, the expulsion policy also pushes some desperate families to send their children across the border to protect them from kidnapping, sexual assault, and other violence – resulting in needless family separations and increasing the number of unaccompanied children at the border. For example, 16 percent of unaccompanied children screened by Immigrant Defenders Law Center between December 2020 and March 24, 2021 had traveled to the border with a parent or other family member who was blocked from seeking protection with the child due to the Title 42 expulsion policy. In April 2021, a Border Patrol official told CNN that more than 400 unaccompanied children taken into custody in South Texas had previously tried to enter the United States with their families. A Politico journalist reported that all of the families he spoke with in the informal tent encampment of asylum seekers waiting in Tijuana near the San Ysidro port of entry had considered sending their children across the border alone to protect them.
- DHS Secretary Mayorkas recently acknowledged the brutal and impossible choice that families face in deciding whether to send their kids alone, resulting in indefinite or even permanent separation: “[O]ut of desperation, some children might not wait. Some loving parents might send their child to traverse Mexico alone to reach the southern border.” Yet, **in many cases, it is the expulsion policy that pushes families trapped at the border and unable to seek asylum together to send children alone to safety in the United States.** For example:
 - In March 2021, a 15-year-old Guatemalan child fleeing severe domestic violence and gang threats with her mother crossed the border alone, a few days after Border Patrol expelled the family to Tijuana. The girl remains separated from her mother, who is indefinitely trapped at the border due to the expulsion policy, according to Yliana Johansen-Méndez with the Immigrant Defenders Law Center.
 - A 15-year-old child from El Salvador crossed the U.S. border alone in March 2021 just days after being expelled with her mother, according to Yliana Johansen-Méndez.
 - A 14-year-old Honduran boy wounded in an attack by members of the Honduran military that killed his father was sent alone by his mother to the United States, after his family was repeatedly expelled to Mexico. The boy’s mother told the San Diego Union Tribune that her son needs medical care for bullets still lodged inside of him from the attack. The boy’s mother and nine-year-old brother were last expelled from the Texas-Mexico border to Tijuana in April 2021.
 - In March 2021, a 12-year-old Honduran boy who had been kidnapped in Reynosa crossed alone into the United States after his family paid ransom to secure his release. His asylum-seeking parents and sister who separately crossed the border near Reynosa were expelled to Tijuana without an opportunity to seek asylum.

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- In March 2021, an asylum-seeking Mexican family blocked at the border due to the expulsion policy was forced to send their 17-year-old son to the United States to avoid dangerous cartel persecutors who had tracked them to Tijuana, as reported by *Al Otro Lado*.
 - Around March 2021, 12- and 16-year-old Salvadoran asylum-seeking brothers crossed into the United States alone after CBP twice expelled them with their mother. The mother, who is trapped in Reynosa with her seven-year-old son, doesn't know when she will see her children again. She told CNN: "I felt like I was dying. I didn't want to separate from them."
 - A Honduran woman stranded in Mexico due to the expulsion policy is indefinitely separated from her teenage daughters whom she sent across the border alone in January 2021. She told the *Washington Post*: "Sometimes I consider throwing myself in [the river] to die because the longer I'm here, the more I feel like I don't want to live anymore."
 - A Honduran asylum-seeking family in the Tijuana tent encampment is considering sending their infant baby alone to safety in the United States after another family member was murdered in Mexico. The baby's aunt reportedly said: "It breaks my heart to even think about it."
 - **In addition, CBP continues to separate children from non-parent family members, such as aunts, uncles, and grandparents, with whom they travelled to the border, and is expelling those adults to Mexico. The result of this practice is that children who arrived with their families are rendered unaccompanied. Organizations working with immigrant children estimate that a staggering 10 to 17 percent of the total unaccompanied children in government custody were separated from relatives at the border.** Other family members, including spouses, have also been separated with one spouse expelled by CBP to Mexico without explanation.
 - Other examples include:
 - In March 2021, CBP separated a four-year-old Guatemalan girl from her asylum-seeking aunt and cousin when they asked for protection at a U.S. port of entry. The girl was held in a separate CBP cell while her family members were expelled to Mexico. The girl's parents, who live in Maryland, did not know the girl's whereabouts for days, and when her mother eventually spoke to her on the phone, the girl cried uncontrollably and could not speak.
 - In late March 2021, an 18-year-old indigenous asylum seeker from Guatemala was separated by Border Patrol agents from her two younger sisters and expelled alone to Mexico, according to the Florence Immigrant and Refugee Rights Project. Their mother is currently in immigration court proceedings in the United States seeking asylum.
 - Border Patrol agents separated a Cuban asylum seeker from his wife in March 2021, then expelled him alone to Mexico after falsely claiming that he would be reunited with her. Two weeks after his expulsion, the man still did not know where his wife was, according to Kino Border Initiative.
 - In February 2021, CBP separated Leonardo, a ten-year-old boy from Guatemala, from his aunt and cousin. His aunt, who was eight-months pregnant at the time, was expelled to Ciudad Juárez with her child and fainted near the international bridge. She told reporters: "I had no idea where I was, I had no idea where to go."
 - Around February 2021, a 16-year-old Salvadoran boy was separated by Border Patrol agents from his 19-year-old brother after they crossed the border from Baja California to seek asylum. Their grandmother who lives in Washington was granted asylum based on the same persecution the boys feared in El Salvador. Border Patrol agents expelled the older brother to Mexico near San Luis Colorado, according to the Florence Immigrant and Refugee Rights Project.

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- In February 2021, Border Patrol separated 15- and 14-year-old Honduran brothers from their grandmother, who had raised them after their parents abandoned them, and expelled the grandmother to Mexico. Without a sponsor in the United States, the children were placed in long-term foster care. They had fled Honduras with their grandmother after a gang threatened to kill the family and shot one of the boys, according to Yliana Johansen-Méndez with the Immigrant Defenders Law Center.
 - CBP separated 9- and 11-year-old Honduran children at the Texas-Mexico border from their uncle. The man was expelled by CBP from Roma, Texas to Miguel Aleman, where he was kidnapped and held for ransom.

“Update: [Grave Dangers Continue](#) for Asylum Seekers Blocked In, Expelled to Mexico by Biden Administration” (June 2021)

- **Desperate families expelled or blocked under Title 42 continue to send children alone across the border for their safety. Between January 20, 2021 and April 5, 2021, at least 2,121 children crossed into the United States alone after the Biden administration expelled them to Mexico with their families.** For instance,
 - multiple asylum-seeking mothers in the Reynosa encampment, discussed below, told CNN that their adolescent children had crossed into the United States alone after the families were repeatedly expelled from the United States while trying to seek protection together. Separated from their families and without a sponsor in the United States, their terrified children were stranded in government custody.
 - Another asylum-seeking family recently told the *Washington Post* that when the U.S. government blocked them from requesting asylum under the expulsion policy, they sought safety by crossing the Rio Grande River, a dangerous journey that resulted in the mother being abducted by a cartel while pregnant, the father being attacked, and their nine-year-old and five-year-old daughters reaching the United States alone. The family endured over 100 days of separation.

“[Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc](#)” (August 2021)

- **The Title 42 policy continues to drive family separations, pushing parents to send their children across the border alone to protect them from kidnapping and violence in Mexico.**
 - A Honduran woman, for example, made the heartbreaking choice to send her 13-year-old daughter alone across the border to protect her from further violence after the child was raped in Mexico and attempted suicide.
 - In some cases, children expelled with their families have crossed the border alone into the United States after their parents were kidnapped or disappeared in Mexico, including an eight-year-old Honduran girl who crossed alone after her mother was kidnapped.
 - DHS also continues to separate families while processing them for expulsion. For instance, DHS separated a Honduran woman from her 14-year-old daughter and expelled the mother while processing the child as an unaccompanied minor, expelled a blind woman who requires a caretaker alone to Mexico after separating her from her daughter and granddaughter, and processed a traumatized three-year-old alone after tearing him away from his grandfather and expelling the grandfather to Reynosa.
- In June 2021, an indigenous Honduran asylum seeker and his six-year-old son were kidnapped immediately after DHS expelled them to Reynosa. The kidnappers separated the family and trafficked the father for labor.

When they were released, they again sought U.S. protection in the Rio Grande Valley, but this time DHS transferred them by bus for expulsion in Nuevo Laredo, where they narrowly escaped another kidnapping attempt, according to Taylor Levy, an attorney assisting the family.

- The Biden administration's continued use of Title 42 to block and expel asylum seekers is leading to family separations. In some cases, DHS has returned families members alone to Mexico or separated families and returned them to different parts of Mexico. **Of over a thousand expelled migrants interviewed by the International Organization for Migration from May 3 to June 4, 2021, 5 percent of those who entered the United States with family reported that they had been separated from a family member while being expelled, including some who were separated from their children. Asylum seekers who have been forcibly separated from their family members while being expelled by DHS include:**
 - In July 2021, DHS separated a Honduran woman from her 14-year-old daughter after the family entered the United States together near Reynosa and expelled the woman with her younger twin children to Mexico. The woman told Human Rights First that her traumatized daughter has been in the custody of the U.S. government for more than a month.
 - In July 2021, DHS expelled a blind grandmother alone to Reynosa after separating her from her daughter and grandchildren, with whom she had entered the United States to request asylum after the family fled death threats by gangs in Honduras and was kidnapped for 15 days in Mexico. A pastor had to find another asylum seeker to take care of the woman, who requires 24-hour assistance due to her blindness.
 - In summer 2021, DHS separated a Cuban family that had requested asylum after crossing the southern border into Arizona and expelled the 18-year-old son alone to Tijuana. DHS sent the young man's mother and younger siblings to a migrant shelter in Tucson but bused the young man to San Diego for expulsion to Tijuana. The mother was hysterical with worry about her son, according to Katherine Rodriguez, a Casa Alitas volunteer.
 - In March 2021, a Honduran asylum seeker who requested protection with his three-year-old grandson was separated from the child, detained for seven days, and then expelled to Reynosa, where he remains stranded as of August 2021. The man's frightened grandson was processed alone as an unaccompanied child.
 - In summer 2021, DHS separated a Guatemalan woman from her minor sister when the family sought protection in Nogales, Arizona, expelling the older sister while processing the younger sister as an unaccompanied child. Exacerbating the trauma of family separation, Border Patrol agents refused to tell the expelled woman where her younger sister was being taken, according to the Kino Border Initiative.
 - DHS separated a Salvadoran asylum seeker from his Cuban partner in February 2021 and expelled him alone to Nogales, Mexico, where the couple had previously been subjected to homophobic threats by a cartel. The Cuban man, who was not subjected to Title 42, was permitted to remain in the United States to apply for asylum. According to Chelsea Sachau, a legal fellow with the Florence Immigrant & Refugee Rights Project, the Salvadoran man spent months in hiding in Mexico, terrified of being attacked again for his sexual orientation.
 - DHS expelled a pregnant Honduran woman to Reynosa in August 2021, separating her from her husband and three-year-old son, both of whom DHS had released into the United States the previous day. DHS expelled the woman alone after detaining her in an extremely cold holding cell for 12 hours, even after she told agents that she was pregnant and felt sick and that her family was in the United States, according to Yael Schacher, an advocate with Refugees International.
 - Border Patrol agents separated two Indigenous, adult Mexican siblings who had entered the United States between ports of entry to seek protection in early 2021. One of the siblings was expelled after

being treated for several days in the hospital for dehydration. The other spent months in a U.S. detention center before being expelled to Mexico. DHS failed to provide interpretation in the siblings' Indigenous language throughout the ordeal and denied access to their attorney, Ella Rawls at Arizona Justice for Our Neighbors.

- **Like other policies that indefinitely strand families in extreme danger at the southern border, the Biden administration's expulsion policy also pushes some desperate families to send their children across the border to protect them from kidnapping, sexual assault, and other violence – resulting in needless and traumatic family separations and increasing the number of unaccompanied children at the border.** Attorney Taylor Levy reported that she has spoken with dozens of families who made the difficult decision to send their children over the border alone after being expelled as a family to Mexico. **In some cases, children expelled with their families have crossed the border alone into the United States after the kidnapping or disappearance of their parents in Mexico. Children who crossed the border alone due to the horrific dangers of the Title 42 expulsion policy include:**
 - A Honduran woman remains separated from her eight-year-old daughter, who crossed alone into the United States after the woman was kidnapped following the family's expulsion by DHS to Reynosa. The woman, who was fleeing death threats after witnessing a murder in Honduras, had left her daughter with a friend to beg for money to buy food when she was kidnapped just steps from the encampment in Reynosa. With her mother missing, the girl crossed the border alone for her safety and is currently with family members in the United States.
 - A Honduran woman sent her nine-year-old son across the border alone after the family was threatened at gunpoint by the owners of the house in Ciudad Acuña where they had rented a room. The owners asked for phone numbers of their U.S. family members in order to extort them and tried to prevent the family from leaving. After they managed to escape, the woman sent her son to the United States to protect him from harm and fled to Piedras Negras, where she was sleeping on the street as of August 2021.
 - Two Guatemalan mothers living in terrible conditions in the Reynosa encampment decided to send their children across the border alone after both families had been expelled when they entered the United States and requested asylum. In addition to the dangers and conditions in the encampment, one of the mothers reported that she sent her child across the border out of fear that he would be deported to Guatemala, the country they had fled, by Mexican officials.
 - Due to the Title 42 policy, a Honduran woman remains separated from her 13-year-old daughter, who she felt she had no choice but to send alone across the border to protect her from further violence in Mexico. The woman told Human Rights First that her daughter had attempted suicide after being raped in southern Mexico in May 2021.
 - A pregnant Afro-Honduran woman decided to send her six-year-old son across the border alone after DHS expelled the family in April 2021. The mother then spent months in Monterrey waiting for the opportunity to request U.S. asylum and reunite with her son. Mexican police violently raided and robbed the apartment she shared with other migrants on multiple occasions. She suffered a miscarriage due to the stress of her living conditions and her son was deeply traumatized by the separation, according to Taylor Levy, an attorney assisting the family.
 - After DHS expelled a Central American family seeking U.S. protection twice in April 2021, the family decided to send their minor son, a human trafficking survivor, across the border alone to protect him from violent crime in Ciudad Juárez, where the adult family members were robbed by Mexican police officers and narrowly escaped a kidnapping attempt. After crossing alone, the child experienced severe

psychological trauma in ORR custody worrying about his family's safety, according to Taylor Levy, an attorney assisting the family.

- A Honduran mother sent her nine-year-old son, who had fled forcible gang recruitment in Honduras, over the border alone after the family narrowly escaped a kidnapping attempt in Mexico. As of August 2021, the boy remained in ORR custody without a sponsor, soon to be transferred to foster care, according to Taylor Levy.
- Fearing for her teenage son's life, a Honduran mother sent him along across the border in May 2021 after gang members in Monterrey threatened, beat, and robbed him. The family had previously been turned away when they attempted to request asylum at the Eagle Pass port of entry, and relocated to Monterrey in search of work while they waited for U.S. asylum processing to resume. For months after the attack, gang members continued to appear outside the place where the family was staying in Monterrey, where the mother remains in danger.

“Illegal and Inhumane: Biden Administration Continues Embrace of Trump Title 42 Policy as Attacks on People Seeking Refuge Mount” (October 2021)

- DHS separated Maria, a 20-year-old Guatemalan woman fleeing gender-based violence, from her 16-year-old cousin and returned her alone to Ciudad Juárez, where she remains in danger. She had fled threats by a gang in Guatemala that tried to force her to marry one of its members and threatened to kill her mother if she went to the police.
- During a September 2021 visit to the encampment in Tijuana by Human Rights First, asylum seekers reported that gunshots had been fired over the camp hours prior in the early morning hours, forcing them to huddle on the ground with their crying children. A Honduran woman in the encampment said she was compelled to send her daughters alone to the United States for fear they would be assaulted by men who had been harassing them in the camp. Another mother said her son was nearly kidnapped while walking to a nearby pharmacy.

“Border Restrictions Lift, But Biden Administration Blocks Protection for Asylum Seekers and Children” (November 2021)

- **The administration's use of Title 42 also continues to separate families who are forced to send their children alone to the United States to try to protect them.** At Arizona ports of entry, parents and older siblings have been pushed to make the horrible, deeply traumatizing decision to send children alone to the United States at ports of entry, as illustrated by the examples below. Unaccompanied children processed at Arizona and other ports of entry remain in CBP holding facilities until they are placed in the custody of the U.S. Office for Refugee Resettlement and often held in shelters for weeks or months before being released to a U.S. sponsor. At the same time, their family members are forced to remain in danger in Mexico as the Title 42 policy blocks them from seeking asylum together as a family. Florence Project staff members have assisted several asylum-seeking families who made the impossible decision to send their children to the United States alone to escape the danger the family was attempting to flee, including:
 - A 17-year-old Mexican girl and her 11-year-old brother were forced to separate from their 18-year-old brother to seek protection at a Nogales port of entry after the girl was kidnapped and raped by cartel members in Mexico in summer 2021. Their 18-year-old brother, who had been attacked and threatened by the same cartel, was left behind in danger in Mexico merely because he was not a child under U.S. law.

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- A 14-year-old Honduran boy was forced to request asylum alone at the Nogales port of entry in September 2021 after his 27-year-old brother went missing. The brother had attempted to cross the desert alone to seek protection in the United States. The boy had previously tried to present at the DeConcini port of entry and provided documentation of his age, but CBP turned him away and threatened to call the Mexican police. He was only able to be processed by CBP once he was accompanied to the port of entry by advocates from the Kino Border Initiative and Florence Project. His older brother remains missing and is, sadly, presumed dead.
 - Due to Title 42, a 15-year-old Mexican girl fleeing violence was forced to request asylum at an Arizona port of entry alone, leaving her older brother and caretaker in danger in Mexico.
 - A 17-year-old Mexican boy who fled his home after suspected gang members threatened him at gunpoint was sent alone to an Arizona port of entry because of Title 42, separating him from his uncle, who is also seeking asylum and who had been his caretaker since the boy's parents abandoned him at birth.

III. Use of Transit Ban and Policies that Deny Family Members Protections and Deprive Refugees of Ability to Reunite Families

***"Human Rights Fiasco: The Trump Administration's Dangerous Asylum Returns Continue"** (December 2019)*

- With the third country transit asylum ban in place, even if an immigration judge finds that a refugee subject to the transit ban has a well-founded fear of persecution (the standard for asylum), that refugee will be ordered deported unless they meet the much more stringent requirements for withholding of removal or protection under the Convention against Torture (CAT). In FY 2017, only about seven percent of withholding and five percent of CAT applications were granted. Effectively cut off from attorneys in the United States by MPP, few will meet the excessively high requirements to receive these protections. **Refugees who are granted these highly deficient forms of protection face barriers to a stable life in the United States, have no pathway to legal permanent residence or citizenship, and are often left separated from their families, as these limited deportation protections do not allow the refugee's children or spouse to be brought to, or remain in, safety in the United States.**
- A Venezuelan refugee was denied asylum at the Laredo MPP tent court in October solely because he entered the United States to apply for asylum days after the third-country transit ban was implemented. An immigration judge ruled the man, a former police officer who refused to comply with an order to arrest opposition protestors, was a refugee entitled to withholding of removal – a form of relief from deportation that will leave him permanently separated from his three children in Venezuela who remain at risk.

***"A Year of Horrors: The Trump Administration's Illegal Returns of Asylum Seekers to Danger in Mexico"** (January 2020)*

- In late December 2019, an immigration judge for the Laredo MPP tent court recognized a Venezuelan woman as a refugee but denied the woman's children, an eight-year-old boy and four-year-old twin girls, any protection from deportation whatsoever. The judge found the family ineligible for asylum because of the transit ban and that only the woman qualified for the higher withholding of removal standard, but not her children. Had the woman been granted asylum her children would have received protection from deportation to Venezuela through her asylum grant.
- In early-January 2020, an immigration judge for the Brownsville MPP court granted a Cuban asylum seeker withholding of removal, finding that he was not eligible for asylum due to the transit ban as the man had

sought protection at a U.S. port of entry in mid-September, according to his attorney, Aglae Eufrazio. As a result of being denied asylum, the man is unable to petition for his wife and son, who remain in danger in Cuba, to come to the United States. DHS is currently holding the man in an immigration jail while deciding whether to appeal the judge's grant of refugee protection.

“Asylum Denied, Families Divided: Trump Administration’s Illegal Third-Country Transit Ban” (July 2020)

- **The administration’s third-country transit asylum ban is ripping apart families, leaving asylum seekers’ spouses and children permanently stranded in danger. In fact, one of the primary and certainly intentional impacts of the transit ban is to prevent refugees—who have been determined by immigration judges to qualify for protection under U.S. law—from bringing their families to safety in the United States. In addition, the ban divides families who sought asylum together where, for instance, a parent is granted withholding of removal but the rest of the family is ordered deported back to the country where that parent has been determined to face a very high likelihood of persecution.** In MPP cases, families can be separated at the border with some family members granted withholding while others are sent alone to Mexico. These separations occur because refugees subject to the transit ban are barred from asylum, which means that their families do not qualify for automatic protection as “derivative asylees.” The deficient relief of withholding of removal and CAT protection do not provide a way for families to be reunified in the United States – a fact that the architects of the transit ban certainly know full well.
- **The transit ban ignores the long-standing recognition of the importance of family unity and the danger that family members of refugees often face. Under U.S. law, people who apply for asylum in the United States may include their spouse and children on their asylum applications.** Family members who are in immigration court proceedings together automatically receive asylum status when a principal applicant is granted asylum. Refugees granted asylum may also petition to bring their spouse and children to the United States who are outside the country. However, because refugees subject to the transit ban are barred from asylum, their family members cannot receive derivative asylum status in immigration court nor are they eligible to be brought to the United States as derivative asylees.
- Under the transit ban, asylum seekers recognized as refugees are being separated from family members who were with them in immigration court proceedings but not granted relief. Due to the transit ban, each family member, including children and infants, must independently qualify for protection under the heightened withholding of removal or CAT standard. Even when a parent is granted these lesser forms of humanitarian protection, their children must be found independently eligible for relief to stay in the United States. At the same time, the Attorney General has also sought to limit asylum and withholding of removal for people at risk of persecution because of their family relationships – making it even more difficult for children and infants of refugee families to receive humanitarian protection under the transit ban.
- In April 2020, a Cuban doctor seeking asylum based on political persecution in Cuba was denied asylum because of the transit ban and ordered deported while her husband, who is also a doctor, was granted withholding of removal. The couple were held at different detention centers after seeking asylum at the Nogales port of entry together, and their cases were heard by different immigration judges. The woman remains detained at the Eloy detention center pending an appeal, while her husband was released from detention.
- The 18-year old daughter of a Venezuelan refugee was denied all relief, separated from her father, and returned alone to Mexico in January 2020 even though her father was recognized as a refugee, but granted only withholding due to the transit ban, by an immigration judge during a Brownsville MPP hearing. The

father, who had fled Venezuela after being kidnapped and beaten for refusing to work for the Maduro regime, returned there to rescue his daughter who was threatened by the same people who had attacked him. The man told BuzzFeed News, “She’s a young girl and knowing she’s alone in Matamoros is unbearable. The whole reason I went back to Venezuela was to get her because her life is worth more than mine and now she’s alone in Mexico.” He added, “I already lived one nightmare in Venezuela and another here.”

- **In December 2019, three Venezuelan children (an eight-year-old and four-year-old twins) were denied all relief and ordered removed under the transit ban even though their mother was recognized as a refugee and granted withholding of removal at the Laredo MPP immigration court.** The family suffered numerous attacks by pro-government groups including bullets fired at their home and written threats, including one that said the woman would bathe in the blood of her children. Nevertheless, the immigration judge concluded that the children had not independently established eligibility for refugee protection at the heightened withholding of removal or CAT standard.
- Refugees granted the limited and inadequate relief of withholding of removal who are separated from family members stranded in the countries these refugees fled, include:
 - An Anglophone **Cameroonian refugee who was brutally tortured by the Cameroonian military**, which has engaged in the wide-spread arrest, detention and torture of Cameroonians advocating for independence of the English-speaking region of the country, was denied asylum solely because of the transit ban. The man was **granted withholding by the Adelanto immigration court in May 2020 but without asylum cannot reunify with his wife and child, who are in hiding in Cameroon because of the threats they face.**
 - **Because of the transit ban, a Cuban musician and critic of the Cuban government, who was jailed and beaten in Cuba**, was denied asylum in the El Paso immigration court in February 2020, **preventing him from reunifying with his wife and two children who remain in Cuba**, according to his immigration attorney Arvin Saenz.
 - A Cameroonian refugee denied asylum at the Las Vegas immigration court in February 2020 due to the transit ban is permanently **separated from his nine-year-old daughter who is in danger in Cameroon** where she lives with his sister, who was herself recently attacked. Because he received the limited protection of withholding of removal, the man cannot petition to bring his daughter to safety in the United States. He told Human Rights First: “It is something really disturbing. Every day I have to think about it . . . I never wished for my daughter to live like that.”
 - Due to the transit ban, a Cameroonian refugee fleeing political persecution was denied asylum in January 2020 at the Tacoma immigration court, leaving him **unable to reunite with his wife and seven children.** Reflecting on the reality that he may never see his family again, he told Human Rights First: “It’s making me sick. It’s traumatizing that I have to live my life without my family. They aren’t safe in Cameroon and there’s no way that I can help them. Life is coming to an end for me and my family as a family, so I feel very much disturbed. I continue to pray to God that he performs one of his miracles and I can see my family again and feel the love that we had.” Recently, one of the man’s cousins was shot by the military in Cameroon, further terrifying him for the safety of his family.
 - A **Venezuelan refugee** who was denied asylum due to the transit ban by an immigration judge in the Laredo MPP court in October 2019 is now likely permanently **separated from his three children who remain in Venezuela. He was detained and tortured by former police colleagues because he refused an order to arrest people protesting the Maduro regime.** Because the man was denied asylum due to the ban and received only withholding of removal, he cannot bring his children to the United States to join him and his mother and sister who also fled persecution in Venezuela.

“Draconian Deadline: Asylum Filing Ban Denies Protection, Separates Families” (September 2021)

- Refugees denied asylum under the filing ban who manage to secure deficient forms of protection such as withholding of removal or protection under CAT have no pathway to legal status or citizenship and no way to reunify with family members who remain in danger abroad. They are forced to live with a deportation order, are required to regularly apply for renewal of their employment authorization, are ineligible for most government benefits, and are routinely subject to invasive monitoring requirements by Immigration and Customs Enforcement. These limitations prevent refugees from integrating into their U.S. communities and leave them in permanent limbo.
- A Salvadoran refugee denied asylum because of the filing deadline has been separated from his three young children for 11 years. While the immigration court recognized him as a refugee, he was granted only the limited protection of withholding of removal, meaning he cannot petition to reunite with his children nor travel abroad to visit them in a third country. The man, who is currently represented by the Human Rights Initiative of North Texas, told Human Rights First: “I have all these memories of my kids, and I want them here by my side. It’s hard to sleep at night thinking of them.” He also lives with the uncertainty that he could be deported to danger: “I don’t have a permanent immigration status. I am worried they will send me back to El Salvador.”
- A Tanzanian woman who was detained by the Tanzanian government and raped, burned, beaten, and starved for refusing to marry a local policeman and undergo female genital cutting was permanently separated from her children in Tanzania due to the filing deadline ban. She was denied asylum because she filed for asylum 18 months after her arrival in the United States. She was granted protection under CAT, but without asylum status she is unable to petition for her family.

IV. Backlogs and Delays in Asylum Adjudications Leave Families Separated

“In the Balance: Backlogs Delay Protection in the U.S. Asylum and Immigration Court Systems” (April 2016)

- Family separation leaves children and spouses in danger and strains family relationships. **Many asylum seekers with strong protection claims remain separated for prolonged periods from family members who face ongoing persecution and imminent danger.**
- **Asylum seekers often point to family separation as one of the most devastating consequences of being stuck in the backlog.** When granted asylum, asylees can immediately petition for their spouse and children to join them in the United States. The family is a protected and fundamental unit of society under international law. In a paper prepared for UNHCR, researchers found that “although the right to seek and enjoy asylum in another country is an individual human right, the individual refugee should not be seen in isolation from his or her family.”
- **Family members often face persecution in their home countries while awaiting the result of their loved one’s asylum claim. Some are forced into hiding, others may endure torture by authorities seeking information about their loved one.**
- Ammar, a Syrian refugee, waits for his asylum case as his wife and daughters remain trapped in Syria, seeking shelter from bombs. Ammar fled to the United States in October 2013 fearing persecution due to his refusal to take part in the Syrian war. **His wife and two daughters went into hiding and his youngest daughter cannot go to school because it is not safe. His older daughter goes to school on occasion but he constantly worries about her safety.** “When you hear every day from your daughters that ‘we want to come.’ And they start to cry when they hear the bomb noises, and it’s ... horrible.” Without a

lawyer, the Asylum Division referred his case to the immigration court, where he was scheduled for his first court hearing in 2019. His new pro bono lawyers are fighting to get an earlier date.

- Jonathan, a Christian pastor in Dallas, TX, is stuck in the backlog while his family is terrorized in the Democratic Republic of Congo (DRC). Jonathan arrived in the United States and sought protection in 2014. He was placed in removal proceedings and filed his application for asylum with the immigration court, where the first hearing was scheduled for 2015. Two weeks prior to the scheduled hearing, it was canceled and rescheduled for 2017. “Since I got the letter from the court I have not told [my family], because if I tell them it will not be good for them,” says Jonathan. **His wife and five children are still in the DRC where they have been terrorized by security forces.**
- **Khanh, a Vietnamese journalist, is stuck in the Los Angeles backlog while his family faces ongoing persecution.** After promptly filing his asylum application upon arrival in the United States in 2014, Khanh finds himself in the four-year backlog of affirmative asylum cases at the Los Angeles asylum office. A prominent journalist in Vietnam, Khanh formed an organization for journalists reporting on stories censored or banned by state-controlled media. “Due to my work while I was in Vietnam my family had a lot of repression,” says Khanh. Security forces have threatened to attack his son, who has been repeatedly arrested and beaten, and his children are monitored both at work and at school. His youngest daughter was followed and assaulted in front of the family's apartment building. Absent the successful expediting of Khanh's claim, a rare occurrence in Los Angeles, he can expect to wait years for the asylum office to hear his claim and give his family the possibility of relief.
- **Joshua, a Christian missionary recently granted asylum, feared for his family's lives for over three years while they hid from Boko Haram.** Joshua is a Christian missionary and social outreach worker from Nigeria, a husband and the father of young children. Boko Haram militants targeted him and his family because of his religious activities and because he provided information about Boko Haram crimes to the police. Joshua fled to the United States in 2013 after a period in hiding. At his first hearing in immigration court in late 2013, Joshua was scheduled for a hearing on the merits of his case in March 2016, where he was granted asylum. Joshua's wife and children are still in hiding. He continues to fear for their safety as he begins the process of petitioning to bring them to safety in the United States.
- **Elisa, a female police officer in El Salvador for sixteen years, fled severe domestic violence but her child remains at risk in her home country.** To avoid her own death from her brutal abuser, Elisa was forced to leave her two young sons and daughter in El Salvador with relatives. Soon after arriving in the United States in 2013, just fifteen minutes after her children had been dismissed from school at the end of the day, the director of their school was killed by gang members. Elisa's children no longer attend school because of the violence and avoid going outside for fear of forced gang recruitment. Elisa was scheduled for a hearing in 2015, which the court cancelled. She has been in the backlog for three years, uncertain when she will see her children again.
- **Long waits can be destructive to asylum seekers' relationships with family members left behind.** Rogers, an asylum seeker from Uganda, explains how not receiving an interview date from the asylum office, despite applying in 2013, has impacted his relationship with his children: They miss me, I miss them, and every time I talk to any of them they question when I am coming. “Next year...next year...” I tell them. Sometimes, you cannot explain all these things on [the] phone to kids so I try to tell them “don't worry I will come ...concentrate ... go to school... I'll come for you.” Every day you have to find something to tell them. Not to keep disappointing them and to keep them motivated. They are young. Like any parent I have to see them, be with them, talk to them, be in their life. I want to be in their life as well. Influence what they become. I want to see them grow. I want to be a factor in their life.”

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- Thousands of asylum seekers stuck in the backlogs want nothing more than to reunite with their children and spouses. **As explained by Dr. Asher Aladjem, Chief Psychiatrist at the Bellevue/NYU Program for Survivors of Torture, asylum seekers struggle with “the sense that their own lives aren’t only in limbo, but the whole family and the children and the whole [familial] system that they’re part of is impacted.”**
 - Marcel, a political activist and survivor of torture, waited three years for an asylum interview and struggles to maintain hope. Marcel was forced to leave his wife and children in Cameroon after he was tortured on account of his political opinions. His family left the capital city and is in hiding in a remote village. **“My daughter told me two years ago that if my father doesn’t come get me, he is no longer my father.”** Marcel does all he can to reassure his family that he is still fighting for them to be together. Unfortunately, his weekly calls with them have become less frequent. **“Whenever I call them, they’re crying. I cry, the children cry, and it’s really hard to bear that.”** After waiting three years for an interview, the Asylum Division referred his case to the New York immigration court, where he will likely wait several more years for a hearing.
 - **Muzi, a father of two and political activist from Zimbabwe, sees his relationship with his daughters deteriorate.** Muzi fled Zimbabwe after being persecuted for his activities in a political party. Speaking of his first born daughter, Muzi says, “We were like very good friends ever since she was young, we were always together. It just hit her hard because she never expected that I would leave, so after I left it just hurt her heart.” Muzi fears that his emotional bond to his daughter is slowly breaking while he is stuck in limbo. Muzi filed for asylum in August 2014 with the Houston asylum office, which has been scheduling interviews for applications filed in April and May 2014 for the past 10 months, so it is unclear when he can expect his initial interview.
 - Richard, an asylum seeker from Togo, has been separated from his wife and children since his case began in 2013. Richard was forced to flee Togo due to threats of violence resulting from his political activities. **His child was just ten months old at the time. Now she is almost four.** “I don’t know my child and my child does not know me,” says Richard, whose relationship with his wife is also affected. Authorities have arrested Richard’s wife several times and mistreated her as they questioned her about his whereabouts. **“She says if the threats continue, she will have to leave me.** Everything is very confusing to her, she does not know how long it’s going to take, how long until we see each other again.”

“Tilted Justice: Backlogs Grow While Fairness Shrinks in U.S. Immigration Courts” (October 2017)

- Immigrants and their families suffer because of the backlog. As a result of the long waits, many asylum seekers and other immigrants face hardships ranging from physical danger to financial difficulties. In some cases, refugees’ children and spouses—who can’t be brought to safety until their family member receives asylum—continue to face persecution in their home countries.
- **Honduran victim of severe domestic violence awaits a 2020 hearing while her young daughter tries to evade danger in Honduras.** Ms. L fled Honduras in 2013 after enduring severe domestic violence that caused her to suffer, among other things, a miscarriage. She was scheduled for a master calendar hearing in December 2013, and a merits hearing in the summer of 2015. Days before her final hearing, and after her lawyers had filed all supporting documents, the immigration court moved the merits hearing sua sponte to April 2017. Then, days before the April 2017 hearing, it was again reset by the immigration court to a master calendar hearing in November 2020. Ms. L suffers from severe depression and post-traumatic stress disorder, which have been exacerbated by her separation from her daughter, who continues to face danger in

Honduras. As of the latest rescheduling, her asylum case will require a minimum of seven years to be resolved.

- **Zimbabwean asylum seeker’s family remains in danger after court rescheduled case filed in 2012 for hearing in 2017.** Mr. F fled Zimbabwe after being targeted due to his criticism of the Mugabe regime. He applied for asylum affirmatively in December 2012, and his case was referred to the Dallas immigration court in August 2013 by the Asylum Office. His merits hearing, originally scheduled for 2015, was postponed two times sua sponte by the immigration court. He is now scheduled for a merits hearing in late November 2017, and his lawyers are concerned that it will be rescheduled yet again due to shifting dockets at the Dallas immigration court. Mr. F is desperate to be reunited with his wife and children, who remain in danger in Zimbabwe and with whom he cannot even communicate openly due to concerns about government surveillance.
- **Salvadoran asylum seeker raped and beaten by gang members suffers while she waits until 2020 for a final hearing.** Ms. S fled El Salvador after being beaten and raped in front of her children by MS-13 members who wanted to forcibly recruit her son. She was forced to leave her son behind because he was having panic attacks and could not make the journey. She applied for asylum in the United States in October 2015. At a master calendar hearing in Arlington immigration court, she was told that the assigned judge had no available hearings until 2022. Her case was transferred to a new judge, who scheduled her merits hearing for October 2020. Ms. S fears for the safety of her son, who remains at risk of forcible gang recruitment in El Salvador. Moreover, she and her son continue to experience severe psychological effects of the trauma they suffered, which has been exacerbated by the uncertainty of her asylum claim. The long delays force many others to suffer as they wait for work authorization to support their families or simply an end to the uncertainty that keeps them in limbo for years.

“Protection Postponed: Asylum Office Backlogs Cause Suffering, Separate Families, and Undermine Integration” (April 2021)

- The human consequences of the backlog are devastating. The backlog prolongs family separation, leaving many children and spouses in danger for years.
- Many asylum seekers stuck in the backlog are separated from spouses, children, and other family members, many of whom are stuck in danger abroad. Once individuals are granted asylum, they may petition for their children and spouse to join them in the United States. But asylum seekers awaiting adjudication cannot sponsor qualifying family members under a pending application. While it is possible to request expedited scheduling of an asylum interview based on urgent humanitarian concerns, including danger to family abroad, the process for doing so is opaque to unrepresented asylum applicants, and the Asylum Office has in recent years been unreliable in responding to such requests even when made by lawyers.
- Long waits are often destructive to asylum seekers’ mental health and relationships with family members left behind. As Dr. Asher Aladjem, Chief Psychiatrist at the Bellevue Program for Survivors of Torture, told Human Rights First, asylum seekers struggle with “the sense that their own lives aren’t only in limbo, but the whole family and the children and the whole [familial] system that they’re part of is impacted.” **The Center for Victims of Torture recently noted that “prolonged uncertainty” for asylum seekers in the backlog separated from family members in danger “can cause such acute feelings of hopeless[ness] and depression that it can result in suicidality.” In addition, researchers find that lengthy family separations caused by asylum adjudication backlogs often leave asylum seekers in “a state of fear and guilt due to their sense of having made family members targets of persecution.”** Asylum seekers in the backlog whose families remain stranded abroad include:

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- Ibrahim, a Pakistani human rights activist, has waited for his asylum interview since 2015 while his wife and children remain in danger in Pakistan due to his work on behalf of marginalized groups. USCIS denied his request to expedite his asylum interview despite credible threats against his family. Ibrahim's youngest daughter was just three years old when he fled Pakistan. As Ibrahim's wait continues to grow, he laments the time separated from his children as they grow up without him. **"I have lost my children – even if I see them again, I will never have those years back."**
 - **Jean, an opposition party activist from the Central African Republic, has not seen his wife and three daughters for more than four years.** He fled in 2016 after government authorities arrested, imprisoned, and tortured him for his political views. Because Jean was unable to bring his family with him as he fled, his wife and children are stranded alone in Cameroon. "I miss my family every day. Whenever I feel hopeless or tired, I think of my children. When I think of them, it gives me the courage to continue."
 - Aaron, an Ethiopian refugee waiting in the backlog for over five years, saw his relationship with his fiancée break down due to their separation. "I met someone who I fell in love with. I thought we would be able to get married, and she could come from Ethiopia to live with me." But without asylum Aaron lacked the immigration status to bring his fiancée to the United States. "After more than a year of waiting, she had to move on with her life and married someone else. It crushed me."
 - Ali, who fled political persecution in Yemen, has been separated from his wife and children for nearly six years as he waits for an interview. **His wife, children, and other family in Yemen are in grave danger due to Ali's former business dealings with the U.S. government.** Since Ali fled Yemen, the authorities detained his brother after they discovered WhatsApp messages from Ali on his phone. "They took him because of me. No one in my family knows where he is or when he will be released, or even if he is alive. . . . If they do that to him, what could happen to me or other members of my family?"

V. Continued Detention Parents/Caregivers Separates Families

"Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers" (July 2016)

- "Rodrigo" arrived at the Atlanta International Airport with his daughter, his six-year-old granddaughter, and his son-in-law "Francisco" in late 2014. All four members of the family had valid passports and visitor visas, but after stating that they intended to seek asylum to escape persecution in Colombia by paramilitary groups that had already murdered another family member, **ICE separated the family members and placed them in detention.** Rodrigo and Francisco were sent to the Irwin County Detention Center in Georgia. They were denied parole despite passing their credible fear interviews, and presenting evidence to support their parole application, including copies of their national identity cards and a letter of support from the Latin American Community Baptist Church in Gainesville, Georgia. When the family's lawyer contacted the ICE Field Office in Atlanta inquiring about the parole denials (no written denials were provided in this case), the attorney was told by the ICE Assistant Field Office Director that the decision to deny parole would not be changed since the two asylum seekers were considered "priorities." Additional advocacy secured their release after they spent six months in detention. The daughter and the six-year-old granddaughter (who were initially separated for three weeks while the little girl was in Office of Refugee Resettlement custody) were held at the Berks County family detention facility in Pennsylvania and only released after three-and-a-half months.
- After suffering ongoing persecution in Honduras at the hands of the MS-13 international criminal gang, "Gina" fled her country and arrived at a port-of-entry in San Ysidro, California in February 2016. Gina was sent to the Adelanto Detention Facility in California, where she was determined by a USCIS officer to have credible fear. In late March, she requested parole. Gina was never provided with a written denial and was later told by her ICE deportation officer that she would not be released on parole because she did not have identification

documents. However, Gina had in fact provided her passport to ICE when she was detained; ICE lost the original, but had retained copies. Gina's pro bono attorney contacted the ICE field office to contest the parole denial. In May, her attorney submitted another parole request, a 46-page letter brief that included evidence that Gina had presented a Honduran birth certificate and national identification card to CBP as proof of her nationality and identity, email communications with her ICE deportation officer suggesting that DHS had in fact lost the original identity documents, and letters of support from Gina's U.S. citizen sponsors in Texas. In June, ICE denied the parole request, indicating that Gina was previously denied parole and had not submitted documentation showing significant changed circumstances that would change ICE's previous determination. Without access to a court hearing until she has been detained for six months (since she is in California and therefore within the protection of Rodriguez), **Gina has been detained and separated from her young daughter—who is residing with her U.S. citizen sponsors in Texas—for more than four months.**

- “Carlos” fled persecution by transnational criminal organizations in El Salvador with his wife and their children in late 2014. **Upon arriving at the U.S. southern border, the family presented themselves to Border Patrol authorities and indicated they would like to seek asylum. Carlos’ wife and children were released with an order of release on recognizance, while Carlos was transferred to a detention facility in upstate New York, where he was later determined to have credible fear. ICE set Carlos’ bond at \$7,500—too high for Carlos and his family to pay.** As a result, Carlos engaged the services of a private immigration bond company that does not require collateral but instead places electronic monitoring devices on individuals. The company charged Carlos an initial “customer service fee” of over \$2,000 and a monthly fee of nearly \$400 for “use” of the GPS monitoring device, which they require him to wear until the bond is paid in full or until his case is completed before the immigration court. Carlos, who has not been able to work since he arrived in the United States, has struggled to pay the high monthly fees. The little money he and his family had has gone to pay these fees, causing them to nearly be evicted from their apartment.
- “Michael” fled El Salvador after enduring death threats and attacks by members of a notorious transnational criminal organization that targeted him because he was formerly a soldier in the national military. Michael's wife and minor son fled the country before him and were detained at a family detention center for several months before being released to live with U.S.-based family members. Michael was detained at the Joe Corley Detention Facility in Texas. After he was determined to have credible fear, **ICE set Michael's bond at \$12,000, which he could not afford. He requested a bond hearing before an immigration judge and provided supporting letters from his family.** He also provided a letter from the attorneys who represented his wife and child, saying they would provide pro bono representation to Michael if he was released. The family's letters of support detailed their limited income and inability to pay a high bond. The immigration judge lowered Michael's bond only to \$8,000, still too high for him to afford. Despite requests from the attorney representing Michael at his bond hearing for a lower amount given the facts involved in Michael's case, the immigration judge refused. Michael's wife was able to borrow \$2,500 and a bond fund set up by a nonprofit and volunteers provided the remaining \$5,500.

“Judge and Jailer: Asylum Seekers Denied Parole in Wake of Trump Executive Order” (September 2017)

- A Haitian asylum seeker with medical problems was held in detention until a six-month hearing. Lemoine Denera, along with his wife and daughter, arrived in December at the U.S. port of entry at Nogales, Texas. Denera had fled his country years earlier due to political fears and to find work. He was held in detention at the Eloy facility in Arizona for over six months, separated from his wife and infant daughter who had been released from custody. He was not granted parole, however, despite extensive community support and advocacy by attorneys in the United States working with Justice and Democracy in Haiti. Denera suffers from

some potentially significant medical problems, including a hernia, hypertension, and a faulty heart valve. He was only released from detention due to an immigration court custody hearing, pursuant to the Rodriguez case, and required to pay a \$15,000 bond. Attorneys at the Florence Project secured pro bono counsel for Denera.

“Ailing Justice: New Jersey Inadequate Healthcare, Indifference, and Indefinite Confinement in Immigration Detention” (February 2018)

- One individual at Hudson said: “I’d rather be in a federal prison with double the sentence than be here. It’s the anxiety of not knowing. There’s no end date.” Many of the women and men we spoke with cried as they expressed great sadness and anxiety over being separated from their small children, who are often left with relatives or placed in foster care. Many have not seen their children since entering detention.

“Ailing Justice: Texas Soaring Immigration Detention, Shrinking Due Process (June 2018)

- The Department of Homeland Security’s (DHS) use of family separation causes significant trauma, as does the detention of families with children. **A Honduran asylum seeker at the T. Don Hutto Residential Center was separated from her one year and nine-month-old son after requesting asylum at a port of entry, and then waited two weeks before learning where he had been taken.**
- A father, mother, and their 15-year-old daughter fled government threats in Venezuela in May 2017 and entered the United States near Presidio, Texas. Upon apprehension, the family handed border patrol agents U.S. forms requesting asylum. Despite their clear indication of an intent to seek asylum, border patrol placed the girl in a federal foster care center in El Paso, Texas and referred her parents for criminal prosecution.
- A mother and her three young children fled El Salvador and crossed into the U.S. near El Paso, Texas. The mother told border patrol agents that she had received death threats from a gang and needed asylum. Although she presented the children’s birth certificates proving her relationship to them, immigration officials placed them in federal foster care in New York. Agents then detained the mother, who was convicted for illegal entry.
- A Human Rights First researcher met with a mother at the T. Don Hutto Residential Center who had been **forcibly separated from her one year and nine-month-old son earlier this year after they requested asylum at a port of entry. She waited two weeks before even being told where her son was and if he was alright. She described her experience: They put him in a car and he started to cry, but they closed the door and put me in another car. I couldn’t go to him. It is so hard because he is so small, and he doesn’t understand. I wasn’t able to eat. I wasn’t able to sleep. My son’s deportation officer says he is crying all the time and screaming for me. I never imagined this would happen. I never imagined that I would come to this country and they would separate a mother from her baby.**
- Dr. Rubel [a clinical psychologist who previously worked at T. Don Hutto Residential Center] recounted an occasion when hospital administrators failed to listen to his professional opinion. A detainee was transferred to Hutto from a family detention center, where she was separated from her two children in order to undergo anger management and parenting courses. This separation order was partially based on an “unethical” interview conducted in Spanish, a language she did not understand well, and did not include any observation of the mother interacting with her children. Dr. Rubel offered to remain after his scheduled shift to evaluate her as she was reportedly suicidal, but the hospital administrator told him he was not approved for overtime. The next day, Dr. Rubel realized that she suffered from depression and stress; providing anger management

and parenting courses was not the best course of action. When he tried to provide therapeutic services and intervene on the separation issue, they transferred her to another facility and threatened to terminate him.

“Prisons and Punishment: Immigration Detention in California” (January 2019)

- **Marcel from the Democratic Republic of Congo has been detained for one year and eight months at Imperial. Marcel was separated from his wife and child when they sought protection together at an official U.S. border entry point.** His wife and child were paroled from ICE custody and are living in Washington State with family, but Marcel remains in detention.
- A hearing-impaired asylum seeker waited over six months for a working hearing aid. Andres, a 33- year-old hearing-impaired Mexican asylum seeker detained at Adelanto, has lived in the United States since 2003 and has three children who are U.S. citizens. He has been detained for the last 13 months and cannot hear out of his right ear and has limited hearing in his left ear. The hearing aid he was using when first taken into custody no longer worked properly. Six months ago, he had an appointment with a specialist who said he needed a new and improved hearing aid. He has been waiting since then for ICE to sign off on this request. Andres has even offered to pay for the hearing aid himself, but this request was denied.