
Submission of Human Rights First to the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

U.S. policies and practices subjecting LGBTQ asylum seekers to human rights violations, arbitrary detention in often life-threatening conditions, and denials of and delays in refugee protection

This submission has been produced on the basis of Human Rights First’s years of experience in representing, researching, and advocating for refugees seeking humanitarian protection in the United States. The submission provides relevant excerpts of recent Human Rights First reports and other research on U.S. policies and practices that endanger the lives and safety of lesbian, gay, bi-sexual, transgender and queer (LGBTQ) persons seeking refugee protection, subject LGBTQ asylum seekers to arbitrary detention in life-threatening conditions, and deny asylum to LGBTQ refugees in violation of U.S. law and international treaty obligations. The following sections address: **Title 42 policy** (Section I); **immigration detention** (Section II); **expedited removal** (Section III); **Migrant Protection Protocols / “Remain in Mexico”** (Section IV); **asylum adjudication backlogs** (Section V); **one-year filing asylum ban** (Section VI); **third-country transit asylum ban** (Section VII); and **“metering” of asylum seekers at ports of entry** (Section VIII).

Human Rights First urges the Independent Expert to recommend that the United States take all steps to firmly and permanently remove barriers to asylum, including Title 42, the use of expedited removal and immigration detention, and the one-year filing asylum deadline, that block LGBTQ and other refugees from seeking and receiving asylum protection in the United States, and to quickly resolve asylum adjudication backlogs.

I. The U.S. Department of Homeland Security (DHS) continues to use the Title 42 policy to block and expel to danger LGBTQ and other asylum seekers

Title 42—a Trump-era policy—continues to be used by DHS to block and expel LGBTQ and other migrants and asylum seekers to Mexico and other countries of persecution without providing them access to the U.S. asylum system or fear screenings. LGBTQ persons subjected to Title 42 have faced extreme violence in Mexico, including kidnappings, rape, torture, and other attacks due to their sexual orientation, gender identity, race and other characteristics. A 2021 survey by Al Otro Lado of asylum seekers blocked from U.S. protection by Title 42 revealed that [89 percent](#) of LGBTQ asylum seekers had been targeted in an attack or attempted attack or received threats in the prior month.

The [termination](#) of the Title 42 policy announced in April 2022 is currently [enjoined](#) by a court order. While DHS provides a limited number of [humanitarian exceptions](#) to some individuals otherwise subject to Title 42, including LGBTQ asylum seekers, such exceptions are completely inadequate in number, nearly impossible to access without an attorney or other advocate, and are not a lawful substitute to the U.S. asylum system.

“LGBTQ Asylum Seekers Still Facing Grave Dangers Due to Title 42,” August 2022,

<https://www.humanrightsfirst.org/blog/lgbtq-asylum-seekers-still-facing-grave-dangers-due-title-42>

- Since DHS implemented Title 42 in March 2020, [research](#) by Human Rights First and surveys of asylum seekers by the organization Al Otro Lado confirm that LGBTQ asylum seekers from Colombia, Cuba, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Russia, Ukraine, Venezuela, and other countries have been blocked or expelled under the policy.
- Another recent [study](#) found that “[t]he pandemic restrictions that closed the border to asylum seekers (Title 42) prolonged the wait indefinitely along the dangerous northern Mexican border in shelters, tenements,

and asylum seeker camps.” Members of the LGBTQ community returned to dangerous areas of the United States-Mexico border region face the full brunt of those dangers due to targeted [violence](#), discrimination, and harassment by people who wish to do them harm because of their sexual orientation or gender identity. Mexican government officers have targeted LGBTQ asylum seekers stranded in Mexico due to Title 42 for kidnappings, assaults, and deportation without access to asylum. Non-state actors, including cartels, have subjected them to [rape, human trafficking, kidnapping, and other violent attacks](#).

- Estuardo Cifuentes from Lawyers for Good Government, who works with asylum seekers stranded by the Title 42 policy in Matamoros, Mexico, explained that Mexican officials often harass and deport migrants, targeting LGBTQ people in particular. He told Human Rights First “I personally have heard hundreds of cases... in fact, just recently a couple of gay men had their identification documents shredded by police, who then sent them to the INM [the Mexican National Migration Institute] to deport them.”
- According to Cifuentes, and confirmed by human rights reports, some shelters and other migrant-assisting organizations in Mexico discriminate against and refuse to help members of the LGBTQ community. In addition, funding restrictions by the Mexican government for migrant shelters limit the support some shelters that cater to LGBTQ asylum seekers can receive. As a result, some LGBTQ asylum seekers stranded in Mexico are forced to conceal their identities to receive basic housing or risk becoming homeless and facing further danger.

“The Nightmare Continues: Title 42 Court Order Prolongs Human Rights Abuses, Extends Disorder at U.S. Borders,” June 2022, <https://www.humanrightsfirst.org/resource/nightmare-continues-title-42-court-order-prolongs-human-rights-abuses-extends-disorder-us>

- **In June 2022, Mexican immigration authorities deported to Honduras an asylum-seeking Honduran lesbian woman and her cousin, who is pregnant, after DHS twice expelled them to Ciudad Acuña under Title 42.** Another Honduran asylum seeker in Ciudad Acuña told Human Rights First that she witnessed Coahuila state police chase and detain the women while they were washing clothes in a river in Ciudad Acuña. She reported that the women were subsequently deported by Mexican officials to Honduras and are currently in hiding there.
- **Because of Title 42, Adolfo H. and Gerardo C., a gay couple fleeing Cuba and El Salvador, respectively, are stranded in Ciudad Juárez unable to seek asylum.** According to a June 2022 report from [Human Rights Watch](#), the couple were expelled to Mexico when they tried to seek protection in February 2022 by U.S. officials who said that Adolfo could seek asylum in the United States because he is Cuban, but that his partner would be expelled and “gave them the option of being separated or of being expelled together.”
- **DHS expelled a 19-year-old transgender teenager seeking asylum from Honduras three times to Ciudad Acuña, most recently in early June 2022, even though she had been repeatedly attacked in Mexico due to her gender identity.** In one attack in Mexico, assailants beat and raped the woman and a friend. She told Human Rights First that the men called them transphobic and homophobic slurs, and forcibly cut off the young woman’s hair, which was long at the time. In Ciudad Acuña, police also harassed and propositioned her for sex. In June 2022, a Mexican police officer patrolling the public plaza where the young woman was sleeping forbade her from using the public women’s restroom in the park and called her transphobic and homophobic slurs. Another asylum seeker in Ciudad Acuña told Human Rights First that following her most recent attempt to seek asylum in the United States, U.S. immigration officers transferred her to Mexican migration officials who detained her.

“Extending Title 42 Would Escalate Dangers, Exacerbate Disorder, and Magnify Discrimination,” April 2022, <https://www.humanrightsfirst.org/resource/extending-title-42-would-escalate-dangers-exacerbate-disorder-and-magnify-discrimination>

- In April 2022, CBP denied humanitarian exemption requests for a Nigerian man with glaucoma and hand tremors who was beaten by police in Mexico; a gay Venezuelan man living with HIV who is partially deaf...These requests had been submitted by Ginger Cline, an attorney with Al Otro Lado.

- CBP at the San Ysidro port of entry has failed to respond to humanitarian exemption requests submitted months ago, including for a LGBTQ woman with maternal uterine fibroids who experiences constant bleeding after she was raped twice in Mexico in bias-motivated attacks based on her sexual orientation and for a Mexican domestic violence victim whose husband found her in Tijuana and kidnapped her daughter, according to Immigrant Defenders Law Center.
- A lesbian asylum seeker from El Salvador, who is stranded in Tijuana due to Title 42, was kidnapped and repeatedly raped after DHS expelled her to Mexico. She reported the attack to Al Otro Lado in late March 2022.

“A Shameful Record: Biden Administration’s Use of Trump Policies Endangers People Seeking Asylum,” January 2022, <https://www.humanrightsfirst.org/resource/shameful-record-biden-administration-s-use-trump-policies-endangers-people-seeking-asylum>

- **A transgender Honduran woman, who was expelled by DHS to Mexico under Title 42 even though she had been kidnapped there with another transgender woman who remains missing, is stranded in danger in Mexico.** The woman managed to escape after being kidnapped in Ciudad Juárez in summer 2021 with her friend. When the woman, who had fled torture and threats in Honduras due to her gender identity, attempted to request asylum at the border, a DHS officer told her “the border is closed” and that the United States is “not giving asylum.” After being expelled to Mexico, the woman was immediately beaten and robbed, and a Mexican police officer refused to take her complaint. She told Human Rights First that she does not know if her friend, who was unable to escape the kidnapping, is still alive.
- Black LGBTQ asylum seekers from Jamaica recently reported to the [San Diego Union Tribune](#) facing anti-Black racism and homophobia in Tijuana while blocked from seeking asylum at a U.S. port of entry because of the Title 42 policy.
- **In Nogales, Arizona, for instance, CBP initially denied or ignored all 24 humanitarian parole requests the Florence Immigrant and Refugee Rights Project submitted for vulnerable clients since August 2021, including for pregnant people, people with life-threatening medical conditions, people who had been kidnapped in Mexico, and LGBTQ persons,** according to attorney Chelsea Sachau. Many of the humanitarian parole applications were rapidly denied by CBP without explanation. CBP reversed denials in only four instances for medically vulnerable children only after additional advocacy by the Florence Project.
- CBP has denied or ignored more than 100 of the 147 humanitarian parole requests Al Otro Lado submitted to the San Ysidro port of entry, according to attorney Ginger Cline. People denied parole by CBP at the San Ysidro port of entry since December 2021 include... a LGBTQ Haitian person who was assaulted in Mexico.

“‘Illegal and Inhumane’: Biden Administration Continues Embrace of Trump Title 42 Policy as Attacks on People Seeking Refuge Mount,” October 2021, <https://www.humanrightsfirst.org/resource/illegal-and-inhumane-biden-administration-continues-embrace-trump-title-42-policy-attacks>

- **In September and October 2021, CBP denied more than 15 humanitarian parole requests submitted by Al Otro Lado on behalf of its clients to the Del Rio, Eagle Pass, and San Ysidro ports of entry.** These denied requests include...Mexican LGBTQ+ siblings who were sexually assaulted and beaten in Mexico.
- **[Martin](#), a gay Salvadoran asylum seeker, was kidnapped immediately after DHS expelled him to Reynosa.** He remains in the dangerous Reynosa tent encampment after managing to escape the kidnapers along with a boy who was also being held by them. Martin fled El Salvador after being raped and suffering other homophobic discrimination.
- **CBP has yet to reply to a parole request Al Otro Lado submitted in August 2021 for a gay Venezuelan asylum seeker with partial deafness.** He remains in danger in Tijuana, according to Ginger Cline, an attorney with Al Otro Lado.
- A Jamaican lesbian [couple](#) who fled attacks and threats for their sexual orientation is terrified to leave the shelter where they remain stranded in Tijuana, unable to access the U.S. asylum process. **“When we absolutely have to leave to get supplies like food and medicine, we have been yelled at and harassed in**

the street because we are Black and gay migrants,” one of the couple told Human Rights First. **“With our resources nearly gone, we now are desperate.”**

- DHS has also reportedly flown some asylum seekers directly to Honduras for expulsion under Title 42. For instance, **in September 2021, DHS expelled a lesbian couple, who had been sexually assaulted by police officers and harassed for their sexual orientation in Honduras, directly to the danger they fled,** according to Hollie Webb, an attorney with AI Otro Lado.
- **In September 2021, CBP denied the parole request [of] a Honduran lesbian woman and her partner who had been raped by Mexican police.** The woman had also been attacked by a man who yelled racial slurs and fractured her spine, pelvis, and hand. While being treated at a hospital in Mexico following that attack, a social worker in the hospital sexually assaulted the woman.

“Human Rights Travesty: Biden Administration Embrace of Trump Asylum Expulsion Policy Endangers Lives, Wreaks Havoc,” August 2021, <https://www.humanrightsfirst.org/resource/human-rights-travesty-biden-administration-embrace-trump-asylum-expulsion-policy-endangers>

- LGBTQ and Black asylum seekers in Mexico are frequently targeted for attacks, including by Mexican authorities. **The AI Otro Lado survey data reveals that 89 percent of LGBTQ asylum seekers in the northern Mexican border states who responded to the survey were targeted in an attack or attempted attack or received threats in the prior month.**
- **A young transgender woman from Central America was beaten and raped by gang members, causing her to contract HIV, after DHS expelled her to Reynosa.** She had crossed the Rio Grande to seek U.S. asylum protection after fleeing severe beatings for her gender identity in her home country, according to an August 2021 [declaration](#) by Jennifer Harbury, an attorney who assisted her.
- **In June 2021, a transgender Honduran woman blocked from requesting protection was kidnapped in Tijuana by a man who had promised her a place to stay.** He locked her inside a house with other captive migrants for two days before she managed to escape out of a window. As of July 2021, she was hiding at a Tijuana shelter, terrified to go outside for fear of encountering the kidnapper, according to Emem Maurus, a lawyer with the Transgender Law Center.
- **Mexican police officers attacked a group of five Jamaican LGBTQ asylum seekers in downtown Tijuana in June 2021.** They threw three of the asylum seekers to the ground and tased one of them. The asylum seekers reported that the police targeted them because of their race, sexual orientation, and gender identity, according to Emem Maurus, a lawyer with the Transgender Law Center.
- **A gay Haitian asylum seeker was assaulted and extorted in Tijuana while waiting for the opportunity to request U.S. asylum.** The man became severely depressed and attempted suicide in July 2021. As of mid-August 2021, he remains in danger in Tijuana.
- **A lesbian asylum seeker who has been sleeping on the streets in Ciudad Acuña with her partner waiting to request asylum at the Del Rio port of entry told Human Rights First researchers in August 2021 that she was raped and repeatedly attacked in Mexico.** The young woman’s broken arm was still in a cast and bruises visible on her face from an attack in which men beat her to steal the sweets she sells on the street to survive.
- **In August 2021, an LGBT Venezuelan asylum seeker who had been kidnapped in Nuevo Laredo managed to enter the Laredo port of entry and attempted to request protection but was immediately turned back to Mexico by CBP officers.** The day before attempting to seek protection, he had been kidnapped and extorted by a taxi driver while trying to find a place to stay.
- **Armed men broke into the rented room of a Haitian LGBTQ man, raped him, and stole all his belongings and documents in Tijuana in spring 2021.** The man, who had been waiting to seek U.S. asylum, was forced into hiding due to continued threats from the assailants, according to an August 2021 [declaration](#) by Erika Pinheiro, an attorney with AI Otro Lado.

- **Mexican police officers attacked a group of five Jamaican LGBTQ asylum seekers in downtown Tijuana in June 2021.** They threw three of the asylum seekers to the ground and tased one of them. The asylum seekers reported that the police targeted them because of their race, sexual orientation, and gender identity, according to Emem Maurus, a lawyer with the Transgender Law Center.

“Update: Grave Dangers Continue for Asylum Seekers Blocked In, Expelled to Mexico by Biden Administration, June 2021,” <https://www.humanrightsfirst.org/resource/update-grave-dangers-continue-asylum-seekers-blocked-expelled-mexico-biden-administration>

- An asylum-seeking LGBTQ couple who experienced kidnappings and sexual assault in Mexico are currently in hiding in Tijuana, where they remain blocked from requesting protection at the U.S. border. One member of the couple, a gay Honduran asylum seeker, was expelled to Mexico in April 2021 by DHS even though he had been kidnapped in Nuevo Laredo in February 2021. He was held captive at gunpoint for 15 days with 23 other people and forced to call his father at gunpoint to beg him to pay ransom. His partner, a transgender asylum seeker also from Honduras, was sexually assaulted and received death threats in Chiapas in May 2021, when the couple relocated there in an attempt to find safety while waiting for U.S. asylum processing to restart.

“Failure to Protect: Biden Administration Continues Illegal Trump Policy to Block and Expel Asylum Seekers to Danger,” April 2021, <https://www.humanrightsfirst.org/resource/failure-protect-biden-administration-continues-illegal-trump-policy-block-and-expel-asylum>

- LGBTQ asylum seekers stranded in Mexico who are unable to seek U.S. protection due to the continued use of Title 42 frequently face attacks and discrimination in Mexico due to their sexual orientation and/or gender – as well as their race, nationality, and other characteristics. The Transgender Law Center, which is providing legal services as part of a multi-organizational coalition of LGBTQ organizations to 150 LGBTQ asylum seekers stranded in Mexico, reports that escalating violence and worsening access to already limited employment, housing, food, and medical care compound the trauma many LGBTQ asylum seekers faced in their home countries, resulting in acute Post-Traumatic Stress Disorder (PTSD) and depression.
- In a survey conducted by Al Otro Lado from mid-February through early April 2021 in Baja California, **81 percent of LGBTQ asylum seekers reported that they were subjected to attack or an attempted attack in Mexico in the past month**, including sexual assault by Mexican law enforcement and human trafficking.
- **At least 20 LGBTQ Jamaican asylum seekers are stranded in Mexico facing violence and discrimination, but they are too terrified to approach the U.S.-Mexico border to request protection for fear they will be immediately expelled to Jamaica where they would face continued persecution**, according to Emem Maurus, an attorney with the Transgender Law Center. In March 2021, a group of Jamaican LGBT asylum seekers in Tijuana were attacked while being thrown out of a restaurant; one man had his face cut with a broken bottle. In addition, an LGBT Jamaican man was assaulted in Cancun in front of his 8-year-old son. Both attacks were motivated by anti-LGBTQ and anti-Black prejudice.
- **A 22-year-old gay man reported that he was raped in Mexico after fleeing persecution in Guatemala based on his sexual orientation.** He told Human Rights First that he has been waiting at the U.S.-Mexico border since May 2020 to request U.S. protection.
- **Four Salvadoran transgender woman, who were attacked in southern Mexico, are currently waiting in danger in Ciudad Juárez after CBP expelled them in December 2020 following their attempt to seek asylum in the United States.** The women are terrified to go outside because of threats they have received from men who are frequently waiting near the place where they are staying, according to Emem Maurus of Transgender Law Center.
- **A gay Central American man persecuted for his sexual orientation was kidnapped and trafficked for months around Mexico, where he was beaten, assaulted, and forced to perform sex acts.** Since escaping his captors, the man has been waiting more than seven months in hiding for the opportunity to request U.S. asylum. He is experiencing PTSD symptoms and tested positive for HIV in early April 2021. He told Human Rights First that his traffickers are searching for him and that he is afraid to leave his shelter to obtain care.

- **Other LGBTQ asylum seekers waiting in danger in Tijuana and unable to request refugee protection at the U.S. port of entry due to the expulsion policy** include: a transgender Cuban woman, who was sexually assaulted in Mexico, contracted HIV as a result, and continues to receive threats, and an LGBTQ Cameroonian asylum seeker, who has been in hiding in Tijuana for eight months waiting for an opportunity to apply for U.S. refugee protection, as reported by Al Otro Lado. In addition, Emem Maurus of Transgender Law Center reported that two gay Salvadoran men, who were kidnapped after being expelled three times by Border Patrol agents to the Mexican state of Chihuahua in December 2020, are currently in Tijuana waiting for the United States to restore asylum protections at ports of entry.

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

<https://www.humanrightsfirst.org/resource/humanitarian-disgrace-us-continues-illegally-block-expel-refugees-danger>

- CBP officers expelled a transgender asylum seeker from Honduras under the CDC order around May 2020 when she attempted to request refugee protection in the United States. She told an advocate from the Florence Project that she explained to CBP officers that she feared persecution in Mexico, where violence and discrimination against transgender individuals is well documented, but they immediately expelled her there.

II. LGBTQ persons subjected to U.S. immigration jails experience violence, arbitrary detention, and barriers to the fair adjudication of their asylum applications

DHS has long detained LGBTQ asylum seekers in dangerous ICE detention centers despite [recognizing that](#) detained LGBTQ people have “special vulnerabilities” based on sexual orientation and gender identity and issuing [guidance](#) on the release of transgender individuals. [Studies](#) confirm that detained LGBTQ persons are 97 times more likely to experience sexual assault and abuse than non-LGBTQ individuals. Transgender people face a high risk of [violence](#), discrimination, and medical neglect in ICE detention, which has resulted in multiple recent [deaths](#). LGBTQ asylum seekers recently detained by DHS have suffered prolonged detention, medical neglect, physical and sexual assault, and abuse by ICE and detention center staff. ICE is currently detaining at least [10](#) transgender individuals, but attorneys [report](#) that ICE undercounts detained transgender people, in part, because it disregards individuals’ stated gender identity and because many fear that identifying as transgender could mark them for additional violence.

“I’m a Prisoner Here’: Biden Administration Policies Lock Up Asylum Seekers, April 2022,

<https://www.humanrightsfirst.org/resource/i-m-prisoner-here-biden-administration-policies-lock-asylum-seekers>

- **DHS detained a Honduran transgender asylum seeker in the Otay Mesa Detention Center for two months even though he had been granted an exemption to the Title 42 policy and paroled into the United States at a port of entry in August 2021.** When he informed DHS officers that he was transgender and requested gender-affirming hormone therapy, the officers insisted—in violation of [federal regulations](#) and ICE [guidance](#)—that he was not transgender because he had not had gender-affirming surgery. Weeks after he received a positive credible fear determination, ICE set his bond at an exorbitant \$10,000, which he could not pay and was only secured through a community bond fund, according to the Transgender Law Center.
- **A gay Senegalese asylum seeker was incarcerated for five months, including in Mississippi and Louisiana ICE detention centers.** He spent three months waiting for a CFI. Even after he established a credible fear of persecution in July 2021, ICE did not release him for another two months. He told Human Rights First: “We were just there, sitting and waiting for months, as prisoners.”
- **In September 2021, DHS separated an LGBTQ Russian asylum seeker from his partner and detained him for weeks at La Palma Correctional Center in Arizona.** After the pair requested protection together at a California port of entry, DHS inexplicably detained the man while granting parole to the man’s partner to continue the asylum process in the United States, according to Immigration Equality.

- **In spring 2021, ICE detained a Ghanaian bisexual asylum seeker, who had survived heinous anti-LGBTQ violence in Ghana, for over two months, including for two weeks after passing a CFI.** The man fled Ghana after he was brutally assaulted and survived an assassination attempt where he was hung from a tree for his sexuality. He was detained in La Palma Correctional Center waiting for a CFI. ICE did not release him after he received a positive credible fear determination. He remained incarcerated until an immigration judge granted bond, according to the Transgender Law Center.
- **In fall 2021, ICE detained multiple Jamaican transgender women for months in La Palma Correctional Center and Eloy Detention Center after they sought protection in the United States.** The Transgender Law Center reported that the women were subjected to months of traumatic and unnecessary detention before they received CFIs, which confirmed their fear of persecution.
- **DHS detained a 22-year-old LGBTQ Cuban asylum seeker represented by Human Rights First for more than two months after the asylum office found in March 2021 that he had a credible fear of persecution.** ICE refused to release him from the Otay Mesa Detention Center even though his mother, whom he had been separated from while seeking protection at the border, was ready to sponsor him. The young man was detained for over three months in total.
- **ICE denied the parole request of an LGBTQ Ghanaian asylum seeker living with HIV who had established a credible fear of persecution in July 2021 and had a community sponsor ready to support him.** ICE denied his parole request without explanation, according to his attorney. The man reported that he was not receiving needed HIV medication in detention. As of late September 2021, he remained detained.
- **ICE detained a bisexual Ghanaian asylum seeker for nearly three months in the Aurora Detention Center before providing a CFI.** Even after he established a credible fear of persecution, ICE prolonged his detention for weeks by conditioning release on payment of \$2,500 in bond. The man told Human Rights First: "I had no one who could pay for me." A community organization eventually paid the bond, and he was released in August 2021.
- **An LGBTQ asylum seeker from Central America was detained at the Torrance County Detention Facility and denied parole by ICE in part because he had requested asylum at a port of entry without a visa—even though visas to seek asylum are neither granted nor required to request asylum.** ICE repeatedly denied parole requests filed by his attorney, Casey Mangan with Innovation Law Lab, also claiming that he was a flight risk without any individualized analysis and denying release because he had a non-family member sponsor. He was ultimately jailed for five months.
- **After a Mexican transgender asylum seeker detained in the LaSalle ICE Processing Center was sexually assaulted in October 2021, a PREA coordinator with ICE prevented him from providing his attorney a draft copy of the complaint he wished to file.** The coordinator told him that his statement "could not be used," if an attorney reviewed it. He never received a response to his complaint.
- **Multiple transgender asylum seekers reported that guards at LaSalle ICE Processing Center subjected them to transphobic verbal abuse and other mistreatment.** A Mexican transgender man reported that in August 2021, a guard pointed at him and said, "How many of them are there? That's not a real man." Guards intentionally called him "ma'am" and "girl" and used incorrect pronouns despite his repeated attempts to correct them. He described his experience in detention to Human Rights First: "It made me feel bad, like I'm not my own person. I'm not an animal. I felt singled out. What's different about me?" A Guatemalan transgender man who has been detained in LaSalle ICE Processing Center for nearly eight months as of March 2022 while seeking asylum reported that guards refused to use his preferred name and repeatedly called him "lady." He told Human Rights First: "I identify as a man, so it's difficult when they do that. They treat us like garbage here."
- **A Mexican transgender asylum seeker told Human Rights First that he felt he had no choice but to request to be placed in solitary confinement in October 2021 when he was sexually assaulted while housed with cisgender women in ICE custody.** During the month that he was locked up in a tiny solitary confinement cell, ICE only permitted him outside the cell four times in total (other than to shower), in violation of the NDS, which [require](#) daily recreation time.

“Prisons and Punishment: Immigration Detention in California,” January 2019,
<https://www.humanrightsfirst.org/resource/prisons-and-punishment-immigration-detention-california>

- **Patrick a gay man seeking asylum from Namibia...was detained for over three years at Theo Lacy.** Patrick has been unrepresented throughout his asylum case, but recently the U.S. Court of Appeals for the Ninth Circuit ruled there was substantial evidence of his past persecution, overturning the immigration judge’s denial of asylum and remanding his case for further consideration. For much of his detention, Patrick was detained in a segregation unit because of his sexual orientation. He requested parole but was denied release.
- **On half the tours that Human Rights First conducted, transgender women were among the general detained population.** None were housed according to their gender identity but were instead held in the general male population. Transgender women recounted numerous instances of verbal abuse and transphobic slurs from both detention facility staff and other detainees. Despite reporting this behavior, they received no response from ICE.
- **Alicia, a 29-year-old transgender woman from Mexico, who has been detained for six months in the male housing units** has experienced transphobic slurs from members of the facility staff and other detainees and received no protection when she submitted complaints about this maltreatment. She was also placed in disciplinary segregation for one week, without an opportunity to appeal, based on what she said was a false accusation by another detainee...[she] was diagnosed with depression the one time she saw the psychologist. She was told the psychologist would request treatment for her chronic depression, but has never seen the psychologist again.
- At the Otay Mesa detention center, two transgender women asylum seekers...have been detained for over six months in the male housing units. ICE noted that one immigration detainee at Otay Mesa had been, at the time of the tour in November 2018, held for 1,984 days—five years and 159 days

III. The continued use of expedited removal denies many LGBTQ refugees an opportunity to apply for asylum and puts them at risk of return to persecution

DHS continues to wield the flawed expedited removal process against asylum seekers, including many LGBTQ individuals, to deport them without access to an asylum hearing. LGBTQ asylum seekers have received erroneous negative credible fear determinations and been ordered deported without an opportunity to apply for asylum due to the inherent flaws in the expedited removal process, including the failure of asylum officers to apply the correct legal [standard](#); confusing, cursory, or hostile fear interviews; barriers to access to legal representation; DHS’s failure to provide correct interpretation; dangerous conditions in detention impeding the ability of asylum seekers to participate in their interviews; and fear of disclosing their sexual orientation. The Biden administration’s recent changes to federal regulations will further endanger LGBTQ asylum seekers subjected to expedited removal and raise the risk that they will be refouled to persecution and torture. An [Interim Final Rule](#) that went into effect on May 31, 2022 places severe limitations on the Asylum Office’s longstanding authority to reconsider erroneous negative credible fear determinations, including a seven-day deadline for submission of such requests and a restriction on submitting more than one request – rendering this safeguard virtually meaningless. Prior to these restrictions, this safeguard had saved from deportation LGBTQ asylum seekers who were not able to request reconsideration within seven days or had to submit more than one request to obtain a correct decision.

“Pretense of Protection: Biden Administration and Congress Should Avoid Exacerbating Expedited Removal Deficiencies,” August 2022, <https://www.humanrightsfirst.org/resource/pretense-protection-biden-administration-and-congress-should-avoid-exacerbating-expedited>

- **In March 2022, an asylum officer subjected a gay Salvadoran asylum seeker living with HIV to homophobic, hostile, and inappropriate questioning and wrongly determined that he did not have a reasonable fear of persecution.** The asylum seeker, who was detained at the time of the interview, was interrogated by the asylum officer about his sexual orientation, including being told he **couldn’t be gay because he didn’t sound feminine and sounded “like a regular guy.”** The asylum seeker reported to his

attorney that when he told the asylum officer that he had been sexually assaulted as a child by gang members for being gay, the officer said, **“You’re a liar. This is impossible.** They’re not going to risk their lives just to rape you. That’s how I know you’re lying.” The asylum seeker also reported that when he became confused by the asylum officer’s questions, the officer again became angry and said, “Are you crazy? You’re lying. You’re a liar. If the judge sees this paperwork it’ll be obvious that you’re lying,” according to the asylum seeker’s declaration, which was submitted to the immigration court reviewing the negative fear determination and provided to Human Rights First by Immigration Equality. The immigration court overturned the negative determination in April 2022.

- **A lesbian asylum seeker from Venezuela who sought protection in the United States in February 2021 with her partner was found not to have a credible fear of persecution while her partner, who fled similar persecution, received a positive determination.** The Asylum Office issued a negative determination even though she had fled threats and violence because of her sexual orientation and participation in the student opposition movement in Venezuela. After the CFI, ICE transferred the woman from the Southwest Louisiana Basile Detention Center to the Orange County Correctional Facility for deportation, even though she was also eligible for TPS, and she was only released after attorney Sophia Genovese sent ICE a release request that noted her eligibility for TPS.
- **The Asylum Office issued a negative credible fear determination for a bisexual Jamaican asylum seeker who had been beaten, stabbed, threatened with death, and had shots fired at his restaurant in Jamaica because of his sexual orientation.** The Asylum Office found that the asylum seeker had not established that the Jamaican government would be unable or unwilling to protect him, an absurd claim given that the U.S. State Department’s 2020 human rights report on Jamaica [noted](#) that “the law criminalizes consensual same-sex sexual conduct between men, with penalties of up to 10 years in prison with hard labor” and that according to the Inter-American Commission on Human Rights Jamaica’s “law legitimizes violence towards LGBTI persons.” The asylum officer erroneously applied a heightened standard, stating that the asylum seeker “failed to provide sufficient evidence that the authorities were unable or unwilling to protect him or that they would be unable or unwilling to protect him in the future”—indicating that the officer had wrongly required him to establish full eligibility for asylum in the preliminary screening. In January 2022, an immigration judge reversed the initial negative fear determination at an immigration court review where he was represented by Human Rights First.
- **In June 2022, the Asylum Office issued a negative credible fear determination to a bisexual Colombian asylum seeker who had been attacked and threatened with death for refusing to join a political meeting and feared future persecution on account of his political opinion and sexual orientation.** In determining that he did not have a credible fear of persecution, the asylum officer appeared to apply a heightened standard, wrongly considering whether the asylum seeker had fully established eligibility for asylum, according to a copy of the asylum officer’s decision and notes that were shared with Human Rights First by the Santa Fe Dreamers Project with consent of the client. For instance, the officer concluded that the “applicant’s testimony did not establish past persecution” and “did not establish that the government of Colombia would be unable or unwilling to control” his persecutors, in violation of the credible fear standard, which requires only a “significant possibility” that the asylum seeker could establish in a hearing that he has a well-founded fear of persecution and that the government would be unable or unwilling to control the persecutors.
- **A gay Ghanaian asylum seeker who was attacked and threatened due to his sexual orientation and whose partner was murdered was deported in summer 2022 after the Arlington Asylum Office conducted the CFI with interpretation in Twi even though the asylum seeker’s native language is Dangme and he does not fluently speak Twi, resulting in a negative credible fear determination.** When the asylum seeker informed the officer that Dangme is the language in which he communicates best, the officer informed him that it would take a long time to find a Dangme interpreter. Afraid his detention would be prolonged if he rescheduled the CFI, he agreed to proceed. The asylum officer did not include information about the asylum seeker’s sexual orientation or persecution on account of his sexual orientation in the interview notes even though the asylum seeker shared this information with the interpreter, indicating the extent of the

communication problems during the CFI. The CFI decision and notes also reflected other factual errors, according to a request for reconsideration filed by Immigration Equality and shared with Human Rights First, which was rejected by the Asylum Office.

- **In August 2021, an asylum officer ignored the repeated pleas of a gay Brazilian asylum seeker that he could not understand the interpreter and found that the man did not have a credible fear of persecution even though he had been tortured and sexually assaulted by police in Brazil.** He told Human Rights First: “[The interpreter] didn’t speak Portuguese well. I had problems understanding her questions, a lot of problems. I told the officer I had trouble understanding the interpreter, but the officer said to continue the interview and if there was any information missing he’d ask again . . . the interpreter also interrupted me many times.”
- **A Haitian asylum seeker received a negative credible fear determination in July 2021 after undergoing a CFI where he was instructed to respond only to the questions asked, preventing the man from sharing that he had been persecuted because of his sexual orientation.** The man was threatened at gunpoint for being gay and suspects that gang members murdered his friend because they misidentified him as his boyfriend. But during the telephonic interview with the San Francisco Asylum Office, the asylum officer failed to ask any questions about the man’s sexual orientation and because of restrictions on providing additional information he was afraid to affirmatively bring up the persecution he had suffered on account of his sexuality. The immigration judge reviewing the case refused to consider the asylum seeker’s testimony at the review about his sexual orientation, deciding that it was not credible because he had not mentioned it during the CFI, according to the Northwest Immigrant Rights Project.
- **A gay Afro-Brazilian asylum seeker who was repeatedly raped and brutally beaten for his sexual orientation—and whose partner went missing—received a negative credible fear determination in June 2021 after the asylum officer repeatedly interrupted him when he was attempting to share the severe persecution he had experienced.** The asylum seeker reported to the Southeast Immigrant Freedom Initiative that the officer cut him off when he was describing his persecution and told him those details were not relevant. The asylum officer issued a negative credible fear determination after wrongly concluding that the asylum seeker “was never physically harmed,” according to the CFI decision and notes reviewed by Human Rights First. The immigration court overturned the negative fear determination in September 2021.
- **A Senegalese asylum seeker who fled Senegal after being attacked for his sexuality and was afraid to tell the asylum officer conducting the CFI that he is gay received a negative credible fear determination in August 2021.** He told Human Rights First that he was also intimidated when the interpreter told him to respond only with a “yes” or “no” when asked questions and instructed him to not offer any information that was not asked of him. The immigration judge who affirmed the negative determination prohibited him from speaking during the review. After he finally secured counsel, the Asylum Office denied his multiple requests to reconsider the erroneous negative fear determination.
- **In spring 2021, the Houston Asylum Office went forward with a CFI for a gay Angolan activist even though he expressed that he was suffering symptoms of COVID-19, pain from a recent physical assault, and psychological distress from conditions of detention, resulting in a negative credible fear finding.** The man told the asylum officer that he was experiencing anxiety and felt claustrophobic in the “tight space” where the telephonic interview was being conducted. The asylum officer proceeded with the CFI during which the man did not disclose that he is gay because he was afraid that the officer would inform others at the detention center of his sexuality. He feared that such disclosure would further endanger his life since in detention he had been threatened and harassed by people who called him homophobic slurs, according to his attorney at the Southeast Immigrant Freedom Initiative.
- **In May 2022, the Asylum Office overturned a negative credible fear determination for a gay Venezuelan asylum seeker living with HIV who had been violently attacked and robbed because he was gay and who was able to obtain counsel and successfully request reconsideration months after the immigration judge affirmed the negative credible fear determination in November 2021.** When the asylum seeker was attacked at an LGBTQ party in Venezuela, the perpetrator told him that he had to “bear it” because he was

queer. The man was also extorted, harassed, and called homophobic slurs by Venezuelan police officers and the National Guard due to his sexual orientation. The asylum officer concluded—in clear disregard of the testimony—that the asylum seeker had not been targeted and attacked because of his sexual orientation, according to records reviewed by Human Rights First that were provided by Immigration Equality.

- **In February 2022, after initially rejecting two requests for reconsideration, the Asylum Office reversed a negative credible fear determination for a bisexual woman from Colombia, who had been beaten, raped, and stalked by her ex-partner for nearly a decade.** The ex-partner had called her homophobic slurs and threatened to make her into a “real” woman by raping her. The woman, who was detained and placed in expedited removal when she sought safety in the United States in December 2021, did not receive advance warning that she would be interviewed or that she could consult with an attorney. After receiving a negative credible fear determination that was affirmed by an immigration judge, she secured legal assistance and filed two requests for reconsideration, which were denied without explanation. Hours before she was scheduled for deportation to Colombia, the Asylum Office reversed the negative determination after her attorney requested the case receive review by Asylum Office and ICE headquarters.
- **In February 2022, the Asylum Office reversed a negative fear determination for a lesbian Cuban asylum seeker ordered removed due to a subsequently enjoined Trump administration policy and who was initially denied reconsideration.** The woman had fled Cuba after being assaulted, detained, and subjected to homophobic slurs by Cuban police. The Asylum Office initially determined she lacked a credible fear of persecution solely due to the Trump administration’s illegal third-country transit ban, which barred asylum for individuals who transited through another country on their way to seek safety in the United States, and denied reconsideration while the ban remained in effect. After the Asylum Office wrongly denied a second request for reconsideration, which was based on the change in law, her attorney at Immigration Equality submitted a complaint to the USCIS Ombudsman and DHS CRCL. The negative fear determination was vacated in February 2022, permitting the woman to apply for asylum.
- **In September 2021, a gay Togolese [asylum seeker](#) was wrongly denied reconsideration but obtained a positive decision on another request for reconsideration after he was released from detention.** He had fled Togo after a mob violently attacked him and his boyfriend because of their sexuality. His boyfriend was later murdered in Togo. Togolese police also added the man to a list of people being monitored as suspected homosexuals, which is [criminalized](#) and punishable with imprisonment in Togo. After the asylum seeker spent months in detention, an attorney at the Southeast Immigrant Freedom Initiative filed a request for reconsideration to the Asylum Office, which conducted an additional interview. But the asylum officer barred the man from speaking about the homophobic attack that led him to flee Togo and denied his request to reconsider the erroneous negative credible fear decision.

IV. The Migrant Protection Protocols / “Remain in Mexico” policy forced many LGBTQ asylum seekers to wait in danger in Mexico, resulting in their kidnapping, rape, torture and other grave harms

In August 2022, the Biden administration [announced](#) that it would end Remain in Mexico (officially denominated as the Migrant Protection Protocols) following the lifting of a court injunction that had blocked the policy’s termination. Under the policy, the Trump administration had forced LGBTQ and other asylum seekers to wait for U.S. immigration court hearings in Mexico in the dangerous border region. As a result, returned asylum seekers were kidnapped, raped, and attacked, including LGBTQ persons targeted in part due to their sexual orientation and gender identity. The Biden administration attempted to terminate Remain in Mexico in 2021 but was ordered to reimplement the policy pending litigation challenging the termination. While DHS’s reimplementation [guidelines](#) exempted individuals “at increased risk of harm in Mexico due [to] their sexual orientation or gender identity,” government [data](#) shows that some LGBTQ persons continued to be returned to Mexico under the policy, as Human Rights First’s research also confirmed.

“A Shameful Record: Biden Administration’s Use of Trump Policies Endangers People Seeking Asylum,” January 2022, <https://www.humanrightsfirst.org/resource/shameful-record-biden-administration-s-use-trump-policies-endangers-people-seeking-asylum>

- The Biden administration’s failure to end Trump administration policies that block, expel, and return asylum seekers and migrants to grave dangers in Mexico has led to systematic, widespread, and mounting human suffering and rights abuses. These policies strand asylum seekers in grave danger where they are targeted for horrific kidnappings and attacks, turn away Black and LGBTQ asylum seekers to suffer bias-motivated violence, push desperate asylum seekers to undertake dangerous border crossings, drive family separations with parents making the impossible decision to send children alone to the United States for their safety, and fuel the cartels targeting asylum seekers.
- **In December 2021, a gay Venezuelan asylum seeker was returned to Ciudad Juárez under RMX despite having informed CBP officers of his sexual orientation.** While in CBP custody the man endured harassment because of his sexual orientation and asked multiple CBP officers if there were any protections for members of the LGBTQ community but was told “no.” The man reported to Human Rights First that he fears harm in Mexico due to his sexual orientation.
- The Border Project also identified dozens of individuals who CBP officers in El Paso failed to properly exclude from RMX in December 2021 based on DHS’s own screening criteria, [including](#) a man living with HIV; a man experiencing pain and limited use of his hand because the Mexican cartel that kidnapped him had amputated part of his finger on a video call with the man’s family to extort money from them; and a dozen LGBTQ individuals, one of whom had been raped and threatened with death in Mexico due to his sexual orientation.

“Fully End the Migrant Protection Protocols: Ensure Safety for All Subjected to Horrific Policy,” April 2021, <https://www.humanrightsfirst.org/resource/fully-end-migrant-protection-protocols-ensure-safety-all-subjected-horrific-policy>

- An indigenous LGBT asylum-seeker from Guatemala and her daughter had their MPP case terminated after they arrived slightly late at the San Ysidro port of entry for their hearing. CBP took the family into custody at the port for days and then returned them to Mexico with a notice for a hearing that did not exist, according to attorneys at the Immigrant Defenders Law Center now assisting them. After being returned to Mexico, the woman was nearly abducted by cartel members and stalked by a man whose advances she refused, and her daughter was sexually harassed at the shelter where they fled after the kidnapping attempt.

Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger, December 2020, <https://www.humanrightsfirst.org/resource/humanitarian-disgrace-us-continues-illegally-block-expel-refugees-danger>

- **In November 2020, a gay Honduran man who had been returned to Mexico by CBP under MPP was kidnapped in Matamoros.** Charlene D’Cruz, an attorney with Project Corazon, who were assisting the man to file an asylum application, reported that the man managed to escape and is currently in hiding.
- **In August 2020, CBP returned an LGBT Cuban asylum seeker to Ciudad Juárez under MPP who had been repeatedly sexually assaulted in Cuba because of her sexual orientation.** Police there frequently harassed and insulted her, and an officer forced her to have sex with another woman at gunpoint, according to attorney Nicolas Palazzo with Las Americas Immigrant Advocacy Center (Las Americas). The woman and her partner were also the victims in Cuba of a gang-rape by three men.
- **CBP officers expelled a transgender asylum seeker from Honduras under the CDC order around May 2020 when she attempted to request refugee protection in the United States.** She told an advocate from the Florence Project that she explained to CBP officers that she feared persecution in Mexico, where violence and discrimination against transgender individuals is well documented, but they immediately expelled her there.

“Pandemic as Pretext: Trump Administration Exploits COVID-19, Expels Asylum Seekers and Children to Escalating Danger,” May 2020, <https://www.humanrightsfirst.org/resource/pandemic-pretext-trump-administration-exploits-covid-19-expels-asylum-seekers-and-children>

- The Gulf cartel in Matamoros is forcing a Guatemalan LGBTQ asylum seeker returned there by DHS to pay weekly extortion – and to pay higher extortion because he is gay. When the cartel discovered the man is gay, they raised the extortion demanded, telling him “this [being gay] is more expensive.” The man, who recently lost his job due to COVID-19, is living in fear: “I know that any time these people can return, and I may not have enough money to pay them,” he told a Human Rights First researcher.
- A Cuban LGBTQ asylum seeker, who had been returned to Matamoros by DHS, was twice attacked in December 2019 in Reynosa and nearly raped. Despite a black eye, bloody lip, swollen face, bite marks, and bruises on her body, the woman did not pass a fear of Mexico screening and was again returned to Mexico by DHS, according to her legal representative.
- DHS returned an unrepresented transgender Honduran woman to Ciudad Juárez after a DHS officer decided that she did not pass an MPP fear screening interview in late March 2020, despite evidence of widespread persecution and violence against LGBTQ migrants, particularly transgender women, in Mexico.
- An LGBTQ Cuban asylum seeker who traveled from Reynosa to Matamoros in late April for an updated hearing notice said she was terrified “not only because of the pandemic, but also because of the situation that migrants face . . . we are often kidnapped, or raped, or worse.” She told a Human Rights First researcher that she risked the journey, fearing she would otherwise be blocked from seeking asylum in the United States: “I didn’t have a choice. . . I had that date scheduled, and I knew that if I didn’t show up, I would have a deportation order.”
- An LGBTQ Guatemalan asylum seeker in MPP, who was fired due to the pandemic and went for nearly a month without income in Matamoros, reported to a Human Rights First researcher, “I had problems getting food. I used the last money I had to pay rent.” Cartel members who weekly extort him at his rented room gave him a “break” on extortion payments due to the COVID-19 quarantine, but he fears they will soon return to demand payments he may not be able to meet.

“Human Rights Fiasco: The Trump Administration’s Dangerous Asylum Returns Continue,” December 2019, <https://www.humanrightsfirst.org/resource/human-rights-fiasco-trump-administration-s-dangerous-asylum-returns-continue>

- **DHS continues to return vulnerable asylum seekers and migrants to Mexico in violation of internal MPP policy.** DHS claims “individuals from [vulnerable populations](#) may be excluded on a case-by-case basis;” yet, the agency returns vulnerable individuals including those with “known physical/mental health issues,” LGBTQ persons, and Mexican nationals who are not eligible for MPP. Those returned in violation of the policy include... **LGBT asylum seekers**, including a 20-year-old gay Honduran man who is HIV+ and was separated from other asylum-seeking family members and returned to Nuevo Laredo, an LGBT Cuban woman who had been robbed and threatened in Nuevo Laredo while waiting on the metering list, and a gay asylum seeker from Cuba who was robbed and threatened in Mexico but subsequently returned to Matamoros.

“Orders from Above: Massive Human Rights Abuses Under Trump Administration Return to Mexico Policy,” October 2019, <https://www.humanrightsfirst.org/resource/orders-above-massive-human-rights-abuses-under-trump-administration-return-mexico-policy>

- Those returned in violation of DHS’s MPP policy include...Approximately a dozen LGBTQ asylum seekers from Cuba, El Salvador and Honduras returned by DHS to Matamoros and at least one gay Honduran asylum seeker was sent to Nuevo Laredo, despite [persecution of LGBTQ people in Mexico](#). At least one [report](#) had indicated that CBP does not return LGBTQ asylum seekers to Mexico under MPP, yet these vulnerable asylum seekers were returned to highly dangerous areas.

- In Matamoros, [six](#) LGBTQ individuals – including a [transgender Salvadoran woman](#) who had been kidnapped in Mexico at gunpoint and raped – were again expelled to Matamoros under MPP after requesting and failing to pass MPP fear screening interviews at the Brownsville port of entry in early September. A young gay Honduran asylum seeker was returned to Nuevo Laredo after the interviewing DHS officer decided that he did not meet the high screening standard despite the documented harms suffered by gay men in Mexico.
- A gay Cuban asylum seeker, returned by DHS to Matamoros in July after he spent months waiting on the metering list at the port of entry, said police officers had extorted him in Matamoros. In an interview conducted by the Texas Civil Rights Project and shared with Human Rights First, the man reported that police frequently attempt to enter the apartment building in Matamoros where he has found shelter and demand money from the approximately 60 to 70 migrants crammed into six or seven units there.
- An asylum seeker from Honduras sent by DHS to Matamoros in July was assaulted and threatened with rape, targeted for being a lesbian and a migrant. In an interview recorded by the Texas Civil Rights Project and shared with Human Rights First, the woman said that a few blocks from the makeshift tent camp in Matamoros attackers who discovered she was a lesbian hit her in the face, leaving her with a busted lip. In September, men at the camp told her they would “teach us [lesbians] to like men,” a statement she understood to be a threat to rape her.
- A lesbian asylum seeker from Cuba who requested an MPP fear interview at the Brownsville port of entry in September reported to a Human Rights First researcher that **a CBP officer entered the room during her telephonic fear screening, spoke to the asylum officer conducting the interview, and appeared to instruct the asylum officer to alter the line of questioning.** The woman did not pass the fear screening and was returned to Mexico.

“Delivered to Danger: Illegal Remain in Mexico Policy Imperils Asylum Seekers’ Lives and Denies Due Process,” August 2019, <https://www.humanrightsfirst.org/resource/delivered-danger-illegal-remain-mexico-policy-imperils-asylum-seekers-lives-and-denies-due>

- CBP officers failed to refer Eugenia*, a lesbian asylum seeker from Honduras who was subjected to severe persecution in her home country and has visible scars as a result, for a fear screening before returning her to Mexico. An officer told her on return to Ciudad Juárez that she was “on her own.”
- 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.
- In her first hours after DHS returned her to Ciudad Juárez under MPP, Blanca*, an LGBTQ asylum seeker from Guatemala, was walking with other asylum seekers when a group of men followed and robbed them. She sought safety at the main migrant shelter in the city, but it was at capacity, so she ended up in a rented room with other asylum seekers at a hotel catering to migrants. Later, Blanca and other asylum seekers were again attacked, and some were beaten by a group of men. “After what happened, I hardly ever go out,” she said. “I’m really scared of the situation here.”

V. Asylum adjudication backlogs leave LGBTQ asylum seekers waiting years in limbo, separated from family

As of March 31, 2022, there were over [470,000](#) pending affirmative asylum claims, including from many LGBTQ persons, in the backlog before the U.S. Citizenship and Immigration Services’ (USCIS) Asylum Office. As the Citizenship and Immigration Services [Ombudsman](#) recently noted, “[a]sylum processing delays can lengthen family separation, exacerbate mental health issues, impede economic stability, impair access to legal representation, and undermine the integrity of the asylum system.”

“Protection Postponed: Asylum Office Backlogs Cause Suffering, Separate Families, and Undermine Integration,” April 2021, <https://www.humanrightsfirst.org/resource/protection-postponed-asylum-office-backlogs-cause-suffering-separate-families-and-undermine>

- Asylum seekers who have experienced significant mental health consequences as a result of their prolonged wait in the backlog include...**Paul, an LGBT asylum seeker from Cameroon, suffers from depression, which he attributes to persecution he endured due to his sexual orientation and trauma he continues to experience while separated from his family.** “My last romantic partner was arrested and killed. I was so afraid that I would be next, or my family would be hurt. So, I had to flee. But now I feel sad when I am not able to speak to my children or see their faces.”
- **Yusuf, a gay man seeking asylum from Tajikistan, faced a mental health crisis when his asylum case went from the front of the line to the back in 2018.** “It was catastrophic for me. I felt overwhelmed and depressed. The hardest part was that my whole life was upended . . . I felt that I had no control over my life at all.” Yusuf still finds it difficult to cope as he sees more recent applicants have their cases resolved. “I haven’t even had my interview. It has been so hard.”

VI. The one-year asylum filing ban impacts many LGBTQ asylum seekers who are unaware of or unable to meet the deadline

The filing deadline bans asylum for any individual who did not apply for protection within one year of arriving in the United States, with very limited exceptions. The ban returns refugees to persecution and torture in violation of U.S. law and treaty obligations, leaves refugees in permanent limbo with inadequate forms of humanitarian protection, indefinitely separates families, and undermines integration. The U.N. Refugee Agency (UNHCR) has [confirmed](#) that denial of legitimate asylum claims based solely on failure to file before a deadline violates international law. LGBTQ asylum seekers who fail to meet the deadline, thus rendering them potentially ineligible for asylum include those who lack community support in the United States, face continued violence and discrimination because of their sexual orientation or gender identity, or struggle with the aftereffects of persecution they faced in their home country.

“Draconian Deadline: Asylum Filing Ban Denies Protection, Separates Families,” September 2021, <https://www.humanrightsfirst.org/resource/draconian-deadline-asylum-filing-ban-denies-protection-separates-families>

- **A bisexual Honduran man who fled years of violence for his sexual orientation and perceived femininity missed the one-year-filing deadline after he and his partner were kidnapped and assaulted in the United States and received deficient legal representation.** After crossing the border into the United States, the man and his then-partner, a trans woman, were kidnapped, held hostage, and threatened with death by a couple who claimed to have ties to a gang. The couple spent a year in homeless shelters and other insecure living situations after escaping the kidnapping. They managed to secure legal representation, but their attorneys stopped communicating with them and failed to ensure that he filed for asylum before the deadline. They are now represented by Human Rights First.
- **A [lesbian refugee](#) from Russia was denied asylum under the filing deadline ban despite submitting her application shortly after learning that her partner in Russia had been raped and beaten to the point of mental incapacitation, which should have qualified the woman for the “changed circumstances” exception.** Before fleeing Russia, the woman had been sexually assaulted, expelled from school, and subjected to treatment to “cure” her sexual orientation.
- **A lesbian woman from South America was denied asylum and granted only withholding of removal because of the filing ban, despite presenting evidence that her PTSD and severe depression, fear of coming out to her family, and abusive intimate relationships constituted “extraordinary circumstances.”** After fleeing to the United States, the woman was forced to hide her sexual orientation from her siblings, on whom she depended financially and emotionally, for fear they would ostracize her. Because she could not come out to her siblings, she also could not seek their support in escaping multiple abusive relationships

with other women. The woman was diagnosed with PTSD and severe depression from the decades of harm she suffered in her home country and the United States, according to the New York University Immigrant Rights Clinic.

- **An LGBT Salvadoran refugee did not file his application within a year of arriving because he was unrepresented and mistakenly believed he had already applied for asylum after an asylum officer found he had a credible fear of persecution.** When he was released on bond, he believed he had been granted asylum. His unfamiliarity with U.S. immigration law and inability to secure representation, limited formal education beyond the fourth grade, and lack of English prevented him from understanding that he still needed to formally apply for asylum. When an immigration judge later scheduled a deadline for the man to file an asylum application more than one year after his arrival in the United States, the man did not understand the significance of the form he was instructed to file, believing he had already been granted asylum, according to the Human Rights Initiative of North Texas. He was subsequently denied asylum due to the filing deadline and only granted withholding by the immigration judge.

VII. The Trump administration's third-country transit asylum ban denied asylum to LGBTQ refugees

The [third-country transit asylum ban](#) issued by the Trump administration barred asylum for virtually all refugees who travel through another country on their way to seek protection at the southern border of the United States. As a result, asylum seekers, including LGBTQ refugees, were denied asylum in immigration court hearings and many asylum seekers were found not to have credible fears of persecution and deported through the expedited removal process without an opportunity to apply for asylum. While the transit ban is not currently in effect due to a court injunction, the Biden administration has [not yet rescinded](#) the rule despite [pledging](#) to do so.

“Asylum Denied, Families Divided: Trump Administration’s Illegal Third-Country Transit Ban,” July 2020, <https://www.humanrightsfirst.org/resource/asylum-denied-families-divided-trump-administration-s-illegal-third-country-transit-ban>

- An LGBTQ Honduran asylum seeker, who has been detained at Pine Prairie detention center for more than five months, was denied all relief and ordered deported under the transit ban in March 2020. He told Human Rights First: “In Honduras, I was threatened and assaulted because I was gay. I was attacked by both gangs and the police. After being threatened in June 2019, I decided to flee Honduras, to seek asylum to protect my life . . . **I cannot return to my country because I would be in danger, but I can’t have liberty here either. I only want an opportunity to stay here and be free.**”
- A gay, HIV-positive asylum seeker from Nicaragua who experienced severe abuse and death threats on account of his sexual orientation, HIV status, and political opinion was denied asylum due to the transit ban. The immigration judge found that the man, who was unable to find an attorney to represent him, had not met the higher burden for withholding/CAT and ordered him removed. The man has been detained since August 2019, according to the organization Immigration Equality, which is providing the man pro se assistance as he appeals the decision.
- An LGBTQ man from Ghana seeking protection from persecution on account of his sexual orientation was denied asylum due to the transit ban in January 2020 in the Tacoma immigration court. The judge stated that asylum would have been granted but for the transit ban, according to the man’s attorney, AnnaRae Goethe, with the Northwest Immigrant Rights Project.
- In December 2019, an immigration judge denied asylum, solely due to the transit ban, to a lesbian refugee from Honduras who was beaten, repeatedly raped, and kidnapped in Honduras by gangs because of her sexual orientation, according to her attorney. The U.S. State Department has reported that [impunity](#) for violence against LGBTQ persons remains a significant problem in Honduras with 92 percent of crimes going unpunished.

- A Jamaican LGBTQ refugee who fled persecution based on his sexual orientation was denied asylum in February 2020 at the Adelanto immigration court under the transit ban even though he presented documentary evidence and testified that he had been subjected to metering prior to July 16, 2019 at the San Ysidro port of entry. The immigration judge ruled that the evidence was insufficient and granted him only withholding of removal, stating that he would have received asylum but for the transit ban.
- An LGBTQ Honduran refugee who was beaten, raped, and kidnapped in Honduras due to her sexual orientation was denied asylum in December 2019 at the Adelanto immigration court due to the transit ban despite having been metered at the San Ysidro port of entry prior to July 16, 2019.
- ICE officers at the El Paso Service Processing Center denied parole to a Venezuelan LGBTQ asylum seeker who had been shot in Venezuela. ICE informed his attorney, Nico Palazzo, that an internal directive instructed ICE officers to consider individuals subject to the transit ban as a flight risk and deny them parole. Instead of being released from detention, this asylum seeker was detained for four months.
- An LGBTQ Honduran asylum seeker has been detained for more than five months in Pine Prairie detention center after being denied bond in January 2020 by an immigration judge who found the man presents a flight risk because he is ineligible for asylum due to the transit ban, according to his bond attorney, Rose Murray. The man told Human Rights First, **“The judge said that I could not receive bond because of the new law, without even reviewing the four letters of support I submitted.** The attorney for the government just looked at his computer and agreed.”
- DHS continues to detain a transgender Guatemalan [woman](#) at the Eloy detention center after she was denied asylum solely because of the transit ban but granted withholding of removal. Even though DHS did not appeal the decision, ICE still refuses to release the woman as she challenges the denial of her request for asylum, according to attorneys at The Florence Immigrant and Refugee Rights Project.
- A lesbian Honduran woman recognized as a refugee but denied asylum because of the transit ban in December 2019 has faced a host of difficulties in integrating into the United States. She has no identity documents because ICE refuses to return her passport, a common practice with individuals who receive withholding. As a result, she has been unable to obtain other identity documentation, making it even more difficult to apply for the extremely limited assistance available to refugees who have not received asylum.

VIII. The use of “metering” to reduce the processing of asylum seekers at U.S. ports of entry forced LGBTQ asylum seekers to wait in border regions of Mexico at risk of violence and *refoulement*

“Metering”—the U.S. government’s policy of intentionally reducing the number of asylum seekers processed at ports of entry—leaves asylum seekers stranded in Mexico, often forcing them to wait for months in danger to request asylum. In 2018, the Trump administration [expanded](#) “metering” along the entire southern U.S. border resulting in tens of thousands of asylum seekers, including many LGBTQ refugees, left stranded in danger and at risk of *refoulement* to persecution. In 2021, a federal judge found “metering” to be [illegal](#), and the Biden administration later [rescinded](#) the Trump-era “metering” directives. With the Title 42 policy still in place, access to asylum at U.S. port of entry remains almost entirely blocked.

“Barred at the Border: Wait ‘Lists’ Leave Asylum Seekers in Peril at Texas Ports of Entry, April 2019, <https://www.humanrightsfirst.org/resource/barred-border-wait-lists-leave-asylum-seekers-peril-texas-ports-entry>

- A gay couple from Honduras was kidnapped upon arriving at the Nuevo Laredo bus terminal in early February 2019. The kidnapers threw them in separate cars, taking one man to a carwash where he was threatened but ultimately released because he claimed to have no relatives willing to pay for his release. His partner was driven to a house where more than a dozen other migrants were also being held. **The kidnapers struck him in the head, stole what money he had, took his photograph and recorded his biographical details – essentially registering him for further targeting.**

“Refugee Blockade: The Trump Administration’s Obstruction of Asylum Claims at the Border,” December 2018,
<https://www.humanrightsfirst.org/resource/refugee-blockade-trump-administration-s-obstruction-asylum-claims-border-december-2018>

- Police in Tijuana arbitrarily detained three gay men from El Salvador, Honduras, and Guatemala in late November 2018 who were part of the caravan. The police transferred them to the custody of Mexican migration authorities, despite their lawyer’s efforts to bail them out. The attorney was able to visit two of the three men and confirmed that they wished to request asylum in Mexico to prevent their deportation to persecution. However, the Mexican National Human Rights Commission informed the lawyer that the men were sent to Mexico City and deported. Other independent observers reported in December 2018 to Human Rights First that arbitrary arrests in Tijuana and rapid deportations of caravan members are common.
- Many asylum seekers blocked by CBP asylum restrictions at ports of entry, including from the caravan, appear to have valid asylum or torture protection claims [including]... A lesbian woman from Guatemala subjected to death threats because of her sexuality attempted to report the threats to the police but was met with complete indifference. She also traveled with the caravan.