

Ten Reasons to End the Title 42 Policy

March 20, 2022 will mark two years since the Trump administration began to use the Title 42 policy to block and expel to danger people seeking protection at the U.S.-Mexico border, denying them an opportunity to request asylum in the United States. After more than a year of implementing this illegal and deadly policy, the Biden Administration is finally [reportedly](#) considering [ending](#) it. Below are ten reasons why the Biden administration [should](#) definitively end the Title 42 policy, immediately comply with U.S. law and treaty requirements by restarting asylum processing along the border, including at ports of entry, and welcome with dignity families, children, and adults seeking safety in the United States.

The Title 42 policy:

- 1. Violates Law.** Using the Title 42 policy to return people to places where they face persecution and torture violates U.S. refugee law and treaty obligations as [former](#) and [current](#) U.S. [government](#) officials, [federal courts](#), the [United Nations High Commissioner for Refugees](#), the [Inter-American Commission on Human Rights](#), the [Special Rapporteur on the Human Rights of Migrants](#), and the Department of Homeland Security's (DHS) [Office for Civil Rights and Civil Liberties](#) have all concluded. [Members of Congress](#) have repeatedly called on the Biden administration to end its use of Title 42 – a policy [U.S. Senator Chuck Schumer](#) has described as “a cynical effort by the Trump administration to use the pandemic as justification for expelling vulnerable migrants seeking refuge in this country.”
- 2. Delivers Asylum Seekers to Brutal Human Rights Abuses.** Title 42 has been used to carry out inhumane mass [expulsions](#), delivering people to places where they are targeted for grave violence in Mexico and other countries they had fled. Human Rights First has tracked at least [8,705](#) reports of kidnappings, torture, sexual assaults, and other violent attacks against people blocked at ports of entry and/or expelled to Mexico due to the Title 42 policy since President Biden took office in January 2021. Asylum seekers expelled to their country of feared persecution have reported interrogations and persecution after these illegal returns in [Haiti](#), [Honduras](#), [Nicaragua](#), and other countries.
- 3. Spurs Disorder, Repeat Crossings, Inflated Numbers.** The Biden administration's use of the Title 42 policy is [spurring disorder](#) at the border. Expulsions drive repeat [crossings](#) and [inflate](#) the total number of border encounters. [Reports](#) by the DHS Office of Inspector General [confirm](#) that restrictions on asylum at ports of entry push asylum seekers to undertake crossings away from ports. [Analysis](#) of government data confirms that these policies drive, what have become [increasingly deadly](#), crossings between ports for asylum seekers from Cuba and Haiti, who had previously [overwhelmingly](#) sought asylum at ports.
- 4. Hurts Public Health, CDC Credibility.** [Epidemiologists](#), [public health experts](#), and [senior scientists](#) from the [Centers for Disease Control and Prevention](#) (CDC) have repeatedly concluded that the Title 42 policy lacks a public health justification. These [experts](#) have stated that the CDC's Title 42 orders “do[] not provide adequate public health justification for expelling asylum-seeking families at the border” and have stressed that instead “expulsions magnify the risks of Covid-19 transmission.” As Physician for Human Rights has noted, the Title 42 order “[undermines](#) the CDC's credibility.” President Biden's chief medical advisor, Dr. Anthony Fauci, has [confirmed](#) that immigrants are “absolutely not to blame” for the spread of COVID-19. Use of the Title 42 policy has become even more [unjustifiable](#) as other pandemic-related border restrictions have been eased.
- 5. Harms Haitian and Other Black Asylum Seekers.** The Title 42 policy has had a racially disparate impact on Haitian and other Black migrants and asylum seekers, as over 100 [members of Congress](#) wrote in a recent letter to the Biden administration. Since January 2021, at least [20,000](#) Haitian families and individuals, have been removed to increasing danger in Haiti many expelled under Title 42 without a chance to request asylum. Black people blocked in and expelled to Mexico under Title 42 have faced widespread anti-Black [violence](#) and [discrimination](#). Sixty-one percent of Haitians who responded to a survey of asylum seekers in northern Mexico

[reported](#) being the victim of crime while in Mexico, including rape, kidnapping, and robbery. Nearly 20 percent of Haitian asylum seekers reported being [abused](#) by Mexican police, including beatings, extortion, and threats.

6. **Benefits Cartels, Undermines Security.** The misuse of Title 42 has been a financial boon to the cartels in Mexico that [target](#) people blocked in or expelled to Mexico. Organized criminal groups [monitor](#) and [target](#) people expelled or blocked from the United States, [torturing](#) and [sexually assaulting](#) abductees, demanding thousands of dollars in [ransom](#) from U.S. [family members](#), and [killing](#) those who try to flee or whose families fail to pay. Title 42 expulsions undermine security along the border. CBP officials have [concluded](#) that rapid Title 42 expulsions have “negatively affected enforcement by reducing opportunities to gather intelligence,” and that they are therefore “unable to thoroughly interview individuals in custody.” In some border regions “[organized crime](#) has become so protective of the business they have made from the border closure that they have begun watching the ports of entry . . . and harassing migrants who attempt to be processed there.”
7. **Drives Family Separations.** The Title 42 policy drives family separation as DHS [returns](#) family members alone to Haiti, Mexico, and other countries or to different parts of Mexico. Some desperate families expelled to Mexico under Title 42 have sent their children across the border alone to try to protect them from the cartels and corrupt officials who target stranded migrants in Mexico, resulting in thousands of [unaccompanied children](#) entering the United States with their family members.
8. **Bolsters Racist, Xenophobic Tropes.** By defending and using this policy, the Biden administration has bolstered racist, xenophobic tropes that migrants are carriers of disease. With the DHS Secretary continuing to [claim](#) the Title 42 policy is a “public health imperative,” a barrage of [alarmist pieces](#) have appeared in far-right media claiming migrants threaten public health. In addition, politicians including Florida [Governor Ron DeSantis](#) and Texas [Governor Greg Abbot](#) have baselessly blamed COVID-19 surges on migrants. As public health experts have [noted](#), “the Title 42 order stokes this rhetoric, putting current and future asylum seekers at risk.”
9. **Subverts Global Credibility, International Law.** The Title 42 policy undermines U.S. credibility, global standing, and respect for international law, as the U.S. government asks other nations to welcome refugees while simultaneously turning away asylum seekers in violation of refugee law. This has been most recently illustrated by U.S. border officers turning away [Ukrainian families](#) fleeing the Russian invasion. In the United States, [refugees and asylum seekers](#) are less than one-half of one percent of the [population](#). By contrast, in Turkey, which hosts the [largest](#) refugee population in the world, the proportion of refugees to the total [population](#) is ten times higher than the United States. In two weeks in February and March 2022, Poland took in more than [1.4 million Ukrainian](#) refugees, which is about the same number of [individuals](#) encountered at the U.S. southern border in the entirety of fiscal year 2021. UNHCR estimates that Colombia, whose total population is less than one-sixth that of the United States, is hosting [2.4 million](#) Venezuelans displaced abroad. More than [1.5 million](#) refugees reside in Uganda making it one of the top five refugee-hosting countries.
10. **Caves to Fear Mongering, Rather than Managing Refugee Arrivals.** The Biden administration has chosen to continue the Title 42 policy in the face of [predictable fearmongering](#) about the number of individuals arriving at the southern border, caving to false and dangerous rhetoric of “[invasion](#)” rather than upholding the law and standing up for refugees. The United States has capacity to manage arrivals of people seeking refuge. The number of people encountered at the southern border (*i.e.* not counting repeat crossings caused by Title 42 expulsions) has declined by 29 percent since [August 2021](#) (from 156,000 to 111,000 in [January 2022](#)). And southern border ports of entry continue to process only a small and now declining number of inadmissible individuals, including asylum seekers. Since August 2021, [processing](#) at southern border ports has dropped by 47 percent (from 13,326 to 6,999 in January 2022). These numbers remain **well below** monthly processing during the Obama administration when CBP processed [20,524](#) people at southern border ports of entry in October 2016, for example. U.S. ports of entry have subsequently received significant funding to upgrade and expand capacity (both in [infrastructure](#) and [staffing](#)) but have consistently processed far fewer individuals.