

Refugee Blockade: The Trump Administration's Obstruction of Asylum Claims at the Border

In the run-up to the mid-term elections, President Trump focused much of his rhetoric on “the caravan” of migrants heading north through Mexico. The caravan, which included many refugees, was, in the president’s telling, a would-be “invasion” of the United States by “bad people,” “terrorists,” and “Middle Easterners.” This purported threat to the country’s security was his stated rationale for deploying thousands of troops and, later, for firing tear gas at a group of migrants as they approached the border.

But Human Rights First’s research shows that the Trump Administration itself has cultivated this alleged crisis. The actual threat to the law comes not from refugees seeking asylum but from the Trump Administration seeking to restrict this right. Instead of managing migration and processing refugee protection requests in an orderly way that upholds U.S. law and ideals, border officials are illegally turning away asylum seekers and have slowed processing of asylum claims at “ports of entry.” At the same time, in violation of both U.S. and international law, the administration is attempting to deny the right to asylum to those who cross the border between ports of entry through an “asylum ban.”

U.S. law ensures that refugees may ask for asylum after arriving in the United States whether at official border posts or after crossing the border. This broad legal protection is rooted in the country’s long history as a refuge for people fleeing persecution as well as the obligations it took on through the Refugee Convention and Protocol. The U.S. government has the capacity both to follow the law and maintain the security of the border.

Human Rights First sent legal monitoring teams to the U.S.-Mexico border in November and early December 2018. They conducted field observations both before and after the arrival of the caravan. This report is based on that research, as well as analyses of government statistics and interviews with attorneys, legal organizations, asylum seekers, and government officials. Their findings include:

- ☑ **Illegal turn-backs and orchestrated bottlenecks at U.S. ports of entry are preventing many asylum seekers from requesting protection at official border posts.** U.S. Customs and Border Protection (CBP) has reduced asylum processing at ports of entry for months even though the U.N. Refugee Agency warned of a “significant increase in the number of people fleeing violence and persecution in the North of Central America,” and even as Trump Administration officials were telling asylum seekers to request protection at ports of entry to avoid criminal prosecution for illegal entry.
- ☑ **Unaccompanied children are being blocked from U.S. ports of entry.** CBP agents and their Mexican counterparts have blocked children from seeking asylum at ports of entry. Since April 2018 when CBP adopted new policies to throttle the entry of asylum seekers—which officials claim do not apply to unaccompanied children—the number of unaccompanied children processed at southern border ports of entry has dropped by 61 percent.
- ☑ **CBP asylum processing reductions and bottlenecks at ports of entry are encouraging illegal crossings.** CBP data, statements by CBP officials, a report by the Department of Homeland Security (DHS) Office of Inspector General (OIG), and interviews with asylum seekers all confirm that efforts to “meter”—restrict processing of asylum claims at ports of entry—push some migrants to cross elsewhere.

- ✔ **Orchestrated processing restrictions at U.S. ports of entry are stranding growing numbers of asylum seekers in danger in Mexico for months.** In November and December 2018, Human Rights First interviewed asylum seekers marooned in Mexico who faced dangers of kidnapping, trafficking, and violence. They included Honduran asylum seekers attacked by men who threw stones at them, a Cameroonian asylum seeker stabbed and robbed, a transgender Mexican woman robbed and threatened with sexual assault, and a family pursued by a gang from their home country, Honduras.
- ✔ **Mexican migration officers and police are blocking asylum seekers from U.S. ports and deporting some to their countries of persecution.** They include gay men from El Salvador, Guatemala, and Honduras who were deported without an opportunity to seek protection.
- ✔ **Refugees with genuine protection claims have been turned away, blocked from asylum, or left stranded in Mexico.** President Trump has claimed refugees in the caravan are “not legitimate asylum-seekers.” In fact, many appear eligible for asylum or protection from torture.

DHS and CBP officials have blamed reductions and restrictions on processing asylum seekers on staffing and space limitations at ports of entry as well as on a purported lack of space in detention facilities. Yet neither argument explains why processing at ports of entry has fallen sharply, often to well below capacity levels. Further, statements from agency officials reveal a decision *not* to deploy resources needed to timely process asylum seekers at ports of entry. Moreover, Immigration and Customs Enforcement (ICE), the DHS agency responsible for immigration detention, has itself created bottlenecks by refusing to release those who meet relevant parole criteria, and rejecting more fiscally prudent and humane case management programs that produce high appearance rates.

The administration, it appears, is obstructing asylum seekers at ports of entry to precipitate illegal crossings and lay blame on an alleged lack of detention space, with the apparent goal of pushing Congress to appropriate funding for the border “wall” and even more detention beds.

There is, in fact, no border security crisis. Overall border apprehensions are at record low levels. The number of people seeking refuge in the United States is significantly lower than the number arriving in countries such as Turkey, Pakistan, Jordan, Lebanon, Colombia, and Uganda, which host far more refugees with far less capacity and resources.

To restore orderly processing of asylum seekers at the border in accordance with U.S. law and treaty obligations, Human Rights First urges the Trump Administration to:

- ✔ **Cease all efforts that violate immigration law** including CBP’s orchestrated restrictions on asylum processing at ports of entry.
- ✔ **Direct CBP to deploy more officers to U.S. ports of entry** to restore orderly asylum processing.
- ✔ **Work with Congress to provide increased support** for effective initiatives to counter the human rights abuses, economic deprivations, and climate displacement prompting people to flee Central America.
- ✔ **Work with Congress to bolster** UN Refugee Agency efforts to increase the capacity and effectiveness of asylum systems in other countries—including Mexico, Costa Rica, Belize, and Panama—so more refugees can seek protection in these countries.
- ✔ **Direct ICE to comply with and apply U.S. legal criteria** (including lack of danger or flight risk) for parole and other release from detention and launch case management and funded legal representation programs, which produce high appearance levels.

Our Findings: Turn-Backs and Processing Bottlenecks Maroon Asylum Seekers

U.S. immigration laws enshrine the right to seek asylum. Sections 208 and 235 of the Immigration and Nationality Act (INA) make clear that asylum seekers at official U.S. border posts—known as ports of entry—must be permitted to request protection. Asylum applicants with credible fears of persecution cannot legally be turned away under domestic law. Doing so also violates U.S. legal obligations pursuant to the Refugee Convention because it puts refugees in danger of being returned to their countries of persecution.

Despite these laws, U.S. border officers have been turning away asylum seekers from ports of entry. This year CBP launched a coordinated effort to limit asylum processing, claiming ports of entry are “full.” CBP dubbed these slow-downs “metering” (as in restricting the flow of asylum seekers) and misleadingly described them as “queue management.” But simply turning away asylum seekers neither establishes an orderly “queue” nor constitutes “management.” In fact, CBP has no system to decide the order it—potentially or eventually—processes asylum seekers turned back to Mexico, and its policies exacerbate humanitarian challenges in Mexico near official border crossings. Not only does CBP fail to manage an orderly and safe process for asylum seekers turned away at the border, but these orchestrated slow-downs and bottlenecks are intended, as CBP recently acknowledged in December 2018, to *limit* the number of asylum seekers that CBP processes at ports of entry.

Over the last two years, Human Rights First researchers and other border monitors observed a barrage of CBP illegal turn-backs and orchestrated bottlenecks that obstruct many asylum seekers from lodging protection requests at U.S. ports of entry. These include:

Illegal turn-backs in 2017: In a May 2017 report, Human Rights First and other organizations documented over 125 examples of turn-backs at multiple crossing points, including the California-Mexico ports of entry at San Ysidro and Otay Mesa, as well as Texas-Mexico ports of entry (Hidalgo-Reynosa, Brownsville-Matamoros, Roma-Ciudad Miguel Aleman, Progreso-Nuevo Progreso, Laredo, Paso del Norte, and Stanton Street). In Laredo, CBP agents refused to accept Cuban asylum seekers telling them, “the law has changed, you have to go back.” At Hidalgo, CBP agents twice turned back a Honduran family—first by verbally threatening them, and the second time by physically forcing their return to Mexico. The unlawful policy of turning away asylum seekers is currently the subject of a class action lawsuit in the Central District of California, Al Otro Lado v. Nielsen, filed in July 2017.

Orchestrated reductions coincide with “zero tolerance” prosecutions and family separations: While DHS Secretary Nielsen and other Trump Administration officials told asylum seekers to go to a port of entry to avoid criminal prosecution and family separation, they were also in the process of reducing asylum processing at those same ports. The DHS Office of Inspector General specifically confirmed that CBP limited processing of asylum seekers at ports. Border-wide, the number of children and family members admitted to ports of entry, mainly for protection requests, plummeted by 42 percent from May to June 2018. CBP’s own statistics show a reduction in processing levels across the southern border—in April, 6,300 asylum requests were processed but from June through September, officers processed less than 4,000 families at ports of entry each month and processed only slightly more in November, the last month for which statistics are available. This intentional processing restriction began “just as the zero tolerance policy was intensifying” this year, “hovering mysteriously” at the reduced level for months, Washington Office on Latin America explained in a November analysis.

Border monitors report processing reductions and turn-backs in spring and summer 2018: Human Rights First researchers and other border monitors reported that CBP closed ports to asylum seekers at times and CBP

officers told asylum seekers at multiple border posts that facilities were “full,” or “at capacity,” or to return another day.

- ☑ In mid-May, the Kino Border Initiative stated that CBP halted processing asylum seekers at the Nogales port for ten weeks. By August, however, CBP officers in Nogales were processing ten to fifteen families per day.
- ☑ In June, Human Rights First researchers documented checkpoints at multiple international bridges on the Texas-Mexico border where CBP agents told asylum seekers to return later or turned them away entirely. One family interviewed by Human Rights First in June reported that they waited for days on the Brownsville-Matamoros bridge with their 9-month-old baby and son who had lost an eye and was suffering from a bullet wound. CBP agents told the family to come back another day and that many asylum seekers were “liars.”
- ☑ Even at the large San Ysidro, California port of entry, the busiest land border crossing in the Western Hemisphere—which processes an average of 20,000 northbound pedestrians each day—Amnesty International reported that CBP processed only 20 to 40 asylum seekers per day in May and June, and sometimes fewer. This represented a substantial reduction from prior processing levels: in April the San Diego CBP Field Office, of which San Ysidro is the largest crossing, processed on average 58 family members per day, a figure which does not include the many adults without children seeking asylum there.

October 2018 migrant caravan: In early October, a group of about 160 Hondurans gathered to travel together to the United States. An early member of the group wrote: “We aren’t going because we want to, violence and poverty is driving us out.” The caravan grew to include several thousand adults and children—mostly from Honduras, but also from Guatemala, El Salvador, Mexico, Nicaragua, and other countries—over the course of two months as it approached the U.S.-Mexico border. Although President Trump attempted to paint the caravan as an “assault on our country” and vilified it as a “disgrace,” the caravan included individuals fleeing persecution, rampant violence, economic deprivation, corruption, and food insecurity brought about by climate change. Traveling en masse allowed caravan members to avoid dangers vulnerable migrants commonly face along the route, including violence and disappearances in regions controlled by cartels. Additionally, caravan members are often able to avoid paying smugglers and members of organized crime syndicates who have built lucrative businesses extorting migrants.

Orchestrated bottlenecks in asylum processing in late 2018: During the fall of 2018—including in advance of the arrival of the caravan—CBP continued to restrict asylum processing at ports of entry, exacerbating back-ups at some ports created by months of limited processing. Human Rights First and other non-governmental organizations documented deliberate bottlenecks of asylum claims, including:

- ☑ In Nuevo Laredo, Mexico, a migrant shelter employee told Vox in October that CBP generally allowed only four to six people from the shelter to enter the Laredo port of entry every 10 days.
- ☑ At the Nogales port of entry in Arizona, the Kino Border Initiative reported that restrictions on accepting asylum seekers began again in September and that no asylum seekers were processed at the port for at least a week. In October, CBP processed one to two families per day. Although the port has capacity to hold 43 people, during the first week of December, CBP processed an average of 15 to 18 asylum

seekers per day—up slightly from the daily average of 8 to 10 asylum seekers processed in November, according to information provided by Kino Border Initiative to Human Rights First.

- ☑ The ACLU of Texas reported that CBP agents have been stationed on international bridges to turn away asylum seekers from ports along the Rio Grande for months. In October, even after the ACLU was informed that the Paseo del Norte port outside of El Paso had processing capacity for additional families, they witnessed agents blocking 30 families from accessing the port, telling them that “there is no room.”
- ☑ In Matamoros, outside of Brownsville, Texas, Mexican officials keep a list of asylum seekers waiting to request protection in the U.S.. CBP officers make decisions on the number of asylum seekers permitted to cross each day, with only four admitted on some days.
- ☑ At the Calexico port of entry in California, Human Rights First researchers noted on November 7, 2018, that three asylum seekers were permitted to enter the port the day of their visit. Migrant shelter staff in Mexicali stated that CBP did not process any asylum seekers at the Calexico port on some days.
- ☑ At the San Luis port of entry near Yuma, Arizona, asylum seekers told Human Rights First that CBP was processing one to two families seeking asylum per day in early November, but on some days, CBP did not process any families.
- ☑ According to asylum seekers Human Rights First interviewed outside the San Ysidro port of entry, CBP sometimes processed as few as 20 asylum applicants in late October. On November 7, 2018, asylum seekers reported to Human Rights First researchers that 40 people were admitted to the port that morning. On November 9 and 10, Human Rights First observed 70 asylum seekers allowed into the port on each day. During the last week of November and into early December, Human Rights First observed that processing levels had declined to 60 people on most days except notably on December 2, when no asylum seekers were admitted to the port.

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:

- ☑ A teacher from Honduras with two young children whose brother was killed by a violent gang that controls large parts of her country fled with the October caravan after receiving death threats because she filed a complaint with the police regarding her brother’s murder.
- ☑ 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.
- ☑ An evangelical pastor and opposition activist from Venezuela was kidnapped from a bus station after purchasing supplies for his church and tortured by security forces. After months in hiding, he fled Venezuela after gunmen shot at the home where he was staying just as he stepped out of the door.
- ☑ A Honduran woman and her 17-year-old son came with the caravan to flee a gang that tried to forcibly recruit her son. After he was injured while trying to escape, gang members followed the family to the hospital forcing them to flee before doctors could operate leaving her son unable to fully use his arm months later.
- ☑ Another Honduran woman, who traveled with the caravan, fled with her two surviving sons after a gang trying to recruit her children shot and killed the youngest son in front of their home in September 2018.

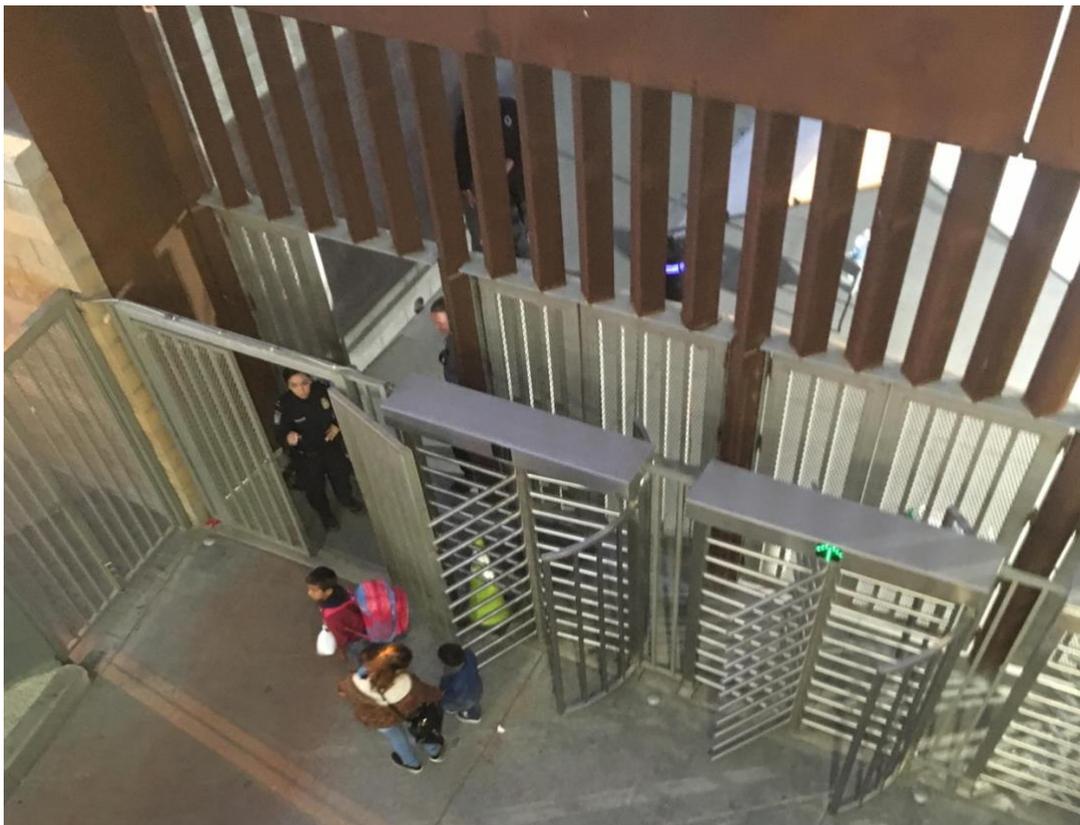
Mexican migration officers block asylum seekers from reaching U.S. ports of entry: Human Rights First and other observers have documented how these officers cooperate with the U.S. government to limit the number of asylum seekers able to approach U.S. ports of entry:

- ☑ In June 2018, Mexican migration officers at the Hidalgo-Reynosa bridge told Human Rights First researchers that they were stopping individuals to see if they had transit visas before allowing them to cross into the U.S., turning them around if they did not have documentation.
- ☑ In July 2018, Mexican migration officers stationed in Reynosa, outside of McAllen, Texas, prevented asylum seekers from accessing U.S. ports of entry. The officers specifically told U.S. lawyer Jennifer Harbury that they were doing so as part of a cooperative agreement with CBP: “Yes, it’s a collaborative program that we’re doing with the Americans,” one Mexican officer stated.
- ☑ In August 2018, Mexican migration officers forcibly removed a group of 30 asylum seekers sleeping on the B&M Bridge connecting Matamoros to Brownsville, Texas, as they waited to be allowed into the port of entry.
- ☑ In early November 2018, Human Rights First researchers spoke with a security guard in Tijuana posted on the Mexican side of the San Ysidro port who said he worked for a private company hired by the Mexican government to profile and stop asylum seekers from walking up to the port of entry.
- ☑ Throughout late November and early December 2018, Human Rights First researchers observed at times over a dozen Mexican migration officers standing guard at various points along the pedestrian ramp and bridge connecting Tijuana to the U.S. port of entry at San Ysidro. Officers at the entrance to the walkway erected barriers and a checkpoint, requesting to view passports or other border-crossing documents of those seeking to enter the United States.
- ☑ On November 30, 2018, Mexican migration officers stationed at the entrance to the pedestrian path to the San Ysidro port stopped a Honduran woman and her child, who were attempting to seek asylum, from entering the walkway. The woman reported afterward to Human Rights First’s researcher that a Mexican migration officer at the checkpoint told her “there is no asylum here” and that she had to return in the morning to take a number on the “list.”

To restrict asylum processing, CBP illegally turns away asylum seekers who approach U.S. ports of entry, including those who fear persecution in Mexico:

- ☑ On November 9, 2018, CBP officers refused to process a Mexican woman who attempted to seek asylum at the at San Ysidro port of entry via the west pedestrian entrance. The Human Rights First researcher who observed the turn-back heard a CBP officer tell the woman she could not enter the port because she lacked a passport and visa. Even though the asylum seeker was requesting refuge from Mexico, the officer told her to speak with Mexican immigration officers who control a “list” for seeking asylum in the United States. The woman, who was visibly distraught and traveling with two young children and a baby, reported to Human Rights First’s researcher that she was fleeing immediate violence in Tijuana and feared turning to local police for protection.
- ☑ Human Rights First interviewed a Honduran woman who had fled to Mexico with three children and a grandchild after she was sexually assaulted and threatened by a gang. Believing they had escaped their persecutors, the family remained in the southern-Mexican state of Chiapas for several months but was forced to flee again when the gang appeared in Chiapas threatening them. When the woman and her family approached the San Ysidro port of entry in early November 2018 to request asylum, U.S. border

officers turned them away even though the woman attempted to explain the immediate danger her family faced in Mexico.



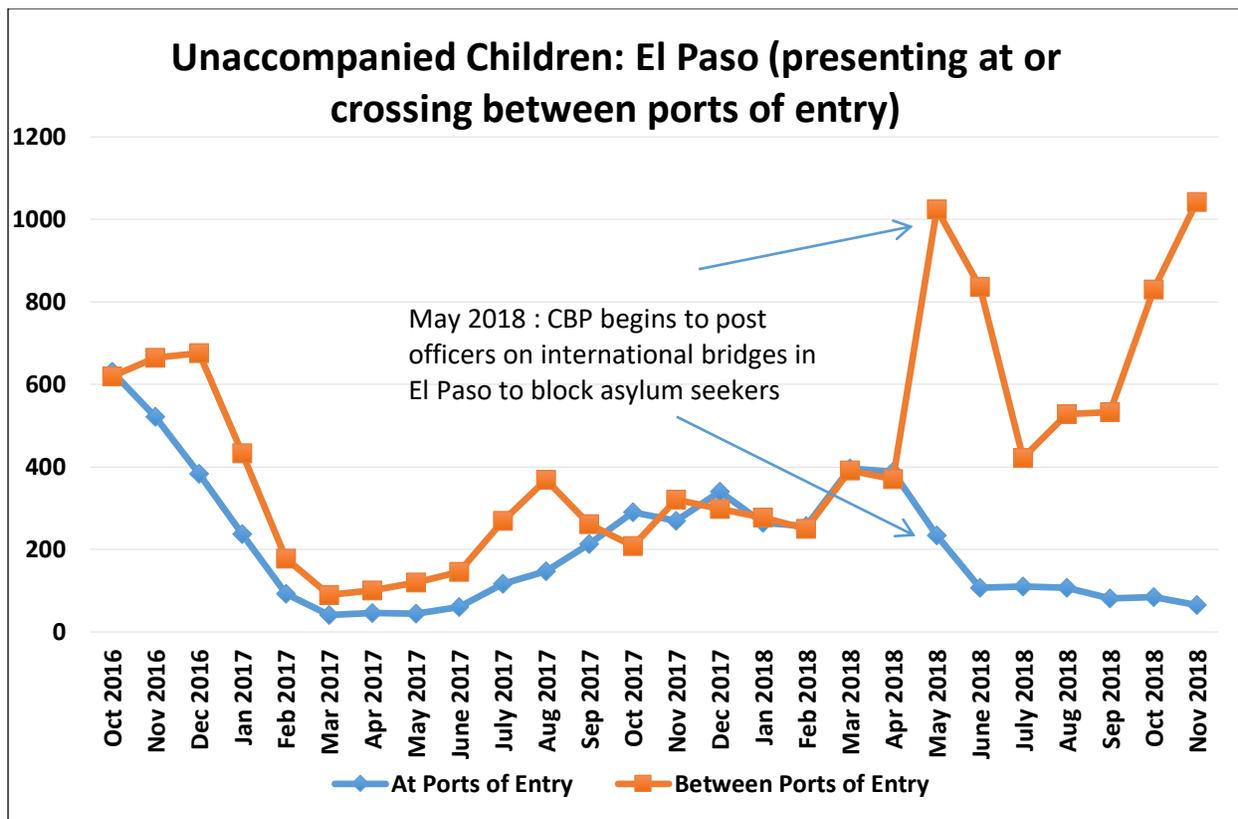
San Ysidro Port of Entry, November 9, 2018: A Human Rights First researcher witnessed CBP officers turn back a Mexican woman seeking asylum with her three children.

Mexican and U.S. officers block unaccompanied children (UACs) from ports of entry: Although CBP officials from the San Diego field office told Human Rights First that restrictions on processing asylum claims do not apply to unaccompanied children, multiple reported turn-backs by Mexican and U.S. officers—as well as suspiciously low and steadily declining numbers of UACs processed at ports of entry—raise serious questions about whether CBP’s policies prevent some unaccompanied children from accessing protection.

- ☑ Since CBP officers were posted on international bridges in El Paso in early May 2018 they have repeatedly refused to process asylum claims of unaccompanied children, according to reports from Texas border monitors to Human Rights First. Only with the intervention of a U.S. congressional office have local advocates succeeded in pressing CBP to process unaccompanied children turned away by CBP officers.
- ☑ On November 21, 2018, Mexican migration officers stopped two unaccompanied children. The children were walking with attorneys from *Al Otro Lado* to request asylum at the San Ysidro port of entry. Officers transferred the children to a Mexican government-run shelter to be processed for deportation. They were only released after the intervention of the private shelter where they had previously been staying.
- ☑ Twice in early December, CBP turned away unaccompanied minors at the Otay Mesa port of entry in California. United States Representative Pramila Jayapal (D-WA) reported that CBP officers initially refused to process two unaccompanied children at the port on December 1 and accepted the children only after she intervened. On December 5, lawyers with *Al Otro Lado* attempted to assist eight unaccompanied children—seven from Honduras and one from Mexico—to seek asylum at Otay Mesa.

CBP officers refused to process their claims, citing capacity constraints, and contacted Mexican immigration officers who removed the Honduran children from the port area. After several hours CBP agreed to process the Mexican child.

- ☑ CBP data indicates that since asylum restrictions took effect in late April, the number of unaccompanied children processed through southern border ports of entry has dropped significantly. In April 2018, 1,047 unaccompanied children were processed. Between July and November fewer than 500 cases were processed each month. Only 404 cases were processed in November—a 61 percent drop. For El Paso, the number of UACs processed at ports dropped by 87 percent—from 388 in April to just 65 in November—while illegal border crossings grew by more than 280 percent over the same period. Prior to May 2018, when CBP officers began stopping asylum seekers on international bridges in El Paso, trends in unaccompanied children crossing at or between ports of entry in El Paso tracked one another closely. The large divergence in these trends, as seen in the table below, coupled with reports of CBP blocking unaccompanied children on El Paso bridges, indicate that the falling number accessing protection at the port in El Paso is likely related to CBP’s asylum processing restrictions.

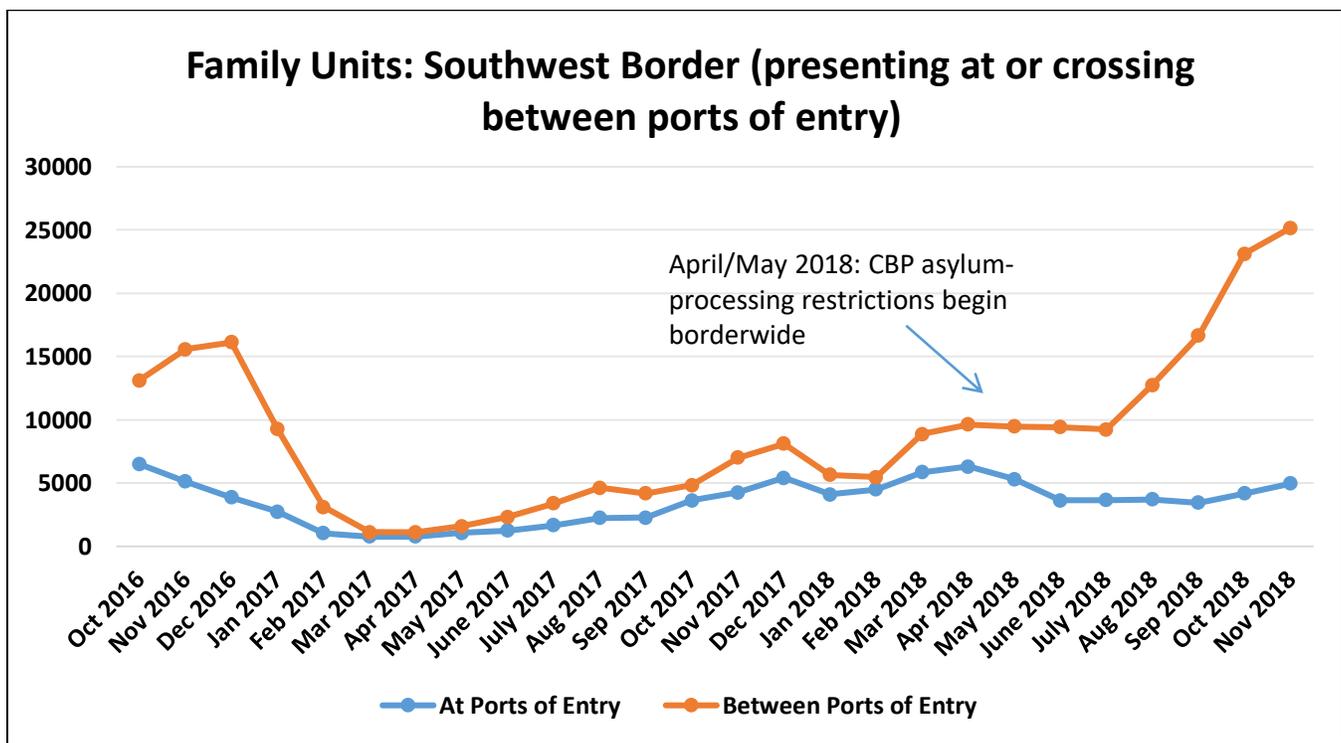


Sources: United States Department of Homeland Security, Customs and Border Protection, Southwest Border Inadmissibles by Field Office FY 2017, FY 2018, FY 2019; U.S. Border Patrol Southwest Border Apprehensions by Sector FY 2017, FY 2018, FY 2019

Orchestrated Processing Reductions Encourage Illegal Crossings

CBP’s processing reductions and turn-aways led some asylum seekers to cross into the United States between official border posts—even if they originally intended to cross at a port of entry. The DHS Office of the Inspector General (OIG) explained in a September [report](#) that placing limits on the number of individuals allowed to seek asylum at a port of entry leads some “who would otherwise seek legal entry into the United States to cross the border illegally.” One Border Patrol supervisor confirmed that CBP sees more illegal entries around ports that restrict the number of individuals permitted to seek asylum each day. The OIG also reported that a CBP official acknowledged that the port of entry backlogs “likely resulted in additional illegal border crossings.”

In fact, the agency’s own statistics reflect a negative correlation between the Trump Administration’s asylum restrictions and increases in illegal entry of family units. Because large percentages of families arriving at or crossing the southwest border seek asylum, they best approximate trends related to asylum seekers, as monthly data on asylum seekers per se is not available. As the table below shows, fluctuations in families deemed inadmissible after seeking admission at ports of entry and those crossing away from ports of entry have tended to largely track one another. But since the administration began restricting asylum processing and blocking access to ports on the southern border in late April and May 2018, the number of families processed at ports of entry each month fell by more than one-third and has remained at reduced levels through November. At the same time, the number of families crossing the border illegally grew by nearly 260 percent between [April](#) and [November](#) 2018. These trends indicate that the administration’s asylum bottlenecks have not only throttled the number of families able to seek asylum at ports of entry but likely pushed families to cross illegally who might otherwise have presented themselves at official border points.



Source: United States Department of Homeland Security, Customs and Border Protection, Southwest Border Migration [FY 2017](#), [FY 2018](#), [FY 2019](#).

The DHS OIG, human rights researchers, and the media all report cases of asylum seekers who considered crossing or did cross the border between ports of entry due to the port-processing reductions and resulting backlogs. For example:

- ☑ The DHS OIG interviewed two people who reported that they crossed the border illegally after initially being turned away at ports of entry. One woman told investigators that she was turned away three times by an officer on the bridge to a port of entry before she decided to try to cross the border illegally.
- ☑ Asylum seekers stranded in Tijuana, including two unaccompanied children ages 14 and 16 from El Salvador, told Human Rights First researchers on November 30, 2018, that they were considering crossing over the border fence because they feared waiting in the terrible conditions at the Benito Juarez migrant shelter in order to seek asylum at the port of entry.
- ☑ *The New York Times* [reported](#) in early December that a Honduran family considered climbing the fence near Tijuana after they tried to sign up for an appointment to seek asylum in the United States but were told by Mexican police officers that they could no longer do so.
- ☑ Two Mexican women who were [reportedly](#) unable to seek asylum at San Ysidro because of the processing limitation in place at the port later crossed the border in Arizona and were criminally prosecuted for illegal entry.

Given these reports, the statements of CBP officials to the OIG, and CBP's own statistics, Trump Administration officials must be aware that orchestrated reductions and limits on asylum processing at ports of entry increase illegal crossings. Internal CBP communications reveal that it is an accepted and understood phenomenon that bottlenecks at ports of entry push people to cross between them. According to a recent [Vox report](#) “[a]n early [CBP] communiqué about the caravan in October said that while the caravan would probably arrive at a port of entry, there was a risk the migrants might choose to cross illegally if they suspected metering would be in effect.”

Mexico: Asylum Seekers Stranded in Limbo and Danger by CBP's Orchestrated Bottlenecks

Because of restrictions on claiming asylum and resulting back-ups at ports of entry, asylum seekers are often forced to wait for weeks and sometimes months in border towns in Mexico before CBP processes their requests for protection. For many asylum seekers, however, Mexico is not a safe place to wait, as migrants have been victims of murder, shootings, rape, kidnappings, and human trafficking. Additionally, Mexican migration authorities have deported asylum seekers to the countries where they fear persecution.

Growing wait times: Asylum seekers are forced to wait for extended—and increasing—periods. Often, they are forced to sleep outside ports of entry or in otherwise inadequate shelter. For example:

- ☑ At the San Luis, Arizona port of entry in early November 2018, asylum seekers told Human Rights First researchers that they had camped outside the port on the Mexican side of the border for up to three weeks. Dozens of families were sleeping on the concrete walkway leading up to the port of entry under makeshift tents fashioned out of sheets and blankets, including one woman who was nearly eight months pregnant and another woman with a nine-month-old baby suffering from bronchitis.

- ☑ In Mexicali, Human Rights First spoke with the director of a migrant shelter who reported that asylum seekers waited an average of 25 to 30 days before being processed at the port of entry in Calexico, California. A Cameroonian couple at the shelter said they had already been there for two weeks; their “list” number indicated a likely two additional weeks of delay before being permitted to seek asylum.
- ☑ Joanna Williams of the Kino Border Initiative said in November that asylum seekers were waiting for up to 15 days before being processed at the Nogales, Arizona port of entry. Like asylum seekers in San Luis, those waiting at Nogales sleep outside to hold their places in line. In an update to Human Rights First, Williams reported that by early December the wait for asylum processing at Nogales was about 9 days.
- ☑ On November 14, 2018, a Nicaraguan asylum seeker reported that she and her two children waited 24 days in a migrant shelter in Nuevo Laredo on the “list” to seek asylum and three additional days and nights in sub-freezing temperatures on the Gateway to the Americas International Bridge waiting to request asylum at the Laredo, Texas port of entry.

Wait times grow in Tijuana: As of December 3, 2018, over five thousand people were on the informal “list” of asylum seekers waiting to be processed through the U.S. port of entry at San Ysidro, California. Those entering the port in early December reported waiting five weeks on average. But that wait is likely to grow, as the number of asylum seekers has more than doubled in recent weeks with the arrival of several migrant caravans. If the port continues to process only 60 asylum seekers per day as it did in late November and early December, recently arriving asylum seekers are likely to be stranded in Mexico for nearly three months before being allowed to claim asylum.

Inadequate shelter: Human Rights First researchers observed inhumane housing conditions in Tijuana for the thousands of migrants who arrived with the caravans. The temporary shelter at Benito Juarez sports complex in Tijuana housed thousands of migrants and asylum seekers in inadequate and unsanitary conditions, particularly as the area flooded with sewage after heavy rains on November 29, 2018. Even before the rains, municipal health authorities reported that hundreds were suffering from respiratory conditions among other ailments.

In late November, the Mexican government opened a new shelter for migrants in Tijuana at Barretal, a disused nightclub, more than ten miles from the port of entry. Although the new facility contained some enclosed space—including for families—tents were already being set up in an open concrete courtyard when Human Rights First visited on December 1. Facilities remained rudimentary with outdoor taps for bathing that offer little privacy. Even days after the official closure of the Benito Juarez shelter, hundreds remained in tents outside the complex. Asylum seekers there cited concerns about safety at the new shelter given its location in a dangerous Tijuana neighborhood and because its distance from the city center would make it difficult to check when their position on the “list,” which dictates when they may approach the port to ask for asylum.

Dangers for asylum seekers: Asylum seekers in Mexico, including those turned away from ports of entry, may be targeted on account of their race, nationality, gender, sexual orientation, gender identity, and refugee status, among other factors. Various groups “including the lesbian, gay, bisexual, and transgender (LGBT) community, people with indigenous heritage, and foreigners in general” face persecution in Mexico.

Areas near the border, including Reynosa in the east and Tijuana in the west, are particularly dangerous because they are either controlled by cartels or experience high rates of violent crime. In Reynosa, adjacent to the Hidalgo port of entry in Texas, cartels target asylum seekers for kidnapping and ransom, a danger confirmed by Jennifer

Harbury, an attorney who assists asylum seekers in the area. Tijuana has seen an increase in violent crime in 2018, including intentional homicides. By September 2018, the number of homicides in the city since January surpassed total homicides for all of 2017. July 2018 was recorded as the most violent month in the city's history. Asylum seekers in Mexico have faced a variety of dangers, including:

- ☑ On November 9, 2018, Human Rights First researchers spoke with an asylum seeker from Guerrero, Mexico who escaped kidnapping by a cartel that killed his father-in-law and brother-in-law. Afraid the cartel would follow him to Tijuana, he attempted to reach the U.S. port of entry at San Ysidro the previous night, but Mexican migration officers turned him away. With his arm broken from the kidnapping escape but nowhere to go, he slept outside and was robbed.
- ☑ A transgender Mexican woman told Human Rights First on November 9, 2018, that she was robbed of her documents and possessions and nearly sexually assaulted in Tijuana while waiting to seek asylum.
- ☑ On December 1, 2018, a Honduran asylum seeker reported to Human Rights First that her family was attacked by men throwing stones at them while they slept on the beach in Tijuana.
- ☑ On December 2, 2018, Human Rights First researchers spoke with a Cameroonian asylum seeker who was stabbed in the hand and robbed in Tijuana the previous week. He did not report the incident to the police because he feared he could be arrested and deported.
- ☑ In December 2018, a human rights observer related to Human Rights First that three people who traveled with the caravan from El Salvador were separately kidnapped after responding to offers of employment. Two managed to escape, but the third had not been found.

Some asylum seekers who fled from other countries continue to face risks from their persecutors in Mexico. Human Rights First interviewed a Honduran woman who fled to the southern-Mexican state of Chiapas. The family remained there for several months hoping they had escaped their gang persecutors. When the gang appeared in Chiapas threatening them, they fled north to seek asylum in the United States, but CBP officers turned the family away at the San Ysidro port forcing them to wait in continued danger in Mexico.

Deportations by Mexican migration authorities: Reports from Human Rights First, Human Rights Watch and Amnesty International all document that Mexican authorities have deported refugees with credible fears of persecution in their home countries without a hearing, or any consideration in some cases of their protection needs.

During its most recent research in Mexico, Human Rights First learned that 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.

Concern about deportations by Mexican migration authorities has grown so great that Casa del Migrante, one of the largest permanent migrant shelters in Tijuana, has, as of late October 2018, instructed its non-Mexican asylum-seeking residents to request a so-called humanitarian visa in Mexico to prevent Mexican migration officers from deporting them while they wait to seek asylum in the United States. In early October, police arrested a Honduran asylum seeker staying at Casa del Migrante on a minor infraction and transferred him to Mexican migration authorities for deportation. Despite the attorney's request to the local representative of the Mexican

migration agency to halt the asylum seeker's deportation, the man was swiftly deported before the attorney for Casa del Migrante could visit him in the detention facility.

“Capacity” Challenges Reflect Policy Choices, Mismanagement, and Misleading Assertions

The United States has the capacity to receive and process refugee claims in an orderly manner while also safeguarding border security. Overall border apprehensions are at record low levels. The number of refugees seeking protection in the United States is manageable; it remains much lower than those arriving in countries with far less capacity and resources. For instance, 547,000 Venezuelans entered Ecuador in the first eight months of 2018 alone. Central American refugees—the targets of the Trump Administration's policies—are also increasingly seeking refuge in other countries as well, including Mexico, Costa Rica, Panama, and Belize.

Yet some CBP officers have asserted that U.S. ports of entry are “full” or “at capacity.” These assertions are called into serious question, not only because asylum restrictions were part of an orchestrated CBP “metering” policy across ports of entry, but also by reports from border monitors. For instance:

- ✓ While CBP officials have claimed that San Ysidro port of entry has capacity to process 90 to 100 asylum seekers per day, processing levels often fell well below capacity with CBP data showing that just 34 asylum seekers were processed on average per day in the San Diego field office area (which includes San Ysidro) during fiscal year 2018.
- ✓ In June, when CBP officers were saying that the U.S. port of entry adjacent to the Hidalgo-Reynosa Bridge was “full,” a Human Rights First researcher observed that the majority of the nearly one hundred chairs in the port's processing room were empty.
- ✓ A representative of Annunciation House, a migrant shelter in the El Paso area with extensive knowledge of how many asylum seekers are blocked on international bridges, explained that he knew the port was not full given his knowledge of the facility and the numbers they are capable of processing. He told a border officer, “I know you're not at capacity. I know that's what you've been instructed to say.”
- ✓ Researchers associated with the University of Texas who compiled port of entry capacity and processing figures found that the Brownsville port of entry has space for approximately 20 asylum seekers per day but processes on average from none to six.

Further, fluctuations and sudden changes in processing at ports of entry point more to administrative decisions than to capacity shifts that would happen gradually. While some ports may have space limitations, such challenges do not credibly explain the radical shifts downwards in asylum processing across multiple ports of entry.

Instead, there appears to have been a decision to *not* staff ports of entry at levels that would uphold U.S. law and ensure timely asylum processing. In July, a CBP official told reporters that the agency was “not going to pull resources” to process asylum seekers at ports of entry. This refusal continued even though the UN Refugee Agency warned in May that there had been a significant increase in people fleeing Central America to the United States, among other countries.

Some border officials contend that ports are backed up due to lack of immigration detention space. For instance, an official from CBP's San Diego field office told Human Rights First in late November 2018 that “we can increase

processing” of asylum seekers but blamed a lack of ICE detention beds for delays in admitting asylum seekers to the port. ICE may indeed be telling CBP it lacks detention beds, as this message is consistent with Trump Administration and ICE talking points. However, detention facilities are not full:

- ☑ In October and November 2018, a Human Rights First researcher visited multiple ICE detention facilities in California, including Adelanto ICE Processing Center, Otay Mesa Detention Center, Imperial Regional Detention Center, Mesa Verde Detention Center, and Theo Lacy Detention. ICE officials stated that none of those facilities were full and that an average of 25 percent of the facilities’ beds were empty.
- ☑ During Human Rights First’s November 22, 2018 visit to the family detention center in Berks County, Pennsylvania, only one quarter of the facility’s 96 beds were occupied. At the Karnes County Residential Center in Texas, which also houses detained families, attorneys reported that the facility was operating at about 60 percent of its 830-person capacity during the first week of December 2018. Attorneys working with detained families at the South Texas Family Residential Center in Dilley, Texas noted that about 20 percent of its 2,400 beds were empty in the same period.

The Trump Administration and ICE are also purposefully creating bottlenecks in immigration detention by continuing to detain people who meet legal release criteria. For example, ICE has refused to apply U.S. law and its own parole directive to release individuals who meet the relevant requirements. In July, a federal court in Washington D.C. ordered ICE to follow its own parole guidance and release eligible asylum seekers from immigration detention in a suit brought by Human Rights First, along with the ACLU and the Center for Gender and Refugee Studies. Those released include a Haitian refugee who was held for two years even though an immigration court twice ruled he was a refugee entitled to protection.

Additionally, the Trump Administration canceled, rather than expanded, effective and humane alternatives to detention for people who are determined to need appearance support. ICE ended the family case management program despite 99 percent attendance rate for ICE check-ins and appointments, as well as 100 percent attendance rate at immigration court hearings. DHS’s own advisory committee on family detention recommended the use of case management programs rather than detention.

If there were or are inadequate CBP staffing levels or space limitations at ports of entry, these deficiencies should have been promptly remedied when they were identified. Instead, the Trump Administration sought huge increases in Border Patrol staffing, requesting some 750 more officers—even though apprehensions are at historically low levels—but only minimal increases for ports of entry, asking for just 60 additional CBP officers.

Even after the president’s announcement of the “asylum ban,” a report from late November indicates that CBP staff deployed to ports of entry were given a variety of assignments. In the report, a CBP official explained that the processing of asylum seekers was only one of multiple potential tasks given to these officers in addition to safeguarding ports, responding to illegal entries, assisting with crowd control, transporting migrants to medical facilities, and training other CBP officers. Moreover, the DHS spokesperson claimed that DHS is “doing everything we can to process migrants in accordance with U.S. law.” Instead of noting a need for additional CBP staff to process asylum claims at ports of entry, DHS used the opportunity to attempt to push again for Congress to provide funding for more immigration detention beds.

Indeed, the persistent failure or refusal to address claimed space or staffing challenges reflects both a massive border and refugee management failure and a purposeful decision to block asylum seekers and instead encourage increased illegal crossings—and apprehensions—of asylum seekers between ports of entry.