

# THE NIGHTMARE CONTINUES

Title 42 Court Order Prolongs Human Rights  
Abuses, Extends Disorder at U.S. Borders

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## Introduction

On May 23, 2022, the Title 42 policy was set to end. For more than two years, the Department of Homeland Security (DHS) had used this Trump-era policy to block asylum at U.S. ports of entry and to expel asylum seekers to grave dangers without allowing them to apply for U.S. asylum. However, on May 20, 2022, a federal court in Louisiana preliminarily enjoined the decision by the Centers for Disease Control and Prevention (CDC) to terminate its prior Title 42 orders, and the court directed the U.S. government to continue the Title 42 disaster. At the same time, a ruling by the D.C. Circuit Court of Appeals prohibiting DHS from using Title 42 to expel asylum-seeking families “to places where they will be persecuted or tortured” went into effect on May 23.

Despite these seemingly dueling Title 42 judicial decisions, DHS retains clear authority to except individuals from Title 42 and remains obligated under U.S. refugee law and binding treaty commitments not to return anyone—whether a family, adult, or child—to persecution or torture, as the legal rationale of the D.C. Circuit Court decision confirms.

However, Customs and Border Protection (CBP), the border enforcement arm of DHS, continues to turn away people attempting to request asylum at U.S. ports of entry without screening for asylum, stranding them in Mexico facing life-threatening dangers. DHS also continues to expel people who cross the border between ports of entry to grave danger in Mexico, Haiti, and other countries of persecution from which they fled without allowing them to apply for asylum or asking fear screening questions. The continued use of Title 42 is preventing U.S. immigration laws from being upheld, prolonging disorder at the border, and inflating CBP encounter statistics due to repeat entry attempts by migrants. With access to asylum blocked at ports of entry, some asylum seekers are pushed to take highly dangerous journeys to cross the border away from official border posts to attempt to seek safety, adding to the number of border encounters and the mounting death toll of people who have perished in the crossing.

Despite the well-documented harms of Title 42 and the chaos it has caused to the orderly processing of asylum claims at the border, some members of Congress have introduced legislation that would extend the policy. If enacted, these provisions would effectively undermine and override the [Refugee Act of 1980](#), which was passed by Congress with overwhelming bipartisan support to create a uniform legal process for asylum and with the aim of bringing domestic refugee law in line with international treaty legal obligations. A recent report by the U.N. Special Rapporteur on the Rights of Migrants addressing illegal pushback policies, including Title 42, recommended governments “put an end to pushback practices, to suspend, cancel and revoke, as necessary, initiatives to legalize pushbacks, and to respect fully the prohibition of collective expulsion and uphold the principle of non-refoulement.”

Following the Summit of the Americas in June 2022, the Biden administration committed to implementing “humane border management policies and practices” including “improv[ing] the

efficiency and fairness of asylum at the border” as well as pledging to increase resettlement of Haitian and other refugees from the Americas.

This update is based on interviews with 74 asylum seekers conducted by Human Rights First researchers in Ciudad Acuña, Nuevo Laredo, and Piedras Negras, Mexico in late May 2022 as well as additional remote interviews in June 2022; information from legal services and humanitarian aid providers across the border region; observations from outside the Del Rio, Eagle Pass, and Laredo ports of entry; publicly available U.S. government data and information; as well as media and other human rights reporting. Human Rights First published prior research on the Title 42 policy in [April 2022](#) (with Al Otro Lado and Haitian Bridge Alliance), [March 2022](#), [February 2022](#), [January 2022](#), [December 2021](#), [November 2021](#) (with Florence Immigrant and Refugee Rights Project), [October 2021](#), [August 2021](#), [July 2021](#) (with Hope Border Institute), [June 2021](#), [May 2021](#) (with RAICES and Interfaith Welcome Coalition), [April 2021](#) (with Al Otro Lado and Haitian Bridge Alliance), [December 2020](#), and [May 2020](#).

## Key Findings

- ➔ **Citing the Title 42 policy, CBP continues to block requests for asylum at U.S. ports of entry, pushing many asylum seekers to undertake dangerous crossing between ports.** Asylum seekers stranded in danger in Mexico unable to request protection at ports of entry include: a gay asylum-seeking [couple](#) who were previously expelled under Title 42 and given the “option of being separated or of being expelled together;” a Mexican attorney who was kidnapped and tortured by a cartel that severed two of his fingers; and a [Cameroonian](#) nurse stranded in Mexico where she has faced discrimination and abuse by Mexican police. Prior to restrictions at ports of entry like Title 42, many asylum seekers arrived through ports of entry to seek protection including [99 percent](#) of Cubans and Haitians encountered by DHS at the southern border in FY 2017. By comparison in [FY 2022](#) to date (through May), just 0.2 percent of Cubans and 14 percent of Haitians arriving at the southern border were able to present themselves at a port of entry.
- ➔ **Blocking asylum processing at ports of entry has resulted in rising deaths and injuries as desperate asylum seekers attempt to cross the border between ports and through dangerous maritime crossings.** Already in 2022, more than [20](#) Nicaraguans have drowned attempting to cross the Rio Grande to reach refuge in the United States, including an asylum-seeking radio host who fled Nicaragua after Ortega regime supporters attacked his home and threatened to kill him. While CBP continues to block Nicaraguan asylum seekers from accessing protection, the U.S. State Department [imposed sanctions](#) this week on Nicaraguan officials for their support of this same regime stating these officials helped “the regime to tighten its authoritarian grip over Nicaraguan citizens.” With land routes to seek asylum blocked due to Title 42 and worsening political and security conditions, thousands of [Cubans](#) and [Haitians](#) fleeing repression and violence have taken to the seas with interdictions in FY 2022 some three times higher than in the whole of FY 2021. At least [175](#) Haitians have been reported to the U.S. Coast Guard as missing or dead at sea this year.
- ➔ **The continuation of the Title 42 policy condemns asylum seekers and migrants expelled to or blocked in Mexico to grave dangers.** As of June 16, 2022, Human Rights First has tracked more than [10,318](#) reports of murder, kidnapping, rape, torture, and other violent attacks against



people blocked in or expelled to Mexico due to Title 42 since January 2021. They include [Jocelyn Anselme](#), a Haitian asylum seeker, murdered in Tijuana while blocked from seeking asylum due to Title 42; a 19-year-old transgender asylum seeker from Honduras who was expelled by DHS three times to Mexico where she had been raped and her long hair cut off by transphobic assailants; and a Nicaraguan couple and their nine-year-old child currently [kidnapped](#) in Reynosa. These accounts were gathered through interviews and review of media and NGO reports.

- ➔ **DHS again accelerated Title 42 expulsions to Haiti despite worsening violence in Haiti.** Some 4,000 Haitians were expelled or deported on at least 36 flights just in the month of May—the second highest number of flights to Haiti during the Biden administration. DHS has disproportionately targeted Haitians for expulsion flights. As the [New York Times](#) noted in May 2022, “Haitians represented about 6% of the migrants crossing the border with Mexico but occupied 60% of expulsion flights.” At the same time, the U.N. High Commissioner for Human Rights [observed](#) in May 2022 that “armed violence has reached unimaginable and intolerable levels in Haiti.”
- ➔ **Title 42 exceptions and the “shout test” screening created by DHS to implement the D.C. Circuit Court’s [ruling](#) prohibiting DHS from returning asylum-seeking families to persecution and torture are a totally inadequate substitute for a uniform asylum process that complies with U.S. law and treaty obligations.** Dozens of asylum-seeking families expelled under Title 42 reported to Human Rights First and other researchers that Border Patrol agents ignored their expressions of fear or prevented them from expressing fear of return and did not refer them for screening required under the D.C. Circuit ruling. Many families reported that they feared attempting to explain their fear of return because of intimidating conduct and statements by Border Patrol agents, including one agent who told them they were “invaders.”

## Recommendations

- ➔ **Congress:** reject any efforts to codify or legislatively extend the Title 42 policy, direct sufficient appropriations to community-based, non-profit organizations providing temporary housing, transportation, and other assistance to people seeking refuge at the border, and continue to conduct oversight of the disorder and human rights abuses caused by the Title 42 policy.
- ➔ **Biden Administration:** fully and forcefully defend—in court, with Congress, and to the public—the administration’s plans to restore access to asylum and end the disastrous Title 42 policy.
- ➔ **Department of Homeland Security:** take all legally available actions to restore asylum access at and between ports of entry and mitigate the harms of Title 42, while it remains in effect, including through the use of exceptions to Title 42 and by affirmatively screening individuals subjected to Title 42 for fear of return to persecution and torture, as U.S. law and international treaty obligations require.
- ➔ **Centers for Disease Control and Prevention:** immediately commence rulemaking to rescind the Title 42 order—even though such a process should not be legally required.



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## Asylum Seekers Blocked from Approaching U.S. Ports of Entry to Request Protection

In the wake of the court's injunction, DHS has continued to implement the Title 42 policy, blocking people from seeking asylum at U.S. ports of entry on the southern border. As a result, refugees are stranded in danger in Mexico, and some have been pushed to cross away from ports of entry. The failure to resume upholding U.S. immigration laws at the border, as DHS had planned, following the court-ordered continuation of the policy is contrary to DHS's own policy on asylum processing at ports of entry and a federal court ruling that metering of asylum claims at ports is illegal. It also magnifies the dangers these stranded asylum seekers face and inflates the number of crossings by migrants as well as some asylum seekers, as discussed further below.

CBP officers stationed in the middle of international bridges and outside of U.S. ports of entry on the southern border continue to refuse to process requests for asylum from individuals and families seeking to exercise their right under U.S. law and treaty obligations to request asylum. At many southern border ports of entry, CBP officers coordinate with local Mexican migration officials to prevent asylum seekers from approaching the U.S. border line to try to request protection. For instance, a security guard now restricts access to the international bridge between Ciudad Acuña and Del Rio, Texas and requires pedestrians to show valid travel documents, which was not the case when Human Rights First last visited Ciudad Acuña in August 2021. Recent DHS guidance on Title 42 directs CBP officers who have turned away asylum seekers on international bridges and outside of U.S. ports of entry not to refer those individuals for an asylum screening even if they express a fear of harm in Mexico.

Some of the many asylum seekers recently turned away at U.S. ports of entry and/or who are stranded in Mexico due to the Title 42 policy, waiting to be able to request asylum at a port include:

- ➔ **Joy, a nurse from Cameroon who fled political persecution in Cameroon, is stuck in Tijuana unable to seek asylum in the United States due to Title 42.** She told AnimalPolitico that she has faced discrimination and racist abuse in Mexico, including by police, who called her a "pig" and demanded to know why she had come to the country.
- ➔ **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."
- ➔ **In May 2022, CBP officers turned away a Honduran asylum seeker and her children who sought protection at the Eagle Pass, Texas port of entry due to Title 42.** The family had fled death threats in Honduras after reporting the forcible disappearance of the woman's husband, a union organizer and activist. The woman told Human Rights First that they had been kidnapped in southern Mexico and held captive for 15 days as they were attempting to reach the U.S. border to seek safety.
- ➔ **A 28-year-old paraplegic Honduran asylum seeker remains stranded in Nuevo Laredo, blocked from seeking U.S. asylum due to Title 42.** The man fled Honduras after gang members



killed his brother and shot at him, damaging the man's prosthetic legs. In Mexico, armed men beat and robbed him of all his belongings. He has been unable to work to support himself, facing discrimination for his disability, while he waits for an opportunity to seek U.S. asylum.

- ➔ **In mid-May 2022, a Mexican attorney, who had been kidnapped by a cartel that severed two fingers from his hand, was blocked due to Title 42 from approaching the Del Rio port of entry to request asylum.** Stranded in Ciudad Acuña and fearing the cartel that tortured him would find him again, he told Human Rights First that a guard working for the Mexican migration service prevented him from entering the bridge that connects to the Del Rio port of entry, telling him that asylum in the United States was not available.
- ➔ **A 13-year-old Mexican girl, her mother, and four siblings are stranded in dangerous Nuevo Laredo where the family fears the cartel members who kidnapped and raped the girl could locate them again.** The girl's mother told Human Rights First that she fears the cartel will target them for reprisal after she led a public campaign to locate and free her daughter.
- ➔ **In early May 2022, CBP officers at the Nogales port of entry turned away an asylum-seeking Haitian couple and their five-year-old daughter.** According to Kino Border Initiative (Kino), instead of processing them, the officers instructed the family to ask Kino for assistance to request asylum.

Title 42 and other policies that block access to asylum at U.S. ports of entry push asylum seekers to undertake dangerous crossings. For instance, government data confirms that in Fiscal Year (FY) 2017, 99 percent of Cubans and Haitians encountered by DHS at the southern border had arrived through a port of entry. But after years of "metering" restrictions and Title 42 expulsions, in FY 2022 to date, just 0.2 percent of Cubans and 14 percent of Haitians arriving at the southern border were able to present themselves at a port of entry. The percentage of Haitians arriving through ports of entry rose in April and May 2022, as some ports of entry processed limited numbers of Haitian asylum seekers through Title 42 exceptions. More limited data also shows that the percentage of Venezuelan asylum seekers presenting themselves at ports of entry has followed a similar trend plummeting from 56 percent in FY 2020 to just 0.2 percent in FY 2022 to date.

#### **Expulsions to Worsening Human Rights Situation in Haiti Again Accelerating**

DHS appears to be accelerating its use of Title 42 to expel Haitians, including asylum seekers, returning them to escalating danger in Haiti without allowing them to apply for refugee protection in the United States. In May 2022, DHS deported and expelled to Haiti at least 4,000 Haitians on some 36 flights—the second highest total during this administration surpassed only by September 2021 when thousands of Haitians were expelled after crossing into the United States near Del Rio, Texas. DHS has disproportionately targeted Haitians for expulsion flights. As the New York Times noted in May 2022, "Haitians represented about 6% of the migrants crossing the border with Mexico but occupied 60% of expulsion flights."

The human rights situation in Haiti continues to deteriorate as journalists and human rights defenders have been targeted for killings and kidnappings. In May 2022, the U.N. High Commissioner for Human Rights observed that "armed violence has reached unimaginable and intolerable levels in Haiti." ABC News recently reported that "the scale and duration of gang



clashes, the power criminals wield and the amount of territory they control [in Haiti] has reached levels not seen before." Doctors without Borders has condemned kidnappings of medical personnel that are limiting access to healthcare in Haiti and forced the closure of some of its operations in the country.

### **Family Separations Caused by Title 42**

The continued use of Title 42 to block and expel asylum-seeking adults and families is continuing to lead to family separations. In some cases, DHS has returned family members alone to Mexico or separated families and returned them to different parts of Mexico. The expulsion policy also pushes some desperate families to send their children across the border to protect them from kidnapping, sexual assault, and other violence – resulting in needless and traumatic family separations and increasing the number of unaccompanied children at the border. In fiscal year 2021, more than 12,000 children reentered the United States as unaccompanied minors after having been expelled, usually with their parents, under Title 42, according to government data obtained by CBS News. Recent cases of family separation due to the continued implementation of the Title 42 policy include:

- ☛ **DHS separated a five-year-old Honduran boy from his adult sister and the sister's children, who were expelled to Mexico under Title 42 in May 2022.** The boy's sister told Human Rights First that he was processed as an unaccompanied minor and is now in an Office of Refugee Resettlement shelter in South Carolina, while the sister and her children are stranded in danger in Ciudad Acuña unable to seek asylum.
- ☛ **DHS separated a Honduran father from his partner and child, expelling the man to Mexico under Title 42 in May 2022.** The man told Human Rights First researchers that his partner and their child were permitted to remain in the United States to continue the asylum process while he is stuck in Ciudad Acuña.
- ☛ **In late May 2022, DHS separated an elderly Colombian woman from her adult daughter and sister and their children after the family sought protection in Laredo, Texas.** The woman's daughter, granddaughter, sister, and niece were released into Laredo to seek asylum. The woman's sister told Human Rights First that nobody had heard from the woman in the five days since DHS released the family, and she fears her sister was expelled alone to Mexico under Title 42 or enrolled in the Remain in Mexico program.

### **Asylum Seekers Expelled to / Blocked in Mexico Under Title 42 Condemned to Grave Dangers**

The continued implementation of Title 42 is causing mounting human rights abuses. Individuals and families blocked from protection by Title 42 are targeted for attacks in Mexico by powerful cartels that exercise control throughout the border region and profit from kidnapping, torturing, and extorting asylum seekers turned away by the United States. They are seen as easy prey by these cartels and other criminal groups because of their status as migrants, as well as due to their race, nationality, gender identity, and sexual orientation. Black asylum seekers from



Cameroon, Haiti, Honduras, Jamaica and other countries continue to be targets of sometimes deadly violence and discrimination while stranded in or transiting through Mexico.

In addition, non-governmental organizations assisting asylum seekers stranded in Mexico continue to be targeted for attacks. In May 2022, José Guadalupe Rivas Saldaña, a Catholic priest and the director of the Our Lady of Guadalupe migrant shelter in Baja California, was kidnapped and [murdered](#). The U.S. State Department's 2021 [report](#) on international religious freedom in Mexico, published in June 2022, determined that "organized crime groups continued to single out some Catholic priests and other religious leaders and subject them to killings, extortion attempts, death threats, kidnappings, and intimidation, reportedly due to . . . their work helping migrants."

**Since January 2021, Human Rights First tracked at least [10,318](#) reports of kidnapping, murder, torture, rape, and other violent attacks against migrants and asylum seekers blocked in or expelled to Mexico due to the Title 42 policy.** This count is likely just the tip of the iceberg since few asylum seekers have spoken with investigators, journalists, or attorneys. Despite these escalating dangers, in early May 2022, the Biden administration secured an agreement with Mexico to expel more [Cuban and Nicaraguan asylum seekers](#) daily to Mexico under Title 42. Already between January and May 2022, nearly 3,100 Cubans and more than 1,800 Nicaraguans were subjected to Title 42 at the southern border according to CBP [data](#).

Recent attacks on asylum seekers blocked in Mexico due to the continuation of the Title 42 policy, many of whom were previously expelled under Title 42, include:

- ➔ **Jocelyn Anselme**, a 34-year-old Haitian asylum seeker, was [murdered](#) during an attempted assault and robbery in Tijuana in May 2022 while blocked from seeking asylum due to Title 42, according to Haitian Bridge Alliance, which organized a funeral for the man.
- ➔ A Cuban woman and her son were expelled to Mexico under Title 42 after an organized criminal group had [kidnapped](#) them in Ciudad Juárez in April 2022, held them captive, and tortured them for 26 days until family members paid a \$30,000 ransom. "They pointed a gun at my neck and they kneeled him in front of me, and if I didn't say what they told me to say, they would kill my son in front of me," the mother told [CNN](#).
- ➔ In spring 2022, **Irene**, a Salvadoran asylum seeker, and her nine-year-old daughter fleeing death threats in El Salvador were kidnapped a second time after DHS expelled them to Ciudad Juárez under Title 42. The family had crossed the border to seek protection and escape an organized criminal group that, with the assistance of municipal police officers, had abducted and held the family captive for ransom for more than a month. Immediately after expulsion, the family was kidnapped again by an organized criminal group that threatened to kill them. The young girl asked, "mama, why are they going to kill us?"
- ➔ In late May 2022, **Ana**, a 25-year-old Mexican asylum seeker, was hit in the neck by a stray bullet while shielding her children during a shootout near the shelter where she had been stranded due to Title 42. They [reportedly](#) had fled Michoacán to seek asylum in the United States after family members were kidnapped and killed.



- ➔ In May 2022, a Honduran asylum seeker witnessed a friend kidnapped from a store in Piedras Negras where the pair had gone after DHS expelled them to Mexico at 2 a.m. Men with their faces covered with ski masks who searched the women's phones for contacts in the United States abducted the other woman. The Honduran asylum seeker told Human Rights First that more than two weeks later the Honduran asylum seeker had not heard from her friend.
- ➔ In early June 2022, a Nicaraguan couple and their nine-year-old son were kidnapped in Reynosa, according to family members in Nicaragua who are reportedly currently fundraising the \$25,500 ransom demanded by the cartel that abducted them.
- ➔ In May 2022, DHS expelled a Guatemalan woman fleeing death threats by her abusive ex-husband and her five-year-old daughter to Nuevo Laredo, where a taxi driver immediately kidnapped them. She reported to Human Rights First that the driver delivered the family to the same organized criminal group that had previously kidnapped them and had held them captive for nearly a month until the woman's relatives sold their car to pay the \$9,000 ransom demanded by the kidnappers.
- ➔ 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.
- ➔ In late May 2022, a Honduran woman was sexually assaulted in a Nuevo Laredo shelter after she and her children were turned away under Title 42 at the Laredo port of entry where they had attempted to seek asylum. She told Human Rights First she has been unable to sleep in the week since the attack, terrified the assailant would return.
- ➔ A Honduran man blocked from seeking asylum at the Del Rio port of entry due to Title 42 was robbed of all his belongings as he slept on the ground in a public plaza in Ciudad Acuña in April 2022. He told Human Rights First that he moved to Ciudad Acuña after being kidnapped and held for a week in Piedras Negras in March 2022.



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### Mexican Authorities Perpetrating Attacks Against Asylum Seekers, Deporting Them to Danger

Mexican authorities, including police, immigration officials, and members of the Mexican military, are frequently responsible for, involved in, or fail to investigate, kidnappings, attacks, and extortion of migrants and asylum seekers returned to or blocked in Mexico. [U.S. government](#) and other human rights [reports](#) have repeatedly confirmed the involvement of Mexican government agents in violent attacks, extortion, and killings, often in collaboration with cartels, as noted in many of the cases discussed above. Blocked and expelled asylum seekers in Mexico who are denied access to U.S. asylum are at high risk of onward or so-called chain *refoulement*, i.e. illegal return, to countries where they would face persecution or torture, by Mexican officials. Mexican migration officials often fail to [inform](#) detained migrants of their right to seek asylum, [pressure](#) asylum seekers not to file applications for protection, and fail to [forward](#) their requests to the Mexican asylum agency.

In interviews Human Rights First conducted in May 2022 in Piedras Negras and Ciudad Acuña, in the Mexican state of Coahuila, dozens of asylum seekers and migrants reported that state and local police had robbed, extorted, harassed, assaulted, and in two cases, kidnapped them. These extremely concerning reports are consistent with accounts Human Rights First previously [documented](#), including most recently in [August 2021](#). Some of these recent attacks include:

- ☛ **In May 2022, a Coahuila state police officer sexually assaulted a 12-year-old Honduran girl in Ciudad Acuña near the public plaza where her family sleeps because they are blocked from seeking asylum due to Title 42.** The girl's mother told Human Rights First that a police officer on a motorcycle stopped the girl and groped her as she was returning from a nearby store.
- ☛ **Municipal police in Ciudad Acuña reportedly extort asylum seekers who try to approach and cross the Rio Grande and detain people who refuse to pay.** Mexican police reportedly extort significantly higher amounts from Cuban asylum seekers attempting to cross into the United States, according to a April 2022 report from the Cuban news outlet [14ymedio](#).
- ☛ **Coahuila state police kidnapped a Honduran asylum seeker in Piedras Negras in March 2022 and turned him over to an organized criminal group that held him captive for 15 days.** His family was forced to sell their house to pay the \$15,000 ransom. The man told Human Rights First that police had also stolen his money and cell phone in a separate incident after the kidnapping.
- ☛ **Several asylum seekers blocked in Piedras Negras due to Title 42 reported in May 2022 that police officers stopped them on the street, attempted to extort them, and detained them without charge when they failed to pay.** One asylum-seeking family with 9- and 13-year-old children told Human Rights First that local police grabbed the family from a street corner and held them in a jail cell for approximately 36 hours without providing any food before finally releasing them.
- ☛ **In May 2022, Coahuila state police robbed a Honduran asylum seeker, who is stranded in Piedras Negras due to Title 42, after groping her and aggressively searching her body for valuables.** The officers forced her to unlock her phone, which the woman believes was so that



the officers could read her messages from relatives. “If our families send us money, the police take it,” she told Human Rights First.

- ➔ **Coahuila state police kidnapped a Honduran asylum-seeking woman, her husband, and their young daughter in Piedras Negras in May 2022 while they were blocked from seeking U.S. asylum due to Title 42.** The woman reported to Human Rights First that police held her family captive for three days with 15 other migrants and demanded an \$800 ransom.

Mexican police and immigration authorities in Coahuila have deported asylum seekers who were expelled from the United States or unable to seek U.S. asylum at a port of entry due to Title 42.

- ➔ **Coahuila state police extorted Ramón Tejera, a Cuban asylum-seeking naval engineer and his family after DHS had expelled the family to Piedras Negras under Title 42 in March 2022 and turned them over to Mexican immigration officers, who deported the family to Cuba without access to asylum or refugee protection screenings in either country.** Mexican immigration officers reportedly deported the family to because they were unable to pay the extortion fees the officers demanded.
- ➔ **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.
- ➔ **In June 2022, Coahuila state police detained an asylum-seeking Honduran family with a 17-year-old daughter, who had been expelled by DHS under Title 42, on the street in Ciudad Acuña and turned them over to Mexican immigration officials.** An asylum seeker who witnessed the incident reported to Human Rights First that one of the migration officials later confirmed that the family had been transferred to Tapachula, Mexico and would be deported to Honduras.

#### **Pushing Desperate Asylum Seekers to Dangerous Crossings**

Asylum seekers who are blocked from requesting protection at U.S. ports of entry and at times facing violence in Mexico undertake dangerous, often repeated, border crossings. These crossings result in severe injuries, dehydration, starvation, and drownings as well as kidnappings and other violent attacks by cartels and organized criminal groups that control border crossings. In late May 2022, [Nicaragua Investiga](#) reported that more than 20 Nicaraguans had already died in 2022 trying to cross the Rio Grande to reach the United States. The non-profit [group](#) Texas Nicaraguan Community has taken on the grim task of assisting dozens of families in Nicaragua to locate and repatriate the remains of those who have died attempting the crossing between ports. The U.S. Border Patrol in El Paso issued a [warning](#) after five people drowned attempting to cross canals at the U.S.-Mexico border in June 2022. The International Organization for Migration reported that at least [650](#) people died attempting to cross the southern U.S. border in 2021—the



deadliest year since the IOM began to tally migrant death in 2014. CBP has not, however, accurately recorded the number of deaths of migrants attempting to cross the border according to an April 2022 Government Accountability Office [report](#).

Some of the people who have died while attempting to cross the U.S.-Mexico border to reach refuge in the United States are:

- ➔ **In May 2022, Calixto Nelson Rojas Bordas, a 53-year-old radio host from Nicaragua, drowned in the Rio Grande while attempting to cross the border to seek asylum in the United States.** He had [fled](#) Nicaragua after government sympathizers threatened to kill him and disappear his family following his participation in anti-regime protests. Rojas Bordas' sister reported that local government officials in Nicaragua [prevented](#) the family and their supporters from holding a public event to raise funds to repatriate his remains.
- ➔ **In late April 2022, the body of 39-year-old Cuban musician Ernesto Jorge Hidalgo Mariño was found after he drowned trying to swim around the border wall that extends into the Pacific Ocean near Tijuana.** A journalist familiar with Hidalgo Mariño [noted](#) that Cubans like him have "left Cuba, giving up everything, to die at sea or in the Rio Grande, fleeing from something that stinks in their country."
- ➔ **Many children have drowned or gone missing while attempting to cross the border with their families in recent months as Title 42 blocks asylum seekers from approaching U.S. ports of entry.** These child fatalities include a five-year-old child who [drowned](#) in the Colorado River near Yuma, Arizona in early June 2022; seven- and nine-year-old brothers from Angola who were [swept away](#) by river currents near Del Rio, Texas in May 2022; and three-year-old Sofía Abigail Caballero Huete from Nicaragua who [remains missing](#) after her mother drowned when the family attempted to cross the Rio Grande near Eagle Pass, Texas in mid-May 2022.

Highly dangerous maritime crossings from Cuba and Haiti have also skyrocketed with asylum largely blocked along the U.S.-Mexico border due to Title 42, increasing restrictions on access to territory throughout the Americas, and worsening political and security conditions. As of June 14, 2022, the U.S. Coast Guard had interdicted more than [2,400](#) Cubans in FY 2022 to date—nearly three times more than in FY 2021 and already the largest number of interdictions since FY 2016. By the end of May 2022, the U.S. Coast Guard had interdicted nearly [5,400](#) Haitians in FY 2022—more than three times as many interdictions of Haitians than compared to the whole of FY 2021. These crossings are often deadly. As of May 23, 2022, at least [175](#) Haitians were reported to the U.S. Coast Guard as missing or deceased this fiscal year. The U.S. Coast Guard does not appear to have reported the number of missing and deceased Cuban migrants in FY 2022.

#### **Triggering Multiple Crossings, Artificially Inflating CBP's Border Encounters Statistics**

Due to Title 42, the percentage of individuals who have attempted to repeatedly cross the southern border has jumped by over 385 percent from 7 percent in FY 2019 to 27 percent in FY 2022. Information released by [CBP](#) shows that in fiscal year (FY) 2019, repeat crossings stood at 7 percent of Border Patrol encounters, but with Title 42 in place since March 2020 repeated crossings have



risen to 27 percent of Border Patrol encounters in FY 2021 and FY 2022 (through April 2022). According to the [American Immigration Council](#), “[t]his increase in apprehensions has been seen most among single adults who are not seeking asylum.”

Repeat crossings triggered by Title 42 expulsions have artificially inflated CBP’s border apprehension statistics. CBP has [concluded](#) that the number of border encounters “was partly driven by high recidivism rates (repeat encounters) among individuals processed under the CDC’s Title 42 public health authorities, meaning the actual number of unique individuals attempting to cross the border was substantially lower than total encounters.” For example, in April 2022, government [data](#) shows that at least 44,000 encounters with Border Patrol were with individuals who had crossed the border multiple times, such that CBP acknowledged that its encounters statistics “overstate the number of unique individuals arriving at the border.”

#### **Title 42 Exceptions and “Shout Test” Not Adequate or Lawful Replacement for U.S. Asylum System**

Neither exceptions to Title 42 nor the “shout test” screenings now supposedly available for asylum-seeking families subject to Title 42 are a legally sufficient or adequate substitute for the U.S. asylum process established by Congress and required to meet the United States’ international treaty obligations to protect refugees from return to persecution and torture.

As of May 23, DHS is prohibited by a D.C. Circuit Court of Appeals [ruling](#) (in a case that challenged the legality of the Title 42 policy as applied to asylum-seeking families) from carrying out expulsions “to places where they will be persecuted or tortured.” While the legal rationale of the court’s ruling applies to any individual at risk of return to harm under Title 42, [DHS](#) has chosen to limit fear screenings to families, excluded from screening asylum seekers who CBP officers [block](#) at the international border line from approaching a U.S. port of entry, and created a new fear “shout test” requirement. Instead of requiring Border Patrol agents and CBP officers to ask individuals subject to Title 42 whether they fear return to the place where they will be sent—the practice required for individuals subjected to expedited removal—DHS has chosen to require families to affirmatively state or convey a fear of return, *i.e.* a “shout test.”

However, asylum-seeking families expelled to Mexico on and since May 23 reported to Human Rights First and other researchers that when they tried to express their fears of return, Border Patrol agents ignored their statements or refused to allow them to speak and failed to refer any for screening.

- ➔ **Four asylum-seeking families, who were expelled under Title 42 to Ciudad Acuña on May 23, 2022, reported to Human Rights First researchers that Border Patrol agents refused to allow them to explain their fear of return to Mexico or their countries of origin and did not refer them for a fear screening before expelling them.**
  
  - ➔ **None of the approximately 50 Honduran and Salvadoran asylum-seeking families, who were interviewed by researchers from the Center for Gender and Refugee Studies (CGRS), had received a fear screening prior to being expelled to Reynosa in late May and early June 2022.**
- According to CGRS’s Legal Director, Blaine Bookey, many families reported that when they



attempted to explain their fear of return, Border Patrol officers said, for example, that asylum was not available and that they would only be taking fingerprints and photographs and ordered the families to stop attempting to communicate with the officers. Other families expressed that given harsh treatment and verbal abuse from Border Patrol agents, they were too afraid to even attempt to explain their fears of return. One family reported to Bookey that Border Patrol agents called them “invaders,” and other families reported the agents told them that if they were afraid to return to their country, they should arm themselves and fight the gangs.

- ➔ **Interviews conducted by Kino Border Initiative with families and individuals expelled along the Arizona-Mexico border in late May 2022 after the D.C. Circuit Court ruling went into effect revealed that “Border Patrol continues to immediately expel migrants they encounter, without any screening.”** Kino reported that Border Patrol agents did not refer an asylum-seeking family from Guatemala for screening even though the family expressed a fear of return and refused to allow a Mexican asylum-seeking family to explain why they had fled Mexico before expelling them to Nogales under Title 42.

As the Louisiana court in the challenge to the termination of Title 42 acknowledged, exceptions to the Title 42 order have “been used throughout the course of the pandemic in order to apply the normal Title 8 immigration enforcement procedures.” While some asylum seekers have been processed at southern border ports of entry through Title 42 exceptions, access is extremely limited, with ad hoc systems for requesting exceptions varying drastically along the border—with many asylum seekers unaware of and unable to request such exception from Title 42 in order to seek protection at a U.S. port of entry.

- ➔ For instance, at the Hidalgo, Laredo, and San Ysidro ports of entry, DHS processes a limited number of individuals funneled for Title 42 exceptions by certain U.S. and Mexico-based nonprofit organizations and migrant shelters. Placing this responsibility on civil society puts these organizations and their staff at increased risk of being viewed by cartels that control significant parts of the border region as interfering in their business.
- ➔ At some ports of entry, including Eagle Pass and El Paso, Mexican municipal and state government agencies coordinate with CBP on Title 42 exception requests. In May 2022, an armed man in Piedras Negras, who identified himself as an officer of the *Oficina Municipal de Enlace* (Municipal Liaison Office) told Human Rights First that he worked directly with CBP to select families to be processed at the port of entry. The officer had initially claimed to be employed by the U.S. government and mistakenly stated that the families his agency was assisting were being granted U.S. asylum when they were only receiving an exception from Title 42. Several families also reported to Human Rights First their mistaken belief that they had applied for U.S. asylum through the *Enlace* officer.
- ➔ At other ports of entry, there does not appear to be any way to request exceptions from Title 42 in order to seek asylum, including at the Del Rio port of entry, where asylum seekers reported that Mexican officials in Ciudad Acuña had advised them to relocate to other ports.



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### Life-Threatening Conditions for Asylum Seekers Stranded in Mexico

Asylum seekers and migrants blocked in and expelled to Mexico under Title 42 are stranded in dire living conditions, without immigration status, access to medical care, or the means to survive. Asylum seekers without access to safe housing struggle to survive, including in Piedras Negras, where the municipal government continues to forbid shelters from housing migrants, leaving most to sleep on the streets or in abandoned houses or empty lots, where they are exposed to excessive heat and rainstorms and at risk of kidnapping and other violent attacks. In Ciudad Acuña, in late May 2022, Human Rights First encountered dozens of asylum seekers and migrants who sleep in a public city plaza, where many have been harassed and robbed. They reported that local police have repeatedly ordered them to leave the plaza in the middle of the night or the early hours of the morning. Shelters are at capacity in Reynosa, where a month after the city cleared thousands of migrants and asylum seekers from an encampment in the city center, many are sleeping in tents and under tarps in a plaza in a city square. CGRS Legal Director Blaine Bookey, who visited Reynosa in early June 2022, estimates that hundreds are sleeping in the streets.

Migrants in Mexico, including those blocked or expelled there under Title 42, are frequently denied medical care, including emergency assistance, including:

- ➔ In May 2022, Calory Archange, a 30-year-old Haitian man, died of a heart attack in Tijuana after having received inadequate medical care while stranded due to Title 42. His funeral in Tijuana was organized by Haitian Bridge Alliance—one of 12 funerals the organization has held since December 2021 for Haitian migrants who have died or been killed in Mexico while stranded there due to Title 42.
- ➔ A hospital in Ciudad Acuña refused to examine a pregnant Honduran woman complaining of stomach pain and nausea while she was stranded in Mexico due to Title 42 in May 2022. She told Human Rights First that hospital staff said she would not be examined without documents showing that she had legal status in Mexico.
- ➔ In Piedras Negras, a hospital turned away a three-year-old Honduran girl who was convulsing uncontrollably. Her asylum-seeking father told Human Rights First in May 2022 that DHS had expelled the family under Title 42 each of the four times they attempted to cross the border to request asylum.

Asylum seekers stranded in Mexico because of Title 42 are often unable to work to support themselves while they wait to request protection. Those able to find work are often subjected to abusive and exploitative employment arrangements given their lack of migration status and discrimination in Mexico. For instance, a Honduran asylum seeker expelled twice under Title 42 and currently stranded in Ciudad Acuña was denied wages he had earned while working in construction in Mexico in spring 2022. His employer taunted him that reporting the wage theft to the police would be useless and made clear his belief that Mexican authorities would not protect migrant workers from exploitation. The man, who was also robbed multiple times in Mexico, told Human Rights First he has been wearing the same outfit for two months because he has no money.



Employers have also refused to pay the medical costs for stranded asylum seekers injured while working for them. In Tijuana, the organization [Haitian Bridge Alliance](#) had to cover the medical costs of a Haitian man whose fingers were severed while harvesting cactus. An asylum-seeking mother and daughter from Honduras, whom DHS had turned away from protection at the Laredo port of entry under Title 42, have been working long hours under abusive conditions for little pay at a restaurant in Nuevo Laredo. The mother told Human Rights First the restaurant owner refused to pay for the daughter's medical costs when her hand was sliced while she was working.



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#### Mission Statement

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability, and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 40 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in Los Angeles, New York, and Washington D.C.

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