

# DISORDERLY AND INHUMANE:

Biden Administration Continues to Expel  
Asylum Seekers to Danger While U.S.  
Border Communities Stand Ready to  
Welcome



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Hope Border Institute & Human Rights First | 2021

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# DISORDERLY AND INHUMANE:

## Biden Administration Continues to Expel Asylum Seekers to Danger While U.S. Border Communities Stand Ready to Welcome.

In late June 2021, during a visit to El Paso, Vice President Kamala Harris affirmed that the Biden administration is “committed to ensuring that our immigration system is [orderly and humane](#).” But the Biden administration’s continued use of President Trump’s policy of blocking people seeking asylum at U.S. ports of entry and expelling those who cross the border is neither orderly nor humane. This report focuses on the El Paso-Ciudad Juárez region where the expulsion policy continues to block asylum seekers from Cuba, El Salvador, Guatemala, Haiti, Mexico, Nicaragua, Venezuela and other countries from access to the U.S. asylum system. Our findings confirm that [expelled](#) families and adults are immediately targeted for kidnapping and violence, lateral expulsions to Ciudad Juárez from other sectors of the border continue to endanger expelled asylum seekers, and restrictions on asylum at U.S. ports of entry block people fleeing persecution and other violence in Mexico from protection. The expulsion policy is spurring disorder, confusion and trauma, and is pushing migrants and asylum seekers to undertake dangerous - and repeated - journeys to cross the border in an effort to reach safety.

While senior administration officials continue to insist that the use of Title 42 public health law to carry out these expulsions is a “public health [imperative](#),” senior experts at the Centers for Disease Control and Prevention [objected](#) to the policy at its inception, and public health [experts](#) have [repeatedly](#) warned that the use of public health authority to target people seeking asylum at the border “lacked public health justification” and “would not protect public health.” Yet, even as the United States gets “closer than ever to declaring [ ] independence from” COVID-19, as President Biden [observed](#) in early July 2021, the Biden administration is [reportedly](#) considering plans to continue to use the unlawful Title 42 expulsion policy to block and expel single adult asylum seekers for months longer, while potentially [exempting](#) families from the policy in late July. This plan would prolong [disparities](#) in access to protection and disproportionately impact Black, LGBTQ, and other asylum seekers.

A recently created process that exempts a limited number of individuals on a case-by-case basis from Title 42 expulsions and permits them to request U.S. protection does not comply with U.S. asylum law or treaty obligations. Indeed, the U.N. High Commissioner for Refugees has said that “[a] system which

allows a small number of asylum seekers to be admitted daily . . . is [not an adequate response](#).” The exemption process has not been publicly advertised or explained to asylum seekers, and those who are not aware of the exemption process or who lack connections to the civil society groups carrying out exemption screening are likely to be shut out. This is particularly true for Black, Indigenous and other asylum seekers who do not speak Spanish. By using legal services and humanitarian organizations as gatekeepers for U.S. asylum protection at the southern border, the Department of Homeland Security’s (DHS) exemption process makes these groups [targets](#) for smugglers and other organized criminal groups that prey on migrants.

At the same time, DHS has significant resources at its disposal to receive and register asylum seekers and release them to communities along the border and across the country that are standing by with unused shelter space and underutilized volunteer networks. They are ready to receive and welcome the families, adults and children seeking protection at the southern U.S. border into a dignified and safe environment. This report highlights the devastating impact of the Biden administration’s decision to continue using Title 42 to block and expel asylum-seeking families and adults to Ciudad Juárez, even as faith-led organizations, humanitarian groups, legal services organizations, and other volunteers stand ready in the El Paso region to welcome these asylum seekers and help them reach their destinations in the United States.

This report is based on more than 70 in-person interviews with asylum-seeking families and adults in Ciudad Juárez conducted in late June 2021 by Human Rights First, as well as interviews with Mexican local, state and federal government officials, shelter and humanitarian service providers in the United States and Mexico, and the County of El Paso’s Office of New Americans. Human Rights First researchers also toured an Immigration and Customs Enforcement (ICE) hotel detention facility for families in El Paso. The report draws on the ongoing work of the El Paso-based Hope Border Institute, as co-convenor of the Frontera Welcome Coalition of local government agencies, legal services providers, faith-based groups, healthcare workers, and immigrants rights advocates, to ensure shelter and other assistance are available to asylum seekers in the region.



A migrant family waiting to receive help after being expelled

## Recommendations to the Biden Administration to End Title 42

- Immediately end the Title 42 expulsion policy, halt all such expulsions to Mexico and countries of persecution, and restore access to asylum - and adherence to U.S. refugee law - for all families, adults, and children seeking protection at and between U.S. ports of entry;
- Avoid unnecessary and harmful detention of asylum seekers and utilize a humane welcoming process in which adults and families seeking refuge in the United States are swiftly referred and transported to a reception site run by community-based shelter, refugee assistance, or other humanitarian organizations and referred to community-based case support when needed;
- Instruct Border Patrol and Customs and Border Protection (CBP) officers to end mistreatment of asylum seekers and migrants in their custody, and direct the DHS Office for Civil Rights and Civil Liberties to investigate abuses;
- Coordinate with and provide logistical support to critical community-based service providers offering shelter, legal services, and humanitarian aid to ensure that asylum seekers are treated humanely and able to quickly and safely transit to destination locations in the United States where they can continue the asylum process; resource additional services for asylum seekers beyond sheltering and humanitarian support, including know-your-rights presentations and legal services; end funding to private entities that operate as an extension of ICE detention and instead prioritize community-based sheltering models; and ensure timely and transparent communication with community groups on relevant policy changes;
- Provide redress to the families, adults, and children harmed as a result of the Title 42 expulsion policy, including through the provision of government-funded legal counsel and psychosocial support, among other forms of redress.



Razor wire at the Paso del Norte bridge connecting downtown El Paso and Ciudad Juárez

## Blocking and Expelling Asylum Seekers to Danger

The Biden administration continues to block people fleeing persecution from access to the U.S. asylum system and expel migrants and asylum seekers who cross the border back to Mexico, in violation of U.S. refugee [law](#) and [treaties](#). A Nicaraguan asylum seeker who had fled his country after refusing to participate in electoral fraud on behalf of the ruling party recounted that U.S. Border Patrol agents told him “there’s no asylum for anyone right now,” as they expelled him in June 2021 with a group of Nicaraguan and Salvadoran asylum seekers to Ciudad Juárez after they attempted to request protection in the United States. A Guatemalan family with a 16-month-old baby who had twice been expelled by DHS to Ciudad Juárez, most recently in June 2021, said that U.S. immigration officers gave them no opportunity to explain that they had fled their country after threats against them escalated to attacks on their business and the murder of an employee and a family member: “They asked nothing about why we were coming.”

- These expulsions and the blocking of asylum at U.S. ports of entry leave people in grave danger. During interviews in late June 2021 with people migrants and asylum seekers expelled to Ciudad Juárez or blocked at the border, Human Rights First researchers received 26 additional reports of kidnapping, rape, and other violent assaults, which brings the [updated number](#) of reported violent attacks against asylum seekers and

migrants expelled or blocked at the U.S.-Mexico border since President Biden took office to 3,276. In Ciudad Juárez, people expelled across the international bridge by DHS are immediately vulnerable to kidnappings and exploitation.

- A Central American asylum seeker and her six-year-old son had nowhere to sleep when DHS expelled them to Ciudad Juárez in April 2021. A man waiting near the port of entry who offered them a ride and place to stay for the night instead imprisoned them for two weeks and attempted to rape the woman. The family has been hiding for weeks at a migrant shelter in the city after managing to escape through a bathroom window in the house where they were held with other abducted women.
- Armed men kidnapped a Honduran asylum seeker and her seven-year-old daughter just blocks from the port of entry while they were searching for a place to sleep for the night just after DHS expelled them via a lateral expulsion flight, discussed below, in April 2021. Mexican migration officials at the State Population Council (COESPO) of Chihuahua had told the woman that shelters were full and that the family had to find housing on their own. Held captive for two months in a house with dozens of other kidnapping victims, the woman

and her daughter survived on potatoes and eggs. They managed to escape while being transported to another location but remain in danger in a Juárez migrant shelter, experiencing nightmares and difficulty sleeping due to the trauma they suffered.

- Without sufficient shelter capacity, many of those expelled to Mexico have no option but to contact smugglers who often exploit and abuse desperate migrants and asylum seekers. A Guatemalan asylum seeker who was twice expelled by DHS to Ciudad Juárez was held by smugglers with her four-year-old son in inhumane conditions after the second expulsion. The smugglers masturbated in front of the family, held them in a house filled with dog excrement, and provided little but eggs to eat over the course of 20 days. The woman had fled Guatemala with her son after a gang that had forced her partner to leave the country also began to threaten her and her son.

Under the Title 42 expulsion policy, DHS is also blocking and expelling families and adults who are fleeing persecution and violence in Mexico:

- In June 2021, DHS expelled a Salvadoran woman and her two children immediately after they had escaped from kidnappers who had forcibly held them for 10 days, extorted her sister for thousands of dollars, and fired shots at the family as they ran away. U.S. immigration officers mocked the woman as she begged them not to return the family to Ciudad Juárez just hours after they crossed the border to ask for protection in the United States. On their return, Mexican immigration officers robbed the woman of her cell phone, and her sister continues to receive threatening messages from the kidnappers.
- Multiple Mexican asylum seekers reported that they were fleeing the country after brutal murders of their family members. A grandmother from Michoacan fleeing with her surviving family members hid in her home helpless as masked men abducted her husband and adult son, who were found the next day shot to death. Several family members fleeing with her reported that they continue to receive death threats, but the family is blocked from seeking asylum protection in the United States due to Title 42.
- Two transgender women from Honduras who had tried to find refuge in Mexico but experienced repeated violence and discrimination have been stranded in Ciudad Juárez for weeks, blocked from seeking protection at a U.S. port of due to Title 42.

As of June 2021, DHS also continued to carry out unnecessary and dangerous lateral expulsions in which migrants and asylum seekers were flown or bused hundreds of miles along the border to expel them to other regions of Mexico. Asylum seekers interviewed in Ciudad Juárez in June 2021 reported that they had been put on DHS flights after crossing the border near [Del Rio](#), Hidalgo,

Paso del Norte bridge connecting downtown El Paso and Ciudad Juárez



and Roma, Texas as well as Yuma, Arizona, flown to El Paso, and then expelled across the border into Mexico. These expulsions [endanger and traumatize](#) returned migrants, sow confusion, and leave people stranded in unsafe and unfamiliar regions in Mexico. Enrique Valenzuela, the General Coordinator of COESPO, confirmed that the agency had registered the expulsion of hundreds of asylum seekers from Cuba, Haiti, Nicaragua, and Venezuela to Ciudad Juárez via at least three lateral expulsion flights in early June 2021 but indicated that the U.S. government had not provided advance notice of these large-scale expulsions. This created additional challenges for the agency as it sought to find housing for expelled migrants. When they were unable to do so, migrants were vulnerable to kidnapping.

Many asylum seekers interviewed by Human Rights First reported that they had been held in crowded, freezing CBP facilities, sometimes for days, before being expelled via lateral expulsion flights to Ciudad Juárez. Several asylum seekers who had been expelled via lateral flights from Del Rio said that they were held in freezing cells for days, provided limited food, and were often unable to sleep due to overcrowding. A Venezuelan asylum seeker noted in particular that she could not sleep because throughout the night a U.S. immigration officer repeatedly slammed the door to the cell where she was being held. Many families said that their children became sick as a result with cough, fever, vomiting, and diarrhea, but none were administered COVID-19 tests before expulsion, which raises heightened concerns that the United States is exporting COVID-19. Some of those expelled via lateral flights include:

- DHS expelled a Venezuelan police commissioner fleeing death threats with her two adult children, a doctor and a university student, via a lateral expulsion flight from Del Rio in June 2021. The woman was separated from her sons and forced to sleep overnight on the floor of a crowded CBP cell before being awoken at 3am and placed on a bus to an airport. During the flight, officers shackled the woman so tightly at her hands and feet that she still had marks on her feet two weeks later. U.S. immigration officers lied to the people on the flight, saying that they would be taken to a center in El Paso for processing, and mockingly told them “welcome to the United States.” When they were instead driven with dozens of other migrants to the international bridge and forced into Mexico, the woman said she felt tricked and helpless: “We were all crying.”
- Two men seeking asylum from Cuba were expelled by DHS via a lateral flight from Del Rio in early June 2021 and remain in danger in Ciudad Juárez. The men reported that they were held overnight in a freezing CBP facility with dozens of other migrants in the small cell. U.S. immigration officers falsely told the men that they would be flown to El Paso to speed up processing but were instead expelled with other asylum seekers from Cuba, Venezuela and Nicaragua to Ciudad Juárez without explanation. The men are afraid to remain in Mexico where they were previously kidnapped in southern Mexico and managed to escape during a gunfight when another cartel attacked the group that had abducted them.

Human Rights First interviewers speaking with asylum seekers at a shelter in Ciudad Juárez



- An Indigenous Guatemalan woman from the Q'eqchi' community was held with her two young children in a hielera (freezing-cold cell) for three days after they crossed the border near Reynosa before U.S. immigration officials expelled them via lateral flight to Ciudad Juárez in April 2021. The woman's husband and 4-year-old daughter were kidnapped in Nuevo Laredo and held for ransom for more than a month.
- A Guatemalan asylum seeker who was transferred with her eight-year-old daughter from Yuma, Arizona to El Paso for expulsion in March 2021 was subsequently beaten and abused in Ciudad Juárez. She is afraid to report the incident to the police because she does not have legal status in Mexico. The woman who is suffering symptoms and has a family history of Multiple Sclerosis also urgently needs surgery for a tumor in her neck.

Asylum seekers expelled directly to Ciudad Juárez under Title 42 also reported terrible conditions and abusive treatment in CBP custody. An Indigenous Guatemalan woman from the K'iche' community reported that the Border Patrol agents who expelled her and her son to Mexico told her that they did not want to hear her "schoolyard stories" when she tried to explain that she was fleeing severe domestic violence. The woman recounted that the scars on her body, in addition to a letter from a local community leader, are proof of the danger she faces in Guatemala. Border Patrol agents also continue to expel people to Mexico who are visibly sick or injured, ignoring pleas for medical attention. For instance, DHS expelled a Honduran woman who was visibly limping due to an injured ankle along with her seven-year-old daughter to Ciudad Juárez via a lateral expulsion flight in April 2021, refusing to provide even ice to address the swelling. Pastor Rosalio Sosa also continues to [receive](#) severely injured migrants and asylum seekers expelled by DHS through the remote Puerto Palomas port of entry (across from Columbus, New Mexico) and must transport them hundreds of miles to Ciudad Juárez for emergency medical care.

DHS's continued use of Title 42 expulsions, while permitting some adults and families to remain in the United States to be [processed](#) under U.S. immigration laws, is creating confusion and driving additional crossings between ports of entry. Indeed, the percentage of individuals encountered by Border Patrol who have previously attempted to cross into the United States between ports of entry has [increased](#) sharply because of Title 42 - from 7 percent in March 2020 to [38 percent](#) in May 2021 - "[driven](#) by people's inability to obtain safety while waiting at the border for the United States to begin accepting asylum requests again, and the growing backlog of people waiting for the resumption of humanitarian processing at the border." In some instances, Border Patrol agents and CBP officers have told asylum seekers to attempt crossings away from ports of entry. A Salvadoran asylum seeker who Human Rights First researchers interviewed in June 2021 reported that when she attempted to request asylum at the Paso del Norte port of entry with her family in February 2021, a CBP officer said: "If you want to cross, pay a coyote and tell him to bring you." A Honduran man reported that Border Patrol agents advised him, as he was being expelled to Ciudad Juárez in early June 2021, that he might have better "luck"

crossing the border at night. When he approached the border a second time to attempt to cross, he was abducted and held for two weeks for ransom while the kidnapers threatened his family in the United States that they would dump his body in a bag if they refused to pay ransom.

The very limited exemption process that allows a small number of asylum seekers to seek protection at U.S. ports of entry, which has been operating in Ciudad Juárez for several weeks, does not comply with U.S. law or treaty obligations to refugees and is totally insufficient to protect the families and adults attempting to request U.S. asylum protection. The process is available only to people who know and are able to contact the civil society groups screening vulnerable asylum seekers for exemptions. But many asylum seekers, including those in migrant shelters in Ciudad Juárez, reported that they were not aware of an exemption process and did not know whom to contact to request assistance. For instance, a Honduran asylum seeker who was raped in Mexico and has been in Ciudad Juárez for more than three months as of June 2021 told a Human Rights First researcher that she had not heard of any way to seek an exemption from Title 42. Haitian Bridge Alliance staff also reported that due to lack of language access and limited communication with the service providers facilitating the exemption process, many Haitian asylum seekers in Ciudad Juárez continue to undertake dangerous border crossings because they are unaware of a process that would allow them to seek protection at U.S. ports of entry.



Family exempted from Title 42 being accompanied to a bus that will take them to Annunciation House

## Communities in El Paso and New Mexico Stand Ready to Welcome

A robust network of shelters, service providers, and volunteers along the U.S.-Mexico border are ready to welcome asylum seekers with dignity and provide housing, food, transportation, and other support as they make their way to destinations in the United States. Despite this wealth of unused capacity, DHS continues to turn back and expel asylum seekers to danger in Mexico rather than safely transporting them to the community-based shelters and humanitarian organizations that can house and assist them.

In El Paso and nearby cities in New Mexico, the Frontera Welcome Coalition (Coalition), which includes Hope Border Institute, the County of El Paso's Office of New Americans, legal and humanitarian services providers, faith groups, healthcare workers, and immigrants rights advocates, has been coordinating efforts to welcome arriving asylum seekers. The Coalition supports Annunciation House and its network of migrant shelters, welcomes and responds to the needs of migrants and asylum seekers processed at the border, and fills in service gaps that have arisen due to COVID-19 and other contingencies. For example, since the Migrant Protection Protocols (MPP) wind-down process began in February 2021, DHS has refused to provide transportation for migrants released at international bridges to shelters, as had previously been done by the agency. The Coalition facilitated an arrangement between the County of El Paso and Project Amistad, a local nonprofit, to ensure that people released from MPP would be safely transported from the Paso del Norte port of entry to shelters in El Paso. The Coalition also

recruited volunteers to welcome people as they exit the port, provide a basic orientation, and usher arriving individuals to waiting vans.

Even as the Biden administration has insisted that it cannot lift Title 42 because of a lack of processing capacity and continues to expel migrants and asylum seekers to grave danger thousands of shelter beds and community resources sit unused in the United States, including in El Paso and surrounding areas in New Mexico. These communities, which have long histories of welcoming migrants, refugees and asylum seekers, have infrastructure in place to receive new arrivals and are flexible to changing circumstances. Thousands of volunteers can be rapidly mobilized to staff shelters, provide meals, and perform other services.

An essential element of capacity for providing humanitarian welcome is bed space, which is in no short supply in the El Paso-New Mexico region. After release from Border Patrol or ICE custody, the vast majority of migrant families and adults stay within the border shelter network for only 24 to 72 hours before traveling to other parts of the country. The combined capacity of Annunciation House's facilities and a satellite network of smaller shelters and parishes in El Paso is approximately 800 to [1,000](#) beds, with rapid turnaround of guests and the ability to expand and contract as needed. [Las Cruces](#), New Mexico, which is less than an hour drive from El Paso, has nightly capacity for approximately 700 people coordinated through the New Mexico Hospitality Coalition.

The shelter network in Albuquerque, New Mexico, which is coordinated by the 5-Site Council, can host 300 people per day. The combined El Paso-New Mexico region has over 2,000 shelter beds in safe, welcoming, and non-detention settings where families have access to meals, medical care, and support with travel arrangements. Yet, as of July 2021, less than 10 percent of that capacity was currently in use.

In addition to bed space, unused community capacity in the El Paso-New Mexico region includes volunteers (both for general and specific functions like medical care), funding, public health resources and transportation infrastructure.

Volunteer susceptibility to COVID-19 and community spread was a major concern when the Coalition began its work earlier in 2020, but widespread access to vaccines in the United States has lessened that concern. Sixty-two percent of the eligible population in El Paso has received a [vaccine](#), and 53 percent of the population is fully vaccinated. In Las Cruces alone, the New Mexico Hospitality Coalition partnered with the state's Medical Reserve Corps to create a badging system that ensures all volunteers are vaccinated and have gone through a background check. Volunteers are also protected from liability during shelter work and have access to resources and support. To date, over 7,400 volunteers have signed up. Thousands more vaccinated volunteers with experience serving asylum seekers are available in El Paso and Albuquerque.

COVID-19 vaccines, tests, and protective equipment are also readily available in the El Paso community, and public health officials have engaged extensively with the Frontera Welcome Coalition and the shelter network to ensure that migrants, volunteers and the general community are protected from COVID-19. For example, a testing structure was set up within Annunciation House by El Paso's Office of Emergency Management, and shelter guests who test positive are transported to a quarantine facility where they can stay for free until it is safe for them to travel.

Funding to support these vital welcoming services has begun to improve. In the American Rescue Plan Act passed in March 2021, Congress appropriated [\\$110 million](#) in FEMA Emergency Food and Shelter (EFSP) funds to support shelter and humanitarian services for asylum seekers at the border. The funding is modeled on similar appropriations made in the past but with the added benefit of flexible funding (both up-front and on a reimbursement basis) and lessons learned from community welcome work in 2018-2019. Additionally, private donors and international NGOs are funding humanitarian welcome work at the southern border and in the interior.

Despite this community capacity to welcome asylum seekers, the federal government has not leveraged this capacity to its maximum extent nor utilized existing resources to process and release migrants and asylum seekers instead of expelling them to Mexico under Title 42. For instance, in March 2021, ICE entered into a [\\$86.9 million](#) no-bid contract with the San Antonio-based nonprofit Endeavors to detain migrant families in converted hotel facilities in Texas and Arizona, instead of [investing](#) in community shelters and the humanitarian infrastructures of welcome coalitions along the border. The

stated aim of the Endeavors contract was to increase ICE's capacity to process migrant families. However, despite this increased capacity and, presumably, the ability to exempt more families and single adults from Title 42 expulsions, many of the at least [1,200](#) beds in Endeavors facilities now remain empty as DHS continues to return families and adults to danger in Mexico. For instance, the Casa de Estrella facility in El Paso has 128 available beds, but was housing only one family at the time of Human Rights First's visit to the facility in late June 2021.

The U.S. government should not externalize U.S. asylum processes at the border to the local governments and service providers assisting asylum seekers in Mexico. However, many of these organizations that work with migrants and asylum seekers in Ciudad Juárez now have increased capacity as they serve people in the MPP wind-down process in partnership with the Frontera Welcome Coalition and UNHCR. For example, Hope Border Institute and Derechos Humanos Integrales en Acción have built and expanded services for migrants to facilitate their transit to the United States, including health services, a food pantry, accompaniment, psychosocial support, and access to immigration attorneys through CLINIC's *Estamos Unidos* project. The federal government-run shelter Leona Vicario in Ciudad Juárez has more than 30 employees, including medical service providers and psychologists, and conducts on-site COVID-19 tests to process the more than 5,000 people who have been paroled into the United States out of MPP since February 2021. As the Biden administration has paroled a sizable percentage of those with active MPP cases, the facility has the capacity and infrastructure to house and assist asylum seekers not subject to MPP. At the time of Human Rights First's visit to the facility in late June 2021, only about 25 percent of the shelter's beds were being used.



## Far Past Time to End Title 42 and Begin Welcoming with Dignity

As our research and analysis shows, it is past time to end the use of Title 42 at the southern border. Access to asylum must be restored now. The Title 42 expulsion policy violates U.S. refugee laws and is in no way justified by the public health contingencies of the pandemic. The Biden administration has had months to address processing issues at the border that arose because of the Trump administration's efforts to dismantle the U.S. asylum system. El Paso and New Mexico community-based organizations have repeatedly expressed readiness to welcome and the ability to expand and contract humanitarian capacity as needed, as well as the ability to partner with organizations in Mexico to assist asylum seekers who are permitted to enter the United States to seek protection. With an end to Title 42 expulsions to danger in Mexico and appropriate funding, service providers at the border stand ready to support migrants and asylum seekers in the United States.