

Border Restrictions Lift, But Biden Administration Blocks Protection for Asylum Seekers and Children

On November 8, 2021, the Biden administration [lifted](#) restrictions on non-essential travel at the U.S.-Mexico border, allowing vaccinated individuals with “appropriate documentation” to enter the United States, yet the Department of Homeland Security (DHS) continues to block people seeking refuge at U.S. ports of entry and expel them back to the dangers they are fleeing. These expulsions, whether at ports of entry or along the U.S.-Mexico border, separate families, return people to [grave danger](#), create confusion, spur dangerous crossings, and flagrantly violate U.S. asylum [laws](#), the [constitution](#), and international [treaty](#) obligations. Human Rights First, the Florence Immigrant and Refugee Rights Project (Florence Project), and other Arizona-based organizations, including the Kino Border Initiative, are tracking and monitoring Title 42 expulsions of asylum seekers at Arizona and other ports of entry and the harms caused to families, children, and adults [illegally](#) turned away from the United States.

This factsheet’s key findings include:

Customs and Border Protection (CBP) officers at ports of entry at the Arizona-Sonora border continue to turn away people, including unaccompanied children, seeking U.S. protection. Officers frequently tell people seeking protection there is “no asylum.” As a result, asylum seekers from Cuba, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, and other countries are blocked from protection and stranded in dangerous border towns in Sonora. People from Mexico trying to seek protection in the United States are being directly returned - or refouled - by CBP to the country they are trying to flee without consideration of their requests for protection. CBP also continues to fail to respond to requests for humanitarian parole. The Nogales port of entry has not granted any of the 15 humanitarian parole requests submitted by the Florence Project, Arizona Justice for Our Neighbors, and Al Otro Lado since August 2021. This summer, Arizona CBP officers forced a Honduran asylum seeker with a high-risk pregnancy experiencing severe pain and heavy vaginal bleeding to travel hundreds of miles to Tijuana for the Migrant Protection Protocols (MPP) wind down process even though other vulnerable individuals had been processed in Nogales.

While DHS [claims](#) that it [lacks](#) “[capacity](#)” to process asylum seekers at ports of entry, the agency is devoting extensive [resources](#) to daily mass-expulsions that endanger public health. For example, the agency is expelling dozens of asylum-seeking families it has held for days in congregate settings and then flown hundreds of miles from the Texas border for expulsion to Mexico through the Nogales port of entry. Many are being handed over to Mexican migration officials who force non-Mexican migrants and asylum seekers onto buses to southern Mexico and then force them into Guatemala without an opportunity to request asylum. These expulsions are not about safeguarding public health but, in fact, undermine public health measures to reduce the spread of COVID-19. Further undermining the Biden administration’s claim that Title 42 expulsions are necessary to protect public health, Arizona CBP officers are turning away asylum seekers carrying proof of COVID-19 vaccination and/or negative COVID-19 tests, while its officers in the region regularly fail to wear [required](#) personal protective equipment. At a Nogales port of entry, a CBP officer told an asylum-seeking family that it did not matter that they were vaccinated against COVID-19 and had tested negative because Title 42 was “not about that.”

Title 42 expulsions at Arizona ports of entry create confusion at the border, separate families, send asylum seekers to dangerous cartel-controlled border towns in the Mexican state of Sonora,

and push people seeking protection to undertake dangerous crossings. People expelled by DHS to Sonora are targeted for kidnappings and brutal attacks. They include: a gay Cuban couple who was robbed and sexually abused by municipal police; three Nicaraguan dissidents who were strip searched and robbed by Mexican police near the border with Yuma, Arizona; and a Guatemalan asylum seeker who was kidnapped soon after DHS expelled him and his seven-year-old daughter near the Lukeville port of entry. Without access to asylum at ports of entry, families, adults, and children seeking protection are pushed to undertake increasingly life-threatening border crossings through harsh desert terrain in areas often controlled by organized criminal groups. The continued use of Title 42 is endangering lives and creating disorder along the border.

Recommendations from the Florence Project and Human Rights First to restart asylum protection at U.S. ports of entry and along the U.S.-Mexico border and to restore U.S. compliance with domestic refugee law and international obligations are included at the end of this document.

Denying Asylum Protection at Ports of Entry Endangers Lives

Even as DHS lifts restrictions on visitors, tourists, shoppers and other “non-essential” travelers at U.S. ports of entry, CBP officers continue to turn away almost all asylum seekers at ports of entry along the southern border, including the six border ports of entry in Arizona, illegally denying them access to asylum and expelling them to acute danger in Mexico.

Since taking office, the Biden administration has [extended](#), [embraced](#), and [escalated](#) the Trump administration’s policy of misusing Title 42 of the U.S. Code to block asylum at ports of entry and expel families and adults who cross the border seeking protection, even after a September 2021 federal court [ruling](#) finding the expulsion policy likely illegal and in spite of [objections](#) of key [administration officials](#), [members](#) of [Congress](#), and civil rights [leaders](#). The administration continues to defend the Title 42 expulsion policy on public health grounds, despite [overwhelming evidence](#) that it [lacks any public health benefit](#) and likely [exacerbates](#) the spread of COVID-19. In early November 2021, CBP [rescinded](#) Trump-era policy memoranda that had created a border-wide policy of [illegally “metering”](#) or [restricting](#) the number of asylum seekers processed at ports of entry. However, with Title 42 still being used by DHS to block and expel asylum seekers, [thousands](#) of people from Cuba, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, and other countries remain blocked from asking for protection at U.S. ports of entry and are stranded in dangerous border towns in Sonora and other parts of Mexico.

CBP officers physically block asylum seekers from access to ports of entry in Arizona, standing at the international border line or “limit line” between the United States and Mexico to prevent asylum seekers from reaching ports of entry. These officers refuse to process families, adults, and, in many cases, children requesting U.S. protection. Legal and humanitarian staff report that officers regularly provide misinformation to asylum seekers, including telling them to seek asylum at ports of entry hundreds of miles away, even though CBP officers are blocking the asylum process at all ports of entry along the U.S.-Mexico. In addition, on the Mexican side of ports of entry, Mexican national guard, immigration officials, and private security guards patrolling at ports of entry block some asylum seekers from even approaching the CBP limit line to ask for U.S. protection. For example, in August 2021, a family trying to approach the Mariposa port of entry in Nogales to request asylum reported to the Florence Project that armed guards intercepted them and forced them to turn around, threatening to detain them if they tried to proceed to the port.

In late September 2021, asylum-seeking individuals and families engaged in a peaceful [gathering](#) on the Mexico-side of the Nogales port of entry, calling on the Biden administration to restore access to asylum

at the border. Several families tried to present themselves to U.S. immigration officials at the port of entry to request asylum, accompanied by a faith leader and legal advocate and with proof of COVID-19 vaccination and recent negative COVID-19 tests. Instead of processing these families and individuals for asylum, DHS not only [turned them away](#) but, on multiple occasions, physically [shut](#) the gates to the pedestrian entrance of the port of entry as they attempted to request protection.

Many other asylum seekers have been turned away under Title 42 by CBP officers at Arizona ports of entry without access to the U.S. asylum process or even fear screenings required by Congress for expedited removals, including:

- **Since August 2021, CBP officers at multiple Arizona ports of entry have turned away a Mexican woman and her two young children who are fleeing death threats from the cartel that murdered the children’s father.** CBP officers at the DeConcini port of entry in Nogales told the family there was “no asylum” there and suggested they try ports of entry in Texas or California – knowing the family would be turned away at these ports of entry as well. In September 2021, CBP officers again turned the family away even though they presented negative COVID-19 tests when attempting to request asylum. The woman told the Florence Project, “We thought that because we were going through the port of entry, we were going to be heard. We just wanted to follow the rules and be safe, especially because we are traveling with young children.”
- **In June 2021, a Jamaican asylum seeker was beaten by CBP officers when he mistakenly tried to approach the DeConcini port of entry in Nogales through the vehicle lanes.** According to a [complaint](#) filed with the DHS Office of Civil Rights and Civil Liberties by the Kino Border Initiative, which interviewed the man, the officers knocked the man to the ground, beat and punched him, put a foot on his neck, dragged him across a concrete surface into an office, and handcuffed him to a bench. The man was expelled to Mexico and told by the CBP officers, “this is what a bunch of you have been doing, you are getting out of here.”
- **In late September 2021, CBP officers turned away a Guatemalan woman and her two children fleeing deadly threats by a violent criminal organization.** When the woman told a CBP officer at the San Ysidro port of entry that her family was not safe in Mexico or Guatemala, he said, “it doesn’t matter because there is no asylum.” CBP officers subsequently turned away the family twice from the Nogales port of entry, telling them “the border is closed” and laughing at the woman as she cried and begged for protection. The woman reported to the Florence Project that, after presenting a negative COVID-19 test to the officers, she told them “we are human beings” and asked “how could you turn us away while countless other people cross the border without masks.”
- **CBP officers at the DeConcini port of entry in Nogales, Arizona twice turned away a young Mexican woman, her two-year-old son, and her 18-year-old sister who had requested asylum in August and September 2021 after fleeing death threats by cartel members.** A CBP officer told the family it did not matter that they were vaccinated against COVID-19 and had tested negative because Title 42 was “not about that.” Soon after CBP turned the family away, cartel members threatened them in Nogales. The woman told the Florence Project she fears for her life.

Although CBP has legal authority to process asylum seekers, even with the Title 42 policy in place, CBP officers rarely permit asylum seekers to request protection at ports of entry. Indeed, the Centers for Disease Control and Prevention (CDC) [order](#) that DHS has used to justify Title 42 expulsions references exceptions based on “humanitarian” and other interests, yet CBP officers at ports of entry almost never grants such exceptions, even for extremely vulnerable individuals facing life-threatening danger.

CBP officers also have statutory authority to review and grant requests for humanitarian parole pursuant to Section 212(d)(5) of the Immigration and Nationality Act, but these requests are generally accessible only to individuals represented by an attorney and have been ignored or denied in the vast majority of cases without explanation. For instance, CBP has not granted any of the 15 humanitarian parole requests submitted by the Florence Project, Arizona Justice for Our Neighbors, and Al Otro Lado at Nogales, Arizona ports of entry since September 2021:

- **CBP in Nogales, Arizona has failed to even respond to 13 humanitarian parole requests submitted by the Florence Project since September 2021**, including for a child with neurological issues from an accident related to an attempted kidnapping, a woman with a high-risk pregnancy and urgent security risks in Nogales, and a family who was kidnapped multiple times in Nogales.
- **Arizona CBP has not responded to a parole request for a Honduran woman fleeing death threats after her husband was murdered in Honduras.** The woman's hands and throat were injured in an attack, and she needs urgent medical attention for kidney stones, according to her attorney Ginger Cline with Al Otro Lado.
- **A young Guatemalan asylum seeker denied humanitarian parole by CBP in Nogales in September 2021 disappeared later that month and remains missing.** The man had been kidnapped, trafficked, and threatened with death after reporting gang activity to police, and had been pursued by gang members to Mexico. Despite the dire threats detailed in the parole request, CBP denied it and did not even provide an explanation for the disturbing denial.

Asylum seekers turned away by CBP officers at Arizona ports of entry due to Title 42 are targeted for grave – and escalating – violence in Mexican towns bordering Arizona, where many have been kidnapped or otherwise violently attacked. As of October 2021, Human Rights First has tracked at least [7,647](#) attacks against individuals blocked from protection or expelled under Title 42 to Mexico, including kidnappings, rapes, torture and other violence. In Sonora, an ongoing dispute between rival cartels has [intensified](#) this year, creating near war zones in some Nogales-area towns with frequent shoot-outs, including a cartel-involved [shooting](#) that killed a three-year-old boy in October 2021. In November 2021, dozens of Central American migrants, including [10 children](#), were discovered being held in kidnapping stash houses in Nogales. Earlier this year, the U.S. Consulate General in Tijuana [issued](#) a travel [alert](#) for western Sonora, citing increasing cartel violence. In Sasabe, a remote border town in Sonora, cartels [control](#) movement in and out of the city and regularly extort and beat asylum seekers returned there by DHS under Title 42, according to Dora Rodriguez, an aid worker with Salvavisión.

Asylum seekers who have been attacked in Sonora, Mexico after being blocked or expelled by CBP due to Title 42 include:

- **More than 70 migrants and asylum seekers blocked from protection under Title 42 who responded to a survey conducted by the non-profit organization Al Otro Lado between June and October 2021 reported being kidnapped or attacked in Sonora**, including a Honduran woman who escaped an attempted kidnapping with her eight-year-old daughter immediately after DHS expelled them to San Luis Río Colorado; a gay Cuban couple who was robbed and sexually abused by municipal police; a Honduran man who was kidnapped, beaten, and denied food in captivity for three days until his family paid ransom; a Salvadoran man who was trafficked for labor exploitation; and a Colombian asylum-seeking woman who was kidnapped, robbed, and extorted by a taxi driver.

- **Three Nicaraguan political dissidents, whom DHS twice expelled to Mexico in August 2021, have been strip-searched and robbed by Mexican government officials on multiple occasions.** In mid-August 2021, DHS turned them over to Mexican migration officers who verbally abused them and deprived them of food in detention, forced them to strip naked, and stole their money and valuables. In late August 2021, Mexican police boarded a bus that the three were riding near the border with Yuma, Arizona, forced them off the bus, strip-searched them, and stole their money. As of October 2021, the dissidents remained in danger in Mexico, unable to access the U.S. asylum process, according to Anaís Catalina, an advocate assisting them.
- **A Guatemalan asylum-seeker was kidnapped soon after DHS expelled him and his seven-year-old daughter near the Lukeville port of entry at night in spring 2021.** When the man went to buy food for his daughter, four men covered his face with a cloth, beat him, and held him captive for 15 days, during which time his daughter was forced to enter the United States alone.
- **In spring 2021, armed men kidnapped a group of Honduran women and children who had been waiting in Nogales for the opportunity to request U.S. asylum.** One mother and her three-year-old daughter managed to escape and ran into a convenience store. Someone in the store escorted the family to a taxi, but the kidnappers followed the family until they arrived at the Kino Border Initiative office.
- **A Mexican asylum-seeking family with three young daughters, ages eight, five, and two, who remain blocked from protection due to Title 42, narrowly escaped an attempted kidnapping in Nogales in October 2021.** Three men dressed in black rushed at the family in a truck, threatening to take the children. The mother and children managed to flee to a hotel while the father fought off the attackers, sustaining neck and back injuries for which he required hospital treatment.

Turning away or expelling people seeking asylum from Mexico and returning them to Mexico without assessing their protection requests constitutes *refoulement* and violates U.S. treaty obligations and U.S. refugee law. In addition, DHS [coordination](#) with Mexican migration officials appears to be facilitating illegal chain expulsions of asylum seekers from the United States to Mexican border cities and into Guatemala. According to the Kino Border Initiative, non-Mexican individuals expelled to Mexico by DHS under Title 42 through the Nogales port of entry continue to be handed directly to Mexican migration officers, who load them onto buses to expel them across the southern Mexican border. These buses transport expelled individuals to a migration detention center in Hermosillo, Sonora and then onto southern Mexico, where Mexican migration officers have forced many to cross into Guatemala without an opportunity to request asylum in Mexico.

Even as the Biden administration defends the Title 42 policy as a “[public health imperative](#),” CBP officers continue to fail to observe basic COVID-19 precautions. CBP officers frequently do not wear personal protective equipment at Arizona ports of entry. For instance, in October 2021, Florence Project staff members observed groups of CBP officers at the Mariposa Port of Entry without masks on multiple occasions. Staff members have noted that in the Nogales area, CBP use of personal protective equipment remains “virtually nonexistent.” Despite claims that Title 42 expulsions are necessary to avoid holding asylum seekers in congregate settings, Florence Project attorneys have represented or spoken with dozens of asylum seekers subjected to Title 42 who were jailed for months in Immigration and Customs Enforcement (ICE) detention in order to be expelled under Title 42, held for days or weeks in CBP holding cells, and/or transported by DHS between ports of entry by bus and plane to be expelled to Mexico - actions that cause spread of COVID-19 and further undermine the credibility of the administration’s supposed justifications for the policy. For instance:

- **In October 2021, DHS detained a Salvadoran asylum seeker and her one-year-old daughter for three days in an unsanitary, crowded facility near McAllen, Texas with dozens of other women and children before flying them hundreds of miles to Arizona and using Title 42 to expel them through the Nogales port of entry to Mexico.** U.S. immigration officers confiscated their sweaters and kept the cell extremely cold, lowering the temperature to punish the group when they made noise. Many of the children in the group, including the woman's daughter, became sick and were vomiting. When the woman asked for medical attention for her daughter, one U.S. immigration officer replied, "this isn't a hotel. Stop feeding her and she'll stop vomiting," according to an interview conducted by the Kino Border Initiative.
- **In late October 2021, DHS expelled dozens of asylum-seeking families with children who were visibly ill after DHS chose to detain them for up to seven days in congregate settings, instead of releasing them to join family and continue the asylum process in the United States.** After being expelled to Nogales, Mexico, the families told the Kino Border Initiative that CBP did not test detainees for COVID-19, did not isolate those showing symptoms of illness, and failed to provide adequate medical attention. Three families who were expelled to Nogales tested positive for COVID-19 after having been detained by CBP in these conditions.

As epidemiologists and medical [experts](#) have repeatedly made clear, Title 42 expulsions endanger the safety and health of the individuals being expelled and are [undermining](#), not protecting public health. Instead of continuing dangerous Title 42 expulsions, DHS should process asylum seekers using appropriate science-based [measures](#) recommended by public health experts to safeguard public health and protect asylum seekers and CBP personnel.

Children Denied Protection at Ports of Entry, Separated from Family Due to Title 42

The Biden administration's continued use of Title 42 is blocking some unaccompanied children from seeking protection at U.S. ports of entry and continues to force desperate families to send children alone across the border into the United States to try to protect them.

CBP officers at Arizona ports of entry are turning away some unaccompanied children, even though they have not been subject to Title 42 expulsions since November 2020 following a federal court [order](#) blocking expulsions of unaccompanied children and a subsequent [change](#) to the CDC Title 42 order in [February 2021](#) exempting them from the policy. Nonetheless, CBP officers at some ports of entry, including those near Nogales, continue to turn away some unaccompanied children. These include children who have established their age by affirmatively presenting birth certificates to CBP officials. Turning children away not only violates U.S. laws, but leaves them displaced and vulnerable in highly dangerous Sonora border towns like Nogales, where children have suffered brutal violence near ports of entry at the hands of deadly criminal organizations that target migrants. In fall 2021, for instance, an asylum-seeking teenage child told Florence Project that members of an organized criminal group had kidnapped and tortured him near Nogales. According to the Florence Project, several Mexican teenagers have been assaulted, beaten, and robbed in Nogales after CBP officers turned them away from the port of entry. The Florence Project has assisted many unaccompanied children CBP has turned away from Arizona ports of entry, including:

- **CBP turned away a 17-year-old Mexican child fleeing death threats by members of an organized criminal group who tried to request asylum at the Deconcini port of entry in June 2021.** An officer told him they were "not giving asylum right now." When the child informed the officers of his age, they told him he should try entering in a different location such as Texas.

- **In September 2021, CBP turned away a 14-year-old Honduran boy who requested asylum at the DeConcini port of entry.** After asking the boy for biographical information including his age, the officer told him, “Hondurans can’t pass without documents.” When the boy begged a second officer to help him, the officers threatened to call Mexican police to have him removed.
- **When a 17-year-old Mexican boy requested asylum at the Nogales port of entry with his infant nephew in August 2021, CBP officers told him the border was “closed”** and advised that they “go to Kino [Border Initiative]” - a nonprofit organization that provides humanitarian support - to request asylum.

Using Title 42 to block unaccompanied children, many of whom are attempting to seek asylum, at ports of entry violates U.S. refugee and anti-trafficking laws, international refugee treaty obligations, and the Biden administration’s own policy exempting unaccompanied children from Title 42 expulsions. Yet CBP officers continue to turn away some unaccompanied children at ports of entry, and many unaccompanied children are only able to request protection at Arizona ports of entry when accompanied by an attorney. A June 2021 study by [Amnesty International](#) found that CBP officers turn away nearly all Mexican unaccompanied children seeking protection without screenings required under U.S. and international law. Children fleeing persecution and other danger who are arriving at the border alone are particularly ill-equipped to, and should never be required to, find advocates to assist them to request protection at a U.S. port of entry.

The administration’s use of Title 42 also continues to separate families who are forced to send their children alone to the United States to try to protect them. At Arizona ports of entry, parents and older siblings have been pushed to make the horrible, deeply traumatizing decision to send children alone to the United States at ports of entry, as illustrated by the examples below. Unaccompanied children processed at Arizona and other ports of entry remain in CBP holding facilities until they are placed in the [custody](#) of the U.S. Office for Refugee Resettlement and often held in shelters for weeks or months before being released to a U.S. sponsor. At the same time, their family members are forced to remain in danger in Mexico as the Title 42 policy blocks them from seeking asylum together as a family. Florence Project staff members have assisted several asylum-seeking families who made the impossible decision to send their children to the United States alone to escape the danger the family was attempting to flee, including:

- **A 17-year-old Mexican girl and her 11-year-old brother were forced to separate from their 18-year-old brother to seek protection at a Nogales port of entry after the girl was kidnapped and raped by cartel members in Mexico in summer 2021.** Their 18-year-old brother, who had been attacked and threatened by the same cartel, was left behind in danger in Mexico merely because he was not a child under U.S. law.
- **A 14-year-old Honduran boy was forced to request asylum alone at the Nogales port of entry in September 2021 after his 27-year-old brother went missing.** The brother had attempted to cross the desert alone to seek protection in the United States. The boy had previously tried to present at the DeConcini port of entry and provided documentation of his age, but CBP turned him away and threatened to call the Mexican police. He was only able to be processed by CBP once he was accompanied to the port of entry by advocates from the Kino Border Initiative and Florence Project. His older brother remains missing and is, sadly, presumed dead.
- **Due to Title 42, a 15-year-old Mexican girl fleeing violence was forced to request asylum at a Arizona port of entry alone,** leaving her older brother and caretaker in danger in Mexico.

- **A 17-year-old Mexican boy who fled his home after suspected gang members threatened him at gunpoint was sent alone to an Arizona port of entry because of Title 42, separating him from his uncle**, who is also seeking asylum and who had been his caretaker since the boy's parents abandoned him at birth.

Unable to Access Protection at Ports of Entry, Asylum Seekers Undertake Dangerous Border Crossings

Policies that block people from seeking asylum at ports of entry violate U.S. law, create [disorder](#), thwart organized processing, and push people to undertake [dangerous](#), and increasingly [deadly](#), crossings away from ports of entry, often at the mercy of criminal organizations that control much of the U.S.-Mexico border. DHS Office of Inspector General (OIG) [reports](#) have [confirmed](#) that policies that block asylum at ports of entry push asylum seekers to cross the border away from official ports of entry.

After an unseasonably hot summer, crossing the border through the Arizona desert has grown increasingly treacherous. The nonprofit Humane Borders [reported](#) that the remains of 127 people had been encountered in the Arizona-Mexico borderlands during the first half of 2021, an increase over the same period in [2020](#), which was the deadliest [year](#) for migrant crossings in the region. In September 2021, the [bodies](#) of a Colombian asylum-seeking woman and her 10-year-old daughter, who had died from heat exposure, were found in the Yuma desert on a day when temperatures had reached 113 degrees Fahrenheit. The woman's other child, a two-year-old, was found alive with his mother's body.

DHS continues to use Title 42 to expel dehydrated, malnourished, and injured asylum seekers who have attempted to seek protection by crossing the Arizona desert. The nonprofit organization Salvavisi3n has assisted many asylum seekers expelled by DHS to Sasabe, Sonora with serious injuries, including individuals with severely blistered feet, according to Dora Rodriguez, an aid worker with the organization. Sick and injured asylum seekers expelled to Mexico by DHS officers in Arizona include:

- **In late summer 2021, DHS expelled a 19-year-old Honduran asylum seeker who became so dehydrated in the Arizona desert that he had to be rushed to a Nogales, Arizona hospital.** The young man, who had been kidnapped, trafficked, and threatened with death in Honduras, was sent back to Mexico immediately after the hospital discharged him.
- **In August 2021, DHS expelled a group of Guatemalan migrants to Nogales, Mexico who needed to be immediately rushed to the hospital to receive treatment for injuries they sustained crossing the Arizona border.** According to a [complaint](#) filed by Kino Border Initiative with the DHS Office of Civil Rights and Civil Liberties, Border Patrol agents refused to provide medical attention to a man in the group who sustained cuts to his face after being knocked into a cactus by the agents' dog, nor to his brother-in-law, who was vomiting from dehydration. The agents had deprived the group of water for two hours after initially encountering them.
- **[Maily Martinez](#), a Honduran woman who sought protection with her husband and two-year-old son near Yuma, Arizona, miscarried eight-and-a-half-month-old twins after Border Patrol agents denied her medical attention and expelled her to Mexico in July 2021.** The family had crossed the Arizona desert before surrendering to Border Patrol agents, who detained them for five hours in a freezing cold holding cell, ignored Martinez's pleas for medical treatment for unbearable pain in her abdomen, and failed to provide food or water. The officers told the family that "the United States [wa]s not accepting people from Honduras."

DHS' Decision to Block and Expel Asylum Seekers Limits Its "Capacity" to Process Asylum Seekers

The Biden administration's [claims](#) that it [lacks](#) the "capacity" to process asylum seekers at ports of entry and along the border using the public health safeguards repeatedly [recommended](#) by public health experts are unfounded and a product instead of its decision to continue to direct DHS personnel to carry out illegal Title 42 expulsions instead of processing requests for asylum protection.

For example, DHS continues to deploy staff at Arizona and other ports of entry to block asylum seekers from reaching U.S. territory to request protection. The DHS OIG [found](#) in 2020 that "by assigning staff [at the Nogales port of entry] to operate the limit line, the port reduced its capability to process" asylum seekers and other undocumented migrants. At the same time, CBP officers at Arizona ports of entry process thousands of travelers each day with [Bureau of Transportation Statistics](#) data showing that 1.4 million pedestrians, bus, car and train passengers were processed by CBP into the United States through Arizona ports of entry in August 2021 alone.

In addition, DHS has managed to find the capacity to devote extensive personnel, financial, and other resources to continue subjecting asylum-seeking families to so-called "lateral expulsion" flights from Texas and expelling them through the Nogales port of entry to Mexico. Families with young children who had entered the United States to seek protection in the Texas Rio Grande Valley continue to arrive daily at the Nogales port of entry for expulsion after having been subjected to lateral expulsion flights, according to Dora Rodriguez, an aid worker with Salvavisi3n. On October 21 and 22, 2021, for instance, DHS expelled groups of 60 to 70 migrants and asylum seekers, all families with young children, through the Nogales port of entry after flying them from Laredo and McAllen, Texas. According to the Sonora Migrant Project, many of the children were in tears and sick due to DHS's choice to use Title 42 and failure to use health safeguards. CBP [data](#) shows that in September 2021 Border Patrol agents in the Yuma sector expelled migrants and asylum seekers from Cuba, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, and Venezuela, among other countries to Mexico through Arizona ports of entry.

Even while using Title 42, DHS has processed limited numbers of asylum seekers safely and efficiently at ports of entry, including in Nogales. From the spring of 2021 to August 2021, DHS granted exemptions to Title 42 as a result of a legal [challenge](#) to the expulsion policy, allowing some asylum seekers to be processed at ports of entry. For instance, in summer 2021, CBP at the DeConcini port of entry processed approximately 30 to 50 individuals per day within only a few hours, avoiding the use of congregate detention settings and [releasing](#) families and individuals to a [network](#) of nonprofit shelters and humanitarian service providers. But with Title 42 still in place, and especially since the limited exemptions ended, Florence Project staff who cross the border daily have observed during fall 2021 CBP officers at ports of entry in and around Nogales who appear unoccupied, often standing around in groups, not attending to travelers crossing at the port of entry or carrying out other duties. In addition, some non-profit migrant shelter providers in Arizona report that their facilities are going virtually unused as they received very few asylum seeking families or individuals in October 2021.

DHS also artificially limits protection at certain ports of entry, as DHS OIG has [confirmed](#), including in Arizona, forcing asylum seekers to travel great distances to access safety. For example, CBP limited Title 42 exemptions and the MPP wind-down to a handful of ports of entry along the U.S.-Mexico border. Of the six Arizona-Mexico border [ports of entry](#), none were designated as ports for processing the MPP wind-down and only one – Nogales – was designated for processing asylum seekers exempted from Title 42. In some cases, DHS has also arbitrarily and inexplicably forced asylum seekers eligible for processing to travel long distances to access protection. For instance, in summer 2021, CBP officers at Arizona ports

of entry refused to process a young Honduran woman who was several months into a high-risk pregnancy and her six-year-old son who were eligible to enter the United States through the MPP winddown, even though a few other vulnerable MPP cases had been processed in Nogales. Instead, CBP required the woman, who was experiencing severe stomach pain and heavy vaginal bleeding, to travel nearly 300 miles to Tijuana to be processed at the San Ysidro port of entry.

Key Recommendations

To the Biden administration:

- **Stop expelling refugee families** and adults and rescind the [discredited](#) CDC [order](#) issued under the Biden administration, which is being used to continue the illegal Title 42 policy.
- **[Process asylum requests at the southern border](#), including at ports of entry**, while using appropriate [science-based measures](#) recommended by public health experts and employing humane policies that uphold U.S. laws and treaties to provide access to asylum for people seeking protection.
- **Avoid use of so-called “metering” policies to artificially reduce capacity at ports of entry** and block asylum seekers from requesting protection, which leave asylum seekers stranded in life-threatening dangers, violate U.S. and international legal obligations, and push people fleeing harm to attempt dangerous crossings to reach safety.
- **[Do not re-implement](#) the illegal MPP policy in any form**. Instead resume – and [expand](#) – efforts to bring people to safety under the MPP wind down.
- **Avoid the use of expedited removal or detention of asylum seekers** and instead employ steps to process asylum seekers swiftly and safely at ports of entry and quickly release them using proven community-based case [support](#) programs.
- **Coordinate with and provide logistical and financial support to critical local service providers** offering shelter, legal services, and humanitarian aid to ensure that asylum seekers are treated humanely and safely transited to destination locations where they can continue the asylum process.
- **Order DHS officers and employees to end mistreatment of asylum seekers and migrants in custody**, including physical and verbal abuse, denial of food and medical care, and destruction of personal property, and direct the DHS Office for Civil Rights and Civil Liberties to investigate these abuses in a timely manner and provide remedies to the victims of these abuses.

To the U.S. Congress:

- **Withhold appropriations used to carry out expulsions under Title 42**, and any other programs or policies that violate U.S. legal obligations to protect refugees, including MPP, and provide needed support for non-profit service providers and local communities—at the border and in the interior—that are welcoming and caring for asylum seekers.
- **Request information on U.S. expulsion policies and hold oversight hearings** to establish accountability mechanisms for violations of U.S. refugee law and treaty obligations and harms to refugees, including the harmful effects of the expulsion policy, metering, and other policies as well as abuses against migrants and asylum seekers by DHS officers.

- **Request information on U.S. collaboration with the Mexican government to expel asylum seekers** to southern Mexico, Central America, and other countries.
- **Conduct official visits to areas where asylum seekers have been expelled**, CBP facilities and Border Patrol stations on the southern border, immigration detention centers, immigration courts, and humanitarian organizations in the U.S.-Mexico border region assisting asylum seekers and migrants, to ensure DHS does not continue to violate U.S. law and treaty obligations.
- **Examine potential structural improvements to manage humanitarian protection**, such as a new or reconfigured U.S. [agency](#) with a humanitarian protection mission, expertise, and capacities.
- **Work to reform U.S. immigration laws to create a more fair, effective, and timely immigration system** that includes initial asylum office adjudications for all asylum seekers, funded legal counsel, independent immigration court hearings and appeals, strengthened rules and laws that ensure protection consistent with refugee and human rights treaties, and an opportunity for asylum seekers to support themselves and their families while they wait for a decision.